

Title 388 WAC

SOCIAL AND HEALTH SERVICES, DEPARTMENT OF (PUBLIC ASSISTANCE)

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DISPOSITION OF CHAPTERS FORMERLY CODIFIED IN THIS
TITLE

Chapter 388-09

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

- 388-09-010 Administrative hearing--Child welfare agency--Denial, suspension, revocation, or nonrenewal of license. [Statutory Authority: RCW 34.04.020. 84-05-040 (Order 2076), § 388-09-010, filed 2/17/84; Order 525, § 388-09-010, filed 3/31/71, effective 5/1/71; Order 285, § 388-09-010, filed 4/1/68.] Repealed by 90-05-020 (Order 2939), filed 2/13/90, effective 3/1/90. Statutory Authority: RCW 34.05.220 (1)(a).
- 388-09-020 Administrative hearing--Applicability of chapter 388-08 WAC. [Statutory Authority: RCW 34.04.020. 84-05-040 (Order 2076), § 388-09-020, filed 2/17/84; Order 525, § 388-09-020, filed 3/31/71, effective 5/1/71; Order 285, § 388-09-020, filed 4/1/68.] Repealed by 90-05-020 (Order 2939), filed 2/13/90, effective 3/1/90. Statutory Authority: RCW 34.05.220 (1)(a).
- 388-09-030 Administrative hearing--Appearance and practice before department--Who may appear. [Order 525, § 388-09-030, filed 3/31/71, effective 5/1/71; Order 285, § 388-09-030, filed 4/1/68.] Repealed by 90-05-020 (Order 2939), filed 2/13/90, effective 3/1/90. Statutory Authority: RCW 34.05.220 (1)(a).
- 388-09-040 Time limit for rendering decision. [Statutory Authority: RCW 34.04.020. 84-05-040 (Order 2076), § 388-09-040, filed 2/17/84.] Repealed by 90-05-020 (Order 2939), filed 2/13/90, effective 3/1/90. Statutory Authority: RCW 34.05.220 (1)(a).

Chapter 388-12

PUBLIC ASSISTANCE--PURPOSE--OBJECTIVES

- 388-12-010 Major purpose and objectives of public assistance--Purpose. [Regulation 2.10, filed 1/25/67; Regulation 2.10, filed 6/17/67, 1/24/64.] Repealed by Order 526, filed 3/31/71, effective 5/1/71.
- 388-12-020 Major purpose and objectives of public assistance--Objectives. [Regulation 2.20, filed 1/25/67; Regulation 2.20, filed 6/17/64, 1/24/64.] Repealed by Order 526, filed 3/31/71, effective 5/1/71.
- 388-12-030 Methods of administering public assistance. [Regulation 2.30, filed 6/17/64.] Repealed by Order 526, filed 3/31/71, effective 5/1/71.
- 388-12-040 Coordination with other community agencies. [Regulation 2.40, filed 6/17/64.] Repealed by Order 526, filed 3/31/71, effective 5/1/71.
- 388-12-050 Cooperation with private child placing or child caring agencies and institutions. [Regulation 2.50, filed 6/17/64.] Repealed by Order 526, filed 3/31/71, effective 5/1/71.
- 388-12-060 Services to recipient's family. [Regulation 2.60, filed 6/17/64.] Repealed by Order 526, filed 3/31/71, effective 5/1/71.

Chapter 388-16

SOCIAL SERVICES IN PUBLIC ASSISTANCE

- 388-16-010 Aid to families with dependent children services--Purposes and objectives. [Regulation 3.11, filed 7/27/67; Regulation 3.11, filed 1/25/67, 6/14/66, 6/17/64; Regulation 3.12, filed 6/14/66, 6/17/64.] Repealed by Order 527, filed 3/31/71, effective 5/1/71.
- 388-16-015 Aid to families with dependent children services--Definitions. [Order 527, § 388-16-015, filed 3/31/71, effective 5/1/71.] Repealed by Order 1088, filed 1/19/76.
- 388-16-020 Aid to families with dependent children services--Rights of applicants and recipients. [Order 527, § 388-16-020, filed 3/31/71, effective 5/1/71; Regulation 3.12, filed 7/27/67; Regulation 3.12, filed 1/25/67, 6/14/66, 6/17/64; Regulation 3.122, filed 6/14/66.] Repealed by Order 1088, filed 1/19/76.

- 388-16-050 Aid to families with dependent children services--Eligible persons. [Order 729, § 388-16-050, filed 10/27/72; Order 670, § 388-16-050, filed 4/14/72; Order 527, § 388-16-050, filed 3/31/71, effective 5/1/71; Regulation 3.14, filed 7/27/67.] Repealed by Order 1088, filed 1/19/76.
- 388-16-055 Aid to families with dependent children services--Services for eligible persons. [Order 729, § 388-16-055, filed 10/27/72; Order 670, § 388-16-055, filed 4/14/72.] Repealed by Order 1088, filed 1/19/76.
- 388-16-060 Aid to families with dependent children services--Defined service families--Services provided. [Order 527, § 388-16-060, filed 3/31/71, effective 5/1/71; Regulation 3.141, filed 7/27/67; Regulation 3.141, filed 5/17/67, 1/25/67, 6/14/66.] Repealed by Order 1088, filed 1/19/76.
- 388-16-070 Aid to families with dependent children services--Intake services and initial social studies. [Regulation 3.142, filed 7/27/67; Regulation 3.142, filed 1/27/67.] Repealed by Order 527, filed 3/31/71, effective 5/1/71.
- 388-16-075 Aid to families with dependent children services--Community planning. [Regulation 3.143, filed 7/27/67; Regulation 3.1421, filed 1/25/67.] Repealed by Order 527, filed 3/31/71, effective 5/1/71.
- 388-16-080 Aid to families with dependent children services--Continued care cases. [Regulation 3.144, filed 7/27/67; Regulation 3.143, filed 1/25/67, 6/14/66.] Repealed by Order 527, filed 3/31/71, effective 5/1/71.
- 388-16-110 Aid to families with dependent children services--Duration of service. [Order 527, § 388-16-110, filed 3/31/71, effective 5/1/71; Regulation 3.145, filed 7/27/67; Regulation 3.144, filed 1/25/67, 6/14/66.] Repealed by Order 1088, filed 1/19/76.
- 388-16-115 AFDC services--Family planning services. [Order 1204, § 388-16-115, filed 4/1/77; Order 1088, § 388-16-115, filed 1/19/76; Order 527, § 388-16-115, filed 3/31/71, effective 5/1/71; Order 364, § 388-16-115, filed 7/9/69.] Repealed by Order 1238, filed 8/31/77.
- 388-16-120 Services standards. [Regulation 3.15, filed 7/27/67; Regulation 3.17 (part), filed 6/14/66, 6/17/64.] Repealed by Order 527, filed 3/31/71, effective 5/1/71.
- 388-16-150 Selection of best qualified staff--Assignment by county administrators. [Regulation 3.16, filed 7/27/67.] Repealed by Order 527, filed 3/31/71, effective 5/1/71.
- 388-16-160 Aid to families with dependent children service case--Definition. [Regulation 3.17, filed 7/27/67; Regulation 3.19, filed 1/25/67, 6/14/66, 6/17/69.] Repealed by Order 527, filed 3/31/71, effective 5/1/71.
- 388-16-170 Recording of services. [Regulation 3.18, filed 7/27/67.] Repealed by Order 527, filed 3/31/71, effective 5/1/71.
- 388-16-180 Complementary services. [Regulation 3.19, filed 7/27/67.] Repealed by Order 527, filed 3/31/71, effective 5/1/71.
- 388-16-190 Homemaker service. [Regulation 3.191, filed 7/27/67.] Repealed by Order 527, filed 3/31/71, effective 5/1/71.
- 388-16-200 Special services for self-support. [Regulation 3.192, filed 7/27/67.] Repealed by Order 392, filed 10/15/69.
- 388-16-210 Aid to families with dependent children services--Day care and in-home care (baby-sitting) services. [Order 1001, § 388-16-210, filed 1/14/75; Order 925, § 388-16-210, filed 4/15/74; Order 828, § 388-16-210, filed 7/26/73; Order 720, § 388-16-210, filed 9/28/72; Order 692, § 388-16-210, filed 6/29/72; Order 611, § 388-16-210, filed 9/23/71; Order 551, § 388-16-210, filed 4/1/71; Order 527, § 388-16-210, filed 3/31/71, effective 5/1/71; Emergency

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| | Order 569, § 388-16-210, filed 5/25/71; Order 439, § 388-16-210, filed 4/15/70; Order 425, § 388-16-210, filed 1/21/70; Order 392, § 388-16-210, filed 10/15/69.] Repealed by Order 1088, filed 1/19/76. | 388-16-340 | Congregate care—Payment—Standards—Procedures. [Order 1017, § 388-16-340, filed 4/14/75; Order 965, § 388-16-340, filed 8/29/74.] Repealed by Order 1238, filed 8/31/77. |
| 388-16-213 | Standards of in-home care. [Order 828, § 388-16-213, filed 7/26/73.] Repealed by Order 1088, filed 1/19/76. | 388-16-341 | Congregate care—Application. [Order 965, § 388-16-341, filed 8/29/74.] Repealed by Order 1238, filed 8/31/77. |
| 388-16-215 | Standards of in-home care—Payment standards for day care and in-home care. [Order 1052, § 388-16-215, filed 9/10/75; Order 907, § 388-16-215, filed 2/14/74; Order 720, § 388-16-215, filed 9/28/72; Order 692, § 388-16-215, filed 6/29/72; Order 611, § 388-16-215, filed 9/23/71; Order 527, § 388-16-215, filed 3/31/71, effective 5/1/71; Order 425, § 388-16-215, filed 1/21/70; Order 392, § 388-16-215, filed 10/15/69.] Repealed by Order 1088, filed 1/19/76. | 388-16-342 | Congregate care—Services to be provided by operator. [Order 965, § 388-16-342, filed 8/29/74.] Repealed by Order 1238, filed 8/31/77. |
| 388-16-220 | Standards of in-home care—Summer camperships—Standards for purchase. [Order 576, § 388-16-220, filed 7/8/71; Order 527, § 388-16-220, filed 3/31/71, effective 5/1/71; Order 460, § 388-16-220, filed 6/17/70.] Repealed by Order 1088, filed 1/19/76. | 388-16-343 | Congregate care—Agreement. [Order 965, § 388-16-343, filed 8/29/74.] Repealed by Order 1238, filed 8/31/77. |
| 388-16-225 | Purchase of child welfare services—Agency—Licensing—Federal requirements. [Order 784, § 388-16-225, filed 3/30/73.] Repealed by Order 1238, filed 8/31/77. | 388-16-400 | Adult services—Objectives. [Order 625, § 388-16-400, filed 11/11/71; Order 527, § 388-16-400, filed 3/31/71, effective 5/1/71; Order 392, § 388-16-400, filed 10/15/69.] Repealed by Order 1088, filed 1/19/76. |
| 388-16-300 | Personal service in alternate care living arrangement—Purposes and objectives. [Order 318, § 388-16-300, filed 11/27/68.] Repealed by Order 527, filed 3/31/71, effective 5/1/71. | 388-16-402 | Adult services—Eligible persons. [Order 933, § 388-16-402, filed 5/15/74; Order 625, § 388-16-402, filed 11/11/71.] Repealed by Order 1088, filed 1/19/76. |
| 388-16-305 | Personal service in alternate care—Definition. [Order 933, § 388-16-305, filed 5/15/74; Order 527, § 388-16-305, filed 3/31/71, effective 5/1/71; Order 318, § 388-16-305, filed 11/27/68.] Repealed by Order 1088, filed 1/19/76. | 388-16-405 | Adult services—Rights of applicant, recipient and beneficiary. [Order 933, § 388-16-405, filed 5/15/74; Order 527, § 388-16-405, filed 3/31/71, effective 5/1/71; Order 392, § 388-16-405, filed 10/15/69.] Repealed by Order 1088, filed 1/19/76. |
| 388-16-310 | Personal service in alternate care—Persons eligible. [Order 933, § 388-16-310, filed 5/15/74; Order 527, § 388-16-310, filed 3/31/71, effective 5/1/71; Order 318, § 388-16-310, filed 11/27/68.] Repealed by Order 1088, filed 1/19/76. | 388-16-410 | Adult services—Entry services. [Order 933, § 388-16-410, filed 5/15/74; Order 625, § 388-16-410, filed 11/11/71; Order 527, § 388-16-410, filed 3/31/71, effective 5/1/71; Order 392, § 388-16-410, filed 10/15/69.] Repealed by Order 1088, filed 1/19/76. |
| 388-16-315 | Personal service in alternate care—Plan for services and supervision. [Order 933, § 388-16-315, filed 5/15/74; Order 527, § 388-16-315, filed 3/31/71, effective 5/1/71; Order 318, § 388-16-315, filed 11/27/68.] Repealed by Order 1088, filed 1/19/76. | 388-16-415 | Adult services—Ongoing services. [Order 933, § 388-16-415, filed 5/15/74; Order 527, § 388-16-415, filed 3/31/71, effective 5/1/71; Order 392, § 388-16-415, filed 10/15/69.] Repealed by Order 1088, filed 1/19/76. |
| 388-16-320 | Personal service in alternate care living arrangement—Acceptance of plan for person referred by mental hospital. [Order 318, § 388-16-320, filed 11/27/68.] Repealed by Order 527, filed 3/31/71, effective 5/1/71. | 388-16-425 | Chore services for adult without minor child in home—Objective—Definition—Eligible persons. [Order 933, § 388-16-425, filed 5/15/74; Order 601, § 388-16-425, filed 9/8/71.] Repealed by Order 1088, filed 1/19/76. Later promulgation, see WAC 388-16-42501. |
| 388-16-325 | Personal service in alternate care—Services provided. [Order 933, § 388-16-325, filed 5/15/74; Order 527, § 388-16-325, filed 3/31/71, effective 5/1/71; Order 318, § 388-16-325, filed 11/27/68.] Repealed by Order 1088, filed 1/19/76. | 388-16-42501 | Chore services—Objective—Definition—Eligible persons. [Order 1088, § 388-16-425 (codified as WAC 388-16-42501), filed 1/19/76. Formerly WAC 388-16-425.] Repealed by Order 1238, filed 8/31/77. |
| 388-16-330 | Personal service in alternate care living arrangement—Standards for administration. [Order 318, § 388-16-330, filed 11/27/68.] Repealed by Order 527, filed 3/31/71, effective 5/1/71. | 388-16-430 | Chore services—Standards for determining need. [Order 1088, § 388-16-430, filed 1/19/76; Order 933, § 388-16-430, filed 5/15/74; Order 601, § 388-16-430, filed 9/8/71.] Repealed by Order 1238, filed 8/31/77. |
| 388-16-335 | Congregate care—Definition. [Order 965, § 388-16-335, filed 8/29/74.] Repealed by Order 1238, filed 8/31/77. | 388-16-435 | Chore services for adult without minor child in home—Standards for payment of cost—FICA tax. [Order 933, § 388-16-435, filed 5/15/74; Order 692, § 388-16-435, filed 6/29/72; Order 649, § 388-16-435, filed 2/9/72; Order 601, § 388-16-435, filed 9/8/71.] Repealed by Order 1238, filed 8/31/77. |
| 388-16-336 | Congregate care—Eligible persons. [Order 965, § 388-16-336, filed 8/29/74.] Repealed by Order 1238, filed 8/31/77. | 388-16-440 | Chore services for adult without minor child in home—Continuing eligibility. [Order 601, § 388-16-440, filed 9/8/71.] Repealed by Order 1238, filed 8/31/77. |
| 388-16-337 | Congregate care—Determination of need. [Order 965, § 388-16-337, filed 8/29/74.] Repealed by Order 1238, filed 8/31/77. | 388-16-450 | Homemaker service to adults—Purpose and objectives. [Order 933, § 388-16-450, filed 5/15/74; Order 527, § 388-16-450, filed 3/31/71, effective 5/1/71; Order 392, § 388-16-450, filed 10/15/69.] Repealed by Order 1088, filed 1/19/76. |
| 388-16-338 | Congregate care—Placement in facility. [Order 965, § 388-16-338, filed 8/29/74.] Repealed by Order 1238, filed 8/31/77. | 388-16-455 | Homemaker services—Policies for providing. [Order 1088, § 388-16-455, filed 1/19/76; Order 933, § 388-16-455, filed 5/15/74; Order 527, § 388-16-455, filed 3/31/71, effective 5/1/71; Order 392, § 388-16-455, filed 10/15/69.] Repealed by Order 1238, filed 8/31/77. |
| 388-16-339 | Congregate care—Absence or discharge. [Order 965, § 388-16-339, filed 8/29/74.] Repealed by Order 1238, filed 8/31/77. | | |

- 388-16-460 Homemaker service—Definition and purpose. [Order 1088, § 388-16-460, filed 1/19/76; Order 608, § 388-16-460, filed 9/22/71.] Repealed by Order 1238, filed 8/31/77.
- 388-16-462 Homemaker services—Payment. [Order 1088, § 388-16-462, filed 1/19/76; Order 608, § 388-16-462, filed 9/22/71.] Repealed by Order 1238, filed 8/31/77.
- 388-16-464 Homemaker services—Staff. [Order 1088, § 388-16-464, filed 1/19/76; Order 608, § 388-16-464, filed 9/22/71.] Repealed by Order 1238, filed 8/31/77.
- 388-16-466 Homemaker service for families with children—Conditions and limitations when provided. [Order 608, § 388-16-466, filed 9/22/71.] Repealed by Order 1238, filed 8/31/77.
- 388-16-470 Adult services—Purchase of service—Sheltered workshop and activity center—Other providers—Purpose. [Order 933, § 388-16-470, filed 5/15/74; Order 589, § 388-16-470, filed 8/18/71.] Repealed by Order 1088, filed 1/19/76.
- 388-16-475 Adult services—Persons eligible. [Order 933, § 388-16-475, filed 5/15/74; Order 589, § 388-16-475, filed 8/18/71.] Repealed by Order 1088, filed 1/19/76.
- 388-16-480 Adult services—Payment. [Order 933, § 388-16-480, filed 5/15/74; Order 589, § 388-16-480, filed 8/18/71.] Repealed by Order 1088, filed 1/19/76.
- 388-16-482 Summer camperships for adults—Definition. [Order 690, § 388-16-482, filed 6/15/72.] Repealed by Order 933, filed 5/15/74.
- 388-16-484 Summer camperships for adults—Persons eligible. [Order 690, § 388-16-484, filed 6/15/72.] Repealed by Order 933, filed 5/15/74.
- 388-16-486 Summer camperships for adults—Selection of individuals. [Order 690, § 388-16-486, filed 6/15/72.] Repealed by Order 933, filed 5/15/74.
- 388-16-488 Summer camperships for adults—Payment conditions. [Order 690, § 388-16-488, filed 6/15/72.] Repealed by Order 933, filed 5/15/74.
- 388-16-490 Services to adult offender—Definitions. [Order 608, § 388-16-490, filed 9/22/71.] Repealed by Order 1088, filed 1/19/76.
- 388-16-495 Services to adult offender—Persons eligible. [Order 608, § 388-16-495, filed 9/22/71.] Repealed by Order 1088, filed 1/19/76.
- 388-16-500 Child protective services—Legislative declaration—Duty to provide. [Order 1078, § 388-16-500, filed 12/24/75; Order 608, § 388-16-500, filed 9/22/71.] Repealed by Order 1238, filed 8/31/77.
- 388-16-505 Child protective services—Definitions. [Order 1078, § 388-16-505, filed 12/24/75; Order 608, § 388-16-505, filed 9/22/71.] Repealed by Order 1238, filed 8/31/77.
- 388-16-510 Child protective services—Acceptance of reports—Eligibility for services. [Order 1152, § 388-16-510, filed 9/22/76; Order 1078, § 388-16-510, filed 12/24/75; Order 828, § 388-16-510, filed 7/26/73; Order 608, § 388-16-510, filed 9/22/71.] Repealed by Order 1238, filed 8/31/77.
- 388-16-512 Child protective services—Notification—Substantiation. [Order 1078, § 388-16-512, filed 12/24/75; Order 984, § 388-16-512, filed 11/29/74; Order 828, § 388-16-512, filed 7/26/73.] Repealed by Order 1238, filed 8/31/77.
- 388-16-515 Child abuse—Mandatory reporting—Immunity from civil liability. [Order 1078, § 388-16-515, filed 12/24/75; Order 984, § 388-16-515, filed 11/29/74; Order 608, § 388-16-515, filed 9/22/71.] Repealed by Order 1238, filed 8/31/77.
- 388-16-520 Child abuse—Information to be reported. [Order 1078, § 388-16-520, filed 12/24/75; Order 608, § 388-16-520, filed 9/22/71.] Repealed by Order 1238, filed 8/31/77.
- 388-16-525 Central registry—Definition—Duty to maintain. [Order 1075, § 388-16-525, filed 12/17/75; Order 984, § 388-16-525, filed 11/29/74; Order 828, § 388-16-525, filed 7/26/73; Order 693, § 388-16-525, filed 6/29/72; Order 608, § 388-16-525, filed 9/22/71.] Repealed by Order 1238, filed 8/31/77.
- 388-16-530 Central registry—Purpose. [Order 693, § 388-16-530, filed 6/29/72; Order 608, § 388-16-530, filed 9/22/71.] Repealed by Order 1238, filed 8/31/77.
- 388-16-535 Central registry—Storage and retrieval of information. [Order 984, § 388-16-535, filed 11/29/74; Order 828, § 388-16-535, filed 7/26/73; Order 693, § 388-16-535, filed 6/29/72; Order 608, § 388-16-535, filed 9/22/71.] Repealed by Order 1238, filed 8/31/77.
- 388-16-540 Central registry—Information—Release—Dissemination—Expungement. [Order 1078, § 388-16-540, filed 12/24/75; Order 984, § 388-16-540, filed 11/29/74; Order 828, § 388-16-540, filed 7/26/73; Order 693, § 388-16-540, filed 6/29/72.] Repealed by Order 1238, filed 8/31/77.
- 388-16-545 Central registry—Eligibility procedures and criteria. [Order 1075, § 388-16-545, filed 12/17/75; Order 984, § 388-16-545, filed 11/29/74.] Repealed by Order 1238, filed 8/31/77.
- 388-16-550 Support enforcement services for child(ren) not receiving public assistance—Statutory basis. [Order 624, § 388-16-550, filed 11/11/71.] Repealed by Order 1054, filed 9/25/75.
- 388-16-555 Support enforcement services for child(ren) not receiving public assistance—Persons eligible. [Order 624, § 388-16-555, filed 11/11/71.] Repealed by Order 1054, filed 9/25/75.
- 388-16-560 Support enforcement services for child(ren) not receiving public assistance—Application. [Order 624, § 388-16-560, filed 11/11/71.] Repealed by Order 1054, filed 9/25/75.
- 388-16-565 Support enforcement services for child(ren) not receiving public assistance—Applicant's assignment of rights. [Order 624, § 388-16-565, filed 11/11/71.] Repealed by Order 1054, filed 9/25/75.
- 388-16-570 Support enforcement services for child(ren) not receiving public assistance—Fees—Limitations. [Order 624, § 388-16-570, filed 11/11/71.] Repealed by Order 1054, filed 9/25/75.
- 388-16-575 Support enforcement services for child(ren) not receiving public assistance—Disposition of absent parent payments to custodian of child(ren). [Order 624, § 388-16-575, filed 11/11/71.] Repealed by Order 1054, filed 9/25/75.
- 388-16-580 Support enforcement services for child(ren) not receiving public assistance—Department's obligation after accepting application. [Order 624, § 388-16-580, filed 11/11/71.] Repealed by Order 1054, filed 9/25/75.
- 388-16-585 Support enforcement services for child(ren) not receiving public assistance—Request to terminate service. [Order 624, § 388-16-585, filed 11/11/71.] Repealed by Order 1054, filed 9/25/75.

Chapter 388-19

SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC)

- 388-19-005 Description of WIC program. [Statutory Authority: RCW 43.20A.550. 90-12-112 (Order 2960), § 388-19-005, filed 6/6/90, effective 7/7/90; 88-14-037 (Order 2638), § 388-19-005, filed 6/30/88.] Decodified by 91-01-097 (Order 3117), filed 12/18/90, effective 1/18/91. Statutory Authority: RCW 43.20A.550. Recodified as WAC 246-790-050.
- 388-19-015 Authorized foods. [Statutory Authority: RCW 43.20A.550. 90-12-112 (Order 2960), § 388-19-015, filed 6/6/90, effective 7/7/90; 88-14-037 (Order 2638), § 388-19-015, filed 6/30/88.] Decodified by 91-01-097 (Order 3117), filed 12/18/90, effective 1/18/91. Statutory Authority: RCW 43.20A.550. Recodified as WAC 246-790-060.

- 388-19-020 Food vendor participation. [Statutory Authority: RCW 43.20A.550. 90-12-112 (Order 2960), § 388-19-020, filed 6/6/90, effective 7/7/90; 88-18-022 (Order 2681), § 388-19-020, filed 8/30/88; 88-14-037 (Order 2638), § 388-19-020, filed 6/30/88.] Decodified by 91-01-097 (Order 3117), filed 12/18/90, effective 1/18/91. Statutory Authority: RCW 43.20A.550. Recodified as WAC 246-790-070.
- 388-19-025 Food vendor contracts. [Statutory Authority: RCW 43.20A.550. 90-12-112 (Order 2960), § 388-19-025, filed 6/6/90, effective 7/7/90; 88-14-037 (Order 2638), § 388-19-025, filed 6/30/88.] Decodified by 91-01-097 (Order 3117), filed 12/18/90, effective 1/18/91. Statutory Authority: RCW 43.20A.550. Recodified as WAC 246-790-080.
- 388-19-030 Food vendor monitoring. [Statutory Authority: RCW 43.20A.550. 90-12-112 (Order 2960), § 388-19-030, filed 6/6/90, effective 7/7/90; 88-14-037 (Order 2638), § 388-19-030, filed 6/30/88.] Decodified by 91-01-097 (Order 3117), filed 12/18/90, effective 1/18/91. Statutory Authority: RCW 43.20A.550. Recodified as WAC 246-790-090.
- 388-19-035 Food vendor sanctions. [Statutory Authority: RCW 43.20A.550. 90-12-112 (Order 2960), § 388-19-035, filed 6/6/90, effective 7/7/90; 88-14-037 (Order 2638), § 388-19-035, filed 6/30/88.] Decodified by 91-01-097 (Order 3117), filed 12/18/90, effective 1/18/91. Statutory Authority: RCW 43.20A.550. Recodified as WAC 246-790-100.
- 388-19-040 Notice of adverse action to WIC food vendor—Denial of food vendor application, contract nonrenewal. [Statutory Authority: RCW 43.20A.550. 88-14-037 (Order 2638), § 388-19-040, filed 6/30/88.] Decodified by 91-01-097 (Order 3117), filed 12/18/90, effective 1/18/91. Statutory Authority: RCW 43.20A.550. Recodified as WAC 246-790-110.
- 388-19-045 WIC food vendor—Administrative review—Contract dispute resolution. [Statutory Authority: RCW 43.20A.550. 90-12-112 (Order 2960), § 388-19-045, filed 6/6/90, effective 7/7/90; 88-18-022 (Order 2681), § 388-19-045, filed 8/30/88; 88-14-037 (Order 2638), § 388-19-045, filed 6/30/88.] Decodified by 91-01-097 (Order 3117), filed 12/18/90, effective 1/18/91. Statutory Authority: RCW 43.20A.550. Recodified as WAC 246-790-120.
- 388-19-050 WIC contractor—Continued participation pending contract dispute resolution. [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.] Decodified by 91-01-097 (Order 3117), filed 12/18/90, effective 1/18/91. Statutory Authority: RCW 43.20A.550. Recodified as WAC 246-790-130.
- 388-30-025, filed 3/31/71, effective 5/1/71; Order 321, § 388-30-025, filed 11/27/68; Regulation 9.13, filed 8/29/66; Regulation 9.13, filed 6/17/64, effective 8/1/64, 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-30-030 Continuing eligibility—Disability assistance. [Order 637, § 388-30-030, filed 1/13/72; Order 533, § 388-30-030, filed 3/31/71, effective 5/1/71; Regulation 9.14, filed 1/24/64.] Repealed by Order 917, filed 3/14/74.
- 388-30-040 Continuing eligibility—Continuing general assistance to unemployable persons. [Order 533, § 388-30-040, filed 3/31/71, effective 5/1/71; Order 490, § 388-30-040, filed 10/30/70, effective 12/1/70; Regulation 9.15, filed 1/24/64.] Repealed by Order 841, filed 8/9/73.
- 388-30-050 Continuing eligibility—Age. [Order 917, § 388-30-050, filed 3/14/74; Order 620, § 388-30-050, filed 10/27/71; Order 533, § 388-30-050, filed 3/31/71, effective 5/1/71; Order 490, § 388-30-050, filed 10/30/70, effective 12/1/70; Order 367, § 388-30-050, filed 7/9/69; Regulation 9.21, filed 12/31/65; Regulation 9.21, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-30-055 Continuing eligibility—Residence. [Order 533, § 388-30-055, filed 3/31/71, effective 5/1/71; Order 490, § 388-30-055, filed 10/30/70, effective 12/1/70; Order 367, § 388-30-055, filed 7/9/69; Regulation 9.221, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-30-060 Continuing eligibility—Institutional living arrangement. [Order 533, § 388-30-060, filed 3/31/71, effective 5/1/71; Regulation 9.23, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-30-065 Continuing eligibility—Transfer of exempt property. [Order 533, § 388-30-065, filed 3/31/71, effective 5/1/71; Regulation 9.24, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-30-070 Continuing eligibility—Exempt property transferable without consent. [Order 533, § 388-30-070, filed 3/31/71, effective 5/1/71; Order 459, § 388-30-070, filed 5/26/70, effective 7/1/70; Regulation 9.241, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-30-075 Continuing eligibility—Exempt property transferable with consent. [Order 533, § 388-30-075, filed 3/31/71, effective 5/1/71; Order 459, § 388-30-075, filed 5/26/70, effective 7/1/70; Regulation 9.242, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-30-078 Replacement of exempt property. [Order 1194, § 388-30-078, filed 3/3/77.] Repealed by Order 1241, filed 9/23/77.
- 388-30-080 Continuing eligibility—Property transferred contrary to WAC 388-30-070 and 388-30-075. [Order 533, § 388-30-080, filed 3/31/71, effective 5/1/71; Order 459, § 388-30-080, filed 5/26/70, effective 7/1/70; Regulation 9.243, filed 12/21/64, effective 2/1/65; Regulation 9.243, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-30-085 Continuing eligibility—Financial need. [Order 533, § 388-30-085, filed 3/31/71, effective 5/1/71; Regulation 9.25, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-30-090 Continuing eligibility—Nonexempt resources and income known at time of application. [Order 1058, § 388-30-090, filed 10/1/75; Order 533, § 388-30-090, filed 3/31/71, effective 5/1/71; Regulation 9.251, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-30-095 Continuing eligibility—Effect of newly acquired income and property on need. [Order 1224, § 388-30-095, filed 7/19/77; Order 975, § 388-30-095, filed 10/11/74; Order 917, § 388-30-095, filed 3/14/74; Order 533, § 388-30-095, filed 3/31/71, effective 5/1/71; Regulation 9.252, filed 10/4/67;

Chapter 388-30

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

- 388-30-010 Continuing eligibility. [Order 533, § 388-30-010, filed 3/31/71, effective 5/1/71; Regulation 9.00, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-30-015 Factors not common to all categories—Old age assistance. [Regulation 9.11, filed 1/24/64.] Repealed by Order 917, filed 3/14/74.
- 388-30-020 Continuing eligibility—Aid to blind. [Order 533, § 388-30-020, filed 3/31/71, effective 5/1/71; Regulation 9.12, filed 1/24/64.] Repealed by Order 917, filed 3/14/74.
- 388-30-025 Continuing eligibility—Aid to families with dependent children. [Order 976, § 388-30-025, filed 10/28/74; Order 918, § 388-30-025, filed 3/14/74; Order 830, § 388-30-025, filed 7/26/73; Order 533,

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

Chapter 388-35

NONCONTINUING GENERAL ASSISTANCE—ELIGIBILITY—PAYMENT—STANDARDS

- 388-35-010 Conditions of eligibility. [Statutory Authority: RCW 74.08.090. 80-03-052 (Order 1490), § 388-35-010, filed 2/22/80; 79-11-090 (Order 1447), § 388-35-010, filed 10/25/79; 78-10-031 (Order 1337), § 388-35-010, filed 9/15/78.] Repealed by 81-10-010 (Order 1642), filed 4/27/81. Statutory Authority: RCW 74.08.090.
- 388-35-020 Determination of financial need. [Statutory Authority: RCW 74.08.090. 80-02-022 (Order 1471), § 388-35-020, filed 1/9/80; 78-10-031 (Order 1337), § 388-35-020, filed 9/15/78.] Repealed by 81-10-010 (Order 1642), filed 4/27/81. Statutory Authority: RCW 74.08.090.
- 388-35-030 Certification period. [Statutory Authority: RCW 74.08.090. 78-10-031 (Order 1337), § 388-35-030, filed 9/15/78.] Repealed by 81-10-010 (Order 1642), filed 4/27/81. Statutory Authority: RCW 74.08.090.
- 388-35-050 Assistance units—Eligible persons. [Statutory Authority: RCW 74.08.090. 78-10-031 (Order 1337), § 388-35-050, filed 9/15/78.] Repealed by 81-10-010 (Order 1642), filed 4/27/81. Statutory Authority: RCW 74.08.090.
- 388-35-060 Reapplication. [Statutory Authority: RCW 74.08.090. 79-10-085 (Order 1436), § 388-35-060, filed 9/21/79; 78-10-031 (Order 1337), § 388-35-060, filed 9/15/78.] Repealed by 81-10-010 (Order 1642), filed 4/27/81. Statutory Authority: RCW 74.08.090.
- 388-35-070 Noncontinuing general assistance—Requirements. [Statutory Authority: RCW 74.08.090. 80-15-002 (Order 1550), § 388-35-070, filed 10/2/80; 79-10-085 (Order 1436), § 388-35-070, filed 9/21/79; 78-10-031 (Order 1337), § 388-35-070, filed 9/15/78.] Repealed by 81-10-010 (Order 1642), filed 4/27/81. Statutory Authority: RCW 74.08.090.

Chapter 388-36

GENERAL ASSISTANCE—NONCONTINUING—ELIGIBILITY—PAYMENT

- 388-36-010 Noncontinuing general assistance. [Order 536, § 388-36-010, filed 3/31/71, effective 5/1/71; Order 417, § 388-36-010, filed 12/31/69; Order 294, § 388-36-010, filed 7/10/68; Regulation 12.00, filed 1/24/64.] Repealed by Order 841, filed 8/9/73.
- 388-36-015 Employable person—Defined. [Order 294, § 388-36-015, filed 7/10/68; Regulation 12.01, filed 12/31/65, effective 2/1/66; Regulation 12.01, filed 1/24/64.] Repealed by Order 417, filed 12/31/69.
- 388-36-025 Noncontinuing general assistance—Eligibility conditions—Summary. [Order 760, § 388-36-025, filed 12/28/72; Order 536, § 388-36-025, filed 3/31/71, effective 5/1/71; Order 417, § 388-36-025, filed 12/31/69; Order 368, § 388-36-025, filed 7/9/69; Order 294, § 388-36-025, filed 7/10/68; Order 250, § 388-36-025, filed 11/1/67; Regulation 12.10, filed 12/31/65, effective 2/1/66; Regulation

12.10, filed 1/24/64.] Repealed by Order 841, filed 8/9/73.

388-36-055 Full-time employment. [Order 250, § 388-36-055, filed 11/1/67; Regulation 12.12, filed 12/31/65, effective 2/1/66; Regulation 12.12, filed 1/24/64.] Repealed by Order 417, filed 12/31/69.

388-36-060 Full-time employment—Effect on eligibility. [Order 250, § 388-36-060, filed 11/1/67; Regulation 12.121, filed 12/31/65, effective 2/1/66; Regulation 12.121, filed 1/24/64.] Repealed by Order 417, filed 12/31/69.

388-36-070 Noncontinuing general assistance—Limitations on eligibility. [Order 760, § 388-36-070, filed 12/28/72; Order 633, § 388-36-070, filed 12/24/71; Order 622, § 388-36-070, filed 10/27/71; Order 536, § 388-36-070, filed 3/31/71, effective 5/1/71; Order 417, § 388-36-070, filed 12/31/69; Order 250, § 388-36-070, filed 11/1/67; Regulation 12.13, filed 1/24/64.] Repealed by Order 841, filed 8/9/73.

388-36-080 Transfer of resource. [Order 294, § 388-36-080, filed 7/10/68; Regulation 12.14, filed 1/24/64.] Repealed by Order 417, filed 12/31/69.

388-36-095 Noncontinuing general assistance—Requirements. [Order 653, § 388-36-095, filed 2/9/72; Order 536, § 388-36-095, filed 3/31/71, effective 5/1/71; Order 417, § 388-36-095, filed 12/31/69; Order 294, § 388-36-095, filed 7/10/68; Order 250, § 388-36-095, filed 11/1/67; Regulation 12.151, filed 12/31/65, effective 2/1/66; Regulation 12.151, filed 1/24/64.] Repealed by Order 841, filed 8/9/73.

388-36-100 Noncontinuing general assistance—Computing income. [Order 536, § 388-36-100, filed 3/31/71, effective 5/1/71; Order 417, § 388-36-100, filed 12/31/69; Regulation 12.152, filed 1/24/64.] Repealed by Order 841, filed 8/9/73.

388-36-105 Noncontinuing general assistance—Exempt and nonexempt resources and income. [Order 536, § 388-36-105, filed 3/31/71, effective 5/1/71; Order 417, § 388-36-105, filed 12/31/69; Regulation 12.153, filed 12/31/65, effective 2/1/66; Regulation 12.153, filed 1/24/64.] Repealed by Order 841, filed 8/9/73.

388-36-110 Noncontinuing general assistance—Utilization of resources and income by noncontinuing general assistance recipient. [Order 536, § 388-36-110, filed 3/31/71, effective 5/1/71; Order 417, § 388-36-110, filed 12/31/69; Regulation 12.154, filed 1/24/64.] Repealed by Order 841, filed 8/9/73.

388-36-125 Noncontinuing general assistance—Assistance unit defined. [Order 760, § 388-36-125, filed 12/28/72; Order 659, § 388-36-125, filed 2/23/72; Order 536, § 388-36-125, filed 3/31/71, effective 5/1/71; Order 417, § 388-36-125, filed 12/31/69; Regulation 12.20, filed 1/24/64.] Repealed by Order 841, filed 8/9/73.

388-36-160 Other persons eligible for noncontinuing general assistance. [Order 294, § 388-36-160, filed 7/10/68; Regulation 12.30, filed 1/24/64.] Repealed by Order 417, filed 12/31/69.

388-36-170 Applicant for federal aid or continuing general assistance. [Regulation 12.32, filed 1/24/64.] Repealed by Order 417, filed 12/31/69.

388-36-180 Noncontinuing general assistance—Applicant without intent to remain in state. [Order 536, § 388-36-180, filed 3/31/71, effective 5/1/71; Order 417, § 388-36-180, filed 12/31/69; Order 368, § 388-36-180, filed 7/9/69; Order 294, § 388-36-180, filed 7/10/68; Regulation 12.33, filed 1/24/64.] Repealed by Order 841, filed 8/9/73.

388-36-190 Other persons temporarily in need. [Order 294, § 388-36-190, filed 7/10/68; Regulation 12.34, filed 1/24/64.] Repealed by Order 417, filed 12/31/69.

388-36-200 Immediate grant. [Regulation 12.35, filed 1/24/64.] Repealed by Order 417, filed 12/31/69.

388-36-202 Noncontinuing general assistance—Application. [Order 536, § 388-36-202, filed 3/31/71, effective

5/1/71; Order 417, § 388-36-202, filed 12/31/69.] Repealed by Order 841, filed 8/9/73.

388-36-205 Computation, authorization, reauthorization of grant. [Regulation 12.40, filed 1/24/64.] Repealed by Order 417, filed 12/31/69.

388-36-210 Noncontinuing general assistance—Effective date of eligibility. [Order 536, § 388-36-210, filed 3/31/71, effective 5/1/71; Order 417, § 388-36-210, filed 12/31/69; Regulation 12.41, filed 1/24/64.] Repealed by Order 841, filed 8/9/73.

388-36-220 Grant amount. [Regulation 12.42, filed 1/24/64.] Repealed by Order 536, filed 3/31/71, effective 5/1/71.

388-36-230 Noncontinuing general assistance—Grant period. [Order 536, § 388-36-230, filed 3/31/71, effective 5/1/71; Order 417, § 388-36-230, filed 12/31/69; Regulation 12.43, filed 1/24/64.] Repealed by Order 841, filed 8/9/73.

388-36-240 Noncontinuing general assistance—Authorization and re-authorization of grant. [Order 536, § 388-36-240, filed 3/31/71, effective 5/1/71; Order 417, § 388-36-240, filed 12/31/69; Regulation 12.44, filed 1/24/64.] Repealed by Order 841, filed 8/9/73.

388-36-245 Noncontinuing general assistance—Notification to recipient. [Order 536, § 388-36-245, filed 3/31/71, effective 5/1/71; Order 417, § 388-36-245, filed 12/31/69; Regulation 12.441, filed 1/24/64.] Repealed by Order 841, filed 8/9/73.

388-36-255 Noncontinuing general assistance—Payment of grant. [Order 536, § 388-36-255, filed 3/31/71, effective 5/1/71; Order 450, § 388-36-255, filed 5/14/70, effective 6/15/70; Order 417, § 388-36-255, filed 12/31/69; Regulation 12.50, filed 1/24/64.] Repealed by Order 841, filed 8/9/73.

388-36-265 Noncontinuing general assistance—Vendor payment. [Order 536, § 388-36-265, filed 3/31/71, effective 5/1/71; Order 450, § 388-36-265, filed 5/14/70, effective 6/15/70; Order 417, § 388-36-265, filed 12/31/69; Regulation 12.51, filed 1/24/64.] Repealed by Order 841, filed 8/9/73.

Chapter 388-39

MEDICAL CARE

[Regulation 14.00 through 14.33, filed 1/24/64.] Repealed by Order 244, filed 10/20/67.

Chapter 388-48

SAFEGUARDING INFORMATION

388-48-010 Public assistance information confidential and privileged. [Order 541, § 388-48-010, filed 3/31/71, effective 5/1/71; Regulation 18.10, filed 1/24/64.] Repealed by 81-06-001 (Order 1609), filed 2/19/81. Statutory Authority: RCW 42.17.250 through 42.17.340.

388-48-020 Information not confidential. [Statutory Authority: RCW 74.08.090. 78-08-047 (Order 1319), § 388-48-020, filed 7/19/78; Order 541, § 388-48-020, filed 3/31/71, effective 5/1/71; Regulation 18.11, filed 1/24/64.] Repealed by 81-06-001 (Order 1609), filed 2/19/81. Statutory Authority: RCW 42.17.250 through 42.17.340.

388-48-025 Conditions and limitations on disclosing confidential information. [Reference section only] Repealed by Order 541, filed 3/31/71, effective 5/1/71.

388-48-030 Conditions and limitations on disclosing confidential information—Inquiry whether individual receives assistance. [Order 1096, § 388-48-030, filed 2/13/76; Order 993, § 388-48-030, filed 12/31/74; Order 541, § 388-48-030, filed 3/31/71, effective 5/1/71; Regulation 18.21, filed 1/24/64.] Repealed by 81-06-001 (Order 1609), filed 2/19/81. Statutory Authority: RCW 42.17.250 through 42.17.340.

388-48-033 Conditions and limitations on disclosing confidential information—Request from parent for address or location of child. [Order 1096, § 388-48-033, filed

- 2/13/76; Order 1030, § 388-48-033, filed 6/12/75; Order 843, § 388-48-033, filed 8/9/73.] Repealed by 81-06-001 (Order 1609), filed 2/19/81. Statutory Authority: RCW 42.17.250 through 42.17.340.
- 388-48-037 Conditions and limitations on disclosing confidential information—Request from law enforcement agency or United States Immigration Service for address or location of recipient. [Order 993, § 388-48-037, filed 12/31/74; Order 843, § 388-48-037, filed 8/9/73.] Repealed by 81-06-001 (Order 1609), filed 2/19/81. Statutory Authority: RCW 42.17.250 through 42.17.340.
- 388-48-040 Conditions and limitations on disclosing confidential information—Information related to administration of assistance. [Order 541, § 388-48-040, filed 3/31/71, effective 5/1/71; Regulation 18.22, filed 1/24/64.] Repealed by 81-06-001 (Order 1609), filed 2/19/81. Statutory Authority: RCW 42.17.250 through 42.17.340.
- 388-48-050 Conditions and limitations on disclosing confidential information—Release of information to United States armed services. [Order 541, § 388-48-050, filed 3/31/71, effective 5/1/71; Regulation 18.23, filed 1/24/64.] Repealed by 81-06-001 (Order 1609), filed 2/19/81. Statutory Authority: RCW 42.17.250 through 42.17.340.
- 388-48-060 Conditions and limitations on disclosing confidential information—Release of information to disability insurance unit. [Regulation 18.24, filed 1/24/64.] Repealed by Order 541, filed 3/31/71, effective 5/1/71.
- 388-48-070 Conditions and limitations on disclosing confidential information—Release of information requested by applicant or recipient. [Order 541, § 388-48-070, filed 3/31/71, effective 5/1/71; Regulation 18.25, filed 1/24/64.] Repealed by 81-06-001 (Order 1609), filed 2/19/81. Statutory Authority: RCW 42.17.250 through 42.17.340.
- 388-48-080 Conditions and limitations on disclosing confidential information—Release of information to applicant or recipient. [Order 541, § 388-48-080, filed 3/31/71, effective 5/1/71; Regulation 18.26, filed 1/24/64.] Repealed by 81-06-001 (Order 1609), filed 2/19/81. Statutory Authority: RCW 42.17.250 through 42.17.340.
- 388-48-100 Employees authorized to disclose information. [Order 541, § 388-48-100, filed 3/31/71, effective 5/1/71; Regulation 18.30, filed 1/24/64.] Repealed by 81-06-001 (Order 1609), filed 2/19/81. Statutory Authority: RCW 42.17.250 through 42.17.340.
- 388-48-110 Distribution of rules and regulations. [Order 541, § 388-48-110, filed 3/31/71, effective 5/1/71; Order 271, § 388-48-110, filed 12/5/67; Regulation 18.40, filed 1/24/64.] Repealed by 81-06-001 (Order 1609), filed 2/19/81. Statutory Authority: RCW 42.17.250 through 42.17.340.
- 388-48-120 Solicitation or use of confidential information. [Order 541, § 388-48-120, filed 3/31/71, effective 5/1/71; Regulation 18.50, filed 1/24/64.] Repealed by 81-06-001 (Order 1609), filed 2/19/81. Statutory Authority: RCW 42.17.250 through 42.17.340.
- 388-48-130 Prohibition against release of confidential and privileged information in judicial proceedings. [Order 541, § 388-48-130, filed 3/31/71, effective 5/1/71; Order 271, § 388-48-130, filed 12/5/67; Regulation 18.60, filed 1/24/64.] Repealed by 81-06-001 (Order 1609), filed 2/19/81. Statutory Authority: RCW 42.17.250 through 42.17.340.
- 388-48-140 General. [Regulation 18.70, filed 1/24/64.] Repealed by Order 541, filed 3/31/71, effective 5/1/71.

Chapter 388-50

CASE RECORDS—CASE NUMBERING

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

Chapter 388-54

FOOD ASSISTANCE PROGRAMS

- 388-54-010 Eligibility and authorization. [Order 252, § 388-54-010, filed 11/1/67; Regulation 21.10, filed 1/24/64.] Repealed by Order 350, filed 5/28/69.
- 388-54-020 Eligible needy households—General. [Order 252, § 388-54-020, filed 11/1/67; Regulation 21.20, filed 1/24/64.] Repealed by Order 350, filed 5/28/69.
- 388-54-025 Eligible needy households—Recipients of public assistance grants. [Order 252, § 388-54-025, filed 11/1/67; Regulation 21.21, filed 1/24/64.] Repealed by Order 350, filed 5/28/69.
- 388-54-030 Eligible needy households—Nonrecipients of public assistance grants. [Order 252, § 388-54-030, filed 11/1/67; Regulation 21.22, filed 12/31/65, effective 2/1/66; Regulation 21.22, filed 1/24/64.] Repealed by Order 350, filed 5/28/69.
- 388-54-040 Student applicant. [Order 252, § 388-54-040, filed 11/1/67; Regulation 21.221, filed 12/31/65, effective 2/1/66; Regulation 21.221, filed 1/24/64.] Repealed by Order 350, filed 5/28/69.
- 388-54-045 Treatment of allowances provided under U.S. Department of Labor and other government-sponsored training programs. [Order 252, § 388-54-045, filed 11/1/67; Regulation 21.222, filed 12/31/65, effective 2/1/66.] Repealed by Order 350, filed 5/28/69.
- 388-54-060 Certification of eligibility—Recipient of continuing assistance or recipient in suspended grant status. [Order 252, § 388-54-060, filed 11/1/67; Regulation 21.31, filed 12/31/65, effective 2/1/66; Regulation 21.31, filed 1/24/64.] Repealed by Order 350, filed 5/28/69.
- 388-54-070 Recipient of noncontinuing assistance. [Order 252, § 388-54-070, filed 11/1/67; Regulation 21.32, filed 1/24/64.] Repealed by Order 350, filed 5/28/69.
- 388-54-080 Nonrecipient of assistance. [Order 252, § 388-54-080, filed 11/1/67; Regulation 21.33, filed 12/31/65, effective 2/1/66; Regulation 21.33, filed 1/24/64.] Repealed by Order 350, filed 5/28/69.
- 388-54-110 Authorization process—Recipient of continuing public assistance grant. [Order 252, § 388-54-110, filed 11/1/67; Regulation 21.41, filed 12/31/65, effective 2/1/66; Regulation 21.41, filed 1/24/64.] Repealed by Order 350, filed 5/28/69.
- 388-54-120 Authorization process—Recipient of noncontinuing assistance. [Order 252, § 388-54-120, filed 11/1/67; Regulation 21.42, filed 12/31/65, effective 2/1/66; Regulation 21.42, filed 1/24/64.] Repealed by Order 350, filed 5/28/69.
- 388-54-130 Authorization process—Persons not receiving assistance. [Order 252, § 388-54-130, filed 11/1/67; Regulation 21.43, filed 1/24/64.] Repealed by Order 350, filed 5/28/69.
- 388-54-140 Authorization process—Exceptions. [Order 252, § 388-54-140, filed 11/1/67; Regulation 21.44, filed 1/24/64.] Repealed by Order 350, filed 5/28/69.
- 388-54-150 Civil rights. [Order 252, § 388-54-150, filed 11/1/67; Regulation 21.50, effective 2/1/66, filed 12/31/65.] Repealed by Order 350, filed 5/28/69.
- 388-54-300 Food stamp program. [Order 429, § 388-54-300, filed 3/17/70; Order 252, § 388-54-300, filed 11/1/67; Supp. food stamp plan (part), filed 12/31/65.] Repealed by Order 543, filed 3/31/71, effective 5/1/71.
- 388-54-305 Food stamp program—General terms and conditions. [Order 429, § 388-54-305, filed 3/17/70; Order 343, § 388-54-305, filed 3/20/69; Order 252, § 388-54-305, filed 11/1/67; Supp. food stamp plan (part), filed 12/31/65.] Repealed by Order 543, filed 3/31/71, effective 5/1/71.
- 388-54-310 Food stamp program—Administration. [Order 429, § 388-54-310, filed 3/17/70; Order 315, § 388-54-310, filed 10/31/68; Order 252, § 388-54-310, filed 11/1/67; Supp. food stamp plan (part), filed

- 12/31/65.] Repealed by Order 543, filed 3/31/71, effective 5/1/71.
- 388-54-315 Food stamp program—Eligibility standards. [Order 543, § 388-54-315, filed 3/31/71, effective 5/1/71; Order 515, § 388-54-315, filed 1/22/71; Order 498, § 388-54-315, filed 12/2/70; Order 470, § 388-54-315, filed 8/19/70; Order 451, § 388-54-315, filed 5/20/70, effective 6/15/70; Order 429, § 388-54-315, filed 3/17/70; Order 315, § 388-54-315, filed 10/31/68; Order 252, § 388-54-315, filed 11/1/67; Supp. food stamp plan (part), filed 12/31/65.] Repealed by Order 660, filed 2/23/72, effective 4/1/72.
- 388-54-320 Food stamp program—Application—Certification—Review—Recertification—Cancellation. [Order 600, § 388-54-320, filed 9/8/71; Order 588, § 388-54-320, filed 8/18/71; Order 568, § 388-54-320, filed 5/19/71; Order 543, § 388-54-320, filed 3/31/71, effective 5/1/71; Order 515, § 388-54-320, filed 1/22/71; Order 478, § 388-54-320, filed 9/8/70; Order 470, § 388-54-320, filed 8/19/70; Order 451, § 388-54-320, filed 5/20/70, effective 6/15/70; Order 429, § 388-54-320, filed 3/17/70; Order 315, § 388-54-320, filed 10/31/68; Order 252, § 388-54-320, filed 11/1/67; Supp. food stamp plan (part), filed 12/31/65.] Repealed by Order 660, filed 2/23/72, effective 4/1/72.
- 388-54-325 Food stamp program—Basis of coupon issuance. [Order 543, § 388-54-325, filed 3/31/71, effective 5/1/71; Order 451, § 388-54-325, filed 5/20/70, effective 6/15/70; Order 429, § 388-54-325, filed 3/17/70; Order 252, § 388-54-325, filed 11/1/67; Supp. food stamp plan (part), filed 12/31/65.] Repealed by Order 660, filed 2/23/72, effective 4/1/72.
- 388-54-330 Food stamp program—Issuance and sales of coupons. [Order 543, § 388-54-330, filed 3/31/71, effective 5/1/71; Order 491, § 388-54-330, filed 10/30/70, effective 12/1/70; Order 451, § 388-54-330, filed 5/20/70, effective 6/15/70; Order 429, § 388-54-330, filed 3/17/70; Order 252, § 388-54-330, filed 11/1/67; Supp. food stamp plan (part), filed 12/31/65.] Repealed by Order 660, filed 2/23/72, effective 4/1/72.
- 388-54-335 Food stamp program—Payment of certain certification costs. [Order 252, § 388-54-335, filed 11/1/67; Supp. food stamp plan (part), filed 12/31/65.] Repealed by Order 429, filed 3/17/70.
- 388-54-340 Food stamp program—Civil rights assurance. [Order 543, § 388-54-340, filed 3/31/71, effective 5/1/71; Order 429, § 388-54-340, filed 3/17/70; Order 252, § 388-54-340, filed 11/1/67; Supp. food stamp plan (part), filed 12/31/65.] Repealed by Order 660, filed 2/23/72, effective 4/1/72.
- 388-54-345 Food stamp program—Nonassistance household—Income and resources standard. [Order 543, § 388-54-345, filed 3/31/71, effective 5/1/71; Order 429, § 388-54-345, filed 3/17/70; Order 413, § 388-54-345, filed 12/23/69. Order 252, § 388-54-345, filed 11/1/67; Supp. food stamp plan (part), filed 12/31/65.] Repealed by Order 660, filed 2/23/72, effective 4/1/72.
- 388-54-350 Food stamp program—Nonassistance household—Definitions. [Order 588, § 388-54-350, filed 8/18/71; Order 543, § 388-54-350, filed 3/31/71, effective 5/1/71; Order 470, § 388-54-350, filed 8/19/70; Order 429, § 388-54-350, filed 3/17/70; Order 252, § 388-54-350, filed 11/1/67; Supp. food stamp plan (part), filed 12/31/65.] Repealed by Order 660, filed 2/23/72, effective 4/1/72.
- 388-54-355 Food stamp program—Hardship provisions. [Order 543, § 388-54-355, filed 3/31/71, effective 5/1/71; Order 515, § 388-54-355, filed 1/22/71; Order 451, § 388-54-355, filed 5/20/70, effective 6/15/70; Order 429, § 388-54-355, filed 3/17/70; Order 252, § 388-54-355, filed 11/1/67.] Repealed by Order 660, filed 2/23/72, effective 4/1/72.
- 388-54-360 Food stamp program—Nonassistance household—Student applicant. [Order 600, § 388-54-360, filed 9/8/71; Order 568, § 388-54-360, filed 5/19/71; Order 543, § 388-54-360, filed 3/31/71, effective 5/1/71; Order 515, § 388-54-360, filed 1/22/71; Order 429, § 388-54-360, filed 3/17/70; Order 349, § 388-54-360, filed 5/28/69; Order 252, § 388-54-360, filed 11/1/67; Supp. food stamp plan (part), filed 12/31/65.] Repealed by Order 660, filed 2/23/72, effective 4/1/72.
- 388-54-365 Food stamp program—Nonassistance household—Treatment of allowances from department of labor and other government sponsored training programs. [Order 543, § 388-54-365, filed 3/31/71, effective 5/1/71; Order 429, § 388-54-365, filed 3/17/70; Order 379, § 388-54-365, filed 8/7/69; Order 325, § 388-54-365, filed 11/27/68; Order 315, § 388-54-365, filed 10/31/68; Order 252, § 388-54-365, filed 11/1/67; Supp. food stamp plan (part), filed 12/31/65.] Repealed by Order 660, filed 2/23/72, effective 4/1/72.
- 388-54-370 Food stamp program—Nonassistance household—Treatment of earned income under Title 1 of Elementary and Secondary Education Act, amendments of 1966. [Order 543, § 388-54-370, filed 3/31/71, effective 5/1/71; Order 429, § 388-54-370, filed 3/17/70; Order 325, § 388-54-370, filed 11/27/68; Order 315, § 388-54-370, filed 10/31/68; Order 252, § 388-54-370, filed 11/1/67.] Repealed by Order 660, filed 2/23/72, effective 4/1/72.
- 388-54-375 Food stamp program—Nonassistance household—Treatment of income from certain programs authorized or financed by Economic Opportunity Act of 1964. [Order 543, § 388-54-375, filed 3/31/71, effective 5/1/71; Order 429, § 388-54-375, filed 3/17/70; Order 325, § 388-54-375, filed 11/27/68; Order 315, § 388-54-375, filed 10/31/68; Order 252, § 388-54-375, filed 11/1/67.] Repealed by Order 660, filed 2/23/72, effective 4/1/72.
- 388-54-376 Food stamp program—Nonassistance household—Treatment of earned income—Child or adult AFDC recipient. [Order 600, § 388-54-376, filed 9/8/71; Order 543, § 388-54-376, filed 3/31/71, effective 5/1/71; Order 429, § 388-54-376, filed 3/17/70.] Repealed by Order 660, filed 2/23/72, effective 4/1/72.
- 388-54-377 Food stamp program—Ineligible receipt of food coupons. [Order 543, § 388-54-377, filed 3/31/71, effective 5/1/71; Order 429, § 388-54-377, filed 3/17/70; Order 349, § 388-54-377, filed 5/28/69; Order 325, § 388-54-377, filed 11/27/68; Order 283, § 388-54-377, filed 3/6/68.] Repealed by Order 568, filed 5/19/71.
- 388-54-378 Food stamp program—Unused coupons—Disposition. [Order 543, § 388-54-378, filed 3/31/71, effective 5/1/71; Order 429, § 388-54-378, filed 3/17/70; Order 330, § 388-54-378, filed 1/8/69; Order 283, § 388-54-378, filed 3/6/68.] Repealed by Order 660, filed 2/23/72, effective 4/1/72.
- 388-54-380 Food stamp program—Monthly basis of issuance—Continuing and noncontinuing assistance households. [Order 252, § 388-54-380, filed 11/1/67; Supp. food stamp plan (part), filed 12/31/65.] Repealed by Order 451, filed 5/20/70, effective 6/15/70.
- 388-54-385 Food stamp program—Net monthly income basis of coupon issuance table. [Order 543, § 388-54-385, filed 3/31/71, effective 5/1/71; Order 451, § 388-54-385, filed 5/20/70, effective 6/15/70; Order 429, § 388-54-385, filed 3/17/70; Order 343, § 388-54-385, filed 3/20/69; Order 252, § 388-54-385, filed 11/1/67.] Repealed by Order 660, filed 2/23/72, effective 4/1/72.

- 388-54-390 Food stamp program—Ineligible receipt of food coupons. [Order 568, § 388-54-390, filed 5/19/71.] Repealed by Order 660, filed 2/23/72, effective 4/1/72.
- 388-54-393 Food stamp program—Ineligible receipt of food coupons—Liability for repayment. [Order 568, § 388-54-393, filed 5/19/71.] Repealed by Order 660, filed 2/23/72, effective 4/1/72.
- 388-54-396 Food stamp program—Ineligible receipt of food coupons—Collection of claims. [Order 568, § 388-54-396, filed 5/19/71.] Repealed by Order 660, filed 2/23/72, effective 4/1/72.
- 388-54-399 Food stamp program—Ineligible receipt of food coupons—Eligibility—claim unpaid. [Order 568, § 388-54-399, filed 5/19/71.] Repealed by Order 660, filed 2/23/72, effective 4/1/72.
- 388-54-405 Food stamp program—General provisions. [Order 1021, § 388-54-405, filed 4/29/75; Order 992, § 388-54-405, filed 12/31/74; Order 660, § 388-54-405, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-410 Application—Assistance household. [Order 931, § 388-54-410, filed 4/25/74; Order 660, § 388-54-410, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-415 Nonassistance household. [Order 660, § 388-54-415, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-420 Authorized representative. [Order 992, § 388-54-420, filed 12/31/74; Order 660, § 388-54-420, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-425 Eligibility standards—General. [Order 931, § 388-54-425, filed 4/25/74; Order 660, § 388-54-425, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-430 Eligibility standards—Residence. [Order 992, § 388-54-430, filed 12/31/74; Order 660, § 388-54-430, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-432 Eligibility standards—Boarding house—Institution. [Order 992, § 388-54-432, filed 12/31/74; Order 660, § 388-54-432, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-435 Eligibility standards—Cooking facilities. [Order 992, § 388-54-435, filed 12/31/74; Order 660, § 388-54-435, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-440 Eligibility standards—Household determination. [Order 1063, § 388-54-440, filed 10/23/75; Order 1021, § 388-54-440, filed 4/29/75; Order 992, § 388-54-440, filed 12/31/74; Order 809, § 388-54-440, filed 6/15/73; Order 704, § 388-54-440, filed 8/11/72; Order 685, § 388-54-440, filed 5/25/72; Order 660, § 388-54-440, filed 8/11/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-442 Student tax dependents. [Order 1030, § 388-54-442, filed 6/12/75.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-445 Eligibility standards—Delivered meals. [Order 660, § 388-54-445, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-448 Eligibility standards—Communal dining. [Order 992, § 388-54-448, filed 12/31/74.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-450 Eligibility standards—Tax dependents. [Order 660, § 388-54-450, filed 2/23/72, effective 4/1/72.] Repealed by Order 734, filed 11/9/72.
- 388-54-452 Eligibility standards—Drug-alcohol treatment programs. [Order 992, § 388-54-452, filed 12/31/74.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-455 Eligibility standards—Work registration requirement. [Order 992, § 388-54-455, filed 12/31/74; Order 660, § 388-54-455, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-460 Nonassistance household—Resources—Standards—Exemptions. [Order 1136, § 388-54-460, filed 7/29/76; Order 1030, § 388-54-460, filed 6/12/75; Order 1021, § 388-54-460, filed 4/29/75; Order 992, § 388-54-460, filed 12/31/74; Order 660, § 388-54-460, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-462 Earned income tax credit disregarded. [Order 1175, § 388-54-462, filed 12/8/76; Order 1121, § 388-54-462, filed 5/26/76.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-465 Nonassistance household—Nonrecurring lump-sum payments. [Order 992, § 388-54-465, filed 12/31/74; Order 660, § 388-54-465, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-470 Monthly net income. [Statutory Authority: RCW 74.04.510. 78-10-056 (Order 1342), § 388-54-470, filed 9/22/78; Statutory Authority: RCW 74.04.510 and 74.08.090. 78-06-086 (Order 1303), § 388-54-470, filed 6/2/78; Order 1249, § 388-54-470, filed 10/28/77; Order 1153, § 388-54-470, filed 9/22/76; Order 1091, § 388-54-470, filed 1/28/76; Order 1039, § 388-54-470, filed 8/7/75; Order 1030, § 388-54-470, filed 6/12/75; Order 1007, § 388-54-470, filed 2/13/75; Order 992, § 388-54-470, filed 12/31/74; Order 966, § 388-54-470, filed 8/29/74; Order 889, § 388-54-470, filed 12/27/73; Order 803, § 388-54-470, filed 5/31/73; Order 687, § 388-54-470, filed 6/1/72; Order 660, § 388-54-470, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-475 Definitions of income. [Order 1153, § 388-54-475, filed 9/22/76; Order 992, § 388-54-475, filed 12/31/74; Order 704, § 388-54-475, filed 8/11/72; Order 685, § 388-54-475, filed 5/25/72; Order 660, § 388-54-475, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-480 Income exclusions. [Statutory Authority: RCW 74.04.510. 78-10-056 (Order 1342), § 388-54-480, filed 9/22/78; 78-02-050 (Order 1266), § 388-54-480, filed 1/19/78; Order 1194, § 388-54-480, filed 3/3/77; Order 1136, § 388-54-480, filed 7/29/76; Order 1021, § 388-54-480, filed 4/29/75; Order 992, § 388-54-480, filed 12/31/74; Order 966, § 388-54-480, filed 8/29/74; Order 871, § 388-54-480, filed 11/20/73; Order 660, § 388-54-480, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-482 Tax Reduction Act of 1975 payments disregarded. [Order 1028, § 388-54-482, filed 5/29/75.] Repealed by Order 1121, filed 5/26/76. Later promulgation, see WAC 388-54-462.
- 388-54-485 Income deductions. [Statutory Authority: RCW 74.04.510. 79-01-068 (Order 1363), § 388-54-485, filed 12/29/78; 78-10-056 (Order 1342), § 388-54-

- 485, filed 9/22/78; Statutory Authority: RCW 74.04.510 and 74.08.090. 78-06-086 (Order 1303), § 388-54-485, filed 6/2/78; Order 1245, § 388-54-485, filed 10/10/77; Order 1092, § 388-54-485, filed 1/28/76; Order 1063, § 388-54-485, filed 10/23/75; Order 1021, § 388-54-485, filed 4/29/75; Order 992, § 388-54-485, filed 12/31/74; Order 771, § 388-54-485, filed 1/26/73; Order 660, § 388-54-485, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-490 Income computation. [Order 660, § 388-54-490, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-495 Self-employment income. [Order 992, § 388-54-495, filed 12/31/74; Order 660, § 388-54-495, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-500 Farm employment income. [Statutory Authority: RCW 74.04.510. 78-12-004 (Order 1356), § 388-54-500, filed 11/6/78; Order 660, § 388-54-500, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-505 Nonassistance household—Verification of eligibility. [Statutory Authority: RCW 74.04.510. 78-12-004 (Order 1356), § 388-54-505, filed 11/6/78; Statutory Authority: RCW 74.04.510 and 74.08.090. 78-06-086 (Order 1303), § 388-54-505, filed 6/2/78; Order 1030, § 388-54-505, filed 6/12/75; Order 992, § 388-54-505, filed 12/31/74; Order 660, § 388-54-505, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-507 Preliminary certification. [Statutory Authority: RCW 74.04.510. 78-12-004 (Order 1356), § 388-54-507, filed 11/6/78.] Repealed by 80-10-043 (Order 1529), filed 8/6/80. Statutory Authority: RCW 74.04.510.
- 388-54-509 Special certification for migrant farm laborers. [Statutory Authority: RCW 74.04.510. 78-12-004 (Order 1356), § 388-54-509, filed 11/6/78.] Repealed by 80-10-043 (Order 1529), filed 8/6/80. Statutory Authority: RCW 74.04.510.
- 388-54-510 Certification. [Statutory Authority: RCW 74.04.510. 79-01-085 (Order 1364), § 388-54-510, filed 1/3/79; Order 992, § 388-54-510, filed 12/31/74; Order 660, § 388-54-510, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-515 Certification—Changes during certification period—Reporting. [Order 1080, § 388-54-515, filed 12/24/75; Order 992, § 388-54-515, filed 12/31/74; Order 734, § 388-54-515, filed 11/9/72; Order 660, § 388-54-515, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-520 Certification—Effecting changes during certification period. [Order 1080, § 388-54-520, filed 12/24/75; Order 992, § 388-54-520, filed 12/31/74; Order 660, § 388-54-520, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-525 Advance notice—Expiration or adverse action. [Statutory Authority: RCW 74.04.510. 78-11-046 (Order 1352), § 388-54-525, filed 10/20/78; Order 992, § 388-54-525, filed 12/31/74; Order 660, § 388-54-525, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-526 Conference procedure. [Order 869, § 388-54-526, filed 11/1/73.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-527 Participation during appeals. [Order 992, § 388-54-527, filed 12/31/74; Order 869, § 388-54-527, filed 11/1/73.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-528 Adjustments after hearing decision. [Order 924, § 388-54-528, filed 4/15/74; Order 869, § 388-54-528, filed 11/1/73.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-530 Recertification. [Order 660, § 388-54-530, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-535 Transfer of certification and lost benefits. [Statutory Authority: RCW 74.04.510. 78-05-064 (Order 1291), § 388-54-535, filed 4/27/78; Order 660, § 388-54-535, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-540 Basis of coupon issuance. [Statutory Authority: RCW 74.04.510. 78-10-056 (Order 1342), § 388-54-540, filed 9/22/78; Statutory Authority: RCW 74.04.510 and 74.08.090. 78-06-086 (Order 1303), § 388-54-540, filed 6/2/78; Order 1249, § 388-54-540, filed 10/28/77; Order 1153, § 388-54-540, filed 9/22/76; Order 1091, § 388-54-540, filed 1/28/76; Order 1039, § 388-54-540, filed 8/7/75; Order 1007, § 388-54-540, filed 2/13/75; Order 966, § 388-54-540, filed 8/29/74; Order 889, § 388-54-540, filed 12/27/73; Order 803, § 388-54-540, filed 5/31/73; Order 687, § 388-54-540, filed 6/1/72; Order 660, § 388-54-540, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-545 Identification card. [Order 660, § 388-54-545, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-550 Authorization to purchase. [Order 660, § 388-54-550, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-555 Food coupon issuance and sales—Variable purchase. [Order 803, § 388-54-555, filed 5/31/73; Order 702, § 388-54-555, filed 7/27/72; Order 660, § 388-54-555, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-560 Food coupon use or redemption. [Order 992, § 388-54-560, filed 12/31/74; Order 660, § 388-54-560, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-565 Ineligible receipt of food coupons. [Order 925, § 388-54-565, filed 4/15/74; Order 660, § 388-54-565, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-570 Ineligible receipt of food coupons—Liability for repayment. [Order 1021, § 388-54-570, filed 4/29/75; Order 660, § 388-54-570, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-575 Ineligible receipt of food coupons—Collection of claim. [Order 869, § 388-54-575, filed 11/1/73; Order 660, § 388-54-575, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-580 Ineligible receipt of food coupons—Claim unpaid—Eligibility for food coupons. [Order 660, § 388-54-580, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-585 Replacement purchase. [Order 660, § 388-54-585, filed 2/23/72, effective 4/1/72.] Repealed by 79-03-

- 033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-590 Cash refunds. [Order 1136, § 388-54-590, filed 7/29/76; Order 869, § 388-54-590, filed 11/1/73.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-595 Retroactive benefits. [Statutory Authority: RCW 74.04.510. 78-05-064 (Order 1291), § 388-54-595, filed 4/27/78; Order 1136, § 388-54-595, filed 7/29/76; Order 1063, § 388-54-595, filed 10/23/75; Order 924, § 388-54-595, filed 4/15/74.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-598 Offsetting unpaid claims. [Order 1136, § 388-54-598, filed 7/29/76.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-600 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.
- 388-54-678 Job search requirement. [Statutory Authority: RCW 74.04.510. 81-23-044 (Order 1720), § 388-54-678, filed 11/18/81; 81-11-045 (Order 1653), § 388-54-678, filed 5/20/81.] Repealed by 85-09-013 (Order 2222), filed 4/8/85. Statutory Authority: RCW 74.04.510.
- 388-54-679 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.
- 388-54-700 Food distribution program—General provisions and coverage. [Order 665, § 388-54-700, filed 3/23/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-705 Food distribution program—Participation. [Order 665, § 388-54-705, filed 3/23/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-710 Food distribution program—Issuance of commodities. [Order 665, § 388-54-710, filed 3/23/72.] Repealed by 79-03-033 (Order 1374), filed 3/1/79. Statutory Authority: RCW 74.04.510.
- 388-54-715 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 74.04.050. 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.
- 388-54-810 Issuance—Sixty day continuation of benefits. [Statutory Authority: RCW 74.04.510. 79-03-033 (Order 1374), § 388-54-810, filed 3/1/79.] Repealed by 83-03-015 (Order 1934), filed 1/12/83. Statutory Authority: RCW 74.04.510.
- 388-54-815 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.
- 388-54-821 Complaints. [Statutory Authority: RCW 74.04.510. 81-17-023 (Order 1688), § 388-54-821, filed 8/12/81.] Repealed by 83-21-011 (Order 2032), filed 10/6/83. Statutory Authority: RCW 74.04.510.
- 388-54-825 Fraud disqualification. [Statutory Authority: RCW 74.04.510. 79-03-033 (Order 1374), § 388-54-825, filed 3/1/79.] Repealed by 79-10-084 (Order 1435), filed 9/21/79. Statutory Authority: RCW 74.04.510. Later promulgation, see WAC 388-54-826, 388-54-827, and 388-54-828.
- 388-54-826 Fraud disqualification—Administrative fraud hearing determined. [Statutory Authority: RCW 74.04.510. 81-23-044 (Order 1720), § 388-54-826, filed 11/18/81; 80-10-043 (Order 1529), § 388-54-826, filed 8/6/80; 79-10-084 (Order 1435), § 388-54-826, filed 9/21/79.] Repealed by 83-21-011 (Order 2032), filed 10/6/83. Statutory Authority: RCW 74.04.510.
- 388-54-82650 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.
- 388-54-827 Fraud administrative hearing—Decision rendering process. [Statutory Authority: RCW 74.04.510. 79-10-084 (Order 1435), § 388-54-827, filed 9/21/79.] Repealed by 83-21-011 (Order 2032), filed 10/6/83. Statutory Authority: RCW 74.04.510.
- 388-54-828 Fraud disqualification—Court imposed. [Statutory Authority: RCW 74.04.510. 80-10-043 (Order 1529), § 388-54-828, filed 8/6/80; 79-10-084 (Order 1435), § 388-54-828, filed 9/21/79.] Repealed by 83-21-011 (Order 2032), filed 10/6/83. Statutory Authority: RCW 74.04.510.
- 388-54-829 Administrative disqualification hearing waiver. [Statutory Authority: RCW 74.04.510. 83-21-011 (Order 2032), § 388-54-829, filed 10/6/83.] Repealed by 84-20-099 (Order 2156), filed 10/3/84. Statutory Authority: RCW 74.04.510.
- 388-54-830 Treatment of income and resources of disqualified members. [Statutory Authority: RCW 74.04.510. 82-24-005 (Order 1905), § 388-54-830, filed 11/18/82; 81-23-044 (Order 1720), § 388-54-830, filed 11/18/81; 79-03-033 (Order 1374), § 388-54-830, filed 3/1/79.] Repealed by 83-21-011 (Order 2032), filed 10/6/83. Statutory Authority: RCW 74.04.510.
- 388-54-83050 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.
- 388-54-835 Claims against households—Nonfraud. [Statutory Authority: RCW 74.04.510. 82-24-005 (Order 1905), § 388-54-835, filed 11/18/82; 80-04-006 (Order 1492), § 388-54-835, filed 3/7/80; 79-03-033 (Order 1374), § 388-54-835, filed 3/1/79.] Repealed by 83-21-011 (Order 2032), filed 10/6/83. Statutory Authority: RCW 74.04.510.
- 388-54-840 Claims against households—Fraud. [Statutory Authority: RCW 74.04.510. 81-22-083 (Order 1714), § 388-54-840, filed 11/4/81; 80-10-043 (Order 1529), § 388-54-840, filed 8/6/80; 79-03-033 (Order 1374), § 388-54-840, filed 3/1/79.] Repealed by 83-21-011 (Order 2032), filed 10/6/83. Statutory Authority: RCW 74.04.510.
- 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.

Chapter 388-56

COMMUNITY WORK AND TRAINING

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

Chapter 388-57

EMPLOYMENT AND TRAINING--WORK INCENTIVE

- 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.
- 388-57-011 Washington employment opportunities program (OPPORTUNITIES). [Statutory Authority: RCW 74.04.050. 88-07-055 (Order 2607), § 388-57-011, filed 3/14/88.] Repealed by 91-02-092 (Order 3129), filed 12/31/90, effective 1/31/91. 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.
- 388-57-025 Acceptance of full or part-time employment—Effect of refusal on eligibility. [Statutory Authority: RCW 43.20A.550. 79-11-081 (Order 1444), § 388-57-025, filed 10/23/79. Statutory Authority: RCW 74.08.090. 79-03-013 (Order 1368), § 388-57-025, filed 2/15/79. Order 1101, § 388-57-025, filed 2/25/76; Order 906, § 388-57-025, filed 2/14/74;
- 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.
- 388-57-029 Person attending post-high school education or training. [Order 750, § 388-57-029, filed 12/7/72; Order 610, § 388-57-029, filed 9/22/71; Order 544, § 388-57-029, filed 3/31/71, effective 5/1/71; Order 452, § 388-57-029, filed 5/14/70, effective 6/15/70.] Repealed by Order 858, filed 9/27/73.
- 388-57-030 Acceptance of training for employment—Effect of refusal on eligibility. [Statutory Authority: RCW 43.20A.550. 79-11-081 (Order 1444), § 388-57-030, filed 10/23/79. Statutory Authority: RCW 74.08.090. 79-03-013 (Order 1368), § 388-57-030, filed 2/15/79; Order 1165, § 388-57-030, filed 10/27/76; Order 906, § 388-57-030, filed 2/14/74; Order 750, § 388-57-030, filed 12/7/72; Order 610, § 388-57-030, filed 9/22/71; Order 544, § 388-57-030, filed 3/31/71, effective 5/1/71; Order 452, § 388-57-030, filed 5/14/70, effective 6/15/70; Order 340, § 388-57-030, filed 2/14/69.] Repealed by 81-14-063 (Order 1670), filed 7/1/81. Statutory Authority: RCW 74.08.090.
- 388-57-032 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.
- 388-57-035 Referral of employable applicant or recipient to division of vocational rehabilitation. [Order 544, § 388-57-035, filed 3/31/71, effective 5/1/71; Order 340, § 388-57-035, filed 2/14/69.] Repealed by Order 610, filed 9/22/71.
- 388-57-036 Employment and training (E&T)—Definitions. [Statutory Authority: RCW 74.23.120. 83-21-013 (Order 2035), § 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.
- 388-57-040 Work incentive program (WIN)—Authority. [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.] Repealed by 91-02-092 (Order 3129), filed 12/31/90, effective 1/31/91. 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.]

- 388-57-050 Repealed by 88-07-055 (Order 2607), filed 3/14/88. Statutory Authority: RCW 74.04.050.
- 388-57-055 Work incentive program—Objective. [Order 340, § 388-57-050, filed 2/14/69.] Repealed by Order 544, filed 3/31/71, effective 5/1/71.
- 388-57-056 Work incentive program—Referral of AFDC recipient to state employment service. [Order 544, § 388-57-055, filed 3/31/71, effective 5/1/71; Order 452, § 388-57-055, filed 5/14/70, effective 6/15/70; Order 414, § 388-57-055, filed 12/23/69; Order 340, § 388-57-055, filed 2/14/69.] Repealed by Order 750, filed 12/7/72.
- 388-57-057 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.
- 388-57-057 Work incentive program—Certification and supportive services. [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.] Repealed by 91-02-092 (Order 3129), filed 12/31/90, effective 1/31/91. Statutory Authority: RCW 74.04.050.
- 388-57-059 WIN program—Grievances. [Statutory Authority: RCW 74.04.050. 88-07-055 (Order 2607), § 388-57-059, filed 3/14/88.] Repealed by 91-02-092 (Order 3129), filed 12/31/90, effective 1/31/91. Statutory Authority: RCW 74.04.050.
- 388-57-060 Work incentive program—Mandatory participation by certified AFDC recipient. [Order 750, § 388-57-060, filed 12/7/72; Order 544, § 388-57-060, filed 3/31/71, effective 5/1/71; Order 452, § 388-57-060, filed 5/14/70, effective 6/15/70; Order 340, § 388-57-060, filed 2/14/69.] Repealed by Order 832, filed 7/26/73.
- 388-57-061 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.
- 388-57-062 Refusal of training or employment under WIN without good cause—Counseling period. [Statutory Authority: RCW 74.08.090. 79-03-013 (Order 1368), § 388-57-062, filed 2/15/79; Order 1165, § 388-57-062, filed 10/27/76; Order 832, § 388-57-062, filed 7/26/73.] Repealed by 82-01-041 (Order 1733), filed 12/16/81. Statutory Authority: RCW 74.23.120.
- 388-57-063 WIN program—Failure to participate. [Statutory Authority: RCW 74.04.050. 88-07-055 (Order 2607), § 388-57-063, filed 3/14/88.] Repealed by 91-02-092 (Order 3129), filed 12/31/90, effective 1/31/91. 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.
- 388-57-065 County office screening unit—Composition—Duties. [Order 414, § 388-57-065, filed 12/23/69; Order 340, § 388-57-065, filed 2/14/69.] Repealed by Order 452, filed 5/14/70, effective 6/15/70.
- 388-57-066 WIN program—Notice of intended deregistration. [Statutory Authority: RCW 74.04.050. 88-07-055 (Order 2607), § 388-57-066, filed 3/14/88.] Repealed by 91-02-092 (Order 3129), filed 12/31/90, effective 1/31/91. Statutory Authority: RCW 74.04.050.
- 388-57-067 WIN program—Sanction. [Statutory Authority: RCW 74.04.050. 88-07-055 (Order 2607), § 388-57-067, filed 3/14/88.] Repealed by 91-02-092 (Order 3129), filed 12/31/90, effective 1/31/91. 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.
- 388-57-071 Work incentive program—Good cause. [Statutory Authority: RCW 74.04.050. 88-07-055 (Order 2607), § 388-57-071, filed 3/14/88.] Repealed by 91-02-092 (Order 3129), filed 12/31/90, effective 1/31/91. Statutory Authority: RCW 74.04.050.
- 388-57-074 OPPORTUNITIES program—Exemption and hearings. [Statutory Authority: RCW 74.04.050. 88-07-055 (Order 2607), § 388-57-074, filed 3/14/88.] Repealed by 91-02-092 (Order 3129), filed 12/31/90, effective 1/31/91. Statutory Authority: RCW 74.04.050.
- 388-57-075 Work incentive program—Child care plan—Standards—Payment. [Order 544, § 388-57-075, filed 3/31/71, effective 5/1/71; Order 414, § 388-57-075, filed 12/23/69; Order 340, § 388-57-075, filed 2/14/69.] Repealed by Order 750, filed 12/7/72.
- 388-57-079 Work incentive program—Supplemental payments for trainees—Special authorization for clothing. [Order 544, § 388-57-079, filed 3/31/71, effective 5/1/71; Order 452, § 388-57-079, filed 5/14/70, effective 6/15/70.] Repealed by Order 750, filed 12/7/72.
- 388-57-080 Work incentive program—Special authorization for transportation. [Order 544, § 388-57-080, filed 3/31/71, effective 5/1/71; Order 452, § 388-57-080, filed 5/14/70, effective 6/15/70; Order 340, § 388-57-080, filed 2/14/69.] Repealed by Order 750, filed 12/7/72.

- 388-57-083 Work incentive program—Special authorization for supplementary medical care. [Order 544, § 388-57-083, filed 3/31/71, effective 5/1/71; Order 452, § 388-57-083, filed 5/14/70, effective 6/15/70.] Repealed by Order 750, filed 12/7/72.
- 388-57-084 Work incentive program—Prereferral physical examination. [Order 544, § 388-57-084, filed 3/31/71, effective 5/1/71; Order 476, § 388-57-084, filed 9/8/70.] Repealed by Order 750, filed 12/7/72.
- 388-57-090 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.
- 388-57-095 Intensive applicant employment services—Departmental authority. [Statutory Authority: RCW 74.23.120. 83-21-013 (Order 2035), § 388-57-095, filed 10/6/83. Statutory Authority: RCW 74.22.110 and 74.23.120. 83-01-057 (Order 1924), § 388-57-095, filed 12/15/82. Statutory Authority: RCW 74.08.090. 82-07-026 (Order 1779), § 388-57-095, filed 3/11/82.] Repealed by 84-18-024 (Order 2147), filed 8/29/84, effective 10/1/84. Statutory Authority: RCW 74.04.400.
- 388-57-097 Community work experience program (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.] Repealed by 91-02-092 (Order 3129), filed 12/31/90, effective 1/31/91. Statutory Authority: RCW 74.04.050.
- 388-57-100 Employment search program (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.] Repealed by 91-02-092 (Order 3129), filed 12/31/90, effective 1/31/91. Statutory Authority: RCW 74.04.050.
- 388-57-105 Title IV-A employment programs—Complaints and grievances. [Statutory Authority: RCW 74.04.050. 88-07-055 (Order 2607), § 388-57-105, filed 3/14/88.] Repealed by 91-02-092 (Order 3129), filed 12/31/90, effective 1/31/91. Statutory Authority: RCW 74.04.050.
- 388-57-110 Work incentive program—Special work projects. [Order 544, § 388-57-110, filed 3/31/71, effective 5/1/71; Order 397, § 388-57-110, filed 10/15/69.] Repealed by Order 750, filed 12/7/72.
- 388-57-112 Title IV-A employment programs—Failure to participate without good cause. [Statutory Authority: RCW 74.04.050. 88-07-055 (Order 2607), § 388-57-112, filed 3/14/88.] Repealed by 91-02-092 (Order 3129), filed 12/31/90, effective 1/31/91. Statutory Authority: RCW 74.04.050.
- 388-57-115 Title IV-A employment programs—Sanction. [Statutory Authority: RCW 74.04.050. 88-07-055 (Order 2607), § 388-57-115, filed 3/14/88.] Repealed by 91-02-092 (Order 3129), filed 12/31/90, effective 1/31/91. Statutory Authority: RCW 74.04.050.
- 388-57-117 OPPORTUNITIES program—Effect of sanction on AFDC. [Statutory Authority: RCW 74.04.050. 88-07-055 (Order 2607), § 388-57-117, filed 3/14/88.] Repealed by 91-02-092 (Order 3129), filed 12/31/90, effective 1/31/91. Statutory Authority: RCW 74.04.050.
- 388-57-120 Employment partnership program (EPP)—Authority. [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.] Repealed by 91-02-092 (Order 3129), filed 12/31/90, effective 1/31/91. 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.
- 388-57-122 Eligible participants. [Statutory Authority: RCW 74.08.090. 86-16-047 (Order 2403), § 388-57-122, filed 8/1/86.] Repealed by 91-02-092 (Order 3129), filed 12/31/90, effective 1/31/91. Statutory Authority: RCW 74.04.050.
- 388-57-123 Employment partnership program—Eligible employers. [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.] Repealed by 91-02-092 (Order 3129), filed 12/31/90, effective 1/31/91. Statutory Authority: RCW 74.04.050.
- 388-57-124 Employment partnership program—Conditions of employment. [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.] Repealed by 91-02-092 (Order 3129), filed 12/31/90, effective 1/31/91. Statutory Authority: RCW 74.04.050.
- 388-57-125 Employment partnership program—Funding and payment. [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.] Repealed by 91-02-092 (Order 3129), filed 12/31/90, effective 1/31/91. Statutory Authority: RCW 74.04.050.

Chapter 388-58

CUBAN REFUGEE ASSISTANCE

- 388-58-010 Cuban refugee assistance. [Regulation 24.00, filed 12/21/64, effective 2/1/65; Regulation 24.00, filed 1/24/64.] Repealed by Order 545, filed 3/31/71, effective 5/1/71.
- 388-58-020 Scope of program—Federal auspices. [Regulation 24.11, filed 12/21/64, effective 2/1/65; Regulation 24.11, filed 1/24/64.] Repealed by Order 545, filed 3/31/71, effective 5/1/71.
- 388-58-025 Scope of program—Organization in Florida. [Regulation 24.12, filed 12/21/64, effective 2/1/65; Regulation 24.12, filed 1/24/64.] Repealed by Order 545, filed 3/31/71, effective 5/1/71.
- 388-58-030 Scope of program—Transition allowances. [Regulation 24.13, filed 12/21/64, effective 2/1/65; Regulation 24.13, filed 1/24/64.] Repealed by Order 1177, filed 12/23/76.
- 388-58-040 Cuban refugee assistance—Administration—Federal-state-local relationships. [Order 969, § 388-58-040, filed 9/13/74; Order 804, § 388-58-040, filed 5/31/73; Order 545, § 388-58-040, filed 3/31/71, effective 5/1/71; Regulation 24.21, filed 3/31/66; Regulation 24.21, filed 12/21/64, effective 2/1/65; Regulation 24.21, filed 1/24/64.] Repealed by Order 1177, filed 12/23/76.
- 388-58-050 Cuban refugee assistance—Refugee status defined. [Order 969, § 388-58-050, filed 9/13/74; Order 804, § 388-58-050, filed 5/31/73; Order 545, § 388-58-050, filed 3/31/71, effective 5/1/71; Regulation

- 24.22, filed 12/21/64, effective 2/1/65; Regulation 24.22, filed 1/24/64.] Repealed by Order 1177, filed 12/23/76.
- 388-58-060 Cuban refugee assistance—Eligibility conditions. [Order 969, § 388-58-060, filed 9/13/74; Order 804, § 388-58-060, filed 5/31/73; Order 545, § 388-58-060, filed 3/31/71, effective 5/1/71; Regulation 24.30, filed 12/21/64, effective 2/1/65; Regulation 24.30, filed 1/24/64.] Repealed by Order 1177, filed 12/23/76.
- 388-58-065 Cuban refugee assistance—Relatives joining resettled refugee. [Order 545, § 388-58-065, filed 3/31/71, effective 5/1/71; Regulation 24.31, filed 12/21/64, effective 2/1/65; Regulation 24.31, filed 1/24/64.] Repealed by Order 1177, filed 12/23/76.
- 388-58-070 Cuban refugee assistance—Financial need. [Order 545, § 388-58-070, filed 3/31/71, effective 5/1/71; Regulation 24.32, filed 12/21/64, effective 2/1/65; Regulation 24.32, filed 6/17/64, effective 8/1/64; Regulation 24.32, filed 1/24/64, effective 8/1/64.] Repealed by Order 1177, filed 12/23/76.
- 388-58-075 Cuban refugee assistance—Other eligibility considerations. [Order 545, § 388-58-075, filed 3/31/71, effective 5/1/71; Regulation 24.33, filed 12/21/64, effective 2/1/65; Regulations 24.33, 24.34, 24.35, 24.36, 24.37, and 24.38, filed 1/24/64.] Repealed by Order 1177, filed 12/23/76.
- 388-58-080 Records. [Regulation 24.34, filed 12/21/64, effective 2/1/65; Regulation 24.39, filed 1/24/64.] Repealed by Order 545, filed 3/31/71, effective 5/1/71.
- 388-58-090 Cuban refugee assistance—Payment of grant or foster care. [Order 545, § 388-58-090, filed 3/31/71, effective 5/1/71; Regulation 24.41, filed 12/21/64, effective 2/1/65; Regulation 24.41, filed 1/24/64.] Repealed by Order 1177, filed 12/23/76.
- 388-58-100 Payment—Medical care. [Regulation 24.42, filed 12/21/64, effective 2/1/65; Regulation 24.34, filed 1/24/64.] Repealed by Order 545, filed 3/31/71, effective 5/1/71.
- 388-58-120 Reporting. [Regulation 24.50, filed 12/21/64, effective 2/1/65; Regulation 24.50, filed 1/24/64.] Repealed by Order 545, filed 3/31/71, effective 5/1/71.
- 388-58-130 Cuban refugee assistance—Unaccompanied children. [Order 969, § 388-58-130, filed 9/13/74; Order 545, § 388-58-130, filed 3/31/71, effective 5/1/71; Regulation 24.60, filed 12/21/64, effective 2/1/65; Regulation 24.60, filed 6/17/64, effective 8/1/64, filed 1/24/64.] Repealed by Order 1177, filed 12/23/76.
- Chapter 388-63**
FAMILY HOME FOR RETARDED ADULTS
- 388-63-005 Family home for adults—Definitions and exceptions. [Order 1159, § 388-63-005, filed 10/6/76; Order 752, § 388-63-005, filed 12/14/72.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-63-010 Capacity of home—Limitations on ages and numbers. [Order 1159, § 388-63-010, filed 10/6/76; Order 752, § 388-63-010, filed 12/14/72.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-63-015 Application for license. [Order 1159, § 388-63-015, filed 10/6/76; Order 752, § 388-63-015, filed 12/14/72.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-63-020 Duration and provisions of license. [Order 1159, § 388-63-020, filed 10/6/76; Order 752, § 388-63-020, filed 12/14/72.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-63-025 Family home for retarded adults—Periodic visits—Consultation. [Order 752, § 388-63-025, filed 12/14/72.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-63-030 Family home for retarded adults—Administrative hearing. [Order 752, § 388-63-030, filed 12/14/72.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-63-035 Family home for retarded adults—Register. [Order 752, § 388-63-035, filed 12/14/72.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-63-040 Family home for retarded adults—Reporting illness, injuries and death. [Order 752, § 388-63-040, filed 12/14/72.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-63-045 Family home for retarded adults—First aid—Medical care. [Order 752, § 388-63-045, filed 12/14/72.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-63-050 Family home for retarded adults—Characteristics of family. [Order 1159, § 388-63-050, filed 10/6/76; Order 752, § 388-63-050, filed 12/14/72.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-63-055 Family home for retarded adults—Discipline. [Order 752, § 388-63-055, filed 12/14/72.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-63-060 Family home for retarded adults—Physical aspects of home. [Order 752, § 388-63-060, filed 12/14/72.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-63-065 Family home for retarded adults—Other requirements in providing care. [Order 1159, § 388-63-065, filed 10/6/76; Order 752, § 388-63-065, filed 12/14/72.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-63-070 Family home for retarded adults—Discrimination prohibited. [Order 752, § 388-63-070, filed 12/14/72.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-63-110 Adult family home—Placement—Care defined. [Order 1159, § 388-63-110, filed 10/6/76; Order 954, § 388-63-110, filed 7/26/74; Order 813, § 388-63-110, filed 6/28/73.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-63-120 Determination of need for care and placement. [Order 1159, § 388-63-120, filed 10/6/76; Order 954, § 388-63-120, filed 7/26/74; Order 813, § 388-63-120, filed 6/28/73.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-63-125 Exceptions to rules. [Order 1159, § 388-63-125, filed 10/6/76.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-63-130 Adult family home—Standards for approval for placement. [Order 954, § 388-63-130, filed 7/26/74; Order 813, § 388-63-130, filed 6/28/73.] Repealed by Order 1159, filed 10/6/76.
- 388-63-140 Adult family home—Standards for home and sponsor. [Order 813, § 388-63-140, filed 6/28/73.] Repealed by Order 1159, filed 10/6/76.
- 388-63-150 Adult family home—Services to be provided. [Order 813, § 388-63-150, filed 6/28/73.] Repealed by Order 1159, filed 10/6/76.
- 388-63-160 Adult family home—Application for approval for placement—Home study. [Order 954, § 388-63-160, filed 7/26/74; Order 813, § 388-63-160, filed 6/28/73.] Repealed by Order 1159, filed 10/6/76.
- Chapter 388-64**
MINIMUM LICENSING REQUIREMENTS FOR GROUP HOMES
- 388-64-005, 388-64-010, 388-64-015, 388-64-020, 388-64-025, 388-64-030, 388-64-035, 388-64-040, 388-64-045, 388-64-050, 388-64-055, 388-64-060, 388-64-065, 388-64-105, 388-64-110, 388-64-115, 388-64-120, 388-64-125, 388-64-130, 388-64-135, 388-64-140,

- 388-64-145, 388-64-200, 388-64-205, 388-64-210, 388-64-215, 388-64-220, 388-64-225, 388-64-230, 388-64-235, 388-64-240, 388-64-245, 388-64-300, 388-64-305, 388-64-310, 388-64-400, 388-64-410, 388-64-500, 388-64-510, 388-64-515. [Order 347, filed 5/29/69.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.
- 388-64-100 [Order 420, § 388-64-100, filed 1/21/70; Order 347, § 388-64-100, filed 5/29/69.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.
- 388-64-525 [Order 504, § 388-64-525, filed 12/30/70, effective 2/1/71.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.

Chapter 388-65**FOSTER FAMILY HOMES--FAMILY DAY CARE HOMES--
LICENSING--MINIMUM REQUIREMENTS**

- 388-65-010 Foster family homes—Definitions and exceptions. [Order 753, § 388-65-010, filed 12/14/72; Order 257, § 388-65-010, filed 11/24/67.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.
- 388-65-020 Foster family homes—Capacity of home—Limitations on ages and numbers. [Order 753, § 388-65-020, filed 12/14/72; Order 421, § 388-65-020, filed 1/21/70; Order 257, § 388-65-020, filed 11/24/67.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.
- 388-65-030 Foster family homes—Application for license. [Order 753, § 388-65-030, filed 12/14/72; Order 257, § 388-65-030, filed 11/24/67.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.
- 388-65-035 Duration and provisions of license. [Order 257, § 388-65-035, filed 11/24/67.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.
- 388-65-038 Duration and provisions of license—Limitation on licensing. [Order 753, § 388-65-038, filed 12/14/72.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.
- 388-65-040 Periodic visits—Consultation. [Order 257, § 388-65-040, filed 11/24/67.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.
- 388-65-045 Administrative hearings. [Order 257, § 388-65-045, filed 11/24/67.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.
- 388-65-050 Register. [Order 257, § 388-65-050, filed 11/24/67.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.
- 388-65-055 Daily attendance record. [Order 257, § 388-65-055, filed 11/24/67.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.
- 388-65-060 Reporting of injuries and death. [Order 257, § 388-65-060, filed 11/24/67.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.
- 388-65-065 First aid—Medical care. [Order 257, § 388-65-065, filed 11/24/67.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.
- 388-65-070 First aid—Characteristics of foster family. [Order 753, § 388-65-070, filed 12/14/72; Order 421, § 388-65-070, filed 1/21/70; Order 308, § 388-65-070, filed 9/20/68; Order 257, § 388-65-070, filed 11/24/67.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.
- 388-65-080 Discipline. [Order 257, § 388-65-080, filed 11/24/67.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.
- 388-65-090 Physical aspects of home. [Order 421, § 388-65-090, filed 1/21/70; Order 257, § 388-65-090, filed 11/24/67.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.
- 388-65-100 Physical aspects of home—Additional requirements for full-time foster care. [Order 753, § 388-65-100, filed 12/14/72; Order 257, § 388-65-100, filed 11/24/67.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.

- 388-65-200 Additional requirements for family day care homes for children. [Order 257, § 388-65-200, filed 11/24/67.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.
- 388-65-210 Additional requirements for family day care homes for children—Additional requirements for homes for expectant mothers. [Order 753, § 388-65-210, filed 12/14/72; Order 257, § 388-65-210, filed 11/24/67.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.
- 388-65-300 Additional requirements for the care of mentally retarded adults. [Order 257, § 388-65-300, filed 11/24/67.] Repealed by Order 753, filed 12/14/72.
- 388-65-310 Additional requirements for the care of mentally retarded adults—Discrimination prohibited. [Order 505, § 388-65-310, filed 12/30/70, effective 2/1/71.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.

Chapter 388-66**DAY CARE CENTERS--LICENSING--MINIMUM
REQUIREMENTS**

- 388-66-005, 388-66-010, 388-66-015, 388-66-020, 388-66-025, 388-66-030, 388-66-035, 388-66-040, 388-66-045, 388-66-050, 388-66-055, 388-66-060, 388-66-065, 388-66-070, 388-66-075, 388-66-110, 388-66-120, 388-66-125, 388-66-135, 388-66-150, 388-66-155, 388-66-165, 388-66-170, 388-66-175, 388-66-180, 388-66-185, 388-66-190, 388-66-195, 388-66-200, 388-66-230, 388-66-245, 388-66-250. [Order 258, filed 11/24/67.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.
- 388-66-090, 388-66-115, 388-66-130, 388-66-160, 388-66-220, 388-66-225, 388-66-235, 388-66-240, 388-66-255, 388-66-300. [Order 422, filed 1/21/70; Order 258, filed 11/24/67.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.
- 388-66-310 [Order 506, § 388-66-310, filed 12/30/70, effective 2/1/71.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.

Chapter 388-67**MATERNITY HOMES--LICENSING--MINIMUM
REQUIREMENTS**

- 388-67-005, 388-67-010, 388-67-020, 388-67-025, 388-67-030, 388-67-035, 388-67-040, 388-67-045, 388-67-050, 388-67-055, 388-67-060, 388-67-065, 388-67-070, 388-67-100, 388-67-105, 388-67-150, 388-67-155, 388-67-160, 388-67-165, 388-67-170, 388-67-175, 388-67-200, 388-67-205, 388-67-250, 388-67-255, 388-67-260, 388-67-265, 388-67-270, 388-67-275, 388-67-280, 388-67-300, 388-67-305, 388-67-310, 388-67-315, 388-67-325, and 388-67-335. [Order 259, filed 11/24/67.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.
- 388-67-210, 388-67-320, 388-67-330. [Order 423, filed 1/21/70; Order 259, filed 11/24/67.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.
- 388-67-345 [Order 507, § 388-67-345, filed 12/30/70, effective 2/1/71.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.

Chapter 388-68**CHILD CARE INSTITUTIONS--LICENSING--MINIMUM
LICENSING REQUIREMENTS**

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

- 388-68-280, and 388-68-300. [Order 260, filed 11/24/67.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.
- 388-68-105, 388-68-210, 388-68-305, 388-68-315, 388-68-320, 388-68-325. [Order 424, filed 1/21/70; Order 260, filed 11/24/67.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.
- 388-68-110 [Order 424, § 388-68-110, filed 1/21/70.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.
- 388-68-310 [Order 428, § 388-68-310, filed 3/3/70; Order 260, § 388-68-310, filed 11/24/67.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.
- 388-68-345 [Order 508, § 388-68-345, filed 12/30/70, effective 2/1/71.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.

Chapter 388-69

CHILD PLACING AGENCIES--LICENSING--MINIMUM REQUIREMENTS

- 388-69-005, 388-69-010, 388-69-020, 388-69-025, 388-69-030, 388-69-035, 388-69-040, 388-69-045, 388-69-050, 388-69-055, 388-69-060, 388-69-100, 388-69-105, 388-69-150, 388-69-155, 388-69-160, 388-69-165, 388-69-170, 388-69-175. [Order 261, filed 11/24/67.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.
- 388-69-185 [Order 509, § 388-69-185, filed 12/30/70, effective 2/1/71.] Repealed by Order 936, filed 5/23/74. See chapter 388-75 WAC.

Chapter 388-72

SERVICES FOR THE BLIND

- 388-72-010 Services for the blind—Organization. [Manual VII, Regulation 1.00 and chart, filed 1/24/64, effective 3/1/64.] Repealed by Order 867, filed 10/26/73.
- 388-72-020 Advisory committee for the blind. [Manual VII, Regulation 1.11, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090. Later promulgation, see Title 67 WAC.
- 388-72-025 Physicians' eye advisory committee. [Manual VII, Regulation 1.12, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-030 Aid to blind. [Manual VII, Regulation 1.20, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-035 County office responsibility. [Manual VII, Regulation 1.30, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-040 Mail address of services for the blind. [Manual VII, Regulation 1.40, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-045 Abbreviations. [Manual VII, Regulation 1.50, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-050 Eligibility. [Statutory Authority: RCW 74.08.090. 80-02-051 (Order 1475), § 388-72-050, filed 1/16/80.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-060 Exempt resources. [Statutory Authority: RCW 74.08.090. 80-02-051 (Order 1475), § 388-72-060, filed 1/16/80.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-070 Eligibility determination. [Statutory Authority: RCW 74.08.090. 80-02-051 (Order 1475), § 388-72-070, filed 1/16/80.] Repealed by 83-08-023 (Order

- 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-080 Residence—State of Washington. [Statutory Authority: RCW 74.08.090. 80-02-051 (Order 1475), § 388-72-080, filed 1/16/80.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-090 Application review. [Statutory Authority: RCW 74.08.090. 80-02-051 (Order 1475), § 388-72-090, filed 1/16/80.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-100 Allotment for blind student attending college or university—General. [Manual VII, Regulation 2.00, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-105 Allotment for blind student attending college or university—Application for allotment. [Manual VII, Regulation 2.10, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-110 Allotment for blind student attending college or university—Administrative relationship between state department of public assistance and superintendent of public instruction. [Manual VII, Regulation 2.20, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-115 Allotment for blind student attending college or university—Application from blind person interested in attending college or university. [Manual VII, Regulation 2.30, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-120 Allotment for blind student attending college or university—Responsibility of college or university. [Manual VII, Regulation 2.40, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-125 Allotment for blind student attending college or university—Use of allotment from state board of education. [Manual VII, Regulation 2.50, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-150 Home teaching services for adult blind—Purpose. [Manual VII, Regulation 3.10, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-155 Home teaching services for adult blind—Teaching plan. [Manual VII, Regulation 3.20, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-160 Home teaching services for adult blind—Personal adjustment services. [Manual VII, Regulation 3.30, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-165 Home teaching services for adult blind—Relationship with staff, other agencies and community. [Manual VII, Regulation 3.40, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-170 Home teaching services for adult blind—Case record. [Manual VII, Regulation 3.50, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-175 Supervision and consultation. [Manual VII, Regulation 3.60, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.

- 388-72-180 Termination of service. [Manual VII, Regulation 3.70, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-200 Prevention of blindness and restoration of vision—Legal basis—Objective. [Order 867, § 388-72-200, filed 10/26/73; Manual VII, Regulation 4.00, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-205 Prevention of blindness and restoration of vision—Physicians eligible to render services. [Order 867, § 388-72-205, filed 10/26/73; Manual VII, Regulation 4.10, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-207 Prevention of blindness and restoration of vision—Staff ophthalmologist. [Order 867, § 388-72-207, filed 10/26/73.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-210 Prevention of blindness and restoration of vision—Services provided. [Order 867, § 388-72-210, filed 10/26/73; Manual VII, Regulation 4.20, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-215 Prevention of blindness and restoration of vision—Services excluded. [Order 867, § 388-72-215, filed 10/26/73.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-220 Prevention of blindness and restoration of vision—Persons eligible. [Order 867, § 388-72-220, filed 10/26/73; Manual VII, Regulation 4.31, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-225 Prevention of blindness and restoration of vision—Resources. [Order 867, § 388-72-225, filed 10/26/73; Manual VII, Regulation 4.32, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-230 Prevention of blindness and restoration of vision—Requirements. [Order 867, § 388-72-230, filed 10/26/73; Manual VII, Regulation 4.33, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-235 Prevention of blindness and restoration of vision—Residence. [Order 867, § 388-72-235, filed 10/26/73; Manual VII, Regulation 4.34, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-240 Prevention of blindness and restoration of vision—Application. [Order 867, § 388-72-240, filed 10/26/73; Manual VII, Regulation 4.40, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-250 Prevention of blindness and restoration of vision—Authorization of services. [Manual VII, Regulation 4.51, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-255 Prevention of blindness and restoration of vision—Consultation services. [Manual VII, Regulation 4.52, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-260 Prevention of blindness and restoration of vision—Social summary. [Manual VII, Regulation 4.53, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-265 Prevention of blindness and restoration of vision—Physical examination. [Manual VII, Regulation 4.54, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-270 Prevention of blindness and restoration of vision—Glasses. [Manual VII, Regulation 4.56, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-275 Prevention of blindness and restoration of vision—Prostheses. [Manual VII, Regulation 4.57, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-280 Prevention of blindness and restoration of vision—Drugs. [Manual VII, Regulation 4.58, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-285 Prevention of blindness and restoration of vision—Reports. [Manual VII, Regulation 4.60, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-290 Prevention of blindness and restoration of vision—Participating ophthalmologists. [Manual VII, Regulation 4.70, filed 1/24/64, effective 3/1/64.] Repealed by Order 867, filed 10/26/73.
- 388-72-300 Rehabilitation center for the blind. [Manual VII, Regulation 5.00, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-305 Rehabilitation center for the blind—Application. [Manual VII, Regulation 5.10, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-310 Rehabilitation center for the blind—Eligibility. [Manual VII, Regulation 5.20, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-315 Rehabilitation center for the blind—Maintenance while attending the rehabilitation center. [Manual VII, Regulation 5.30, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-350 Services for blind children—State department of public assistance responsibilities. [Manual VII, Regulation 7.10, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-355 Services for blind children—State school for the blind. [Manual VII, Regulation 7.20, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-400 Talking book machines—General. [Manual VII, Regulation 8.00, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-405 Talking book machines—Distribution. [Manual VII, Regulation 8.10, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-410 Talking book machines—Application procedure. [Manual VII, Regulation 8.20, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-415 Talking book machines—Eligibility for talking book machines. [Manual VII, Regulation 8.30, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.

- 388-72-425 Talking book machines—County office responsibility for talking book machine. [Manual VII, Regulation 8.40, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-435 Talking book machines—Issuance of machine. [Manual VII, Regulation 8.50, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-445 Talking book machines—Return of machine. [Manual VII, Regulation 8.60, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-500 Training center for the blind—General. [Manual VII, Regulation 9.00, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-505 Training center for the blind—Application. [Manual VII, Regulation 9.10, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-510 Training center for the blind—Eligibility. [Manual VII, Regulation 9.20, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-515 Training center for the blind—Maintenance while attending training center. [Manual VII, Regulation 9.30, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-520 Training center for the blind—Placement. [Manual VII, Regulation 9.40, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-550 Vending stands—General. [Manual VII, Regulation 10.00, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-555 Vending stands—Application. [Manual VII, Regulation 10.10, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-560 Vending stands—Eligibility. [Manual VII, Regulation 10.20, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-565 Vending stands—Selection. [Manual VII, Regulation 10.30, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-570 Vending stands—Training and placement. [Manual VII, Regulation 10.40, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-575 Vending stands—Maintenance during vending stand training. [Manual VII, Regulation 10.50, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-580 Vending stands—Equipment and stock. [Manual VII, Regulation 10.60, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-585 Vending stands—Supervision. [Manual VII, Regulation 10.70, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-590 Vending stands—Fair hearing. [Manual VII, Regulation 10.80, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-600 Vocational rehabilitation services for the blind—General. [Manual VII, Regulation 11.00, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-605 Vocational rehabilitation services for the blind—Eligibility for vocational rehabilitation services for the blind. [Manual VII, Regulation 11.10, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-610 Vocational rehabilitation services for the blind—Referral for vocational rehabilitation services for the blind. [Manual VII, Regulation 11.20, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-615 Vocational rehabilitation services for the blind—Services provided. [Manual VII, Regulation 11.30, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-620 Vocational rehabilitation services for the blind—Exchange of case information. [Manual VII, Regulation 11.40, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-625 Vocational rehabilitation services for the blind—County office responsibility. [Manual VII, Regulation 11.50, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-630 Vocational rehabilitation services for the blind—Costs incidental to vocational rehabilitation. [Manual VII, Regulation 11.60, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.
- 388-72-635 Vocational rehabilitation services for the blind—Vending stands. [Manual VII, Regulation 11.70, filed 1/24/64, effective 3/1/64.] Repealed by 83-08-023 (Order 1952), filed 3/30/83. Statutory Authority: RCW 74.08.090.

Chapter 388-75

MINIMUM REQUIREMENTS FOR LICENSING CHILD CARE AGENCIES AND MATERNITY SERVICES

- 388-75-003 Definitions. [Order 936, § 388-75-003, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-006 Nonlicensed facilities unlawful. [Order 936, § 388-75-006, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-009 Action against agency. [Order 936, § 388-75-009, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-012 Exceptions to rules. [Order 936, § 388-75-012, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-015 Agencies to be licensed—Definitions—Categories. [Order 936, § 388-75-015, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-018 Exemptions—Facilities not subject to licensing. [Order 1010, § 388-75-018, filed 2/19/75; Order 985, § 388-75-018, filed 11/29/74; Order 936, § 388-75-018, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-021 Certification of exempt program or facility. [Order 936, § 388-75-021, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-024 Certification of drug treatment center. [Order 936, § 388-75-024, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.

- 388-75-027 Application for license. [Order 936, § 388-75-027, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-030 Licenses for homes under supervision of licensed agency. [Order 936, § 388-75-030, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-031 Licensure of staff members. [Order 1146, § 388-75-031, filed 8/26/76.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-033 Fire marshal's approval. [Order 936, § 388-75-033, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-036 Health approval. [Order 936, § 388-75-036, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-039 Local ordinances—Effect of. [Order 936, § 388-75-039, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-042 Character references. [Order 936, § 388-75-042, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-045 Duration and provisions of license. [Order 936, § 388-75-045, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-048 Renewal of license. [Order 936, § 388-75-048, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-051 Provisional license. [Order 936, § 388-75-051, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-054 Denial, revocation, suspension of license. [Order 936, § 388-75-054, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-057 Administrative hearing. [Order 936, § 388-75-057, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-060 Operation following suspension or revocation of license. [Order 936, § 388-75-060, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-063 Periodic review of licensing requirements. [Order 936, § 388-75-063, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-066 Review by advisory committee. [Order 936, § 388-75-066, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-069 Periodic visits and consultation. [Order 936, § 388-75-069, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-072 Reporting of injury, death, epidemic, or child abuse. [Order 936, § 388-75-072, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-075 Records and reports. [Order 936, § 388-75-075, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-078 Discrimination prohibited. [Order 985, § 388-75-078, filed 11/29/74; Order 936, § 388-75-078, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-081 Agency conducted by religious organization. [Order 936, § 388-75-081, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-084 Transportation. [Order 936, § 388-75-084, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-087 Care and administration of medications. [Order 936, § 388-75-087, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-090 Personnel policies. [Order 936, § 388-75-090, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-093 Special requirements regarding American Indians. [Order 985, § 388-75-093, filed 11/29/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-103 Child placing agency. [Order 936, § 388-75-103, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-106 Child placing agency—Governing or advisory board. [Order 936, § 388-75-106, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-109 Child placing agency—Out-of-state agencies. [Order 936, § 388-75-109, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-112 Child placing agency—Personnel. [Order 936, § 388-75-112, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-115 Child placing agency—Office space. [Order 936, § 388-75-115, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-118 Child placing agency—Records. [Order 936, § 388-75-118, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-121 Child placing agency—Medical care. [Order 936, § 388-75-121, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-124 Child placing agency—Legal consultation. [Order 936, § 388-75-124, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-127 Child placing agency—Foster care placements. [Order 936, § 388-75-127, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-130 Child placing agency—Adoptive placements. [Order 936, § 388-75-130, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-153 Foster family home. [Order 936, § 388-75-153, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-156 Foster family home—Capacity—Limitations on ages and numbers. [Order 936, § 388-75-156, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-157 Foster family home—Limitation on licensing. [Order 1018, § 388-75-157, filed 4/23/75.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-159 Foster family home—Characteristics of family. [Order 936, § 388-75-159, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-162 Foster family home—Care of child and expectant mother. [Order 936, § 388-75-162, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-165 Foster family home—Register. [Order 936, § 388-75-165, filed 5/23/74.] Repealed by 78-10-006

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

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

- (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
- 388-75-457 Day treatment center—Laundry. [Order 936, § 388-75-457, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
 - 388-75-460 Day treatment center—Water supply and plumbing. [Order 936, § 388-75-460, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
 - 388-75-463 Day treatment center—Floors, walls, ceilings, windows. [Order 936, § 388-75-463, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
 - 388-75-466 Day treatment center—Ventilation—Room temperature—Lighting. [Order 936, § 388-75-466, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
 - 388-75-469 Day treatment center—Fire safety. [Order 936, § 388-75-469, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
 - 388-75-503 Group home. [Order 936, § 388-75-503, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
 - 388-75-506 Group home—Description. [Order 936, § 388-75-506, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
 - 388-75-509 Group home—Function. [Order 936, § 388-75-509, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
 - 388-75-512 Group home—Governing or advisory board. [Order 936, § 388-75-512, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
 - 388-75-515 Group home—Personnel—General qualifications. [Order 936, § 388-75-515, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
 - 388-75-518 Group home—Tuberculosis tests for staff. [Order 936, § 388-75-518, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
 - 388-75-521 Group home—Required positions. [Order 936, § 388-75-521, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
 - 388-75-524 Group home—Social service. [Order 936, § 388-75-524, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
 - 388-75-527 Group home—Education. [Order 936, § 388-75-527, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
 - 388-75-530 Group home—Economic experiences. [Order 936, § 388-75-530, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
 - 388-75-533 Group home—Spiritual training. [Order 936, § 388-75-533, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
 - 388-75-536 Group home—Community contacts. [Order 936, § 388-75-536, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
 - 388-75-539 Group home—Discipline. [Order 936, § 388-75-539, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
 - 388-75-542 Group home—Clothing. [Order 936, § 388-75-542, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
 - 388-75-545 Group home—Required rooms, areas and equipment. [Order 936, § 388-75-545, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
 - 388-75-548 Group home—Site and communication. [Order 936, § 388-75-548, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
 - 388-75-551 Group home—Safety and maintenance. [Order 936, § 388-75-551, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
 - 388-75-554 Group home—Sewage and liquid wastes. [Order 936, § 388-75-554, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
 - 388-75-557 Group home—Pest control. [Order 936, § 388-75-557, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
 - 388-75-560 Group home—Water supply and plumbing. [Order 936, § 388-75-560, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
 - 388-75-563 Group home—Floors, walls, and ceilings. [Order 936, § 388-75-563, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
 - 388-75-566 Group home—Ventilation. [Order 936, § 388-75-566, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
 - 388-75-569 Group home—Room temperature. [Order 936, § 388-75-569, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
 - 388-75-572 Group home—Lighting. [Order 936, § 388-75-572, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
 - 388-75-575 Group home—Food and food services. [Order 936, § 388-75-575, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
 - 388-75-578 Group home—Health program—Medical service for children. [Order 936, § 388-75-578, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
 - 388-75-581 Group home—Health records for children. [Order 936, § 388-75-581, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
 - 388-75-584 Group home—Fire safety. [Order 936, § 388-75-584, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
 - 388-75-603 Child care institution. [Order 936, § 388-75-603, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
 - 388-75-606 Child care institution—Governing or advisory board. [Order 936, § 388-75-606, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
 - 388-75-609 Child care institution—Personnel—General qualifications. [Order 936, § 388-75-609, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
 - 388-75-612 Child care institution—Tuberculosis tests for staff. [Order 936, § 388-75-612, filed 5/23/74.] Repealed by 78-10-006 (Order 1336), filed 9/8/78. Statutory Authority: RCW 74.15.030.
 - 388-75-615 Child care institution—Personnel—Required positions. [Order 936, § 388-75-615, filed 5/23/74.]

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

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

Chapter 388-89

MEDICAL CARE--AGED PERSON IN MENTAL INSTITUTION

- 388-89-005 Definitions. [Order 938, § 388-89-005, filed 5/23/74; Order 331, § 388-89-005, filed 1/8/69; Order 264 (part), § 388-89-005, filed 11/24/67.] Repealed by Order 1044, filed 8/14/75. See chapter 388-95 WAC.
- 388-89-010 Initial eligibility. [Order 938, § 388-89-010, filed 5/23/74; Order 435, § 388-89-010, filed 3/31/70; Order 331, § 388-89-010, filed 1/8/69; Order 264 (part), § 388-89-010, filed 11/24/67.] Repealed by Order 1044, filed 8/14/75. See chapter 388-95 WAC.

Chapter 388-94

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

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

**Chapter 388-104
PERSONNEL**

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

**Chapter 388-07 WAC
ABBREVIATIONS**

WAC

- 388-07-005 Acronyms.

WAC 388-07-005 Acronyms.

- AB Aid to the blind
- ADATSA Alcohol and Drug Addiction Treatment and Support Act
- AFDC Aid to families with dependent children (includes both regular and employable)
- AFDC-FC Aid to families with dependent children—foster care
- AICPA American Institute of Certified Public Accountants
- AJE Adjusting journal entries
- ALJ Administrative law judge
- APTID Aid to the permanently and totally disabled
- ARTF Adult residential treatment facility
- ATP Authorization to participate
- BEOG Basic education opportunity grant
- BNHA Bureau of nursing home affairs
- CAP Community alternative program
- CCF Congregate care facility
- CCS Crisis counseling services
- CEAP Consolidated emergency assistance program

- CETA Comprehensive Employment and Training Act
- CFR Code of Federal Regulations
- Ch Chapter
- CO County office (now CSO)
- COPES Community options program entry system
- COSMOS Community services management and operations system
- CPI Clothing, personal incidentals
- CPR Cardio-pulmonary resuscitation
- CRN Certified registered nurse
- CSO Community services office
- CWEP Community work experience program
- CWS Child welfare services
- DA Disability assistance
- DAC Disaster assistance center
- DCFS Division of children and family services
- DD Developmental disabilities
- DES Department of employment security
- DFO Disaster field offices
- DOE Department of education
- DSHS Department of social and health services
- DVR Division of vocational rehabilitation
- EIC Earned income tax credit
- EITC Earned income tax credits
- EPP Employment partnership program
- EPSDT Early and periodic screening, diagnosis and treatment
- ESSO Economic and social services office (now CSO)
- E&T Employment and training
- FAMCO Federal aid medical care only
- FASB Financial accounting standards board
- FCA Food coupon authorization
- FCO Federal coordinating officer
- FDAA Federal disaster assistance administration
- FEMA Federal emergency management agency
- FHA Farmers Home Administration
- FICA Federal Insurance Contributions Act
- FIP Family independence program
- FMHA Farmers Home Administration
- FNS Food and nutrition service
- GA General assistance
- GAN General assistance—noncontinuing
- GA-S General assistance for pregnant women
- GAU General assistance—continuing
- GA-U General assistance—unemployable
- GCO Grant coordinating officer
- GED General education equivalency degree
- HEW United States Department of Health, Education and Welfare (now HHS)
- HHS United States Department of Health and Human Services
- HIO Health insuring organization
- HMO Health maintenance organization
- HUD United States Department of Housing and Urban Development
- IAS Intake/assessment services
- ICD Internal classification of diseases
- ICF Intermediate care facility

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| ICF/MR | Intermediate care facility/mentally retarded (see IMR) | SO | State office of department of social and health services |
| ICPC | Interstate compact on the placement of children | SSA | Social Security administration |
| ID | Identification | SSADO | Social Security administration district offices |
| IFG | Individual and family grant program | SSDI | Social Security disability insurance |
| IMR | Institution for the mentally retarded | SSI | Supplemental security income |
| INS | Immigration and naturalization service | SSN | Social Security number |
| IQ | Intelligence quotient | SSP | State supplementary payment |
| IRCA | Immigration Reform and Control Act | TB | Tuberculosis |
| IRS | Internal Revenue Service | TRE | Transportation and related expense |
| ITA | Involuntary Treatment Act | TRS | Temporary resident status |
| JCAH | Joint committee on accreditation of hospitals | UC | Unemployment compensation |
| JSC | Job service center | URES | Uniform Reciprocal Enforcement of Support Act |
| JTPA | Job Training Partnership Act | US | United States |
| LCP—MI | Limited casualty program—Medically indigent | USC | United States Code |
| LCP—MN | Limited casualty program—Medically needy | USDHEW | United States Department of Health, Education, and Welfare (now United States Department of Health and Human Services) |
| LICWAC | Local Indian child welfare advisory committee | VA | Veterans administration |
| LO | Local office (now CSO) | VISTA | Volunteers in service to America |
| LTAP | Lifeline telephone assistance program | VOLAG | Voluntary agency |
| MA | Medical assistance | WA | Washington |
| MAC | Maximum allowable cost | WAC | Washington Administrative Code |
| MNIL | Medically needy income level | WARE | Washington adoption resource exchange |
| NDC | National Drug Code | WIC | Women, infants and children |
| OAA | Old age assistance | WIN | Work incentive program |
| OASDI | Old age survivors disability insurance | WSPRO | Washington state professional standards review organization |
| OSE | Office of support enforcement | | |
| PA | Public assistance | | |
| PAS | Professional activity study | | |
| PBX | Private branch exchange | | |
| PCP | Primary care physicians | | |
| PEP | Progressive evaluation process | | |
| PL | Public Law | | |
| PORTAL | Program offering rehabilitation, training, and adult living | | |
| PPO | Preferred provider organization | | |
| PRS | Permanent resident status | | |
| PSE | Public service employment | | |
| PSRO | Professional standards review organization | | |
| RA | Regional administrator | | |
| RCW | Revised Code of Washington | | |
| RN | Registered nurse | | |
| RR | Railroad retirement | | |
| RRLS | Residential rates and licensure services | | |
| RSDI | Retirement survivors and disability insurance | | |
| RSI | Retirement and survivor's insurance | | |
| SBA | Small business administration | | |
| SCO | State coordinating officer | | |
| SES | State employment service | | |
| SF | State form | | |
| SMI | See SMIAFS | | |
| SMIAFS | State median income adjusted for family size | | |
| SMIB | Supplementary medical insurance benefit | | |
| SNF | Skilled nursing facility | | |

[Statutory Authority: RCW 74.08.090, 89-12-078 (Order 2807), § 388-07-005, filed 6/7/89; 81-01-013 (Order 1572), § 388-07-005, filed 12/8/80; Order 1044, § 388-07-005, filed 8/14/75; Order 615, § 388-07-005, filed 10/7/71; Order 523, § 388-07-005, filed 3/31/71, effective 5/1/71.]

Chapter 388-08 WAC

PRACTICE AND PROCEDURE--FAIR HEARING

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| WAC | | |
| 388-08-410 | Application of chapter 388-08 WAC. | |
| 388-08-413 | Application for an adjudicative proceeding. | |
| 388-08-425 | Administrative law judge (ALJ)—Authority—Application of law—Assignment—Disqualification. | |
| 388-08-428 | Representation. | |
| 388-08-431 | Prehearing conference. | |
| 388-08-434 | Notice of hearing. | |
| 388-08-437 | Filing and service of papers. | |
| 388-08-440 | Vacating an order of dismissal for reason of default or withdrawal. | |
| 388-08-446 | Subpoenas. | |
| 388-08-449 | Teleconference hearing. | |
| 388-08-452 | Rules of evidence. | |
| 388-08-461 | Contents of orders. | |
| 388-08-464 | Petition for review—Response to petition—Disqualification of review judge. | |
| 388-08-470 | Reconsideration. | |
| 388-08-515 | Notice to limited-English-speaking parties. | |
| 388-08-525 | Interpreters. | |
| 388-08-535 | Group hearing. | |
| 388-08-545 | Continuance. | |
| 388-08-555 | Separate hearing regarding disclosure of investigative and intelligence files. | |
| 388-08-565 | Computation of time. | |
| 388-08-575 | Judicial review of final adjudicative order. | |

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 388-08-001 Complaint. [Regulation 23.10, filed 1/24/64.] Repealed by Order 286, filed 4/1/68.
- 388-08-00101 Fair hearing—Definitions. [Order 768, § 388-08-00101, filed 1/10/73.] Repealed by 84-05-040 (Order 2076), filed 2/17/84. Statutory Authority: RCW 34.04.020.
- 388-08-002 Fair hearing—Statutory basis. [Statutory Authority: RCW 34.04.020 and 74.08.090. 81-17-069 (Order 1695), § 388-08-002, filed 8/19/81; Order 768, § 388-08-002, filed 1/10/73; Order 524, § 388-08-002, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-002, filed 4/1/68; Regulation 23.20, filed 10/13/66, effective 11/13/66; Regulation 23.20, filed 1/24/64.] Repealed by 84-05-040 (Order 2076), filed 2/17/84. Statutory Authority: RCW 34.04.020.
- 388-08-00201 Scope of chapter 388-08 WAC. [Statutory Authority: RCW 34.04.020. 84-05-040 (Order 2076), § 388-08-00201, filed 2/17/84.] Repealed by 90-04-076 (Order 2999), filed 2/5/90, effective 3/1/90. Statutory Authority: RCW 34.05.220 (1)(a).
- 388-08-003 Prerequisites. [Regulation 23.21, filed 10/13/66, effective 11/13/66; Regulation 23.21, filed 1/24/64.] Repealed by Order 286, filed 4/1/68.
- 388-08-004 County office organization for fair hearing. [Regulation 23.22, filed 10/13/66, effective 11/13/66; Regulation 23.30, filed 1/24/64.] Repealed by Order 286, filed 4/1/68.
- 388-08-00401 Authority to adjudicate. [Statutory Authority: RCW 34.04.020. 84-05-040 (Order 2076), § 388-08-00401, filed 2/17/84; 81-12-015 (Order 1657), § 388-08-00401, filed 5/29/81, effective 7/1/81.] Repealed by 90-04-076 (Order 2999), filed 2/5/90, effective 3/1/90. Statutory Authority: RCW 34.05.220 (1)(a).
- 388-08-005 County office responsibility. [Order 265, § 388-08-005, filed 12/5/67; Regulation 23.23, filed 10/13/66, effective 11/13/66; Regulation 23.51, filed 1/24/64.] Repealed by Order 286, filed 4/1/68.
- 388-08-006 Administrative hearing—Form of request. [Statutory Authority: RCW 34.04.020. 84-05-040 (Order 2076), § 388-08-006, filed 2/17/84; Order 768, § 388-08-006, filed 1/10/73; Order 524, § 388-08-006, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-006, filed 4/1/68; Regulation 23.31, filed 10/13/66, effective 11/13/66; Regulation 23.40, filed 1/24/64.] Repealed by 90-04-076 (Order 2999), filed 2/5/90, effective 3/1/90. Statutory Authority: RCW 34.05.220 (1)(a).
- 388-08-00601 Administrative hearing—Group hearing. [Statutory Authority: RCW 34.04.020. 84-05-040 (Order 2076), § 388-08-00601, filed 2/17/84; Order 768, § 388-08-00601, filed 1/10/73.] Repealed by 90-04-076 (Order 2999), filed 2/5/90, effective 3/1/90. Statutory Authority: RCW 34.05.220 (1)(a).
- 388-08-007 Fair hearing—Access to records. [Order 768, § 388-08-007, filed 1/10/73; Order 524, § 388-08-007, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-007, filed 4/1/68; Regulation 23.33, filed 6/16/67; Regulation 23.33, filed 10/13/66, effective 11/13/66; Regulation 23.52, filed 1/24/64.] Repealed by 81-06-001 (Order 1609), filed 2/19/81. Statutory Authority: RCW 42.17.250 through 42.17.340.
- 388-08-010 Administrative hearing—Who may appear as a representative. [Statutory Authority: RCW 34.04.020. 84-05-040 (Order 2076), § 388-08-010, filed 2/17/84; Order 952, § 388-08-010, filed 7/16/74; Order 768, § 388-08-010, filed 1/10/73; Order 524, § 388-08-010, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-010, filed 4/1/68; Regulation 23.32, filed 6/16/67; Regulation 23.32, filed 10/13/66, effective 11/13/66; Regulation 23.63, filed 1/24/64.] Repealed by 90-04-076 (Order 2999), filed 2/5/90, effective 3/1/90. Statutory Authority: RCW 34.05.220 (1)(a).
- 388-08-015 Attendance at hearing—Procedure. [Regulation 23.39, filed 10/13/66, effective 11/13/66.] Repealed by Order 286, filed 4/1/68.
- 388-08-050 Fair hearing—Appearance by former employee of department. [Order 768, § 388-08-050, filed 1/10/73; Order 524, § 388-08-050, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-050, filed 4/1/68.] Repealed by 84-05-040 (Order 2076), filed 2/17/84. Statutory Authority: RCW 34.04.020.
- 388-08-055 Fair hearing—Attendance at hearing—Reporting. [Order 768, § 388-08-055, filed 1/10/73; Order 524, § 388-08-055, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-055, filed 4/1/68.] Repealed by 84-05-040 (Order 2076), filed 2/17/84. Statutory Authority: RCW 34.04.020.
- 388-08-080 Notice and opportunity for hearing. [Statutory Authority: RCW 34.04.020. 80-06-090 (Order 1505), § 388-08-080, filed 5/28/80; Order 768, § 388-08-080, filed 1/10/73; Order 524, § 388-08-080, filed 3/31/71, effective 5/1/71; Order 374, § 388-08-080, filed 8/7/69; Order 284, § 388-08-080, filed 4/1/68; Regulation 23.34, filed 6/16/67; Regulation 23.34, filed 10/13/66; effective 11/13/66; Regulation 23.53, filed 1/24/64.] Repealed by 84-05-040 (Order 2076), filed 2/17/84. Statutory Authority: RCW 34.04.020.
- 388-08-083 Notice and opportunity for hearing—Computation of time. [Order 768, § 388-08-083, filed 1/10/73; Order 524, § 388-08-083, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-083, filed 4/1/68.] Repealed by 84-05-040 (Order 2076), filed 2/17/84. Statutory Authority: RCW 34.04.020.
- 388-08-150 Subpoenas—Where provided by law—Form. [Order 768, § 388-08-150, filed 1/10/73; Order 524, § 388-08-150, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-150, filed 4/1/68; Regulation 23.35, filed 10/13/66, effective 11/13/66.] Repealed by 84-05-040 (Order 2076), filed 2/17/84. Statutory Authority: RCW 34.04.020.
- 388-08-160 Subpoenas—Issuance to parties—Issuance by department. [Order 524, § 388-08-160, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-160, filed 4/1/68.] Repealed by 84-05-040 (Order 2076), filed 2/17/84. Statutory Authority: RCW 34.04.020.
- 388-08-170 Subpoenas—Service. [Order 524, § 388-08-170, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-170, filed 4/1/68.] Repealed by 84-05-040 (Order 2076), filed 2/17/84. Statutory Authority: RCW 34.04.020.
- 388-08-180 Subpoenas—Fees. [Order 768, § 388-08-180, filed 1/10/73; Order 524, § 388-08-180, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-180, filed 4/1/68.] Repealed by 84-05-040 (Order 2076), filed 2/17/84. Statutory Authority: RCW 34.04.020.
- 388-08-190 Subpoenas—Proof of service. [Order 524, § 388-08-190, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-190, filed 4/1/68.] Repealed by 84-05-040 (Order 2076), filed 2/17/84. Statutory Authority: RCW 34.04.020.
- 388-08-200 Subpoenas—Quashing. [Order 524, § 388-08-200, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-200, filed 4/1/68.] Repealed by 84-05-040 (Order 2076), filed 2/17/84. Statutory Authority: RCW 34.04.020.
- 388-08-210 Subpoenas—Enforcement. [Order 524, § 388-08-210, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-210, filed 4/1/68.] Repealed by 84-05-040 (Order 2076), filed 2/17/84. Statutory Authority: RCW 34.04.020.
- 388-08-220 Subpoenas—Geographical scope. [Order 524, § 388-08-220, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-220, filed 4/1/68.] Repealed by 84-05-040

- (Order 2076), filed 2/17/84. Statutory Authority: RCW 34.04.020.
- 388-08-230 Depositions and interrogatories. [Order 768, § 388-08-230, filed 1/10/73; Order 524, § 388-08-230, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-230, filed 4/1/68; Regulation 23.36, filed 10/13/66, effective 11/13/66.] Repealed by 84-05-040 (Order 2076), filed 2/17/84. Statutory Authority: RCW 34.04.020.
- 388-08-235 Questionnaires—Petitioner or witness out of state. [Order 524, § 388-08-235, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-235, filed 4/1/68; Regulation 23.44, filed 10/13/66, effective 11/13/66.] Repealed by 84-05-040 (Order 2076), filed 2/17/84. Statutory Authority: RCW 34.04.020.
- 388-08-375 Official notice—Matters of law—Material facts. [Order 768, § 388-08-375, filed 1/10/73; Order 524, § 388-08-375, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-375, filed 4/1/68; Regulation 23.42, filed 10/13/66, effective 11/13/66.] Repealed by 84-05-040 (Order 2076), filed 2/17/84. Statutory Authority: RCW 34.04.020.
- 388-08-390 Presumptions. [Order 768, § 388-08-390, filed 1/10/73; Order 524, § 388-08-390, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-390, filed 4/1/68; Regulation 23.43, filed 10/13/66, effective 11/13/66.] Repealed by 84-05-040 (Order 2076), filed 2/17/84. Statutory Authority: RCW 34.04.020.
- 388-08-400 Stipulations and admissions of record. [Order 768, § 388-08-400, filed 1/10/73; Order 524, § 388-08-400, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-400, filed 4/1/68.] Repealed by 84-05-040 (Order 2076), filed 2/17/84. Statutory Authority: RCW 34.04.020.
- 388-08-405 Withdrawal—Dismissal—Settlement. [Statutory Authority: RCW 34.04.020. 84-05-040 (Order 2076), § 388-08-405, filed 2/17/84. Statutory Authority: RCW 34.04.020 and 74.08.090. 81-17-069 (Order 1695), § 388-08-405, filed 8/19/81; Order 768, § 388-08-405, filed 1/10/73; Order 524, § 388-08-405, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-405, filed 4/1/68; Regulation 23.38, filed 10/13/66, effective 11/13/66.] Repealed by 90-04-076 (Order 2999), filed 2/5/90, effective 3/1/90. Statutory Authority: RCW 34.05.220 (1)(a).
- 388-08-406 Decision-rendering procedure—Proposal for decision. [Statutory Authority: RCW 34.04.020. 85-07-048 (Order 2217), § 388-08-406, filed 3/20/85; 84-05-040 (Order 2076), § 388-08-406, filed 2/17/84; 79-09-054 (Order 1426), § 388-08-406, filed 8/24/79.] Repealed by 90-04-076 (Order 2999), filed 2/5/90, effective 3/1/90. Statutory Authority: RCW 34.05.220 (1)(a).
- 388-08-407 Time limit for rendering decision. [Statutory Authority: RCW 34.04.020. 79-09-054 (Order 1426), § 388-08-407, filed 8/24/79.] Repealed by 84-05-040 (Order 2076), filed 2/17/84. Statutory Authority: RCW 34.04.020.
- 388-08-408 Initial decision. [Statutory Authority: RCW 34.04.020. 79-09-054 (Order 1426), § 388-08-408, filed 8/24/79.] Repealed by 84-05-040 (Order 2076), filed 2/17/84. Statutory Authority: RCW 34.04.020.
- 388-08-409 Petition for review by review judge. [Statutory Authority: RCW 34.04.020. 84-05-040 (Order 2076), § 388-08-409, filed 2/17/84; 79-09-054 (Order 1426), § 388-08-409, filed 8/24/79.] Repealed by 90-04-076 (Order 2999), filed 2/5/90, effective 3/1/90. Statutory Authority: RCW 34.05.220 (1)(a).
- 388-08-410 Form and content of decision. [Order 768, § 388-08-410, filed 1/10/73; Order 524, § 388-08-410, filed 3/31/71, effective 5/1/71; Order 514, § 388-08-410, filed 1/20/71; Order 374, § 388-08-410, filed 8/7/69; Order 317, § 388-08-410, filed 11/27/68; Order 284, § 388-08-410, filed 4/1/68; Regulation 23.51, filed 10/13/66, effective 11/13/66; Regulation 23.70, filed 1/24/64.] Repealed by 79-09-054 (Order 1426), filed 8/24/79. Statutory Authority: RCW 34.04.020.
- 388-08-411 Decision by state department of public assistance director. [Regulation 23.50, filed 6/16/67; Regulation 23.50, filed 10/13/66, effective 11/13/66; Regulation 23.70, filed 1/24/64.] Repealed by Order 286, filed 4/1/68.
- 388-08-412 Procedure following decision. [Order 265, § 388-08-412, filed 12/5/67; Regulation 23.60, filed 10/13/66, effective 11/13/66; Regulation 23.80, filed 1/24/64.] Repealed by Order 286, filed 4/1/68.
- 388-08-414 Form, content, and effective date of decision. [Statutory Authority: RCW 34.04.020. 79-09-054 (Order 1426), § 388-08-414, filed 8/24/79.] Repealed by 84-05-040 (Order 2076), filed 2/17/84. Statutory Authority: RCW 34.04.020.
- 388-08-416 Selected final decisions as precedent. [Statutory Authority: RCW 34.04.020. 84-05-040 (Order 2076), § 388-08-416, filed 2/17/84; 81-12-015 (Order 1657), § 388-08-416, filed 5/29/81, effective 7/1/81.] Repealed by 90-04-076 (Order 2999), filed 2/5/90, effective 3/1/90. Statutory Authority: RCW 34.05.220 (1)(a).
- 388-08-420 Definition of issues before hearing. [Order 524, § 388-08-420, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-420, filed 4/1/68.] Repealed by 84-05-040 (Order 2076), filed 2/17/84. Statutory Authority: RCW 34.04.020.
- 388-08-430 Prehearing conference rule—Authorized. [Order 524, § 388-08-430, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-430, filed 4/1/68; Regulation 23.40, filed 10/13/66, effective 11/13/66.] Repealed by 84-05-040 (Order 2076), filed 2/17/84. Statutory Authority: RCW 34.04.020.
- 388-08-435 Separate hearing regarding disclosure of investigative and intelligence files. [Statutory Authority: RCW 34.04.020. 83-03-021 (Order 1938), § 388-08-435, filed 1/13/83.] Repealed by 90-04-076 (Order 2999), filed 2/5/90, effective 3/1/90. Statutory Authority: RCW 34.05.220 (1)(a).
- 388-08-440 Prehearing conference rule—Record of conference action. [Order 524, § 388-08-440, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-440, filed 4/1/68.] Repealed by 84-05-040 (Order 2076), filed 2/17/84. Statutory Authority: RCW 34.04.020.
- 388-08-450 Submission of documentary evidence in advance. [Order 524, § 388-08-450, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-450, filed 4/1/68.] Repealed by 84-05-040 (Order 2076), filed 2/17/84. Statutory Authority: RCW 34.04.020.
- 388-08-455 Rules of evidence. [Regulation 23.41, filed 10/13/66, effective 11/13/66; Regulation 23.64, filed 1/24/64.] Repealed by Order 286, filed 4/1/68.
- 388-08-470 Expert or opinion testimony and testimony based on economic and statistical data—Number and qualifications of witnesses. [Order 524, § 388-08-470, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-470, filed 4/1/68.] Repealed by 84-05-040 (Order 2076), filed 2/17/84. Statutory Authority: RCW 34.04.020.
- 388-08-480 Expert or opinion testimony and testimony based on economic and statistical data—Written sworn statements. [Order 524, § 388-08-480, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-480, filed 4/1/68.] Repealed by 84-05-040 (Order 2076), filed 2/17/84. Statutory Authority: RCW 34.04.020.
- 388-08-490 Expert or opinion testimony and testimony based on economic and statistical data—Supporting data. [Order 524, § 388-08-490, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-490, filed 4/1/68.] Repealed by 84-05-040 (Order 2076), filed 2/17/84. Statutory Authority: RCW 34.04.020.
- 388-08-500 Expert or opinion testimony and testimony based on economic and statistical data—Effect of noncompliance. [Order 524, § 388-08-500, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-500, filed

- 4/1/68.] Repealed by 84-05-040 (Order 2076), filed 2/17/84. Statutory Authority: RCW 34.04.020.
- 388-08-503 Expert opinion or written testimony—Medical assessment. [Order 768, § 388-08-503, filed 1/10/73; Order 524, § 388-08-503, filed 3/31/71, effective 5/1/71; Order 317, § 388-08-503, filed 11/27/68.] Repealed by 84-05-040 (Order 2076), filed 2/17/84. Statutory Authority: RCW 34.04.020.
- 388-08-510 Continuances. [Order 768, § 388-08-510, filed 1/10/73; Order 524, § 388-08-510, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-510, filed 4/1/68; Regulation 23.37, filed 10/13/66, effective 11/13/66.] Repealed by 84-05-040 (Order 2076), filed 2/17/84. Statutory Authority: RCW 34.04.020.
- 388-08-520 Rules of evidence—Admissibility criteria. [Order 768, § 388-08-520, filed 1/10/73; Order 524, § 388-08-520, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-520, filed 4/1/68.] Repealed by 84-05-040 (Order 2076), filed 2/17/84. Statutory Authority: RCW 34.04.020.
- 388-08-540 Petitions for rule-making amendment or repeal—Who may petition. [Order 768, § 388-08-540, filed 1/10/73; Order 524, § 388-08-540, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-540, filed 4/1/68.] Repealed by 90-04-076 (Order 2999), filed 2/5/90, effective 3/1/90. Statutory Authority: RCW 34.05.220 (1)(a).
- 388-08-550 Updating mailing lists. [Statutory Authority: RCW 34.04.020. 80-13-057 (Order 1544), § 388-08-550, filed 9/17/80.] Repealed by 90-04-076 (Order 2999), filed 2/5/90, effective 3/1/90. Statutory Authority: RCW 34.05.220 (1)(a).
- 388-08-560 Delegation of authority by secretary. [Statutory Authority: RCW 34.04.020. 80-13-057 (Order 1544), § 388-08-560, filed 9/17/80.] Repealed by 90-04-076 (Order 2999), filed 2/5/90, effective 3/1/90. Statutory Authority: RCW 34.05.220 (1)(a).
- 388-08-580 Declaratory rulings. [Order 524, § 388-08-580, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-580, filed 4/1/68.] Repealed by 90-04-076 (Order 2999), filed 2/5/90, effective 3/1/90. Statutory Authority: RCW 34.05.220 (1)(a).
- 388-08-590 Forms. [Order 768, § 388-08-590, filed 1/10/73; Order 524, § 388-08-590, filed 3/31/71, effective 5/1/71; Order 284, § 388-08-590, filed 4/1/68.] Repealed by 90-04-076 (Order 2999), filed 2/5/90, effective 3/1/90. Statutory Authority: RCW 34.05.220 (1)(a).
- 388-08-600 Court appeal. [Order 265, § 388-08-600, filed 12/5/67; Regulation 23.70, filed 10/13/66, effective 11/13/66; Regulation 23.90, filed 1/24/64.] Repealed by Order 286, filed 4/1/68.
- 388-08-600 Judicial review. [Order 768, § 388-08-600, filed 1/10/73; Order 524, § 388-08-600, filed 3/31/71, effective 5/1/71; Order 317, § 388-08-600, filed 11/27/68.] Repealed by 84-05-040 (Order 2076), filed 2/17/84. Statutory Authority: RCW 34.04.020.
- 388-08-610 Publication of fair hearing decisions. [Order 524, § 388-08-610, filed 3/31/71, effective 5/1/71; Order 317, § 388-08-610, filed 11/27/68.] Repealed by 80-06-089 (Order 1506), filed 5/28/80. Statutory Authority: RCW 34.04.020.

WAC 388-08-410 Application of chapter 388-08 WAC. (1) Scope. This chapter applies to adjudicative proceedings begun on or after July 1, 1989, in programs administered by the department of social and health services (DSHS). The definition of the word "begun" is receipt of the application for an adjudication proceeding at the DSHS's office of appeals. Proceedings begun before July 1, 1989, are governed by the procedural rules in effect on July 30, 1989. Legal authority for adopting this chapter is RCW 34.05.220 (1)(a).

(2) Conflict of rules. If a provision in this chapter conflicts with a provision in the chapter containing the program's substantive rules, the provision in the chapter containing the program's substantive rules governs.

(3) Presiding officer. The presiding officer shall be either an administrative law judge (ALJ) from the office of administrative hearings or a review judge from the DSHS office of appeals. References to ALJ in this chapter apply to a review judge when a review judge is the presiding officer.

(4) Reviewing officer. The reviewing officer shall be the secretary or a review judge from the DSHS office of appeals.

(5) Physical and mailing addresses. ALJ administrative and field office addresses are listed under WAC 10-04-020. The office of appeals is located in the DSHS headquarters, office building number 2, Twelfth and Franklin, Olympia, and the mailing address is Office of Appeals, P.O. Box 2465, Olympia, WA 98504-2465.

[Statutory Authority: RCW 34.05.220 (1)(a). 90-04-076 (Order 2999), § 388-08-410, filed 2/5/90, effective 3/1/90.]

WAC 388-08-413 Application for an adjudicative proceeding. (1) Who may apply. Any person or authorized representative may file an oral or written application for an adjudicative proceeding.

(2) Form of application. The application need not be in any particular form but should specify the decision being appealed and the reasons the appellant is dissatisfied with the decision.

(3) Application.

(a) An oral application shall be made to a responsible department employee.

(b) A written application should be filed at the office of appeals. However, the application can be filed with any responsible department employee.

[Statutory Authority: RCW 34.05.220 (1)(a). 90-04-076 (Order 2999), § 388-08-413, filed 2/5/90, effective 3/1/90. Statutory Authority: RCW 34.04.020. 84-05-040 (Order 2076), § 388-08-413, filed 2/17/84; 79-09-054 (Order 1426), § 388-08-413, filed 8/24/79.]

WAC 388-08-425 Administrative law judge (ALJ)—Authority—Application of law—Assignment—Disqualification. (1) Authority. The ALJ shall:

(a) Hear and decide the issue anew (de novo);

(b) Determine the order of presentation of evidence;

(c) Administer oaths and affirmations;

(d) Issue subpoenas;

(e) Rule on procedural matters, objections, and motions;

(f) Rule on offers of proof and receive relevant evidence;

(g) Interrogate witnesses called by the parties in an impartial manner to develop any facts deemed necessary to fairly and adequately decide the matter;

(h) Call additional witnesses and request additional exhibits deemed necessary to complete the record and receive such evidence subject to full opportunity for cross-examination and rebuttal by all parties;

(i) Take any appropriate action necessary to maintain order during the hearing;

(j) Permit or require oral argument or briefs and determine the time limits for submission thereof;

(k) Permit photographic and recording equipment at hearings subject to conditions the ALJ imposes to preserve confidentiality or to prevent disruption;

(l) Permit a person to waive any right conferred upon that person by chapters 34.05 RCW or 388-08 WAC, except to the extent precluded by another provision of law; and

(m) Take any other action necessary and authorized by any applicable rule.

(2) Application of law. The ALJ shall:

(a) Apply as the first source of law governing an issue the department rules adopted in the Washington Administrative Code (WAC);

(b) If there is no department rule governing the issue, resolve the issue on the basis of the best legal authority and reasoning available, including that found in federal and Washington constitutions, statutes and regulations, and court decisions;

(c) Not declare any department rule invalid;

(d) If the validity of any department rule is raised as an issue at any proceeding, permit arguments concerning that issue for subsequent review purposes; and

(e) If the sole issue is one of federal or state law requiring automatic assistance, benefit, scope of program, or fee or regulation adjustments for classes of people the department serves or regulates, dismiss the application without permitting argument on the validity of the law.

(3) Assignment of ALJ. If the notice of hearing does not state the name of the presiding ALJ, the chief ALJ of the office of administrative hearings shall:

(a) Make such assignment five days or more before the hearing; and

(b) Disclose the assignment to any party or representative making inquiry.

(4) Motion of prejudice.

(a) A motion of prejudice with a supporting affidavit under RCW 34.12.050 shall be filed at least three days before the hearing or any earlier stage of the adjudicative proceeding when the ALJ may be required to issue a discretionary ruling.

(b) The chief ALJ or designee shall rule upon subsequent motions of prejudice filed by the same party in the same proceeding.

(5) Petition for disqualification. An individual petitioning to disqualify an ALJ under RCW 34.05.425 shall file such petition with the ALJ assigned to preside over the proceeding.

[Statutory Authority: RCW 34.05.220 (1)(a). 90-04-076 (Order 2999), § 388-08-425, filed 2/5/90, effective 3/1/90.]

WAC 388-08-428 Representation. (1) Appellant representation.

(a) The appellant may represent himself or herself, or the appellant may be represented by a lawyer or paralegal or by a relative, friend, or other person.

(b) The appellant may not be represented in an adjudicative proceeding by an employee of the department.

(c) Nothing in this regulation shall be construed as prohibiting an employee of the department from:

(i) Acting as a witness on behalf of an appellant;

(ii) Referring an appellant to legal resources in the community;

(iii) Assisting the appellant in obtaining nonconfidential information available to the appellant; or

(iv) Advising the appellant of possible arguments made against the contested decision.

(2) Department representation. The department may be represented by a department employee or by the office of the attorney general.

[Statutory Authority: RCW 34.05.220 (1)(a). 90-04-076 (Order 2999), § 388-08-428, filed 2/5/90, effective 3/1/90.]

WAC 388-08-431 Prehearing conference. (1) Request, purpose, order, and objection. Upon the administrative law judge's (ALJ's) own motion or upon request of a party, the ALJ may direct the parties or the parties' representatives to engage in a prehearing conference.

(a) The purpose of a prehearing conference is to consider:

(i) Simplification of issues;

(ii) The necessity or desirability of amendments to the pleadings;

(iii) The possibility of obtaining stipulations, admissions of fact, and admissions of the authenticity of documents to avoid unnecessary proof;

(iv) Limitations on the number and consolidation of the examination of witnesses;

(v) Procedural matters;

(vi) Distribution of written testimony and exhibits to the parties before the hearing; and

(vii) Such other matters as may aid in the disposition or settlement of the proceeding.

(b) The ALJ may conduct a prehearing conference by telephone conference call, in person, or other manner.

(c) Following the prehearing conference, the ALJ shall issue an order reciting the:

(i) Action taken at the conference;

(ii) Amendments allowed to the pleadings; and

(iii) Agreements the parties made concerning all of the matters considered.

(d) If no objection to such order is filed with the ALJ within ten days after the date such order is served, the order shall control the subsequent course of the proceeding unless modified for good cause by subsequent order.

(2) Conference on hearing day. Nothing in this rule shall limit the ALJ during any proceeding from conducting a conference before the taking of testimony or recessing the hearing and conducting a conference. The ALJ shall state on the record the results of such conference.

(3) Not a limit to informal settlement. Nothing in this rule shall limit the parties' right to informally settle a matter to make an adjudicative proceeding unnecessary.

[Statutory Authority: RCW 34.05.220 (1)(a). 90-04-076 (Order 2999), § 388-08-431, filed 2/5/90, effective 3/1/90.]

WAC 388-08-434 Notice of hearing. (1) Served by. The department or the office of administrative hearings shall serve a notice of hearing on the parties and representatives.

(2) Contents.

(a) If the hearing is conducted by teleconference call, the notice shall so state.

(b) The notice shall state that:

(i) If a limited English-speaking or hearing impaired party or witness needs an interpreter, a qualified interpreter shall be appointed; and

(ii) There shall be no cost to the party or witness for the interpreter.

(c) The notice shall include a form for a party to:

(i) Indicate the need for an interpreter; and

(ii) Identify the primary language or hearing impaired status of the person.

[Statutory Authority: RCW 34.05.220 (1)(a). 90-04-076 (Order 2999), § 388-08-434, filed 2/5/90, effective 3/1/90.]

WAC 388-08-437 Filing and service of papers. (1)

Service required when filing. A party filing a pleading, brief, or other paper, except an application for an adjudicative proceeding, with the office of appeals or the administrative law judge (ALJ) shall serve a copy of the paper upon:

(a) Every other party; or

(b) If the other party is represented or has an agent, the other party's representative or agent.

(2) Filing and service made by. Unless otherwise provided by law, filing and service shall be made by:

(a) Personal service;

(b) First class, registered, or certified mail;

(c) Telegraph;

(d) Electronic telefacsimile transmission and same-day mailing of copies; or

(e) Commercial parcel delivery company.

(3) Filing complete. Filing with the department shall be complete upon actual receipt during office hours at the office of appeals. Filing with the ALJ shall be complete upon actual receipt during office hours at the office of the ALJ.

(4) Service complete. Service shall be complete when:

(a) Personal service is made;

(b) Mail is properly stamped and addressed and is deposited in the United States mail;

(c) A properly addressed telegram is deposited with a telegraph company with charges prepaid;

(d) An electronic telefacsimile transmission produces proof of transmission; or

(e) A commercial parcel is delivered to the parcel delivery company with charges prepaid.

(5) Proof of service. Where proof of service is required by statute or rule, filing the papers with the department or ALJ, together with one of the following, shall constitute proof of service:

(a) An acknowledgement of service;

(b) A certificate of service including the date the papers were served upon all parties and the signature of the serving party indicating service was completed by:

(i) Personal service;

(ii) Mailing a copy properly addressed with postage prepaid to each party to the proceeding, or the party's representative or authorized agent;

(iii) Telegraphing a copy properly addressed with charges prepaid to each party to the proceeding, or the party's representative or authorized agent;

(iv) Transmitting a copy by electronic telefacsimile device and, on the same day, mailing a copy to each party to the proceeding, or the party's representative or authorized agent; or

(v) Depositing a copy properly addressed with charges prepaid with a commercial parcel delivery company.

[Statutory Authority: RCW 34.05.220 (1)(a). 90-04-076 (Order 2999), § 388-08-437, filed 2/5/90, effective 3/1/90.]

WAC 388-08-440 Vacating an order of dismissal for reason of default or withdrawal. (1) Right to request.

The parties shall have the right to file a written request to vacate an order of dismissal for reason of default or withdrawal.

(2) Contents. The request shall state the grounds relied upon.

(3) Time limits.

(a) The period to file a request shall be twenty-one days from the date the party serves the order of dismissal.

(b) The administrative law judge (ALJ) shall waive the twenty-one day limit for filing a request when a person:

(i) Files a request within thirty days of the date the order becomes final; and

(ii) Demonstrates good cause for failure to file a timely request. Good cause means one of the grounds enumerated in Court Rule 60 and includes:

(A) A person's mistake, inadvertence, or excusable neglect preventing the person from timely filing a request; or

(B) An unavoidable casualty or misfortune preventing the person from timely filing a request.

(4) Filing. The person shall file the request at the office of appeals.

(5) Grounds to vacate an order of dismissal. When, in the reasoned opinion of the ALJ, good cause to grant the relief is shown, the ALJ shall vacate the order of dismissal and reinstate the application.

[Statutory Authority: RCW 34.05.220 (1)(a). 90-04-076 (Order 2999), § 388-08-440, filed 2/5/90, effective 3/1/90.]

WAC 388-08-446 Subpoenas. (1) Statutory requirements. The administrative law judge (ALJ), the department, and attorneys for parties may issue a subpoena. A subpoena shall be issued and enforced and witness fees paid, as provided under RCW 34.05.446.

(2) Contents. Every subpoena shall:

(a) Identify the party causing issuance of the subpoena;

(b) State the name of the agency as the department of social and health services;

(c) State the title of the proceeding; and

(d) Command the person to whom the subpoena is directed to attend and give testimony or produce designated books, documents, or things under the person's control at the time and place set for the hearing.

(3) Service. A subpoena may be served by any suitable person eighteen years of age or older by:

(a) Exhibiting and reading the subpoena to the witness;

(b) Giving the witness a copy; or

(c) Leaving a copy at the place of the witness' residence.

(4) Proof of service. When a subpoena is served by other than an officer authorized to serve process, proof of service shall be made by affidavit.

(5) Quashing, modifying, conditioning. The administrative law judge, upon request made promptly and in any event at or before the time specified for compliance in the subpoena, may:

(a) Quash or modify the subpoena if the subpoena is unreasonable or oppressive; or

(b) Condition denial of the request upon the advancement by the person in whose behalf the subpoena is issued of the reasonable cost of producing the books, papers, documents, or tangible things.

[Statutory Authority: RCW 34.05.220 (1)(a). 90-04-076 (Order 2999), § 388-08-446, filed 2/5/90, effective 3/1/90.]

WAC 388-08-449 Teleconference hearing. (1) When authorized.

(a) The administrative law judge (ALJ) may conduct all or part of the hearing by telephone, television, or other electronic means if each party in the hearing has an opportunity to participate in, to hear, and, if technically and economically feasible, to see the entire proceeding while it is taking place.

(b) Conducting a hearing by electronic means is subject to the following conditions:

(i) In the aid to families with dependent children program under Title IV-A and adult categories under Titles I, X, XIV, or XVI of the Social Security Act and in the food stamp disqualification program under 7 CFR § 273.16, a teleconference hearing may be scheduled only if the notice of hearing informs the appellant the hearing will be converted to an in-person hearing upon request filed with the ALJ at least one week before the hearing. The appellant does not have to show good cause to convert the hearing;

(ii) In a program not described under subsection (1)(a) of this section, or in such a program when a party requests to convert a telephone hearing to an in-person hearing a week or less before the hearing, the ALJ shall grant the request upon a party showing good cause. The ALJ may reschedule the in-person hearing to a different date and time.

(2) Documentary evidence. When the hearing is conducted by electronic means, documentary evidence shall be submitted in advance as provided under WAC 388-08-452(2).

[Statutory Authority: RCW 34.05.220 (1)(a). 90-04-076 (Order 2999), § 388-08-449, filed 2/5/90, effective 3/1/90.]

WAC 388-08-452 Rules of evidence. (1) Objections. The administrative law judge (ALJ) shall rule upon objections to the admissibility of evidence under RCW 34.05.452.

(2) Submission in advance. The ALJ may order:

(a) A party to submit documentary evidence to the ALJ and to the other parties sufficiently in advance of the hearing to permit study and preparation of cross-examination and rebuttal evidence;

(b) Documentary evidence not submitted in advance as required in subsection (2)(a) of this section, shall not be received in evidence in the absence of a clear showing the offering party had good cause for failure to produce the evidence sooner, unless the evidence is submitted for impeachment purposes; and

(c) The authenticity of all documents submitted in advance in a proceeding, when such submission is required, to be deemed admitted unless written objection is filed before the hearing. However, a party shall be permitted to challenge such authenticity at a later time upon a clear showing of good cause for failure to file such written objection.

(3) Portions of a document. When portions only of a document are relied upon, the offering party shall identify the pertinent excerpts and state the purpose for which the materials are offered. Only the excerpts, in the form of copies, shall be received in the record. However, the whole of the original documents, except any portions containing confidential material protected by law, shall be made available for examination and for use by all parties.

(4) Expert witness limitation. No former employee of the department shall, except with the permission of the department, appear as an expert witness on behalf of other parties in a proceeding where the expert witness previously took an active part in the investigation as a department representative.

(5) Witness refusal to answer. The refusal of a witness to answer any question ruled proper shall, in the discretion of the ALJ, be grounds for striking all testimony previously given by such witness on the related matter.

(6) Stipulation, admission. A party bound by a stipulation or an admission of record may, at any time during the proceeding, withdraw it in whole or in part by showing to the satisfaction of the ALJ that:

(a) Such stipulation or admission was made inadvertently or under a bona fide mistake of fact contrary to the true fact; and

(b) The party's withdrawal, at the time proposed, will not unjustly prejudice the rights of other parties to the proceeding.

[Statutory Authority: RCW 34.05.220 (1)(a). 90-04-076 (Order 2999), § 388-08-452, filed 2/5/90, effective 3/1/90.]

WAC 388-08-461 Contents of orders. Every order shall correctly caption both the name of the agency and the proceeding and shall designate the parties and representatives participating in the proceeding.

[Statutory Authority: RCW 34.05.220 (1)(a). 90-04-076 (Order 2999), § 388-08-461, filed 2/5/90, effective 3/1/90.]

WAC 388-08-464 Petition for review—Response to petition—Disqualification of review judge. (1) Initial orders that may become final orders.

(a) If a petition for review is not filed within twenty-one days from service of the initial order, the initial order shall, subject to the provisions of this section, become the final order.

(b) An initial order shall not become the final order after a food stamp administrative disqualification hearing. Each party shall have the right to file a petition for review of the administrative law judge's order. Whether a petition for review is or is not filed, the review judge shall enter the final order on behalf of the secretary.

(2) Who may petition. Each party has the right to file a petition for review of an order entered by an administrative law judge.

(3) Petition contents. The petition for review shall:

(a) Specify the portions of the order to which exception is taken; and

(b) Refer to the evidence of record relied upon to support the petition.

(4) Petition time limits.

(a) The period to timely file a petition for review is twenty-one days from the date the initial decision was served.

(b) A review judge shall extend the twenty-one-day period to file a petition for review upon request of a party when:

(i) The request is made during the twenty-one-day period; and

(ii) Good cause for the extension is shown.

(c) The review judge shall waive the twenty-one-day limit for filing a petition for review when a person:

(i) Files a petition for review within thirty days of the date the initial order becomes final; and

(ii) Demonstrates good cause for failure to file a timely petition. Good cause means one of the grounds enumerated in Court Rule 60 and includes:

(A) A petitioner's mistake, inadvertence, or excusable neglect preventing the petitioner from timely filing a petition; or

(B) An unavoidable casualty or misfortune preventing the petitioner from timely filing a petition for review.

(5) Petition filing and service. The petition for review shall be in writing and filed with the office of appeals. The petitioning party is encouraged to serve a copy of the petition upon the other party or the other party's representative at the time the petition is filed. The office of appeals shall serve a copy on the other party or representative.

(6) Notice of petition. When a petition for review is filed, the office of appeals shall send a copy of the petition to the nonpetitioning party or, if represented, to the representative with a notice of the right to file a response.

(7) Response time limit, filing, service.

(a) The nonpetitioning party shall file any response with the office of appeals within seven days of the date that office served a copy of the petition on the nonpetitioning party or representative.

(b) The nonpetitioning party shall serve a copy of the response on the petitioner and any other party or, if represented, on the representative at the time the response is filed.

(c) A review judge may extend the period to file a response upon request of a party showing good cause.

(d) A review judge may, in the review judge's discretion, accept a late filed response and consider the response when ruling on a petition for review.

(8) Disqualification. The chief review judge shall disclose the name of the review judge assigned to rule on a petition to any party or representative making inquiry. An individual petitioning to disqualify a review judge under RCW 34.05.425 shall file the petition with the review judge assigned to the proceeding.

[Statutory Authority: RCW 34.05.220 (1)(a). 90-04-076 (Order 2999), § 388-08-464, filed 2/5/90, effective 3/1/90.]

WAC 388-08-470 Reconsideration. Within ten days of service of a review order, any party may file a petition for reconsideration. A review judge shall extend the period to file a petition upon request of a party made during the ten-day filing period when good cause for the extension is shown. The petition shall state the specific grounds upon which relief is requested. A petition for reconsideration shall be filed at the office of appeals.

[Statutory Authority: RCW 34.05.220 (1)(a). 90-04-076 (Order 2999), § 388-08-470, filed 2/5/90, effective 3/1/90.]

WAC 388-08-515 Notice to limited-English-speaking parties. This section applies when the office of appeals or the administrative law judge is notified or otherwise made aware that a limited-English-speaking person is a party in an adjudicative proceeding. All notices concerning the proceedings, including notices of hearing, continuance, and dismissal shall:

(1) Be written in the primary language of the party; or

(2) Include a notice in the primary language of the party describing:

(a) The significance of the notice; and

(b) How the party may receive assistance in understanding the notice and, if necessary, responding to the notice.

[Statutory Authority: RCW 34.05.220 (1)(a). 90-04-076 (Order 2999), § 388-08-515, filed 2/5/90, effective 3/1/90.]

WAC 388-08-525 Interpreters. (1) A "hearing impaired person" means a person who, because of a hearing impairment or speech defects, cannot readily understand or communicate in spoken language. A "hearing impaired person" includes a person who is deaf, deaf and blind, or hard of hearing.

(2) An "impaired person" means a person involved in an adjudicative proceeding and is a:

(a) Hearing impaired person; or

(b) Limited-English-speaking person.

(3) An "intermediary interpreter" means a hearing impaired interpreter:

(a) The registry of interpreters for the deaf certifies with a reverse skills certificate;

(b) Meeting the requirements under subsection (9) of this section; and

(c) Able to assist by:

(i) Providing an accurate interpretation between spoken and sign language or between variants of sign language; and

(ii) Acting as an intermediary between a hearing impaired person and a qualified interpreter for the hearing impaired.

(4) A "limited-English-speaking person" means a person who because of a non-English-speaking cultural background cannot readily speak or understand the English language.

(5) A "qualified interpreter" means a person:

(a) Readily able to interpret spoken English and translate written English to and for an impaired person; and

(b) Readily able to interpret or translate statements of an impaired person into spoken English; and

(c) Meeting the requirements of subsection (9) of this section provided, for hearing impaired persons, a qualified interpreter shall be certified by the registry of interpreters for the deaf with a:

(i) Specialist certificate-legal;

(ii) Master's comprehensive skills certificate; or

(iii) Comprehensive skills certificate.

(6) When an impaired person is a party to any adjudicative proceeding or witness therein, the administrative law judge (ALJ) shall, in the absence of a written waiver signed by the impaired person, appoint a qualified interpreter to assist the impaired person throughout the proceedings. The right to a qualified interpreter may not be waived except when:

(a) The impaired person requests a waiver through the use of a qualified interpreter;

(b) The impaired person's representative, if any, consents; and

(c) The ALJ determines the waiver is knowingly, voluntarily, and intelligently complete.

(7) Waiver of a qualified interpreter shall not preclude the impaired person from claiming the right to a qualified interpreter at a later time during the proceeding.

(8) In a proceeding, both the participant's relatives and the involved agency employees shall not be appointed as interpreters. Subsection (8) of this section shall not prohibit the office of administrative hearings from hiring an employee whose sole function is to interpret in an adjudicative proceeding.

(9) The ALJ shall make a preliminary determination that an interpreter is able in the particular proceeding to accurately interpret communication to and from the impaired person. The ALJ's determination shall be based on the:

(a) Testimony or stated needs of the impaired person;

(b) Interpreter's education, certifications, and experience in interpreting for contested cases and/or adjudicative proceedings;

(c) Interpreter's understanding of the basic vocabulary and procedure involved in the proceeding; and

(d) Interpreter's impartiality.

The parties or the parties' representative may question the interpreter as to the interpreter's qualifications and impartiality.

(10) The ALJ shall appoint another qualified interpreter if during the proceeding, in the opinion of the impaired person, the ALJ, or a qualified observer, the interpreter does not provide accurate and effective communication with the impaired person.

(11) If the communication mode or language of a hearing impaired person is not readily interpretable, the interpreter or hearing impaired person shall notify the ALJ who shall appoint and pay an intermediary interpreter to assist the qualified interpreter.

(12) An interpreter shall, before beginning to interpret, take an oath that:

(a) A true interpretation will be made to the examined person of all the proceedings in a language or in a manner the person understands; and

(b) The interpreter will repeat the statements of the person being examined to the ALJ, in the English language, to the best of the interpreter's skill and judgment.

(13) Mode of interpretation. Interpreters for:

(a) Limited-English-speaking persons shall use a simultaneous mode of interpretation where the ALJ and interpreter agree simultaneous interpretation advances fairness and efficiency; otherwise, the interpreter shall use the consecutive mode of foreign language interpretation; and

(b) Hearing impaired persons shall use the simultaneous mode of interpretation unless an intermediary interpreter is needed. If an intermediary interpreter is needed, interpreters shall use the mode the qualified interpreter considers to provide the most accurate and effective communication with the hearing impaired person.

(c) When an impaired person is a party to a proceeding, the:

(i) Interpreter shall translate all statements made by other hearing participants;

(ii) ALJ shall ensure sufficient, extra time is provided to permit translation; and

(iii) ALJ shall ensure the interpreter translates the entire proceeding to the party to the extent the party has the same opportunity to understand the statements made during the proceedings as a nonimpaired party has when listening to uninterpreted statements.

(14) An examiner shall not examine a qualified interpreter, without the written consent of the parties to the communication, as to the:

(a) Communication the interpreter interprets under circumstances where the communication is privileged by law; and

(b) Information the interpreter obtains while interpreting a pending proceeding.

(15) The ALJ shall explain to the impaired party:

(a) A written decision or order is issued in English; and

(b) The party may contact the interpreter for a translation of the decision at no cost to the party; and

(c) If the party has a right to review the order, the party is orally informed during the hearing of the right and of the time limits to request a review.

(16) At the hearing, the interpreter for a limited-English-speaking party shall provide to the ALJ the interpreter's telephone number written in the primary

language of the impaired party. The interpreter's telephone number shall be attached to the order mailed to the impaired party. A copy of the order shall also be mailed to the interpreter for use in translation.

(17) In any proceeding involving a hearing impaired person, the ALJ may, with the consent of the agency involved in the hearing, order the testimony of the hearing impaired person and the interpretation of the proceeding by the qualified interpreter be visually recorded for use as the official transcript of the proceeding. Where simultaneous translation is used for interpreting statements of limited-English-speaking persons, the foreign language statements shall be recorded simultaneously with the English language statements by means of a separate tape recorder.

(18) A qualified interpreter appointed under this section shall be entitled to a reasonable fee for services, including waiting time and reimbursement for actual necessary travel expenses. The agency involved in the hearing shall pay the interpreter fee and expenses. The interpreter services fee for a hearing impaired person shall be under the standards established by the department of social and health services, office of deaf services.

[Statutory Authority: RCW 34.05.220 (1)(a). 90-04-076 (Order 2999), § 388-08-525, filed 2/5/90, effective 3/1/90.]

WAC 388-08-535 Group hearing. (1) When applicable. When two or more appellants file applications contesting a similar issue, the applications may be consolidated by the department or the administrative law judge (ALJ) and heard as a group. The ALJ may consolidate on the ALJ's own motion or on a party's request.

(2) Withdrawal from group.

(a) An appellant scheduled for a group hearing may request to withdraw from the group hearing in favor of an individual hearing. An appellant's request to withdraw shall be granted if the request is filed before the:

- (i) ALJ has made a discretionary ruling; and
- (ii) Date of the hearing.

(b) The ALJ may grant a party's request to withdraw from a group hearing at any time when good cause is shown.

(3) Right to representation. Each appellant in a group hearing shall retain the right to representation of the appellant's choice.

[Statutory Authority: RCW 34.05.220 (1)(a). 90-04-076 (Order 2999), § 388-08-535, filed 2/5/90, effective 3/1/90.]

WAC 388-08-545 Continuance. (1) Authority to grant. The administrative law judge (ALJ) may:

(a) Order postponements, continuances, extensions of time, and adjournments on the ALJ's own motion; or

(b) Grant postponements, continuances, extensions of time, and adjournments upon the request of any party, with notice to all other parties, showing good and sufficient cause.

(2) When, how requested. A request for a continuance made before the hearing date may be either oral or in writing. The party seeking the continuance shall:

(a) Notify the other parties before presenting the request to the ALJ; and

(b) Inform the ALJ whether the other parties agreed to the continuance.

If the other parties did not agree to the continuance, the ALJ shall promptly schedule a prehearing conference to receive evidence and/or argument and to rule on the request.

[Statutory Authority: RCW 34.05.220 (1)(a). 90-04-076 (Order 2999), § 388-08-545, filed 2/5/90, effective 3/1/90.]

WAC 388-08-555 Separate hearing regarding disclosure of investigative and intelligence files. (1) Applicability and request to office of special investigation (OSI). When the appellant seeks disclosure of a record maintained by the OSI subject to the exemption under WAC 388-320-220, the following process shall determine whether, on a case-by-case basis, disclosure shall be ordered:

(a) The appellant or the appellant's representative shall file a written request with the office of appeals or the administrative law judge (ALJ), if one is appointed, no later than fourteen days before the hearing;

(b) The request shall identify the record sought;

(c) The request shall state the reasons why the appellant believes disclosure is necessary;

(d) The request shall identify the local community service office or the OSI field office where the appellant wishes to review the record;

(e) The office of appeals or ALJ shall forward a request copy to the OSI at the main office of special investigation in Olympia; and

(f) Upon the appellant's showing of good cause, the ALJ may shorten the fourteen-day notice period.

(2) OSI action.

(a) Within ten days of receipt of a properly filed request, the OSI shall determine whether the record sought is within an exemption to disclosure.

(b) Any exempt record shall be:

(i) Sealed in an envelope clearly designated as an exempt or confidential record of the OSI;

(ii) Placed in the OSI file;

(c) The OSI shall then notify the appellant or representative, in writing, of the:

(i) OSI's action; and

(ii) Appellant's or representative's right to a disclosure hearing.

(iii) If any information is placed in a sealed envelope and excluded from disclosure, the notice shall state the specific exemption relied upon for this action. The notice shall provide the appellant a ten-day opportunity to inspect the OSI file by the person, or the person's representative, at the community service office or OSI field office designated by the appellant. In no event shall the investigative file leave the physical control of the designated OSI records custodian, provided the appellant may copy all documents not sealed in an envelope designated as exempt or confidential.

(d) If no amended disclosure request under subsection (3) of this section is filed, the issue of disclosure shall be regarded as moot.

(3) ALJ action. If the appellant wants further disclosure, the appellant shall file an amended disclosure request with the ALJ. The ALJ shall schedule a separate, *in camera* hearing to determine whether, and to what extent, to allow the disclosure of an exempted record.

(a) The department shall have the burden of proving, by a preponderance of the credible evidence, the necessity to protect an exempt record or confidential information clearly outweighs the disclosure interests.

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

(c) Attendance shall be limited to the parties, the parties' representatives, the ALJ, and any witnesses to be called provided, upon the request of either party or upon the ALJ's own motion, the ALJ may exclude non-testifying witnesses from the hearing.

(d) In determining whether to disclose information to the appellant, the ALJ shall review the information, but shall not disclose the information to the appellant.

(e) The ALJ shall enter an initial order.

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

(ii) The ALJ shall order nondisclosure of specific information consistent with law after making findings of fact showing:

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

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

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

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

(f) Each party has the right to file a petition for review for initial order. There shall be no disclosure under an initial order until exhausting all review proceedings.

(4) Assignment of new ALJ. When the ALJ conducts the *in camera* review under subsection (3) of this section and determines information should not be disclosed to the appellant, the chief ALJ or the chief ALJ's designee shall assign another ALJ to preside over the adjudicative proceeding.

[Statutory Authority: RCW 34.05.220 (1)(a). 90-04-076 (Order 2999), § 388-08-555, filed 2/5/90, effective 3/1/90.]

WAC 388-08-565 Computation of time. (1) Period's beginning. When computing a period of time prescribed or allowed by an applicable statute or rule,

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the day of the act, event, or default after which the designated period of time begins to run shall not be included.

(2) Period's ending. The last day of the computed period shall be included unless the last day is a Saturday, Sunday, or a legal holiday. When the last day is a Saturday, Sunday, or a legal holiday, the period shall run until the end of the next day which is neither a Saturday, Sunday, nor a holiday.

(3) Period of a week or less. When the period of time prescribed or allowed is seven days or less, the intermediate Saturday and Sunday, and any legal holiday, shall be excluded in the computation.

[Statutory Authority: RCW 34.05.220 (1)(a). 90-04-076 (Order 2999), § 388-08-565, filed 2/5/90, effective 3/1/90.]

WAC 388-08-575 Judicial review of final adjudicative order. (1) Right to judicial review; exclusive remedy. An appellant or intervener aggrieved, as described under RCW 34.05.530, by the final decision or order in a department of social and health services (DSHS) adjudicative proceeding may appeal the decision or order to court. Judicial review shall only be obtained under chapter 34.05 RCW. Judicial review may not be obtained through any other procedure.

(a) Chapter 34.05 RCW contains the pertinent provisions of the law.

(b) RCW 74.08.080(3) contains additional provisions about public assistance proceedings.

(2) Instituting judicial review; filing and serving the petition. As described in RCW 34.05.542(2), within thirty days after the department mails the final decision, the petitioner shall file the petition for judicial review with the court and serve a copy of the petition on DSHS, the office of the attorney general, and all parties of record.

(a) A petition shall be filed in the Superior Court at the petitioner's option for:

(i) Thurston County;

(ii) The county of the petitioner's residence or principal place of business; or

(iii) Any county where property affected by the decision is located.

(b) Service of a copy of the petition for judicial review on DSHS may be had by personally serving a copy of the petition on the office of appeals.

(c) Service of a copy of the petition for judicial review on the office of the attorney general may be had by mailing a copy of the petition, postage prepaid, to the Office of the Attorney General, Highway-Licenses Building, PB-71, Olympia, WA 98504.

(d) Service of a copy of the petition for judicial review on other parties of record may be had by mailing a copy of the petition to the other parties, properly addressed and postage prepaid.

[Statutory Authority: RCW 34.05.220 (1)(a). 90-04-076 (Order 2999), § 388-08-575, filed 2/5/90, effective 3/1/90.]

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Chapter 388-10 WAC

PROTECTION OF HUMAN RESEARCH SUBJECTS

WAC

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

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

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

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

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

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

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

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

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

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

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

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

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

WAC 388-10-050 General applicability. The department's human research review rules shall apply to all organizational units of the department. They shall apply to all research and related activities that involve departmental clients, wards, or employees as human subjects or that require disclosure of their personal records, regardless of funding source, and regardless of whether the research is conducted by a departmental employee or by a nondepartmental investigator. The rules shall apply to all research and related activities subcontracted by the department under state and federal grants and contracts to nondepartmental organizations and individuals, regardless of whether the research or related activity involves departmental clients or a nondepartmental subject population.

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

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

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

documentation shall contain a statement of the reasons for the negative disposition.

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

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

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

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

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

Chapter 388-11 WAC CHILD SUPPORT--OBLIGATIONS

WAC

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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

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| 388-11-020 | Original determinations. [Order 1054, § 388-11-020, filed 9/25/75; Order 875, § 388-11-020, filed 11/16/73.] Repealed by 80-01-026 (Order 1465), filed 12/14/79. Statutory Authority: RCW 74.08.090. |
| 388-11-050 | 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. |
| 388-11-105 | Review of initial decision. [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.] Repealed by 90-04-077 (Order 3005), filed 2/5/90, effective 3/1/90. Statutory Authority: RCW 74.08.090 and 34.05.220 (1)(a). |
| 388-11-110 | Determination of future liability. [Order 875, § 388-11-110, filed 11/16/73.] Repealed by 80-01-026 (Order 1465), filed 12/14/79. Statutory Authority: RCW 74.08.090. |
| 388-11-130 | 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. |
| 388-11-160 | Procedure for reconsideration of decision, clarification of decision or for rehearing. [Order 1054, § 388-11-160, filed 9/25/75; Order 875, § 388-11-160, filed 11/16/73.] Repealed by 78-07-015 (Order 1305), filed 6/15/78. Statutory Authority: RCW 74.08.090. |
| 388-11-185 | Discovery. [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.] Repealed by 90-04-077 (Order 3005), filed 2/5/90, effective 3/1/90. Statutory Authority: RCW 74.08.090 and 34.05.220 (1)(a). |
| 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) "Accrued debt" means a debt for the payment of expenses for the reasonable or necessary care, support, and maintenance, including birth costs, of a dependent child owed by a person having signed an affidavit acknowledging paternity which has been filed with the state office of vital statistics.

(2) "Administrative order" means a determination, finding, decree, or order for support issued under RCW 74.20A.055 or by another state agency under 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 current support or a support debt. The administrative order shall include:

(a) An agreed settlement or consent order entered under WAC 388-11-150; or

(b) A notice and finding of financial responsibility or a notice and finding of parental responsibility that has become final by operation of law.

(3) "Agreed settlement" means the informal disposition of a contested case by written agreement between a responsible parent and OSE establishing a support obligation and ordering payment. The agreement shall be effective without the presiding officer's approval.

(4) "Arrears," "delinquency," and "past support" means the amount owed for a period of time before the instant month.

(5) "Assignment" means, under RCW 74.20A.040, the assignment made by an applicant/custodian of support rights under WAC 388-14-310.

(6) "Birth costs" mean the reasonable and necessary costs associated with the birth of a child, including costs of the mother's pregnancy and confinement.

(7) "Consent order" means the disposition of a contested case by written agreed order between a responsible parent and OSE establishing a support obligation and ordering payment. The agreed order shall require the presiding officer's approval.

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

(9) "Date the state assumes responsibility for the support of a dependent child on whose behalf support is sought" means 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.

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

(11) "Dependent child" means a person:

(a) Seventeen years of age or younger who is not self-supporting, married, or a member of the United States armed forces;

(b) Eighteen years of age or older for whom a court order requires support payments past eighteen years of age or older; or

(c) Eighteen years of age or older, but under nineteen years of age, for whom an administrative support order exists if the child is:

(i) A full-time student; and

(ii) Reasonably expected to complete secondary school or the equivalent level of vocational or technical training before the end of the month in which the child becomes nineteen years of age.

(12) "Fraud" means, for the purposes of WAC 388-11-115:

(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.

(13) "Good cause for failure to make a timely request for an adjudicative proceeding" means there is substantial reason or legal justification for delay, including a showing of those grounds enumerated in Civil Rule 60.

(14) "Health care costs" means medical, dental, and optometrical costs and expenses.

(15) "Locate" means service of the notice and finding of financial responsibility or the notice and finding of parental responsibility in a manner prescribed by WAC 388-11-040.

(16) "Medical support" means health care costs incurred for and health insurance coverage for a dependent child's benefit.

(17) "Other ordinary expense" means an expense incurred by a responsible parent:

(a) Directly benefiting a dependent child; and

(b) Relating to the parent's residential time or visitation with a child.

(18) "Reasonable efforts to locate" means any of the following actions taken by the office of support enforcement (OSE):

(a) Mailing the notice and finding of financial responsibility or the notice and finding of parental responsibility by certified mail, return receipt requested, to the responsible parent;

(b) Referral to a sheriff, other server of process or locate service, or department employee for locate activities;

(c) Tracing activity as follows:

(i) Checking 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;

(ii) Contacting state agencies, union, financial, or fraternal organizations;

(iii) Periodic searches for identification information recorded by other state agencies, federal agencies, credit bureaus, or other record keeping agencies or entities;

(iv) Case maintenance in OSE's automated locate program.

(d) Referral to state or federal parent locator service;

(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; or

(f) Attempts to confirm the existence of and to obtain a copy of a paternity acknowledgment.

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

(20) "Responsible parent" means the natural parent, adoptive parent, responsible stepparent, or a person having signed an affidavit acknowledging paternity which has been filed with the state office of vital statistics, from whom the department seeks support for a dependent child.

(21) "Responsible stepparent" means a stepparent having established an in loco parentis relationship with the dependent child or children.

(a) The status shall continue until the relationship is terminated by death, dissolution of marriage, or by superior court order as provided under RCW 26.16.205.

(b) A rebuttable presumption of an in loco parentis relationship is created when the stepparent;

(i) Lives with the child and the parent; or

(ii) Provides care, support, or guidance for the child.

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

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

(24) "Superior court order" means a judgment, decree, or order of a Washington state superior court or another state's court of comparable jurisdiction:

(a) Establishing a support obligation and ordering payment thereon of a set or determinable amount; or

(b) Specifically relieving a responsible parent of a support obligation.

(25) "Support debt" means:

(a) A delinquent amount of support money due, owing, and unpaid under a superior court order or an administrative order;

(b) A debt for the payment of expenses for the reasonable or necessary care, support and maintenance, including health care, birth costs, child care, special child

rearing expenses, and an accrued debt under RCW 74.20A.056, of a dependent child or other person for whom a support obligation is owed;

(c) A debt under RCW 74.20A.100 or 74.20A.270; or

(d) Accrued interest, fees, or penalties charged on a support debt, and attorneys' fees and other costs of litigation awarded in an action under Title IV-D of the Social Security Act establishing and enforcing a support obligation or support debt.

(26) "Support money" means money paid to satisfy a support obligation whether named child support, spousal support, alimony, maintenance, medical support, birth costs, or other money intended to satisfy a support obligation for a person or satisfy wholly or partly a support debt.

(27) "Support obligation" means the obligation to provide for the necessary care, support, and maintenance, including health care, birth costs, child care and special child rearing expenses of a dependent child or other person as required by law.

[Statutory Authority: 1990 1st ex.s. c 2. 90-20-072 (Order 3081), § 388-11-011, filed 9/28/90, effective 10/29/90. 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 allowed--Debt satisfaction. (1) After the office of support enforcement (OSE) serves a notice and finding of financial responsibility or a notice and finding of parental responsibility on the responsible parent, the responsible parent may only obtain credit against the parent's current and future support obligation:

(a) By cash, check, or money order payments through OSE or payment of health insurance premiums; or

(b) As provided under subsections (3) and (6) of this section.

(2) OSE shall allow credit against a responsible parent's support debt for family needs provided directly to a caretaker/custodian, a child, or provided through a vendor or third party only if:

(a) The items are provided before service of the notice and finding of financial responsibility or the notice and finding of parental responsibility on a responsible parent;

(b) A responsible parent proves the items 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 a child.

(3) After service of the notice, a parent may obtain credit against the parent's current support obligation only if:

(a) The department determines there:

(i) Is no prejudice to:

(A) A custodial parent, a child, or other person; or

(B) An agency entitled to receive the support payments.

(ii) Are special circumstances of an equitable nature justifying credit for payments.

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

(4) The parent shall prove credit should be given for the payments.

(5) Credit for shelter payments made before service of the notice shall not be greater than the shelter allocation in the public assistance standards for the period when payments were made or one-half of the actual shelter payment, whichever is the greater. The department shall not allow credit for shelter payments made after service of the notice.

(6)(a) Effective July 1, 1990, and for months thereafter, the department shall give credit for disability benefits made on behalf of the responsible parent's child by:

(i) Labor and industries or a self-insurer under chapter 51.32 RCW; or

(ii) The Social Security Administration.

(b) The department shall only give credit against the current support obligation owed for the month in which the benefit is paid.

(c) A responsible parent must prove payment of these benefits.

(d) A responsible parent has no right to reimbursement of disability benefits because of a credit allowed under this subsection.

(e) The department shall mail a notice of credit to the custodial parent if the department gives the responsible parent credit for disability benefits under this section without giving the custodial parent an opportunity to object. The notice shall state the amount of the credit and advise the custodial parent that the parent may request an adjudicative proceeding to contest the credit.

(i) The custodial parent shall file a written application for an adjudicative proceeding with the office of support enforcement within twenty-three days of the date of mailing of the notice.

(ii) If the custodial parent files an application for an adjudicative proceeding, the department shall give the responsible parent notice of and an opportunity to participate in the proceeding.

[Statutory Authority: 1990 1st ex.s. c 2. 90-20-072 (Order 3081), § 388-11-015, filed 9/28/90, effective 10/29/90. 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 office of support enforcement's (OSE) notice and finding of financial responsibility shall include the:

(a) Amount the responsible parent owes as a support debt, and a demand for payment;

(b) Amount the responsible parent should pay for current and future support using:

(i) Actual income, if known;

(ii) Inputted income; or

(iii) Income from the approximate median net income chart, when actual income is not known and cannot be inputted.

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

(2) OSE's notice and finding of financial responsibility shall also include the following information, when known:

(a) The residential parent's name and Social Security number;

(b) Each child's name, birthdate, and Social Security number on whose behalf support is sought;

(c) The responsible parent's name, address, and Social Security number;

(d) The responsible parent's employer; and

(e) A statement that:

(i) If the responsible parent objects to all or part of the notice and finding of financial responsibility, the responsible parent shall have a right, for not more than twenty days from date of service, to request a hearing to show cause why the finding of responsibility or the amounts stated are incorrect;

(ii) The responsible parent shall serve a written objection on the OSE field office issuing the notice and finding of financial responsibility;

(iii) The support debt or current support amount become final and subject to collection action without further action or notice if the responsible parent fails to object in writing, within twenty days;

(iv) OSE may issue a notice of payroll deduction under chapter 26.23 RCW or take other income withholding action under chapters 26.18 or 74.20A RCW, without further notice to the responsible parent, at any time;

(v) After service of the notice, the responsible parent shall make all payments intended to satisfy a current support obligation or support debt alleged in the notice directly to OSE. OSE shall not credit payments made to any other party against the support obligation whether or not the payment is in cash, check, money order, in-kind services, merchandise, or anything else of value, except as provided under WAC 388-11-015.

[Statutory Authority: 1990 1st ex.s. c 2. 90-20-072 (Order 3081), § 388-11-030, filed 9/28/90, effective 10/29/90. 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 388-11-055 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 388-11-100 Duty of the administrative law judge. (1) In hearings held under this chapter to contest a notice and finding of financial responsibility or a notice and finding of parental 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 at the hearing to conform to the evidence. The administrative law judge may grant a continuance, when deemed necessary, to allow the responsible parent additional time to present rebutting evidence and/or argument as to the amendment.

(3) 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.

[Statutory Authority: RCW 34.05.220 (1)(a) and 74.08.090, 90-04-077 (Order 3005), § 388-11-100, filed 2/5/90, effective 3/1/90. 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 388-11-115 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 388-11-135 Service. Service of the decision and order or notice of hearing pursuant to WAC 388-11-120 or 388-11-130 shall be by mailing a copy of the decision and order or notice of hearing to the last known address of the appellant by certified mail, and by mailing a copy of said decision and order or notice of hearing to the last known address of appellant's attorney or other representative at the hearing, if any.

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

WAC 388-11-140 Modification. (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 388-11-145 Notice to appellant. It shall be the responsibility of the appellant to notify the department of his or her mailing address at the time the request for hearing is made and also to notify the department of any subsequent change of mailing address during the pendency of the appeal including any review by the courts.

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

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

WAC 388-11-150 Consent order and agreed settlement. (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) A 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 under WAC 388-11-140;
- (c) The child reaches eighteen years of age;
- (d) The child is emancipated;
- (e) The child is married;
- (f) The child becomes a member of the United States armed forces;
- (g) The child or the responsible parent die;
- (h) A responsible stepparent's marriage is dissolved;

or

(i) A superior court order terminates the responsible parent's liability as provided under RCW 26.16.205.

(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 the student 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 circumstances causing a responsible parent's support obligation to be temporarily suspended change, the support obligation shall resume. OSE shall serve the responsible parent with a notice informing the parent to resume payments if OSE has previously notified the parent in writing to stop making payments.

[Statutory Authority: 1990 1st ex.s. c 2. 90-20-072 (Order 3081), § 388-11-155, filed 9/28/90, effective 10/29/90. 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 388-11-170 Collection of debts determined.

(1) As authorized under chapters 26.18, 26.23, 74.20, and 74.20A RCW, the office of support enforcement (OSE) shall take action enforcing and collecting support obligations. OSE may take collection action against the responsible parent's income and assets to collect a support debt even if the parent makes payments under a support order, unless OSE agrees, in writing, to limit OSE's right to take action.

(2) If a responsible parent fails to make the total support payment when due under an administrative order:

(a) The entire support debt shall become due in full; and

(b) The portion of the administrative order designating periodic payments to satisfy the support debt shall be deemed vacated without the necessity of further action by the presiding officer.

(3) After vacating, the presiding officer may not stop collection action by OSE and the action is subject only to review by the superior court under RCW 74.20A.200 or other applicable state statutes.

[Statutory Authority: 1990 1st ex.s. c 2. 90-20-072 (Order 3081), § 388-11-170, filed 9/28/90, effective 10/29/90. Statutory Authority: RCW 74.08.090. 78-07-015 (Order 1305), § 388-11-170, filed 6/15/78; Order 1054, § 388-11-170, filed 9/25/75; Order 875, § 388-11-170, filed 11/16/73.]

WAC 388-11-180 Procedural reference. Hearings held under this chapter shall be governed by the Administrative Procedure Act (chapter 34.05 RCW), RCW 74.20A.055, and chapters 388-08 and 388-11 WAC. If any provision of this chapter conflicts with or is inconsistent with chapter 388-08 WAC, the provision in this chapter governs.

[Statutory Authority: RCW 34.05.220 (1)(a) and 74.08.090. 90-04-077 (Order 3005), § 388-11-180, filed 2/5/90, effective 3/1/90. 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 388-11-195 Washington state child support schedule. (1) Effective July 1, 1988, office of support enforcement (OSE) and the presiding or review officer in an adjudicative proceeding under this chapter shall use the Washington state child support schedule to assess all child support obligations, including obligations owed for periods before July 1, 1988. This schedule is incorporated by reference.

(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) Dependent children be supported from the funds of the responsible parents, when possible.

[Statutory Authority: 1990 1st ex.s. c 2. 90-20-072 (Order 3081), § 388-11-195, filed 9/28/90, effective 10/29/90. 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) A responsible parent and any residential parent shall complete a financial worksheet under penalty of perjury when an adjudicative proceeding has been requested or when support is determined by consent order or agreed settlement. The office of support enforcement (OSE) and the presiding or review officer in an adjudicative proceeding under this chapter shall only accept approved worksheets under chapter 26.19 RCW. The OSE may complete a worksheet on behalf of a residential parent receiving public assistance or residing in another state.

(2) A parent shall include as gross income money from any source, including, but not limited to:

- (a) Salaries;
- (b) Wages;
- (c) Commissions;
- (d) Bonuses;
- (e) Deferred compensation;
- (f) Overtime;
- (g) Dividends;
- (h) Interest;
- (i) Trust income;
- (j) Severance pay;
- (k) Annuities;
- (l) Capital gains;
- (m) Social security benefits;
- (n) Worker's compensation;
- (o) Unemployment compensation;
- (p) Disability insurance benefits;
- (q) Gifts; and
- (r) Prizes.

(3) A parent shall disclose the receipt of AFDC, SSI, general assistance, and food stamps, but these benefits shall not be counted as income or used as a reason for deviation from the economic table.

(4) A parent shall deduct only income taxes, FICA, mandatory pension plan payments, mandatory union/professional dues, 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) OSE and the presiding or review officer shall impute income to a parent voluntarily unemployed or underemployed as follows:

(a) For a parent who quit the parent's 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 voluntarily working less than full-time, impute income equal to the amount the parent would earn if working full-time at the parent's present job. Do not consider the parent underemployed if employed on a full-time basis;

(c) For a parent unemployed through no personal fault, impute income equal to the parent's earning potential. Presume a parent capable of full-time employment at the minimum wage;

(d) Impute no income to a residential parent receiving public assistance if the parent complies with all assistance program job search, education, or training requirements. Presume a residential parent receiving public assistance in compliance with the requirements of the program;

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

(6) If a parent's actual income is unknown and there is insufficient information to impute income, OSE and the presiding or review officer shall apply the approximate median net income chart published in the Washington state child support schedule.

[Statutory Authority: 1990 1st ex.s. c 2. 90-20-072 (Order 3081), § 388-11-200, filed 9/28/90, effective 10/29/90. 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 office of support enforcement (OSE) and the presiding or review officer in an adjudicative proceeding under this chapter shall determine the net income of a responsible parent and any residential parent according to WAC 388-11-200.

(2) OSE and the presiding or review officer shall determine the basic support obligation:

(a) Based on the combined net incomes of a 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

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

(3) OSE and the presiding or review officer shall adjust a responsible parent's share of the basic support obligation to reflect circumstances in the parent's household and the household of any residential parent. OSE and the presiding or review officer may, their discretion, deviate from the amount of child support calculated using the standard calculation. No deviation from the standard may be made without specific reasons for these deviations set forth in the order and supported by the evidence. Reasons for deviation include:

(a) The existence of another dependent child for whom a responsible or residential parent has a duty to support;

(b) The existence of another adult in the household of the responsible or residential parent;

(c) Recurrent income received by the child on whose behalf support is sought;

(d) Extraordinary debt, not voluntarily incurred by the responsible or residential parent;

(e) Wealth of the responsible or residential parent;

(f) Unavoidable living costs exceeding twice the need standard of WAC 388-29-100 for the responsible or residential parent;

(g) Any other unusual circumstances existing for the responsible or residential parent.

(4) If requested, OSE and the presiding or review officer shall:

(a) Assess responsibility for known health care, day care, and special child rearing expenses under the Washington state child support schedule, worksheet A, part II;

(b) Apportion responsibility for unknown and or future health care, day care, and special child-rearing expenses between the parents in the same proportion as the basic support obligation; and

(c) Assess responsibility for birth costs under WAC 388-11-220(5).

(5) A responsible parent's total support obligation shall consist of:

(a) The responsible parent's 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.

(6) A responsible parent shall pay health insurance premiums directly to the responsible parent's insurance provider. The responsible parent shall pay all other amounts, including amounts currently paid to third parties for special child-rearing expenses, to OSE.

(7) A responsible parent's total administrative support obligation shall not exceed fifty percent of the responsible parent's net income unless the presiding officer finds the fifty percent limitation shall not apply because:

(a) The responsible parent has wealth;

(b) A child on whose behalf support is sought has special medical or educational needs;

(c) The department assesses support for five or more children; or

(d) There are special child-rearing expenses.

(8) When the parents' combined monthly net income exceeds the highest level in the economic table, set support at the schedule amount for that income level plus any additional amount supported by written findings of fact.

(9) In cases where the department is assessing a child support debt for a dependent child placed in foster care or living with a non-needy relative, calculate the support obligation using the child support schedule as follows:

(a) Combine the net income of both parents in the "father" column on the worksheet and attribute no income in the "mother" column when the responsible parents reside together;

(b) Calculate each parent's support obligation independently and attribute no income to the other parent when the responsible parents do not reside together; and

(c) Assess support only for the child named in the notice.

[Statutory Authority: 1990 1st ex.s. c 2. 90-20-072 (Order 3081), § 388-11-205, filed 9/28/90, effective 10/29/90. 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 the:

(1) Responsible parent's and residential parent's net income;

(2) Amount of the responsible parent's share of the basic support obligation without adjustments;

(3) Amount of the responsible parent's share of the basic support obligation after adjustments;

(4) Specific reasons for deviation, if the adjusted amount is different than the unadjusted amount;

(5) Total amount of the responsible parent's support obligation;

(6) Specific day of the month on which the support payment is due;

(7) Responsible parent's Social Security number, residence address, and the name of the responsible parent's employer;

(8) Residential parent's Social Security number;

(9) Names, birthdates, and Social Security numbers, if any, of the dependent child;

(10) Disposition of the responsible parent's obligation to provide health insurance under WAC 388-11-215;

(11) Statement that the responsible parent shall make the responsible parent's payment to the Washington state support registry;

(12) Statement that the department may issue a notice of payroll deduction under chapter 26.23 RCW or may take other income withholding action under chapters 26.18 or 74.20A RCW at any time, without further notice to the responsible parent;

(13) Statement that each parent shall notify the Washington state support registry of a change in resident address;

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

(a) Modified under WAC 388-11-140;

(b) Superseded by a superior court order; or

(c) The child for whom support is assessed reaches the age of majority or is emancipated; and

(15) Statement that the responsible parent is liable for the following costs based on the parent's proportionate share of the basic support obligation, if these costs are known when the order is entered:

(a) Health care costs, including extraordinary health care costs, not covered by health insurance:

(b) Day care expenses; and

(c) Approved special child rearing expenses.

[Statutory Authority: 1990 1st ex.s. c 2. 90-20-072 (Order 3081), § 388-11-210, filed 9/28/90, effective 10/29/90. Statutory Authority: 1988 c 275. 88-18-031 (Order 2689), § 388-11-210, filed 8/30/88.]

WAC 388-11-215 Health insurance. (1) A parent owing a duty of support shall be obligated to provide health insurance for the parent's dependent child if the coverage is:

(a) Available or becomes available through employment or is union related; and

(b) Available at a cost not greater than twenty-five percent of the parent's basic support obligation.

(2) Following the entry of an administrative order requiring health insurance, the responsible parent shall within twenty days:

(a) Provide health insurance coverage;

(b) Provide proof of coverage to the office of support enforcement (OSE). Proof of coverage shall include, but not be limited to, documentation showing the:

(i) Name of the insurer providing the health insurance coverage;

(ii) Names of the beneficiaries covered;

(iii) Policy number;

(iv) Coverage is current; and

(v) Name and address of the responsible parent's employer.

(c) Inform OSE if coverage is not currently available.

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

(4) 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 OSE as required under WAC 388-11-215;

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

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

(5) Health insurance shall not include medical assistance provided by the department under chapter 74.09 RCW.

[Statutory Authority: 1990 1st ex.s. c 2. 90-20-072 (Order 3081), § 388-11-215, filed 9/28/90, effective 10/29/90. Statutory Authority: 1988 c 275. 88-18-031 (Order 2689), § 388-11-215, filed 8/30/88.]

WAC 388-11-220 Liability for birth costs. (1) The department may assess a responsible parent's liability for a dependent child's birth costs, not covered by health insurance, if there is no superior court order assessing or relieving the responsible parent of liability for birth costs. The department shall assess liability for birth costs based on the parent's proportionate share of the basic support obligation for the child, except as provided under subsection (4) of this section. Medical assistance provided by the department under chapter 74.09 RCW is not health insurance.

(2) The office of support enforcement (OSE) may serve an affidavit of birth costs on the responsible parent

by certified mail to the parent's last known address if the actual costs of birth were not included in the notice and finding of parental responsibility.

(3) OSE may take action to collect the birth costs under chapter 26.23 and 74.20A RCW:

(a) Twenty days after service of the affidavit of birth costs or service of a notice and finding of parental responsibility stating birth costs, unless the responsible parent requests an adjudicative proceeding under subsection (4) of this section; or

(b) After the entry of a support order requiring payment of birth costs.

(4) A responsible parent may request an adjudicative proceeding seeking a reduction of, or relief from, the parent's liability for birth costs. The department shall:

(a) Assess liability for birth costs in the lesser of the following amounts:

(i) The actual birth costs the department paid; or

(ii) Twenty-five percent of the greater of the:

(A) Responsible parent's annual net income; or

(B) Approximate median net annual income for a person in the responsible parent's age group as published in the Washington state support schedule.

(b) Relieve the responsible parent from liability based on a written finding supported by evidence the parent is unemployable and disability benefits are the parent's only source income.

[Statutory Authority: 1990 1st ex.s. c 2, 90-20-072 (Order 3081), § 388-11-220, filed 9/28/90, effective 10/29/90.]

Chapter 388-13 WAC

RECOVERY OF SUPPORT PAYMENTS

WAC

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|------------|--|
| 388-13-010 | Debt, assignment, recoupment, set-off. |
| 388-13-020 | Notice of support debt. |
| 388-13-030 | Service of notice of support debt. |
| 388-13-040 | Failure to make answer or request for hearing. |
| 388-13-050 | Petition for hearing after twenty days—Stay. |
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| 388-13-110 | Default. |
| 388-13-120 | Procedural reference. |

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

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|------------|--|
| 388-13-080 | Review of initial decision. [Statutory Authority: RCW 74.08.090, 80-01-026 (Order 1465), § 388-13-080, filed 12/14/79.] Repealed by 90-04-077 (Order 3005), filed 2/5/90, effective 3/1/90. Statutory Authority: RCW 34.05.220 (1)(a) and 74.08.090. |
|------------|--|

WAC 388-13-010 Debt, assignment, recoupment, set-off. (1) Sections 17 and 18, chapter 171, Laws of 1979 ex. sess. [RCW 74.20.320 and 74.20A.270], provide that a custodian of children or other person who receives support moneys which moneys were paid, in whole or in part, in satisfaction of a support obligation owing to the department pursuant to 42 U.S.C. 602

(a)(26)(A), sections 17 and 22, chapter 171, Laws of 1979 ex. sess., or RCW 74.20A.030 has a duty to remit said moneys to the office of support enforcement within eight days of receipt by the custodian or other person and is indebted to the department in an amount equal to the amount of the support money received and not remitted.

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

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

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

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

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

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

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

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

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

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

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

(6) A statement that the answer made under subsection (5) of this section shall include true answers to the

matters inquired of and that said answer shall also acknowledge the department's right to the moneys or request an administrative hearing to determine ownership of the moneys in issue;

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

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

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

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

WAC 388-13-030 Service of notice of support debt.

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

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

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

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

WAC 388-13-050 Petition for hearing after twenty days—Stay. (1) The person, firm, corporation, association, political subdivision or any officer or agent thereof served with a notice of support debt at any time within one year from the date of service of said notice may petition the secretary or the secretary's designee for a hearing, as provided for but not previously granted under WAC 388-13-070, upon a showing of any of the grounds enumerated in RCW 4.72.010 or CR 60. A copy of said petition shall also be served by certified mail, return receipt requested, or by service in the manner of a summons in a civil action on the district field

office of the office of support enforcement. The filing of the petition shall not stay any collection action being taken, but the debtor may petition the secretary or the secretary's designee for an order staying collection action pending final decision of the secretary or the secretary's designee or the courts on an appeal made under chapter 34.05 RCW.

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

(3) If a petition for a hearing is filed, the department shall serve the notice of hearing on the appellant, the appellant's attorney, or other designated representative by certified mail or other method showing proof of receipt.

(4) The department shall notify the appellant that it is the appellant's responsibility to notify the department of the appellant's mailing address at the time the petition is filed and also of any change of address after filing the petition. Mailing by certified mail, return receipt requested, to the last address provided by the appellant shall constitute service under chapters 74.20A and 34.05 RCW.

[Statutory Authority: RCW 34.05.220 (1)(a) and 74.08.090. 90-04-077 (Order 3005), § 388-13-050, filed 2/5/90, effective 3/1/90. Statutory Authority: RCW 74.08.090. 80-01-026 (Order 1465), § 388-13-050, filed 12/14/79.]

WAC 388-13-060 Timely application for hearing.

(1) Any debtor who objects to all or any part of a notice of support debt shall have the right, for not more than twenty days from the date of service of the notice of support debt, to file an application for an adjudicative proceeding, in writing, at the district office of the office of support enforcement by certified mail or by personal service. An application under this section shall be construed to be a general denial of liability to the department.

(2) The execution of the notice of support debt shall be stayed pending the final adjudicative order.

(3) If an application is timely filed, the department shall serve the notice of hearing on the appellant or the appellant's representative by certified mail or another method showing proof of receipt.

(4) The department shall notify the appellant that it is the appellant's responsibility to notify the department of the appellant's mailing address at the time the application is filed and also of any change of address after filing the application. Mailing by certified mail, return receipt requested, to the last address provided by the appellant shall constitute service under chapters 74.20A and 34.05 RCW.

[Statutory Authority: RCW 34.05.220 (1)(a) and 74.08.090. 90-04-077 (Order 3005), § 388-13-060, filed 2/5/90, effective 3/1/90. Statutory Authority: RCW 74.08.090. 80-01-026 (Order 1465), § 388-13-060, filed 12/14/79.]

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

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

(3) The administrative law judge shall allow the office of support enforcement to orally amend the notice of support debt at the hearing to conform to the evidence. The administrative law judge may grant a continuance, when deemed necessary, to allow the debtor additional time to present rebutting evidence and/or argument as to the amendment.

(4) The administrative law judge shall serve a copy of the administrative law judge's initial decision on the office of support enforcement and the debtor or the debtor's representative by certified mail to the last address provided by each party or by another method showing proof of receipt.

[Statutory Authority: RCW 34.05.220 (1)(a) and 74.08.090. 90-04-077 (Order 3005), § 388-13-070, filed 2/5/90, effective 3/1/90. Statutory Authority: RCW 74.08.090. 86-05-009 (Order 2340), § 388-13-070, filed 2/12/86; 80-01-026 (Order 1465), § 388-13-070, filed 12/14/79.]

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

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

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

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

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

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

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

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

[Statutory Authority: RCW 34.05.220 (1)(a) and 74.08.090. 90-04-077 (Order 3005), § 388-13-110, filed 2/5/90, effective 3/1/90. Statutory Authority: RCW 74.08.090. 80-01-026 (Order 1465), § 388-13-110, filed 12/14/79.]

WAC 388-13-120 Procedural reference. Adjudicative proceedings held under chapter 388-13 WAC shall be governed by the Administrative Procedure Act (chapter 34.05 RCW), RCW 74.20A.270, and chapters 388-08 and 388-13 WAC. If any provision of this chapter conflicts with or is inconsistent with chapter 388-08 WAC, the provision in this chapter governs.

[Statutory Authority: RCW 34.05.220 (1)(a) and 74.08.090. 90-04-077 (Order 3005), § 388-13-120, filed 2/5/90, effective 3/1/90. Statutory Authority: RCW 74.08.090. 80-01-026 (Order 1465), § 388-13-120, filed 12/14/79.]

Chapter 388-14 WAC SUPPORT ENFORCEMENT

WAC

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- 388-14-425 Payroll deduction—Notice and order—Issuance and termination.
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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 388-14-302 Nonassistance support enforcement—Persons eligible. [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.] Repealed by 90-16-041 (Order 3043), filed 7/24/90, effective 8/24/90. Statutory Authority: RCW 74.08.090.
- 388-14-305 Nonassistance support enforcement—Application. [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.] Repealed by 90-16-041 (Order 3043), filed 7/24/90, effective 8/24/90. Statutory Authority: RCW 74.08.090.
- 388-14-315 Nonassistance support enforcement—Fees—Limitations. [Statutory Authority: RCW 74.20.040. 83-02-029 (Order 1932), § 388-14-315, filed 12/29/82, effective 3/1/83. Statutory Authority: RCW 74.08.090. 80-01-026 (Order 1465), § 388-14-315, filed 12/14/79; Order 1054, § 388-14-315, filed 9/25/75.] Repealed by 84-15-057 (Order 2123), filed 7/18/84. Statutory Authority: RCW 74.08.090.
- 388-14-320 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.
- 388-14-375 Notice of debt. [Statutory Authority: RCW 74.08.090. 78-07-015 (Order 1305), § 388-14-375, filed 6/15/78.] Repealed by 79-11-086 (Order 1446), filed 10/24/79. Statutory Authority: RCW 74.08.090.
- 388-14-380 Petition for hearing after twenty days—Stay. [Statutory Authority: RCW 74.08.090. 78-07-015 (Order 1305), § 388-14-380, filed 6/15/78.] Repealed by 79-11-086 (Order 1446), filed 10/24/79. Statutory Authority: RCW 74.08.090.

WAC 388-14-010 Office of support enforcement as the Title IV-D agency. (1) 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 statewide.

(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 Act 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 34.05.395 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 consents, 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 388-14-100 Absent parent's responsibility--Liability. The amount of support which must be provided by an absent parent to meet the support obligation is:

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

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

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

WAC 388-14-200 Eligibility--Assignment of support rights--Cooperation with office of support enforcement--Effect of noncooperation. This section establishes the initial and continuing requirements which affect eligibility for aid to families with dependent children. 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 support enforcement 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 of support enforcement 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 the applicant/recipient satisfies subsection (1) of this section, the department may require further cooperation by the applicant/recipient as a continuing condition of eligibility for assistance unless the department determines the applicant/recipient has good cause not to cooperate under WAC 388-24-111. The applicant/recipient's cooperation includes, but is not limited to, assisting the office of support enforcement in or by doing the following:

(a) Identifying and locating absent parents by:

(i) Providing 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, reasonably obtainable without fee, including any court orders establishing paternity and/or support obligations;

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

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

(c) Establishing the paternity of a child:

(i) The applicant shall take 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 establish paternity; or

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

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

WAC 388-14-260 Distribution--Referrals from other states. (1) When a child support enforcement

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The application shall be filed at the office of support enforcement by registered or certified mail or personally. If an application is filed within twenty days of the date of service of the notice, collection action shall be stayed pending the final adjudicative order. If no application is filed within this twenty-day period, the support debt and/or the amount of the future/current support payments shall become final subject to the provisions of WAC 388-14-260 (3)(e) and shall be subject to collection action.

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

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

(d)(i) The provisions of the following sections of chapter 388-11 WAC are incorporated by reference and made applicable to the hearing process provided for in this section to the extent they are consistent and relevant: WAC 388-11-015, 388-11-065, 388-11-070, 388-11-100, 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, and 388-11-190.

(ii) Hearings held under chapter 388-14 WAC shall be governed by the Administrative Procedure Act (chapter 34.05 RCW), the provisions in this chapter, and chapter 388-08 WAC. If any provision in this chapter or in a rule incorporated by subsection (3)(d)(i) of this section conflicts with a provision in chapter 388-08 WAC, the provision in this chapter or in a rule incorporated by subsection (3)(d)(i) of this section shall govern.

(e) If a written application for an adjudicative proceeding is filed at the office of support enforcement after the twenty-day period, the debtor's right to relief from the administrative order shall be determined pursuant to the provisions of Civil Rule 60. The filing of the application after the twenty-day period shall not affect any collection action previously taken under chapter 74.20A RCW. The granting of a late application shall operate as a stay on any future collection action, pending the final adjudicative order. Moneys withheld as a result of collection action in effect at the time of the granting of the late application shall be delivered to the department and shall be held in trust by the department pending the final adjudicative order or during the pendency of any appeal to the courts made under chapter 34.05 RCW. The department may petition the administrative law judge to require the responsible parent to pay future/current support. If an order for future/current support is entered and the responsible parent fails to comply with the order, the office of support enforcement may take appropriate collection action.

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

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

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

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

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

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

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

(10) Upon request from another state, the office of support enforcement shall provide available information/documentation from case files, including but not limited to copies of superior court orders, administrative orders, pay records, and statements/affidavits of support debts, employment, and public assistance records.

[Statutory Authority: RCW 34.05.220 (1)(a) and 74.08.090. 90-04-077 (Order 3005), § 388-14-260, filed 2/5/90, effective 3/1/90. Statutory Authority: 74.08.090. 85-23-019 (Order 2304), § 388-14-260, filed 11/13/85; Order 1054, § 388-14-260, filed 9/25/75.]

WAC 388-14-270 Distribution of support payments.

(1) The office of support enforcement (OSE) shall distribute support money OSE collects or OSE receives, in accordance with state and federal law and the provisions of this section, to the:

(a) Department when the department provides or has provided public assistance payments, or cash benefits under the family independence program for the support of the family unit, household, or a member of the family unit or household;

(b) Payee under the order, or to the physical custodian of the child;

(c) Child support enforcement agency in another state or foreign country which submitted a request for support enforcement services; and/or

(d) Person or entity making the payment when OSE is unable to identify the person to whom the support money is payable after making reasonable efforts to obtain identification information.

(2) OSE may distribute support money to a person, other than the payee under a support order, when that person has physical custody of and provides care for the child.

(3) Before OSE begins distributing support money to a physical custodian who is not the payee under the support order, OSE shall:

(a) Obtain a sworn statement from the physical custodian attesting to the fact the physical custodian:

(i) Has physical custody of and is caring for the child; and

(ii) Is not wrongfully depriving the payee of physical custody.

(b) Mail a notice to the last known address of the payee and the responsible parent of OSE's intent to distribute support money to the physical custodian.

(i) The notice shall contain the following information:
(A) That OSE will distribute support money collected under the support order to the physical custodian;

(B) The name of the physical custodian;

(C) That the payee has twenty days from the date of the notice to contest distribution of money to the physical custodian by filing an application for an adjudicative proceeding as specified under subsection (12) of this section, or serving notice on OSE of the filing of an appropriate motion with a court; and

(D) That the payee must give OSE and the physical custodian notice of any judicial proceeding contesting the notice of distribution.

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

(c) File a copy of the notice or the final administrative order entered as a result of the notice with the clerk of the court where the support order was entered.

(4) The payee may request an adjudicative proceeding as specified under subsection (12) of this section or file a court action beyond the twenty-day period provided for under subsection (3) of this section. When the department or the court determines the payee is entitled to receive the support money, OSE shall send support money OSE receives in the future to the payee, but shall not reimburse the payee for amounts OSE sent to the physical custodian as provided under subsections (2) and (3) of this section.

(5) When OSE is unable to distribute support money because the location of the family or person is unknown, OSE shall exercise reasonable efforts to locate the family or person. When OSE does not locate the family or person, OSE shall handle the money in accordance with an agreement with the department of revenue and as required by state law.

(6) OSE shall apply the following rules when distributing support money:

(a) Record payments in exact amounts without rounding;

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

(i) The location of the payee is unknown;

(ii) OSE does not have sufficient information to identify the accounts against which or to which OSE should apply the money;

(iii) An action is pending before a court or agency which has jurisdiction over the issue to determine:

(A) Whether or not support money is owed; or

(B) How OSE should distribute the money.

(iv) OSE receives prepaid support money which OSE is holding for distribution in future months under subsection (7) of this section;

(v) OSE mails a notice of intent to distribute the support money to the physical custodian under subsection (3) of this section; or

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

(c) Distribute support money based on the date of collection, except as provided under subsection (6)(j) of this section and WAC 388-14-275. The date of collection is the date OSE or a political subdivision actually making the collection receives the money whichever is earlier. For interstate collections, the date of collection is the date the support enforcement agency or other legal entity of a state or political subdivision, actually making the collection, receives the money, whichever is earliest;

(d) Apply support money:

(i) First, to satisfy the current support obligation for the month OSE, or the support enforcement agency or other legal entity of another state or political subdivision, collected the money;

(ii) Second, to the responsible parent's support debts; and

(iii) Third, to prepaid support as provided for under subsection (7) of this section.

(e) Distribute current support based on the proportionate share of the obligation owed to each family unit or household when the responsible parent owes a current support obligation to two or more families or households;

(f) Distribute amounts collected during a month to the responsible parent's support debts owed for each family unit or household based on the proportionate size of the debts, except as provided in subsection (6)(g) and (h) of this section, when:

(i) OSE, or the support enforcement agency or legal entity of a state or political subdivision, collects support in excess of the amount required to satisfy the responsible parent's current support obligations for that month; and

(ii) The responsible parent owes a support debt for two or more families or households.

(g) Apply amounts to a support debt owed for one family or household and distribute the amounts accordingly, rather than make a proportionate distribution when:

(i) Proportionate distribution is administratively inefficient; or

(ii) The collection resulted from the sale or disposition of a specific piece of property against which a court awarded the applicant/recipient or applicant/custodian a judgment lien for child support.

(h) When a portion of the responsible parent's support debt for a family unit is owed to both the family and the department, distribute amounts applied to the support debt for the family unit:

(i) First, to the family to satisfy the portion of the debt owed to the family; and

(ii) Second, to the department to satisfy the portion of the debt assigned to the department to reimburse public assistance payments.

(i) Report amounts distributed to a family, receiving public assistance, to the community service office. This requirement shall not relieve the recipient of the duty to report receipt of support money; and

(j) Pay a family, receiving cash assistance under the aid to families with dependent children program or the family independence program, the first fifty dollars of each child support payment as provided under WAC 388-14-275.

(7) When OSE receives or collects support money representing payment on the required support obligation for future months, OSE shall:

(a) Apply the support money to future months when the support debt is paid in full;

(b) Distribute the support money on a monthly basis when payments become due in the future; and

(c) Mail a notice to the last known address of the person entitled to receive support money. The notice shall inform the person:

(i) OSE received prepaid support money;

(ii) OSE will distribute the prepaid money as support payments become due in the future; and

(iii) The person may petition the court that entered the support order for an order requiring the immediate distribution of the prepaid support money.

(8) OSE may recover support money distributed to a person or to the family when OSE:

(a) Distributed the money in error;

(b) Distributed the money based on a check which is later dishonored; or

(c) Is required to refund or return the money to the person or entity making the payment.

(9) OSE may retain amounts collected on a support debt and ten percent of amounts collected as current support to recover support money as provided under subsection (8) of this section in nonassistance cases.

(a) OSE shall send a notice to the last known address of the person or family before taking action to recover the support money. The notice shall:

(i) Explain the reason why OSE is authorized to recover the support money;

(ii) Identify the money OSE will recover;

(iii) Inform the person or family of amounts OSE will deduct from future collections; and

(iv) Inform the person or family they have twenty days from the date of the notice to file an application for an adjudicative proceeding as specified under subsection (12) of this section to object to the notice.

(b) At the hearing, the person may contest OSE's findings regarding the existence and amount of the debt OSE is seeking to recover as provided under subsection (8) of this section.

(c) When the person or family is no longer receiving support enforcement services, OSE may take action under RCW 74.20A.270 to recover the money.

(10) When the family is receiving public assistance and the applicant/recipient fails to remit support money to OSE as required, OSE shall recover the support payments using the process set forth in WAC 388-14-200.

(11) OSE shall mail a notice, once each quarter or more often, to the last known address of the person for whom OSE received support during the quarter, except as provided under subsection (11)(d) of this section.

(a) The person for whom OSE receives support has ninety days from the date of the notice to file an application for an adjudicative proceeding as specified under subsection (12) of this section to object to the notice.

(b) The person may only contest how OSE distributed the support money including the amounts stated in the notice.

(c) The notice shall contain the following information:

(i) The current support amount and the amount of the support debt owed under the order;

(ii) The amount of support money OSE received and the date of collection;

(iii) A description of how OSE allocated the support money between current support and the support debt;

(iv) The amount the department claims as reimbursement for public assistance paid, if applicable; and

(v) A statement of the right to request an adjudicative proceeding.

(d) OSE is not required to send a notice under this subsection when OSE mails another notice to the family or person to whom support is owed as provided under WAC 388-14-275 or this section.

(12) A person shall file an application for an adjudicative proceeding with OSE, within the time period specified in the notice, by a method showing proof of receipt.

(a) The person shall include in or with the application:

(i) A specific statement of the objections to the notice; and

(ii) A copy of the notice the person is contesting.

(b) The proceeding shall be governed by the Administrative Procedure Act (chapter 34.05 RCW) and chapter 388-08 WAC. If any provision in this section conflicts with chapter 388-08 WAC, the provision in this section governs.

[Statutory Authority: RCW 74.08.090, 90-17-001 (Order 2979), § 388-14-270, filed 8/2/90, effective 9/2/90. Statutory Authority: RCW 74.04.057, 89-10-070 (Order 2794), § 388-14-270, filed 5/3/89. 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 388-14-275 Fifty dollars disregard payment.

(1) In accordance with federal law, the department shall pay a family, receiving cash assistance under the aid to families with dependent children program or the family independence program, the first fifty dollars of each child support payment made by the responsible parent in the month when due. The department shall pay the family no more than fifty dollars for each month in which a support payment is made. For purposes of this section, a payment is made by the responsible parent on the earliest of the following dates:

(a) The date a payment is received by the office of support enforcement;

(b) The date a payment is withheld from the responsible parent's wages;

(c) The date the envelope containing a payment is postmarked by the United States Postal Service; or

(d) The date received by the IV-D agency in another state or other legal entity making the collection.

(2) The department shall make a payment to the family under subsection (1) of this section based on the best information provided to the office of support enforcement with the support payment. The best information includes the earliest of the following dates:

(a) The date wages were withheld;

(b) The date an employer issues a check containing wages withheld from the responsible parent;

(c) The date postmarked by the United States Postal Service;

(d) The date received by the IV-D agency in another state or other legal entity making the collection;

(e) The date the IV-D agency in another state or other legal entity issues a check containing a child support payment from the responsible parent;

(f) The date a check is negotiable if the office of support enforcement receives a postdated check;

(g) The date process is served attaching accounts and earnings of a responsible parent, other than wages, or the date the responsible parent is entitled to receive such earnings, whichever is later; or

(h) The date the proceeds are paid from the sale of attached personal or real property.

(3) If the department subsequently receives information establishing an earlier payment date, the department shall take prompt action to make a payment required under this section or recover an erroneous payment.

(4) The office of support enforcement shall mail a notice, not less than once a quarter, to a family receiving cash assistance for whom child support was received during the reporting period. The notice shall contain the following information:

(a) The amount of the child support order;

(b) The amount of child support received;

(c) A description of how the office allocated the child support between the family and the state;

(d) The amount the department claims as reimbursement for public assistance paid; and

(e) A statement of the right to an adjudicative proceeding under chapter 34.05 RCW to contest the allocation of child support.

(5) The provisions of this section do not apply to:

(a) Child support received by the office of support enforcement by means of an income tax refund intercept authorized under 42 USC 666 (a)(1) or 666 (a)(3)(B); or

(b) Child support payments received by the office of support enforcement after the family terminates from assistance that are paid to the family under chapter 26.23 RCW and WAC 388-14-270 as current support for the month or on the support debt owed to the family.

(6) The section applies to payments made by the responsible parent on or after January 1, 1989.

[Statutory Authority: RCW 74.04.057. 89-10-070 (Order 2794), § 388-14-275, filed 5/3/89.]

WAC 388-14-300 Nonassistance support enforcement services—Persons eligible for services. As authorized by RCW 26.23.045 and 74.20.040, the department's office of support enforcement (OSE) provides support enforcement services to residents of the state of Washington who are not receiving a public assistance grant when:

(a) A superior court order, an administrative order, or a wage assignment order under chapter 26.18 RCW directs payments through OSE or the Washington state support registry;

(b) The clerk of court submits a support order under RCW 26.23.050;

(c) The physical custodian of a dependent child requests services;

(d) A former custodial parent requests services to collect a support debt reduced to a sum certain judgment by the court;

(e) A responsible parent submits a support order for inclusion in or support payment to the Washington state support registry;

(f) A public assistance recipient stops receiving a cash grant under the aid to families with dependent children or financial independence programs;

(g) The department provides Medicaid-only benefits to the physical custodian on behalf of a dependent child; or

(h) A man requests paternity establishment services alleging he is the dependent child's father.

[Statutory Authority: RCW 74.08.090. 90-16-041 (Order 3043), § 388-14-300, filed 7/24/90, effective 8/24/90; Order 1054, § 388-14-300, filed 9/25/75.]

WAC 388-14-310 Nonassistance support enforcement application. (1) To qualify for services, a person desiring nonassistance services shall:

(a) Submit a written application for support enforcement services except as provided in subsection (2) of this section; and

(b) Have physical custody of the dependent child for whom support is sought except as provided in WAC 388-14-300 (d), (e) and (h).

(2) The office of support enforcement (OSE) shall:

(a) Provide only records maintenance and payment processing services if the payee under a support order fails to submit an application and the:

(i) Order directs support payments to OSE or the Washington state support registry; or

(ii) Clerk submitted the order under RCW 26.23.050.

(b) Continue to provide support enforcement services after a public assistance recipient stops receiving a cash grant without requiring an application.

(3) The applicant shall:

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

(b) Agree to remit support money received directly from the person owing support to OSE within eight days of receipt;

(c) Agree to direct a payor or forwarding agent to remit support money directly to OSE;

(d) Agree not to hire an attorney or collection agency to collect the support obligation or support debt without notifying OSE;

(e) Complete, sign, date, and submit to OSE the application form and other required documents;

(f) Supply copies of divorce and dissolution decrees, support orders, and modifications thereof, and any allied or related documents reflecting the marital and support status;

(g) Provide a statement of the amount of the support debt owed by the responsible parent; and

(h) Include or attach a list, by date, of the support payments received from the responsible parent during the period the support debt accrued.

(4) If a person other than the applicant has legal custody of the dependent child by order of a court, the applicant shall affirm the legal custodian:

(a) Was not wrongfully deprived of custody by the applicant; and

(b) Is not excused from making support payments under WAC 388-11-065(10).

(5) If the applicant is temporarily absent from the state, the applicant shall submit a written statement affirming the applicant is a resident of this state.

(6) OSE may deny an application which is incomplete, contains unclear or inconsistent statements, or not supported by necessary documents.

(7) Upon denying an application, OSE shall send the applicant a written notice of denial by regular mail and shall include a statement:

(a) Of the reasons for the denial; and

(b) The applicant may request an adjudicative proceeding to contest the denial.

[Statutory Authority: RCW 74.08.090. 90-16-041 (Order 3043), § 388-14-310, filed 7/24/90, effective 8/24/90; 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 388-14-350 Location of absent parents. (1)

The office of support enforcement shall maintain a service to locate absent parents utilizing all sources of information and available records in this state or in other states, and the parent locator service in the department of health and human services.

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

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

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

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

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

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

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

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

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

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

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

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

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

WAC 388-14-360 Cooperation with other states.

The office of support enforcement will, in accordance with standards prescribed by the secretary, department of health, education and welfare cooperate with any other state in:

(1) Establishing paternity, if necessary;

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

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

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

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

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

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

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

WAC 388-14-370 Cooperative arrangements with courts and law enforcement officials. (1) The office of support enforcement is 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) Resolusion 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 an adjudicative proceeding subject to review by the superior court and is not a substitute for any constitutionally or statutorily required 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: RCW 34.05.220 (1)(a) and 74.08.090. 90-04-077 (Order 3005), § 388-14-385, filed 2/5/90, effective 3/1/90. 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.]

Reviser's note: RCW 34.05.395 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 388-14-390 Adjudicative proceeding when collection action is initiated against a bank account—Exemptions—Burden of proof. If the department initiates collection action against a bank account, the responsible parent or the joint owner of record of the bank account may contest the action in an adjudicative proceeding. The application shall be filed at the office of support enforcement by registered or certified mail or personally within twenty days of the date a copy of the order to withhold and deliver was either mailed to or served upon the responsible parent pursuant to RCW 74.20A.080 or a written notice of the collection action was mailed by certified mail to the last known address of the joint owner of record of the account. The application shall state the facts supporting the allegation by the responsible parent or the joint owner that the funds in the account, or a portion of those funds, are exempt from satisfaction of the child support obligation of the responsible parent.

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

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

children of the responsible parent, are exempt from satisfaction of the child support obligation of the responsible parent.

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

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

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

If an application is filed, the department shall serve the notice of hearing on the appellant or the appellant's representative by certified mail or another method showing proof of receipt.

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

If the final decision of the department or courts on appeal is that the department has caused funds in a bank account that are exempt from satisfaction of the child support obligation of the responsible parent to be withheld by the bank or delivered to the department, the office of support enforcement shall promptly release the order to withhold and deliver or refund the proportionate share of the funds having been identified as being so exempt. No interest shall accrue or be payable by the department on any moneys withheld pursuant to RCW 74.20A.080.

[Statutory Authority: RCW 34.05.220 (1)(a) and 74.08.090. 90-04-077 (Order 3005), § 388-14-390, filed 2/5/90, effective 3/1/90. Statutory Authority: RCW 74.08.090. 83-21-014 (Order 2036), § 388-14-390, filed 10/6/83.]

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

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

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

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

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

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

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

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

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

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

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

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

WAC 388-14-405 Order to withhold and deliver—Responsibilities of employer. (1) Where money is due and owing to the debtor under any contract of employment, the 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 388-14-410 Release of information to consumer reporting agency. When a consumer reporting agency, as defined by 45 CFR 303.105(a), requests information regarding the amount of overdue support owed by a responsible parent, the office of support enforcement shall provide such information if the amount of the support debt exceeds one thousand dollars. Prior to releasing such information, however, a written notice concerning the proposed release of the information shall be sent to the responsible parent's last known address. The notice shall provide the responsible parent has ten

days from the date of the notice to request a conference board to contest the accuracy of the information. If the responsible parent requests a conference board, the office of support enforcement shall not release the information until a conference board decision has been issued.

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

WAC 388-14-415 Notice of support owed. (1) The notice of support owed issued, under RCW 26.23.110, 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 owed 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:

(i) The initial finding for current support under subsection (3)(b) of this section; or

(ii) The support debt, and/or the current/future support obligation, if the support order contains an escalation clause or adjustment provision for which additional information not contained in the order is needed to determine the amount of the support debt or current support.

(e) A statement that the responsible parent may contest the notice by either:

(i) Filing a written application for an adjudicative proceeding under chapter 34.05 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 file an application for an adjudicative proceeding or start an action in superior court the office shall:

(a) Enter 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 files an application under this section, the department shall serve a notice of hearing on the responsible parent or the parent's representative. A copy of the notice of hearing shall also be mailed to the person to whom the support is payable under the support order.

The notice shall direct the responsible parent to appear and show why the current support amount and/or the support debt amount is wrong.

(7) The responsible parent shall:

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

(b) Attach an office approved financial affidavit;

(c) File the application at the office of support enforcement by certified mail, return receipt requested, or like a summons in a civil action.

(8) If the responsible parent files an application for an adjudicative proceeding within twenty days of service of the notice of support owed, the office shall stay collection action pending the final adjudicative order, 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)(a) The following sections of chapter 388-11 WAC are incorporated by reference and made applicable to the hearing process provided for in this section to the extent they are consistent and relevant:

WAC 388-11-011, 388-11-065, 388-11-070, 388-11-100, 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, and 388-11-190.

(b) Hearings held under this section shall be governed by the Administrative Procedure Act (chapter 34.05 RCW), and chapters 388-08 and 388-14 WAC. If any provision in this chapter or in a rule incorporated by reference by (11)(a) of this section conflicts with or is inconsistent with chapter 388-08 WAC, the provision in this chapter or a rule incorporated by reference in (11)(a) of this section shall govern.

(12) The office of support enforcement and the responsible parent each have the right to request a yearly review of the support order.

(13) The administrative law and review judge's authority shall be limited to:

(a) Interpretation of the court order for support only. The administrative law and review judges 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 owed.

(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 chapter 26.21 or 26.20 RCW shall not be construed as modifications.

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

(15) The administrative law and review judges shall mail copies of the decisions and orders to:

(a) The office of support enforcement;

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

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

(16) 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 a consent order. The administrative law judge shall approve any consent order unless it is contrary to law.

(17) 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.

(18) The responsible parent may file an application for a proceeding under this section if the responsible parent claims credit for payments under WAC 388-14-210(4).

[Statutory Authority: RCW 34.05.220 (1)(a) and 74.08.090. 90-04-077 (Order 3005), § 388-14-415, filed 2/5/90, effective 3/1/90. 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 of support enforcement (OSE) begins providing services under chapter 74.20 RCW and RCW 26.23.045 (1)(a), (b), (c), (e), or

(f), OSE may terminate services under the following circumstances:

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

(b) The responsible parent is dead and OSE receives proof there is no available estate;

(c) The applicant or person receiving nonassistance services, or agency submits a written request to terminate services;

(d) The physical custodian and the dependent child move to and reside in another state or country.

(e) OSE receives no support payment despite reasonable collection efforts, and future collections are not foreseeable;

(f) OSE makes reasonable efforts to identify or locate the responsible parent, using local, state, and federal locate sources, and does not find new locate information; or

(g) The physical custodian fails or refuses to cooperate with OSE and OSE cannot proceed without such cooperation;

(h) The physical custodian:

(i) Hires an attorney or collection agency to collect the support obligation or support debt without notice to OSE; and

(ii) Fails or refuses to cooperate with a request to have support payments paid through the Washington state support registry.

(i) OSE cannot obtain a support order because:

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

(ii) OSE has exhausted legal remedies.

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

(k) OSE finds it is either not advisable or not proper to provide or continue services; or

(l) The department or a court of competent jurisdiction finds action establishing or enforcing a support obligation is likely to result in harm to the child or the child's custodian.

(2) After OSE provides services under RCW 26.23.045 (1)(d), OSE shall:

(a) Terminate support enforcement services;

(i) If a court of competent jurisdiction orders OSE to terminate services based on:

(A) An approved alternate payment plan under RCW 26.23.050; or

(B) A finding that it is not in the child's best interest for OSE to continue providing services.

(ii) After filing a satisfaction of judgment with the court as provided under WAC 388-14-205; or

(iii) If the responsible parent is dead and OSE receives proof there is no available estate.

(b) Terminate services, except records maintenance and payment processing:

(i) For the reasons stated under subsections (1)(c), (d), (e), (f), (g), (h), (j), (k), or (l) of this section; or

(ii) If the payee under the order fails to submit an application for support enforcement services.

(3) When terminating services, OSE shall mail a notice to the physical custodian. OSE 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 an adjudicative proceeding to contest the decision terminating services.

(4) OSE may terminate support enforcement services when the department terminates foster care under Title 13 RCW.

(5) After terminating support enforcement services, OSE shall return support money OSE receives to the payor except as provided under subsection (2)(b) of this section.

[Statutory Authority: RCW 74.08.090. 90-16-041 (Order 3043), § 388-14-420, filed 7/24/90, effective 8/24/90; 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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| 388-15-100 | Services offered by the economic and social services office of the bureau of social services. [Order 1088, § 388-15-100, filed 1/19/76.] Repealed by Order 1238, filed 8/31/77. |
| 388-15-137 | 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. |
| 388-15-140 | Residential services. [Statutory Authority: RCW 74.08.044, 79-09-039 (Order 1425), § 388-15-140, filed 8/17/79; Order 1238, § 388-15-140, filed 8/31/77; Order 1147, § 388-15-140, filed 8/26/76; Order 1088, § 388-15-140, filed 1/19/76.] Repealed by 86-16-019 (Order 2392), filed 7/28/86. Statutory Authority: RCW 74.08.044. |
| 388-15-172 | Day care participation. [Statutory Authority: RCW 74.08.090, 80-15-010 (Order 1552, § 388-15-172, filed 10/6/80. Statutory Authority: RCW 43.20A-.550, 78-07-021 (Order 1306), § 388-15-172, filed 6/15/78.) Repealed by 82-04-074 (Order 1757), filed 2/3/82. Statutory Authority: RCW 74.08.090. |
| 388-15-173 | Parent participation day care. [Statutory Authority: RCW 74.08.090, 82-14-046 (Order 1837), § 388-15-173, filed 6/30/82.] Repealed by 86-03-078 (Order 2333), filed 1/22/86. Statutory Authority: RCW 74.08.090. |
| 388-15-180 | Migrant day care services. [Order 1088, § 388-15-180, filed 1/19/76.] Repealed by Order 1147, filed 8/26/76. |

- 388-15-210 Chore services for adults and families. [Order 1238, § 388-15-210, filed 8/31/77; Order 1147, § 388-15-210, filed 8/26/76; Order 1124, § 388-15-210, filed 6/9/76; Order 1088, § 388-15-210, filed 1/19/76.] Repealed by 81-06-063 (Order 1618), filed 3/4/81. Statutory Authority: RCW 74.08.090.
- 388-15-211 Chore services for families. [Order 1238, § 388-15-211, filed 8/31/77.] Repealed by 81-06-063 (Order 1618), filed 3/4/81. Statutory Authority: RCW 74.08.090.
- 388-15-230 Employment oriented casework. [Order 1238, § 388-15-230, filed 8/31/77; Order 1165, § 388-15-230, filed 10/27/76; Order 1105, § 388-15-230, filed 3/11/76.] Repealed by 79-03-013 (Order 1368), filed 2/15/79. Statutory Authority: RCW 74.08.090.
- 388-15-250 School age parent services. [Order 1124, § 388-15-250, filed 6/9/76; Order 1088, § 388-15-250, filed 1/19/76.] Repealed by Order 1147, filed 8/26/76.
- 388-15-260 Home delivered meals. [Order 1088, § 388-15-260, filed 1/19/76.] Repealed by Order 1147, filed 8/26/76.
- 388-15-270 Services to the blind. [Order 1088, § 388-15-270, filed 1/19/76.] Repealed by Order 1238, filed 8/31/77.
- 388-15-280 Library services to the blind and physically handicapped. [Order 1088, § 388-15-280, filed 1/19/76.] Repealed by Order 1124, filed 6/9/76.
- 388-15-290 Juvenile delinquency prevention services. [Order 1238, § 388-15-290, filed 8/31/77; Order 1088, § 388-15-290, filed 1/19/76.] Repealed by 81-20-063 (Order 1708), filed 10/5/81. Statutory Authority: RCW 74.08.090.
- 388-15-350 Mental health. [Order 1124, § 388-15-350, filed 6/9/76; Order 1088, § 388-15-350, filed 1/19/76.] Repealed by Order 1238, filed 8/31/77.

WAC 388-15-010 Definition of service goals. (1)

The objectives of services for families, children and adults are to offer services to eligible individuals to help them achieve one or more of the following goals:

- (a) Achieving or maintaining economic self-support to prevent, reduce or eliminate dependency.
- (b) Achieving or maintaining self-sufficiency, including reduction or prevention of dependency.
- (c) Preventing or remedying neglect, abuse or exploitation of children and adults unable to protect their own interests, providing family reconciliation services to families in conflict and runaways or preserving, rehabilitating or reuniting families.
- (d) Preventing or reducing inappropriate institutional care by providing for community-based care, home-based care, or other forms of less intensive care.
- (e) Securing referral or admission for institutional care when other forms of care are not appropriate, or providing services to individuals in institutions.

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

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

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

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

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

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

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

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

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

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

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

(2) Gross median income for a family of four in the state of Washington effective 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 388-15-030 Rights of applicant for services.

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

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

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

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

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

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

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

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

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

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

WAC 388-15-110 Information and referral services.

(1) Information and referral services are available to all persons requesting services from community services offices by phone, correspondence or in person. These individuals are provided with information and referral, as needed, to available services within the department or the community.

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

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

(4) Information and referral services may be offered to accomplish any of the five goals described in WAC 388-15-010.

[Statutory Authority: RCW 74.08.090, 84-15-059 (Order 2125), § 388-15-110, filed 7/18/84; 82-11-095 (Order 1811), § 388-15-110, filed 5/19/82; Order 1238, § 388-15-110, filed 8/31/77; Order 1088, § 388-15-110, filed 1/19/76.]

WAC 388-15-120 Adult protective services. (1) AUTHORITY. The authority for adult protective services is:

(a) Chapter 74.34 RCW for vulnerable adults;

(b) Chapter 26.44 RCW for dependent and developmentally disabled adults; and

(c) 42 U.S.C. 1397 for other adults in need of protection.

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

(3) DESCRIPTION OF SERVICES. To prevent, correct, improve, or remedy situations of abuse, abandonment, exploitation, or neglect, the department shall provide adult protective services to:

(a) Dependent adults eighteen years of age or older;

(b) Developmentally disabled adults eighteen years of age or older;

(c) Vulnerable adults sixty years of age or older; or

(d) Other adults similarly unable to protect interests vital to their safety and well-being.

(4) ELIGIBILITY. Before a person receives adult protective services from the department, a person shall show evidence of:

(a) Existing elements of abuse, abandonment, exploitation, or neglect constituting a danger to the adult or others; and

(b) No one willing and able to assist the adult responsibly.

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

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

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

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

(6) SUPPORT SERVICES. The department shall provide dependent adults, developmentally disabled adults, vulnerable adults, and other adults similarly unable to protect interests vital to their safety and well being with support services without regard to income only:

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

(b) For a period not to exceed the period specified under WAC 388-15-209(4), Chore services—Eligibility, WAC 388-15-552(2), Adult family home—Eligible persons, and WAC 388-15-562(3), Congregate care—Eligible persons.

[Statutory Authority: RCW 74.08.090, 91-01-096 (Order 3116), § 388-15-120, filed 12/18/90, effective 1/18/91; 86-20-017 (Order 2426), § 388-15-120, filed 9/22/86; 85-13-059 (Order 2239), § 388-15-120, filed 6/18/85; 84-17-071 (Order 2141), § 388-15-120, filed 8/15/84; 80-16-025 (Order 1562), § 388-15-120, filed 10/30/80. Statutory Authority: RCW 43.20A.550, 78-04-004 (Order 1276), § 388-15-120, filed 3/2/78; Order 1238, § 388-15-120, filed 8/31/77; Order 1088, § 388-15-120, filed 1/19/76.]

WAC 388-15-130 Child protective services—Authority. The authority for the department's child protective services (CPS) program is chapter 26.44 RCW and RCW 74.13.031.

(1) GOAL STATEMENT. The purpose of CPS is to protect children from child abuse and neglect (CA/N) through the provision of services to:

(a) Assess risk of abuse or neglect to children;

(b) Develop case plans preventing or remedying CA/N in the shortest reasonable time; and

(c) Maintain, support, or reunify families to the extent possible consistent with the safety of the child.

(2) DEFINITION OF SERVICE. Child protective services are those services provided by the department on behalf of children who are reported to be abused, neglected, or exploited or who are threatened with harm through abusive, neglectful, or exploitive acts by:

(a) The child's parent, legal custodian, or persons serving in loco parentis; or

(b) Persons licensed or certified under chapter 74.15 RCW; or

(c) Persons included within those categories of alleged perpetrators and subject to CPS investigation, as specified by department manual provisions or policy directives.

(3) DEFINITION OF CHILD ABUSE, NEGLECT, OR EXPLOITATION (CA/N). Abusive, neglectful, or exploitive acts defined in RCW 26.44.020 include:

(a) Inflicting physical injury on a child by other than accidental means, causing death, disfigurement, skin bruising, impairment of physical or emotional health, or loss or impairment of any bodily function.

(b) Creating a substantial risk of physical harm to such child's bodily functioning.

(c) Committing or allowing to be committed any sexual offense against such child as defined in the criminal code or intentionally touching, either directly or through the clothing, the genitals, anus, or breasts of a child for other than hygiene or child care purposes.

(d) Committing acts which are cruel or inhumane regardless of observable injury. Such acts may include, but are not limited to, instances of extreme discipline demonstrating a disregard of a child's pain and/or mental suffering.

(e) Assaulting or criminally mistreating a child as defined by the criminal code.

(f) Failing to provide food, shelter, clothing, supervision, or health care necessary to a child's health or safety.

(g) Engaging in actions or omissions resulting in injury to, or creating a substantial risk to the physical or mental health or development of a child.

(h) Failing to take reasonable steps to prevent the occurrence of (a) through (g).

(4) DESCRIPTION OF SERVICES.

(a) The department's child protective services shall include:

(i) Investigation of CA/N reports (RCW 26.44.050);

(ii) Development, management, and provision of services to ameliorate conditions endangering the welfare of children;

(iii) Coordination of programs and services relevant to the prevention and treatment of CA/N;

(iv) Case planning to ensure each child has a permanent home;

(v) Community education; and

(vi) Development of preventative services to reduce and/or eliminate CA/N.

(b) Department services may also include:

(i) Counseling with the children and their families or other responsible individuals;

(ii) Arranging out-of-home placement, e.g., relative placement, emergency foster care, etc.;

(iii) In-home support services;

(iv) Petitions to courts;

(v) Information about and/or referral to other agencies or persons; and

(vi) Cooperating with out-of-state child protective service agencies.

(5) COMMUNITY INVOLVEMENT. The department shall involve local community resources in the planning and provision of needed services. Involvement shall include:

(a) Notifying law enforcement of department activity in cases being investigated by both agencies.

(b) Coordination of community resources to provide identification, prevention, and treatment of CA/N.

(c) Organizing community child protection teams of professional persons or agencies providing services to abused or neglected children and/or parents of such children.

(d) Other activities to coordinate the investigation and keep participants apprised of case progress per RCW 26.44.035.

[Statutory Authority: RCW 74.15.030. 89-07-024 (Order 2773), § 388-15-130, filed 3/8/89. Statutory Authority: RCW 74.08.090 and

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

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

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

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

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

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

WAC 388-15-132 Child protective services--Acceptance of reports--Eligibility for services and limits to authority. (1) ACCEPTANCE OF REPORTS. The department shall accept a report of CA/N from any source, including one made anonymously. Reports shall be made directly to the department's division of children and family services (DCFS) local office per RCW 26.44.030.

(a) The department shall determine whether reports allege incidents, conditions, or circumstances meeting the definition of CA/N in RCW 26.44.020 and WAC 388-15-130, and

(b) The department shall have the authority to refuse to investigate reports which do not meet the statutory definition of CA/N.

(2) REPORTS TO LAW ENFORCEMENT. The department shall report to the appropriate law enforcement agency any reported incident of death, sexual abuse, or nonaccidental physical injury of a child and any incident where the CPS investigation reveals reasonable cause to believe a crime is committed. The report to law enforcement shall be made within three working days following:

(a) Receipt of a complaint alleging death, sexual abuse, or nonaccidental physical injury of a child; or

(b) During a CPS investigation, discovery of information creating reasonable cause to believe a child died, suffered sexual abuse, or had a nonaccidental physical injury; or

(c) During a CPS investigation, discovery of information creating reasonable cause to believe a crime is committed against a child.

(3) **INVESTIGATION.** The department, except as provided by RCW 26.44.050 and WAC 388-15-130(2), shall be responsible for investigation of reports of suspected CA/N.

(a) The department shall begin its investigation within twenty-four hours for all CA/N reports where children are assessed to be at risk of imminent harm;

(b) The department shall investigate all other reports meeting the legal definition of CA/N, but may determine an appropriate response time based on the assessed risk of CA/N; and

(c) The department:

(i) Shall develop and maintain records of its investigations of CA/N per RCW 26.44.035, and

(ii) May arrange for ongoing services by another agency.

(d) Upon receiving a report of incidents, conditions, or circumstances of CA/N, the department shall:

(i) Have access to any and all records of the child in the possession of mandated reporters and their employers;

(ii) Have the authority to interview children without prior parental notification or consent;

(iii) Have authority to interview children outside of the presence of parents at locations determined by the department to be suitable for an interview. The child or the department may have a third party present at the interview so long as the investigation is not jeopardized per RCW 26.44.030; and

(iv) Notify the child's parent, guardian, or caretaker about the interview per RCW 26.44.030(9).

(e) The department shall complete the investigation within ninety days from the date of report. The department shall make written findings of all investigations including:

(i) A description of any injuries or harm inflicted on the child,

(ii) An account of the department's investigation,

(iii) The findings regarding specific allegations,

(iv) An assessment of risk to the child, and

(v) The department's disposition of the case (RCW 13.34.120 and 26.44.040).

(4) **LIMITS TO AUTHORITY.** The department:

(a) Shall have the authority to share information for case planning and case consultation purposes with mandated reporters and agencies which have provided or will provide services to the child and family per RCW 26.44.030; and

(b) May share information with community child protection teams, designated members of Washington Indian tribes, and/or citizen advisory groups to assist in case planning, consultation, and policy review per RCW 26.44.030.

(5) **SERVICE OPTIONS (NINETY-DAY RULE).** Within ninety days of receipt of a report alleging a child is at risk of CA/N, the department shall:

(a) Develop, with the family, a mutually agreed upon written service plan;

(b) File a dependency petition with the juvenile court; or

(c) Close the case.

(6) **JUVENILE COURT CASE PLANS.** When the department files a dependency petition, the department shall develop a written social study and proposed case plan for the court to consider at the dispositional hearing per RCW 13.34.120:

(a) Mail a copy to the parent or parents and their attorney at least ten days prior to the disposition hearing, and

(b) Provide the parent or parents an opportunity to review and comment on the plan at the local DCFS office.

(7) **REOPENING CLOSED CASES.** Any closed case may be reopened by the department for good cause including, but not limited to:

(a) Further allegations of CA/N;

(b) Additional information pertaining to the department's investigation; or

(c) When necessary witnesses or other persons, e.g., parent or child, are located or become available to complete the investigation.

(8) **LENGTH OF ELIGIBILITY.** Any child reported to the department shall be eligible for child protective services. A child shall remain eligible until he or she is no longer abused or neglected or is no longer at risk of CA/N subject to the provisions of WAC 388-15-130 and 388-15-132.

[Statutory Authority: RCW 74.15.030, 89-07-024 (Order 2773), § 388-15-132, filed 3/8/89. Statutory Authority: RCW 74.08.090 and 1979 c 155, 79-10-026 (Order 1431), § 388-15-132, filed 9/10/79; Order 1238, § 388-15-132, filed 8/31/77.]

WAC 388-15-134 Child protective services—Notification. (1) **DUTY TO NOTIFY.** The department shall notify the parent or legal custodian of a child when:

(a) The department is investigating a report alleging an act or acts of child abuse or neglect (CA/N); and

(i) Their child is alleged to be the victim; and/or

(ii) The department interviews a child alleged to be the victim of CA/N.

(b) The department takes a child into custody pursuant to a court order issued under RCW 13.34.050;

(c) The department receives custody of a child from law enforcement pursuant to RCW 26.44.050; and

(d) The department files a dependency petition.

(2) **NOTIFICATION OF NONCUSTODIAL PARENTS.**

(a) The department shall notify noncustodial parents when a child is taken into custody pursuant to RCW 26.44.050 or 13.34.050 and placed into the custody of the department, and

(b) Notification shall also occur when the department files a dependency petition.

(3) **NOTIFICATION CONTENTS.** Whenever a child is taken into custody under RCW 13.34.050 or 26.44.050, the notification required by this section shall comply with the requirement of RCW 26.44.120. The notification shall also include:

(a) A description of the department's action; and

(b) The reason or reasons for the department's actions.

(4) **OPPORTUNITY TO REVIEW CASE INFORMATION.** The department shall:

(a) Notify the person or persons legally responsible for the child of the address of the office where the case record information will be on file; and

(b) Provide them with the opportunity to read parts of the case record relating to the allegations, provided:

- (i) They have requested access to the information, and
- (ii) Such access is not otherwise prohibited by law.

(5) **DISCLOSURE OF CASE INFORMATION.** The department shall not disclose case record information except as permitted under provisions of chapter 388-320 WAC and applicable statutes. The department shall not disclose the name and address of any referrant who requests their identity be held in confidence. Even if disclosure is otherwise permissible, the department may refuse disclosure of the name and address of any victim.

(6) **LIMITS OF DUTY TO NOTIFY.** The duty of notification created by this section shall be subject to the ability of the department to ascertain the location of the person to be notified. The department shall exercise reasonable, good-faith efforts to ascertain the location of persons entitled to notification under this section.

[Statutory Authority: RCW 74.15.030, 89-07-024 (Order 2773), § 388-15-134, filed 3/8/89. Statutory Authority: RCW 74.08.090 and 1979 c 155, 79-10-026 (Order 1431), § 388-15-134, filed 9/10/79; Order 1238, § 388-15-134, filed 8/31/77.]

WAC 388-15-136 Central registry--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 388-15-145 Nursing home discharge allowance. A one-time allowance may be issued to medical

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care program eligible nursing home residents who are ready for discharge.

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

(2) Persons eligible for the discharge allowance must:

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

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

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

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

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

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

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

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

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

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

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

WAC 388-15-160 Adoption services. (1) Adoption services are those which counsel biological parents and

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children to achieve permanent families (legal and social) for children; utilize courts, legal counsel and juvenile court specialist for termination of parental rights and granting of adoption petitions; obtain diagnostic information for the total medical/social evaluation of children; recruit, study and approve adoptive families; evaluate child and foster parents or place children with approved waiting families; counsel and/or refer families and children after placement to facilitate the adoption, or make alternate plans when the adoption placement is not beneficial to the child and/or family; locate and exchange (state and nationally) children and adoptive families and administer the state's adoption subsidy for private agencies and the department.

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

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

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

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

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

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

WAC 388-15-170 General and seasonal 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 388-15-190 Day care for the aged--Age 60 and over. (1) Day care services are a program of services provided at three locations in the state for aged people who do not require 24-hour institutional care, but due to physical and/or mental impairment are not capable of full-time independent living. Services include nursing service and rehabilitative services, such as occupational therapy, physical therapy and speech therapy; personal

care services, i.e., assistance with walking, eating, toileting, grooming, social work services; recreational and social activities. Each center will also provide a hot meal at noon and necessary transportation for participants.

(2) Goals for day care for the aged shall be limited to those specified in WAC 388-15-010 (1)(c), (d). Also see WAC 388-15-010(2).

[Order 1238, § 388-15-190, filed 8/31/77; Order 1088, § 388-15-190, filed 1/19/76.]

WAC 388-15-200 Health support services. (1) Health support services are services to direct individuals and families to physicians and other health services to help them to attain and maintain a favorable condition of health. Such services also include helping them to identify and understand their health needs, seek medical aid and follow through on medical recommendations. Part of the service may be contacting relatives and friends to enlist their help and encouragement in supporting individuals in following through on their health plans; coordination with Title XIX services or contacting physicians or other health providers to gain a better understanding of the client's medical situation. Where appropriate, arranging for homemaker service, chore service, home nursing, health aides, or home delivered meals may be a component of health support services. Early and periodic screening, diagnosis and treatment is a mandatory health support service for eligible individuals under age 21 to evaluate their state of health and to detect and correct medical conditions that would interfere with their future health.

(2) Goals for health support services shall be limited to those specified in WAC 388-15-010 (1)(a) through (e). Also see WAC 388-15-010(2) and 388-95-275.

[Order 1238, § 388-15-200, filed 8/31/77; Order 1147, § 388-15-200, filed 8/26/76; Order 1088, § 388-15-200, filed 1/19/76.]

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

(2) The purpose of the program is to assist an eligible applicant at risk of being placed in a long-term care facility by providing allowable chore service tasks that may allow the eligible applicant to remain in or return to the eligible applicant's own residence.

(3) Chore services may be provided through the contracted program or the individual provider program.

[Statutory Authority: RCW 74.08.090. 90-15-029 (Order 3041), § 388-15-207, filed 7/13/90, effective 8/13/90; 89-18-026 (Order 2852), § 388-15-207, filed 8/29/89, effective 9/29/89; 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) "Applicant" means a person applying for chore services.

(2) "Attendant care" means the service provided to a grandparented client needing full-time care because the client:

(a) Requires personal care task assistance that cannot be scheduled, e.g., toileting, ambulation, transfer, positioning, some medication assistance; or

(b) Needs protective supervision because of confusion, forgetfulness, or lack of judgment. Protective supervision does not include responsibilities a legal guardian should assume.

(3) "Chore services" means services in performing personal care and related household assistance tasks as provided in the department's medical assistance state plan provision addressing personal care.

(4) "Client" means a person receiving chore services.

(5) "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.

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

(7) "Grandparented client" means a person approved for hourly household tasks before December 14, 1987, or a person approved for attendant care services before April 1, 1988 provided the person was receiving the same services as of June 30, 1989.

(8) "Hourly care" means the service provided to clients needing assistance with scheduled household or personal care tasks.

(9) "Household assistance" means assistance with travel to medical services, essential shopping, laundry, housework, or wood supply as defined under WAC 388-15-820.

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

(11) "Interim assessment" means the department's assessment form used to determine the amount and type of chore services to be provided.

(12) "Own home" means the client's present or intended place of residence, whether in a building the client rents or owns or in the home of another person.

(13) "Personal care" means assistance with personal hygiene, dressing, bathing, eating, toileting, ambulation, transfer, positioning, self-medication, body care, or meal preparation. The tasks are defined under WAC 388-15-820.

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

(15) "Relative" means a client's spouse, father, mother, son, or daughter.

(16) "Resources" means real or personal property owned by or available to an applicant or a client which the department may apply toward meeting the applicant/client's requirements, either directly or by conversion into money or its equivalent.

(17) "Service authorization ceiling chart" means the chart indicating the maximum number of hours the department may authorize for a client's score.

(18) "Shared living arrangement" means a situation where two or more adults share expenses and reside together in one of the adult's residences with common facilities, such as living, cooking, and eating areas.

[Statutory Authority: RCW 74.08.090. 90-15-029 (Order 3041), § 388-15-208, filed 7/13/90, effective 8/13/90; 89-13-084 (Order 2815), § 388-15-208, filed 6/21/89; 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 Eligibility. The department shall consider the following eligibility criteria when determining an applicant/client's eligibility for chore services:

(1) Service eligibility:

(a) Eighteen years of age and over;

(b) At risk of placement in a long-term care facility as evidenced by the need for assistance with one or more personal care tasks listed in WAC 388-15-208(13); and

(c) Not eligible for Medicaid personal care or community options program entry system (COPES) services.

(2) Financial eligibility meets the financial eligibility requirements established by the department;

(3) Resource eligibility:

(a) Has resources at or below ten thousand dollars for a one-person family or fifteen thousand dollars for a two-person family. Allow another one thousand dollars for each additional family member;

(b) Resources considered. The department shall consider the following resources when determining the value of an applicant's or client'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) and (3)(a) and (b).

(c) Resources excluded. 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 for rehabilitation;

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

(vi) Cash surrender value of life insurance; or
 (vii) Payments received as restitution payments under the Civil Liberties Act of 1988 and the Aleutian and Pribiloff Island Restitution Act, P.L. 100-383.

(4) Adult protective services. Adult protective service clients at risk of being placed in a long-term care facility shall be 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 shall be provided only until the situation necessitating the services has stabilized and are limited to a maximum of ninety days during any twelve-month period; and

(5) Volunteer chore services. An applicant for chore services shall be referred to the volunteer chore service program when the applicant:

(a) Does not meet the eligibility criteria for chore services;

(b) Is eligible for five hours or less per month of chore services;

(c) Is eligible for a reduced level of chore services because income exceeds thirty percent of the state median income; or

(d) Needs help with tasks that are not available in the chore services program.

[Statutory Authority: RCW 74.08.090. 90-15-029 (Order 3041), § 388-15-209, filed 7/13/90, effective 8/13/90; 89-18-026 (Order 2852), § 388-15-209, filed 8/29/89, effective 9/29/89; 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) Assessment.

(a) The purpose of assessment is to determine the applicant/client's need for chore services and the authorized hours of service.

(b) Department staff shall perform the assessment.

(c) The department shall perform a separate assessment for each adult applying for chore services.

(d) The department shall document the assessment on a prescribed form.

(e) When administering the assessment, department staff shall take into account the applicant/client's:

(i) Risk of long-term care facility placement;

(ii) Ability to perform personal care and related household tasks;

(iii) Living situation; and

(iv) Availability of alternative resources providing needed assistance, including family, neighbors, friends, community programs, and volunteers.

(f) The department shall consider the chore services client the secondary client in households where community options program entry system (COPES) services or Medicaid personal care services are also authorized.

(2) Scoring.

(a) For each task listed on the assessment form, the department staff shall determine the level of assistance:

(i) The applicant/client requires;

(ii) Available through alternative resources; and

(iii) Needed from the chore services program.

(b) The applicant/client's assistance needed from the chore services program is the difference between assistance required and assistance available through alternative resources. This represents the applicant/client's unmet need.

(c) The level of the applicant/client's assistance required is indicated by entering one of the following codes for each task listed on the assessment form:

(i) O = The applicant/client is able to perform this task without help;

(ii) M = The applicant/client requires a minimal amount of assistance to perform this task;

(iii) S = The applicant/client requires a substantial amount of assistance to perform this task;

(iv) T = The applicant/client requires total assistance to perform this task.

(d) The level of assistance available is indicated by entering one of the following codes for each task listed on the assessment form:

(i) O = Alternative resources are not available for assistance;

(ii) M = Alternative resources are available for minimal assistance;

(iii) S = Alternative resources are available for substantial assistance;

(iv) T = Alternative resources are available for total assistance.

(e) The level of unmet need is indicated by entering one of the following codes for each task listed on the assessment form:

(i) O = No unmet need; the applicant/client can perform this task without help or all assistance required is available from alternative resources;

(ii) M = Minimal unmet need; the applicant/client cannot perform this task without help and needs a minimal amount of assistance from the chore services program in addition to assistance, if any, available from alternative resources;

(iii) S = Substantial unmet need; the applicant/client cannot perform this task without help and needs a substantial amount of assistance from the chore services program in addition to assistance, if any, available from alternative resources;

(iv) T = Total unmet need; the applicant/client is totally unable to perform this task and no assistance from alternative resources is available. The total need of the applicant/client shall be met through the chore services program.

(f) Points are awarded for each task based on the level of unmet need. The number of points allowable for each task are listed below:

| TASK | O | M | S | T |
|----------------------------|---|---|----|----|
| Eating | | | | |
| Breakfast | 0 | 4 | 7 | 10 |
| Light meal | 0 | 4 | 7 | 10 |
| Main meal | 0 | 5 | 10 | 15 |
| Toileting | 0 | 5 | 10 | 15 |
| Ambulation | 0 | 4 | 7 | 10 |
| Transfer | 0 | 1 | 3 | 5 |
| Positioning | 0 | 1 | 3 | 5 |
| Body care | 0 | 5 | 10 | 15 |
| Personal hygiene | 0 | 1 | 3 | 5 |
| Dressing | 0 | 4 | 7 | 10 |
| Bathing | 0 | 4 | 7 | 10 |
| Self-medication | 0 | 2 | 4 | 6 |
| Travel to medical services | 0 | 1 | 2 | 3 |
| Essential shopping | | | | |
| With client | 0 | 5 | 10 | 15 |
| or | | | | |
| For client | 0 | 1 | 3 | 5 |
| Meal preparation | | | | |
| Breakfast | 0 | 4 | 7 | 10 |
| Light meal | 0 | 4 | 7 | 10 |
| Main meal | 0 | 5 | 10 | 15 |
| Laundry | | | | |
| Facilities in home | 0 | 1 | 2 | 3 |
| or | | | | |
| Facilities out of home | 0 | 3 | 5 | 7 |
| Housework | 0 | 1 | 2 | 3 |
| Wood supply | 0 | 3 | 5 | 7 |

(g) The points awarded for each task are added together to obtain the total score for the applicant/client.

(3) Ceiling hour computation.

(a) Convert the total score into maximum allowable hours per month (ceiling hours) which may be authorized.

(b) Use the service authorization ceiling chart to convert the score to ceiling hours per month:

| SCORE | CEILING HOURS | SCORE | CEILING HOURS | SCORE | CEILING HOURS |
|-------|---------------|---------|---------------|---------|---------------|
| 1-4 | 5 | 60-64 | 44 | 120-124 | 83 |
| 5-9 | 8 | 65-69 | 47 | 125-129 | 87 |
| 10-14 | 11 | 70-74 | 51 | 130-134 | 90 |
| 15-19 | 14 | 75-79 | 54 | 135-139 | 93 |
| 20-24 | 18 | 80-84 | 57 | 140-144 | 97 |
| 25-29 | 21 | 85-89 | 60 | 145-149 | 100 |
| 30-34 | 24 | 90-94 | 64 | 150-154 | 103 |
| 35-39 | 28 | 95-99 | 67 | 155-159 | 106 |
| 40-44 | 31 | 100-104 | 70 | 160-164 | 110 |
| 45-49 | 34 | 105-109 | 74 | 165-169 | 113 |
| 50-54 | 37 | 110-114 | 77 | 170 and | |
| 55-59 | 51 | 115-119 | 80 | Above | 116 |

(4) Authorization when no reduction in hours.

(a) The department may authorize the number of ceiling hours allowable for the applicant/client's score

when the applicant/client has a gross income, adjusted for family size, at or below thirty percent of the state median income.

(b) The department may authorize fewer than the allowable ceiling hours when appropriate to the applicant/client's individual circumstances.

(c) The department shall inform all applicant/clients of their right to request the department to authorize more than the allowable ceiling hours based on the applicant/client's score. The department shall grant a waiver to authorize additional hours up to the maximum of one hundred sixteen hours per month when:

(i) Circumstances of a demonstrated duration, frequency, or severity require additional chore services hours to assure the client's health or safety;

(ii) Needed additional hours are specific and clearly measurable; and

(iii) Available funds are provided under WAC 388-15-214.

(d) The department shall approve or deny requests for a waiver to exceed ceiling hours within thirty days.

(e) When a request for a waiver is denied, the department shall send the applicant/client a notice of the right to contest the department's decision under chapter 388-08 WAC.

(5) Authorization when hours are reduced.

(a) An applicant/client with a gross income, adjusted for family size, over thirty percent of the state median income, shall receive fewer than the number of ceiling hours allowable for the applicant/client's score;

(b) The department shall determine the amount of reduction to allowable ceiling hours by:

(i) Deducting one hour for each percentage point when the applicant/client's income exceeds thirty percent of the state median income; and

(ii) Deducting an additional hour for each percentage point when the applicant/client's income exceeds fifty percent of the state median income.

(c) The reduction computed under subsection (5)(b) of this section shall be subtracted from the allowable ceiling hours to obtain the maximum number of hours per month the applicant/client may be authorized.

(6) Meal allowance—IPP hourly services only. When providing meals for the chore services provider is an extra client cost, the department may authorize a payment to partially reimburse the client for the meal cost. The department shall not reimburse the costs for a spouse provider. The payment shall not exceed the department-established amount and shall be prorated by days of service.

(7) Relative providers. The department may authorize a relative to provide chore services only when the relative:

(a) Gives up paid employment of thirty hours or more per week, to give the service;

(b) Needs to take paid employment of thirty hours or more per week to meet financial needs; or

(c) Is financially eligible to receive general assistance to meet their own need.

The above criteria apply to relatives providing service to clients, including grandparented clients, in either the

contracted program or the individual provider hourly program.

(8) Re-assessment.

(a) The department shall re-assess the eligibility of all chore service clients, except grandparented clients, at least every eighteen months or more often when deemed necessary because of a change in the client's condition or situation.

(b) The department shall continue, deny, or alter services to correspond with the client's present chore services need. The department shall notify the client of the right to contest denial or reduction of services.

(c) The eligibility rules as described under WAC 388-15-209 apply to re-assessment of all clients except grandparented clients.

(d) The department shall terminate chore services for an hourly personal care client when a re-assessment shows the client now needs assistance with household tasks only. This rule shall not pertain to grandparented clients receiving household tasks only.

[Statutory Authority: RCW 74.08.090. 90-15-029 (Order 3041), § 388-15-212, filed 7/13/90, effective 8/13/90; 89-13-084 (Order 2815), § 388-15-212, filed 6/21/89; 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) Contracted program. The department shall pay the contractor who pays the chore services provider.

(2) Individual provider program.

(a) The department shall pay the client who pays the chore services provider.

(b) The department shall pay an hourly wage of five dollars and fifteen cents for performance of authorized chore service tasks. Payment is contingent upon documentation that services were rendered.

(c) The department shall not pay a spouse providing chore services 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.

[Statutory Authority: RCW 74.08.090. 90-15-029 (Order 3041), § 388-15-213, filed 7/13/90, effective 8/13/90; 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 budget control.

(1) The department shall establish a monthly dollar lid on chore service expenditures to maintain expenditures within the legislative appropriation.

(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 placement in a long-term care facility. Priorities shall be as follows:

(a) Level A. Applicant needs help with one of the following personal care tasks:

- (i) Eating,
- (ii) Body care,
- (iii) Transfer,
- (iv) Positioning, or
- (v) Toileting.

(b) Level B. Applicant needs help with four or more other personal care tasks listed under WAC 388-15-208(13);

(c) Level C. Applicant needs help with one to three other personal care tasks.

(3) If the monthly dollar lid is not sufficient to stay within the legislative appropriation, the department may implement a ratable reduction of hours or payment for some or all chore service clients.

[Statutory Authority: RCW 74.08.090. 90-15-029 (Order 3041), § 388-15-214, filed 7/13/90, effective 8/13/90; 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 Program limitation. (1) The department shall not authorize chore services for:

- (a) Teaching and companionship;
- (b) Child care for working parents;
- (c) Providing nursing care; or
- (d) Developing social, behavioral, recreational, communication, or other types of skills.

(2) The department shall not provide chore services to a resident of a:

- (a) Group home;
- (b) Licensed boarding home;
- (c) Congregate care facility;
- (d) Nursing care facility;
- (e) Hospital;
- (f) Institution;
- (g) Adult family home; or
- (h) Child foster home.

Shared living arrangements are not considered group homes.

(3) Chore services shall be provided only in the client's home or surrounding property except for essential shopping, travel to medical services, and laundry when there are no laundry facilities in the client's home.

(4) 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.

[Statutory Authority: RCW 74.08.090. 90-15-029 (Order 3041), § 388-15-215, filed 7/13/90, effective 8/13/90; 89-18-026 (Order 2852), § 388-15-215, filed 8/29/89, effective 9/29/89; 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 388-15-216 Grandparented clients. (1) Continuing eligibility for hourly care chore service clients:

(a) The department may continue providing hourly chore services for clients receiving assistance with household tasks only before December 14, 1987, provided the clients were receiving the same services as of June 30, 1989; and

(b) The department shall perform periodic reviews to determine continuing need and eligibility according to the rules in effect before December 14, 1987:

(i) If a review indicates a household tasks only client needs assistance with personal care, Medicaid personal care may be authorized if eligible for Medicaid funding. If not eligible for Medicaid personal care, chore services shall be authorized according to the eligibility requirements for a new client;

(ii) If more or less household task services are required, services may be authorized accordingly.

(2) Continuing eligibility for attendant care for adults.

(a) The department may continue providing chore services to clients receiving attendant care before April 1, 1988, provided the clients were receiving the same services as of June 30, 1989.

(b) The department shall make periodic reviews to determine continuing need and eligibility according to the rules in effect before April 1, 1988:

(i) Attendant care service shall be authorized for clients receiving attendant care before April 1, 1988, who continue to need assistance with such unscheduled tasks as toileting, ambulation, and transfer or who need protective supervision;

(ii) Attendant care protective supervision shall be authorized for clients who may hurt themselves, others, or damage property if left alone, or are confused and may wander, or become easily disoriented;

(iii) The amount of service authorized shall be based on the total number of hours per day the chore services provider must be with the client. The chore services provider performs necessary household or personal care tasks during the authorized attendant care hours;

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

(c) The department shall pay a daily rate for attendant care for adults. The rate shall not exceed the lesser of the following:

(i) A maximum of twenty-four dollars and fifty cents per day; or

(ii) The amount determined by the following table:

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 |

| HOURS OF SERVICE PER DAY | PAYMENT PER DAY |
|--------------------------|-----------------|
| 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 in the household; and

(iii) The department shall reduce the amount of payment by the individual provider program hourly rate when the client's income exceeds thirty percent of the state median income.

(d) The department shall not increase the payment in effect on June 30, 1989.; and

(e) The department shall not pay for services when the client is not in the home, for example, because of hospitalization; except, up to seven days during the service month may be provided to enable the client to return home.

(3) Continuing eligibility for hourly family care services.

(a) Clients receiving hourly family care services before April 1, 1988, may continue to be eligible to receive services provided they were receiving the same services as of June 30, 1989.

(b) The department shall make periodic reviews to determine continuing need and eligibility according to the rules in effect before 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; or

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

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

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

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

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

(e) Determination of need for hourly care takes into consideration the ages, number and level of responsibility of the children and presence of a spouse. Allowable family care activities are:

(i) Family housework. The need for additional help cleaning the residence because of the presence of children;

(ii) Family tasks. The child's need for travel to medical services, laundry services, meal preparation, essential shopping, bathing and dressing, or other allowable tasks;

(iii) Supervision of children. The need for physical supervision of the children when the client is:

(A) In the home, but unable to provide supervision; or

(B) Temporarily out of the home.

(f) Points are awarded for family care activities as follows:

- (i) O = 0;
- (ii) M = 14;
- (iii) S = 27; and
- (iv) T = 40.

Enter the points awarded on the bottom of the assessment form and add to the client's total score.

(5) Board and room meal allowances. When providing board and room or meals for the chore services provider is an extra cost to the client, the department may authorize a payment to partially reimburse the client for this expense. The department shall not reimburse the costs for a spouse provider. The payment shall not exceed the department-established amount and shall be prorated by days of service. No client shall be authorized for both a board and room allowance and a meal allowance.

(6) Ninety-day rule. Grandparented clients terminated from chore services because of transfer to another program may be re-authorized for chore services when the:

- (a) Transfer was in effect for less than ninety days; and
- (b) Client becomes ineligible for the program the client is transferred to or the program the client is transferred to does not meet the client's needs.

(7) Priority levels. Priority levels for grandparented clients are:

(a) Level A: Client needs help with one of the following personal care tasks:

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

(b) Level B: Client needs help with four or more other personal care tasks as described under WAC 388-15-208(13);

(c) Level C: Client needs help with one to three other personal care tasks;

(d) Level D: Client needs help with all five household tasks:

- (i) Travel to medical services;
- (ii) Essential shopping;
- (iii) Laundry;
- (iv) Housework; and
- (v) Wood supply.

(e) Level E: Client needs help with three or four household tasks; and

(f) Level F: Client needs help with one or two household tasks.

[Statutory Authority: RCW 74.08.090, 90-15-029 (Order 3041), § 388-15-216, filed 7/13/90, effective 8/13/90; 89-18-026 (Order 2852), § 388-15-216, filed 8/29/89, effective 9/29/89.]

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 or client's unearned income plus gross earned income.

(2) Employed disabled adults shall be eligible for chore services if they are otherwise eligible under the provisions of WAC 388-15-207 through 388-15-216. 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, an applicant or client shall meet all of the following conditions:

- (a) Be in need of chore services as determined by the department using an assessment form;
- (b) Be eighteen years of age or older;
- (c) Be a resident of the state of Washington;
- (d) Be determined disabled by the department as specified in subsection (4) of this section;
- (e) Be willing to submit to examinations as deemed necessary by the department to establish the extent and nature of the disability;

(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 not covered through insurance or another source and are incurred to allow the disabled person to work;

(g) Have unearned income at or below forty percent of the state median income or be an adult supplemental security income or state supplementation recipient;

(h) Meet the resource limits specified for the chore services program in WAC 388-15-209 (2) and (3);

(i) Promptly report to the department, in writing, any changes in income or resources which may effect eligibility;

(j) 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 |

(k) Meet all other requirements for the chore services program as defined in WAC 388-15-207 through 388-15-216.

(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 is disabled for the purpose of receiving Social Security disability insurance (SSDI), supplemental security income (SSI) or, nongrant Medicaid, and there has been no appreciable improvement in the applicant's

disabling condition(s) since that disability determination was made.

(b) The department determined the applicant has a medically determinable physical or mental impairment comparable in severity to a disability qualifying 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 services provider and shall pay the provider the full amount due for services rendered. If the client receives services exceeding department-authorized services, or agrees to a rate of pay exceeding the department-authorized rate of pay, the client shall be responsible for paying the amount exceeding the department's authorized service cost.

(6) The department shall compute an applicant/client'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:

(A) Tools;

(B) Materials;

(C) Union dues;

(D) Transportation to service customers if not furnished or reimbursed by the employer; and

(E) 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; and

(f) The client shall have the option to change methods when reporting income to the appropriate department staff.

[Statutory Authority: RCW 74.08.090. 90-15-029 (Order 3041), § 388-15-217, filed 7/13/90, effective 8/13/90; 89-18-026 (Order 2852), § 388-15-217, filed 8/29/89, effective 9/29/89; 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 388-15-220 Homemaker services. (1) Homemaker services are emergency services to families with children under the age of eighteen residing in their own homes or in special group situations outside their homes which will help families overcome specific and temporary barriers to maintaining, strengthening, and safeguarding their functioning in the home. Such services may not exceed a maximum of: One hundred sixty-eight consecutive hours; or, thirty consecutive days of noncontinuous services not to exceed one hundred sixty-eight hours total.

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

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

(4) Goals for homemaker services shall be limited to those specified in WAC 388-15-010 (1)(a) through (e). Also see WAC 388-15-010(2).

[Statutory Authority: RCW 74.08.090. 81-17-024 (Order 1689), § 388-15-220, filed 8/12/81; 80-15-003 (Order 1551), § 388-15-220, filed 10/2/80; Order 1238, § 388-15-220, filed 8/31/77; Order 1088, § 388-15-220, filed 1/19/76.]

WAC 388-15-240 Family planning. (1) Family planning services are those services which enable individuals including minors and handicapped persons, to make choices regarding the number and spacing of children. These services include outreach, information, referral, support services (such as transportation and child care), counseling, education, medical care and follow-up. Family planning medical services include physical examinations, lab tests, diagnosis, treatment, surgical procedures as appropriate, drugs, supplies, devices furnished, prescribed by or under the supervision of a physician.

(2) Goals for family planning shall be limited to those specified in WAC 388-15-010 (1)(a) through (e). Also see WAC 388-15-010(2).

(3) Family planning is a federally mandated service offered to all appropriate persons in the aid to families of dependent children program and also to any appropriate individual who meets the state's financial eligibility requirements (including anyone who within three

months has been an applicant for or a recipient of AFDC (see WAC 388-15-020 (1)(e)(i)). Services will be provided promptly to all of the foregoing individuals who voluntarily request such services.

[Order 1238, § 388-15-240, filed 8/31/77; Order 1204, § 388-15-240, filed 4/1/77; Order 1147, § 388-15-240, filed 8/26/76; Order 1088, § 388-15-240, filed 1/19/76.]

WAC 388-15-300 Developmental disabilities case services. (1) Provides specialized programming to those developmentally disabled persons not living in the developmental disabilities institutions and requiring services. Assisting developmentally disabled individuals and their relatives in finding out-of-home alternative residential settings, developing additional placement resources and monitoring institutional preplacement clients.

(2) Goals for developmental disabilities for services shall be limited to those specified in WAC 388-15-010 (1)(a), (b), (d), (e). Also see WAC 388-15-010(2).

[Order 1238, § 388-15-300, filed 8/31/77; Order 1088, § 388-15-300, filed 1/19/76.]

WAC 388-15-310 Developmental disabilities home (aid) services. (1) Home (aid) resource services assists developmentally disabled individuals and their families through professional and paraprofessional home training visits which provide for parent and client training in needed therapies, general health, hygiene, and nutritional programming, and intensive skill training. Services also include assisting in the location, mobilization or development of community resources and may include arranging for other department services, such as homemaker services, chore services or day care services, and further, educating the public of the rights to such services through information and referral efforts.

(2) Goals for developmental disabilities home (aid) services shall be limited to those specified in WAC 388-15-010 (1)(c), (d). Also see WAC 388-15-010(2).

[Order 1238, § 388-15-310, filed 8/31/77; Order 1088, § 388-15-310, filed 1/19/76.]

WAC 388-15-320 Developmental center services. (1) Provides individuals who have a developmental disability with day training programs designed to promote the individual development of motor, communication, recreation, behavioral, vocational and social skills. The provider agencies may provide a variety of programs to include infant stimulation, early childhood education, adult developmental education, recreational and leisure time programs, physical and occupational therapy, self-help skills, survival skills, housekeeping training and prevocational training.

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

[Order 1238, § 388-15-320, filed 8/31/77; Order 1088, § 388-15-320, filed 1/19/76.]

WAC 388-15-330 Sheltered workshops. (1) Sheltered workshop services are expected to result in the eventual placement of handicapped clients into gainful

employment. Such services are provided to enable clients to become self supporting or self sufficient. A variety of services such as medical, dental, psychiatric, training, transportation, etc. are provided or arranged for by vocational rehabilitation division staff and other services are provided to clients in the work environment of vendor sheltered workshop facilities.

(2) Goals for sheltered workshops shall be limited to those specified in WAC 388-15-010 (1)(a), (b). Also see WAC 388-15-010(2).

[Order 1238, § 388-15-330, filed 8/31/77; Order 1088, § 388-15-330, filed 1/19/76.]

WAC 388-15-340 Alcoholism treatment. (1) Three types of alcoholism treatment will be provided under Title XX; "alcohol detoxification," "intensive alcoholism inpatient treatment" and "alcoholism long-term treatment." All are residential treatment services but they differ with regard to the specific treatment needs of the client. These services are provided either by private non-profit agencies or by public (county) agencies. Funding is provided through purchase of service contracts with the department.

(a) Detoxification services

This emergency service is provided for persons who are incapacitated by alcohol or suffering from the withdrawal from alcohol. It is a residential program of one to three days for the average client and is provided in special detoxification centers (detoxification provided in general hospitals will not be covered under Title XX). Detoxification provides an important first stage in the continuum of treatment services for recovery from alcoholism.

(b) Intensive alcoholism inpatient treatment

A residential alcoholism treatment program of 21 to 28 days that assists a person in achieving and maintaining abstinence from alcohol through education, group counseling and individual counseling which is aimed at resocialization and understanding of the nature of the illness.

(c) Alcoholism long-term treatment

Long-term alcoholism treatment is a residential treatment program involving an average of 120 days of physical and emotional rehabilitation therapy, evaluation of rehabilitation needs and the ability to benefit from treatment, education on alcoholism, resocialization counseling and individual and group counseling on alcoholism recovery. A great deal of emphasis is put on occupational and work therapy.

(2) Goals for alcoholism treatment shall be limited to those specified in WAC 388-15-010 (1)(a) through (e). Also see WAC 388-15-010(2).

[Order 1238, § 388-15-340, filed 8/31/77; Order 1088, § 388-15-340, filed 1/19/76.]

WAC 388-15-360 Refugee assistance. (1) This service may include information and referral, employment oriented casework, job development, job placement, skills training, work setting training, counseling and orientation, English as a second language, and vocational English training. Effective November 1, 1981, refugees

will be allowed up to five hundred forty hours of English language instruction or the achievement of benchmarks as established by the superintendent of public instruction and approved by DSHS, whichever comes first. Refugees residing in the United States over thirty-six months will not be eligible for refugee funded classroom instruction. Since sufficient funds are not available from the federal government to provide this service to all eligible refugees requesting English language training, eligible refugees will be prioritized (for placement into training) as follows:

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

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

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

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

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

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

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

(2) Goals for refugee assistance shall be limited to the goals specified in WAC 388-15-010 (1)(a) and (b). Also see WAC 388-15-010(2) and chapter 388-55 WAC.

[Statutory Authority: RCW 43.20A.550. 82-02-032 (Order 1742), § 388-15-360, filed 12/31/81; 81-17-027 (Order 1692), § 388-15-360, filed 8/12/81; 78-04-004 (Order 1276), § 388-15-360, filed 3/2/78; Order 1238, § 388-15-360, filed 8/31/77; Order 1204, § 388-15-360, filed 4/1/77; Order 1147, § 388-15-360, filed 8/26/76; Order 1124, § 388-15-360, filed 6/9/76.]

WAC 388-15-400 Services to individuals released from mental hospitals or in danger of requiring commitment to such institutions. (1) These services are those services necessary to enable eligible individuals age 65 or over to remain in the community in lieu of care in a mental hospital, or upon release from a mental hospital, to return to and live in the community. Services may also be provided to recipients of AFDC who are being released from mental institutions.

(2) Necessary adult services shall be provided to beneficiaries of SSI, recipients of Title XIX, and other individuals whose income does not exceed the standard in WAC 388-15-020 who:

(a) Are released from a mental hospital, or

(b) Need alternate care to continue to live in the community.

(3) Services provided to accomplish the objective to assist the recipient to maintain or be restored to the greatest possible degree of independent functioning and self help shall be any appropriate adult services described in WAC 388-15-100 through 388-15-400.

(4) Services to be provided to accomplish this objective for recipients of AFDC age 21 or under being released from mental institutions shall be any appropriate family or children's service described in WAC 388-15-100 through 388-15-400.

[Title 388 WAC—p 92]

(5) See also chapter 388-95 WAC.

[Order 1088, § 388-15-400, filed 1/19/76.]

WAC 388-15-500 Redetermination of service eligibility. Eligibility for all services shall be redetermined:

(1) When the ESSO has received information about anticipated changes in the individual's situation.

(2) No more than thirty days after the ESSO has received information that a change has occurred in the individual's circumstances which may make him ineligible.

(3) Periodically, but no less frequently than every six months, except that for individuals whose gross monthly income at the time of determination is derived exclusively from pensions or social security benefits or SSI or a combination thereof or in group eligibility where the individual's conditions or characteristics are not apt to change substantially (such as physical disability), redetermination may be made at 12 month intervals.

[Order 1238, § 388-15-500, filed 8/31/77; Order 1088, § 388-15-500, filed 1/19/76.]

WAC 388-15-548 Residential services. (1) Residential services are services necessary to secure appropriate residential care for eligible adults. This includes placement and periodic review in adult family homes, congregate care facilities, and nursing homes. When appropriate, the department's nursing care consultants will determine if eligible adults with medical problems are receiving care which meets their medical needs.

(2) Goals for residential services shall be limited to those specified in WAC 388-15-010 (1)(a) through (e). Also see WAC 388-15-010(2) and 388-15-030.

[Statutory Authority: RCW 74.08.044. 86-16-019 (Order 2392), § 388-15-548, filed 7/28/86.]

WAC 388-15-550 Service delivery. The services provided under this chapter may be provided by department staff or by purchase of service. Services are purchased by the department at rates set by the department from agencies or facilities determined by the department as providing an acceptable quality of service.

[Order 1238, § 388-15-550, filed 8/31/77; Order 1147, § 388-15-550, filed 8/26/76; Order 1124, § 388-15-550, filed 6/9/76; Order 1088, § 388-15-550, filed 1/19/76.]

WAC 388-15-551 Adult family home—Authority to purchase care—Standards. (1) Pursuant to RCW 74.08.043 and 74.08.045, the department is authorized to purchase care from licensed adult family homes.

(2) Minimum standards of care for an adult family home are those required for licensure under chapter 74.15 RCW, RCW 74.08.044, and chapter 388-76 WAC.

[Statutory Authority: RCW 74.08.044. 86-16-019 (Order 2392), § 388-15-551, filed 7/28/86; 79-09-039 (Order 1425), § 388-15-551, filed 8/17/79.]

WAC 388-15-552 Adult family home—Eligible persons. (1) To be eligible for state payment for regular adult family home care, a person must be:

(a) Age eighteen or older;

(b) A recipient of:

- (i) Supplemental Security Income;
- (ii) Continuing general assistance; or
- (iii) Title XIX categorically relatable to SSI;
- (c) Unable to live alone and/or require training, supervision, or assistance with activities of daily living and/or health-related services, including nursing care if the adult family home licensee is authorized by the licensing authority to provide nursing care; and
- (d) Ineligible to be included in the COPES or CAP programs.

(2) A provider payment only may be authorized for adults receiving protective services in an adult family home, notwithstanding subsection (1)(b) of this section, for up to ninety days during any twelve-month period without regard to income, if the care is an integral but subordinate part of the adult protective service plan. Such payment shall be discontinued after ninety days, when the protective services are terminated, or when a regular service plan is adopted, whichever occurs first.

[Statutory Authority: RCW 74.08.044, 86-16-019 (Order 2392), § 388-15-552, filed 7/28/86; 83-21-008 (Order 2029), § 388-15-552, filed 10/6/83; 79-09-039 (Order 1425), § 388-15-552, filed 8/17/79.]

WAC 388-15-553 Adult family home--Determination of need. The department, through a comprehensive assessment, in consultation with the eligible adult, shall determine if adult family home care is required. Adult family home services are limited to those allowed under adult family home licensure, chapter 388-76 WAC.

[Statutory Authority: RCW 74.08.044, 86-16-019 (Order 2392), § 388-15-553, filed 7/28/86; 79-09-039 (Order 1425), § 388-15-553, filed 8/17/79.]

WAC 388-15-554 Adult family home--Placement in facility. (1) Selection of an adult family home is made by the eligible adult client, his or her relatives, or others acting on his or her behalf, provided the department determines that the adult family home can provide adequate care and supervision.

(2) The client has a right to choose or refuse adult family home placement. The client's decision shall prevail. In those circumstances where the client is under a guardianship, the guardian shall be consulted to determine the extent of his or her authority. If such authority extends to the placement of the client, the guardian's decision shall prevail.

[Statutory Authority: RCW 74.08.044, 86-16-019 (Order 2392), § 388-15-554, filed 7/28/86; 79-09-039 (Order 1425), § 388-15-554, filed 8/17/79.]

WAC 388-15-555 Adult family home--Payments--Standards--Procedures. (1) All nonexempt net income of an eligible adult placed in an adult family home shall first be applied to the adult's clothing, personal maintenance, and necessary incidentals. Any remaining nonexempt income shall be applied to the cost of his or her adult family home care.

(2) See WAC 388-92-025 for computation of available income for SSI or SSI-related recipients. See WAC 388-37-020(4) and 388-37-025 for computation of

available income for continuing general assistance recipients.

(3) The continuing general assistance standard for an adult family home resident shall be the adult family home cost standard plus a specified amount for the clothing, personal maintenance and necessary incidentals, as defined in chapter 388-29 WAC.

(4) The department shall pay the adult family home for contracted care, a sum not to exceed rates set forth in the most recent schedule of rates established and published by the department. The sum paid shall be decreased by the amount of the client's participation toward cost of care.

[Statutory Authority: RCW 74.08.044, 86-16-019 (Order 2392), § 388-15-555, filed 7/28/86; 79-09-039 (Order 1425), § 388-15-555, filed 8/17/79.]

WAC 388-15-560 Congregate care--Definition--Authority to purchase care--Standards. (1) A congregate care facility is a boarding home licensed under chapter 18.20 RCW and RCW 74.08.044, or a licensed private establishment as defined by chapter 71.12 RCW, which has entered into a congregate care contract with the department.

(2) Pursuant to RCW 74.08.043 and 74.08.045, the department is authorized to purchase, from congregate care facilities as defined in this chapter, personal and special care and supervision for eligible persons, as defined in this chapter, who are in need of such care and supervision.

(3) Minimum standards of care for a congregate care facility are those required for licensure under chapters 18.20 and 71.12 RCW, and chapter 248-16 WAC.

[Statutory Authority: RCW 74.08.044, 86-16-019 (Order 2392), § 388-15-560, filed 7/28/86; 81-01-077 (Order 1579), § 388-15-560, filed 12/17/80; Order 1238, § 388-15-560, filed 8/31/77.]

WAC 388-15-562 Congregate care--Eligible persons. (1) To be eligible for state payment for care in a congregate care facility, a person must:

- (a) Be age eighteen or older;
- (b) Be a recipient of:
 - (i) Supplemental Security Income,
 - (ii) Continuing general assistance, or
 - (iii) Title XIX categorically relatable to SSI;
- (c) Be unable to maintain a safe environment in an independent living arrangement or require personal care and supervision, assistance with activities of daily living and/or health-related services;
- (d) Not require nursing care in excess of that described in RCW 18.20.160 and the provisions of WAC 248-16-228; and
- (e) Meet the criteria in subsections (2), (3), (4), (5), or (6) of this section.

(2) For regular program congregate care the person must:

- (a) Not require developmental disabilities specialized services as described in chapter 275-36 WAC unless a plan of care is developed to provide specialized services in addition to the regular congregate care services provided;

(b) Be ineligible for the mental health congregate care program as described in subsection (4) of this section unless a plan of care is developed to provide mental health specialized services apart from the regular congregate care services provided;

(c) Not require alcoholism and/or drug treatment as described in subsection (5) and (6) of this section; and

(d) Be ineligible for the COPES or CAP programs;

(3) A provider payment only may be authorized for persons receiving adult protective services in congregate care, notwithstanding subsection (1)(b) of this section, for up to ninety days during any twelve-month period without regard to income, if the care is an integral but subordinate part of the adult protective service plan. Such payment shall be discontinued after ninety days, when the protective services are terminated, or when a regular service plan is adopted, whichever occurs first.

(4) For mental health congregate care, a person must:

(a) Be acutely or chronically mentally ill, or seriously disturbed as defined in WAC 275-56-010. Priority for placement shall be as follows:

(i) Clients housed in state or community psychiatric facilities who no longer require that level of care.

(ii) Clients in imminent jeopardy of psychiatric hospitalization unless an alternative placement is secured.

(iii) Clients with two or more psychiatric hospitalizations in the past two years.

(iv) Other clients meeting the criteria in WAC 275-56-010.

(b) Actively participate in a mental health treatment program according to their individual treatment plan or be on a waiting list to receive such treatment.

(i) Clients shall become ineligible for the mental health rate after sixty days of refusing to participate in mental health treatment.

(ii) Alternative residential placements must be arranged for clients found ineligible because of nonparticipation.

(5) For drug treatment congregate care a person must be judged by a certified drug treatment professional to be in need of drug treatment.

(6) For alcoholism congregate care, a person must be determined by a state-approved, community alcoholism counselor to be in need of treatment.

(7) Placement in a congregate care facility is limited to available DSHS contracted beds.

[Statutory Authority: RCW 74.08.044. 86-16-019 (Order 2392), § 388-15-562, filed 7/28/86; 82-10-064 (Order 1805), § 388-15-562, filed 5/5/82; 81-01-077 (Order 1579), § 388-15-562, filed 12/17/80; Order 1238, § 388-15-562, filed 8/31/77.]

WAC 388-15-563 Congregate care--Residents of other states. Benefits of the congregate care program shall not be available to residents of other states who enter the state of Washington for the primary purpose of obtaining congregate care. However, when a person can no longer be considered a resident of another state and/or expresses his/her intention to remain permanently in Washington, his/her eligibility shall be determined as a resident of Washington, see WAC 388-26-055. If there is evidence that the person is maintaining a

home in another state, see WAC 388-28-420(4) about sale of resource.

[Statutory Authority: RCW 74.08.044. 81-01-077 (Order 1579), § 388-15-563, filed 12/17/80.]

WAC 388-15-564 Congregate care--Determination of need. The department shall determine need for congregate care based on:

(1) A comprehensive assessment, in consultation with the individual; and

(2) Criteria in WAC 388-15-562.

[Statutory Authority: RCW 74.08.044. 86-16-019 (Order 2392), § 388-15-564, filed 7/28/86; Order 1238, § 388-15-564, filed 8/31/77.]

WAC 388-15-566 Congregate care--Placement in facility. (1) Selection of a congregate care facility is made by the eligible individual, his or her relatives, or others acting on his or her behalf from facilities with available contracted beds, provided the department determines such congregate care facility can provide adequate care and supervision.

(2) The individual has a right to choose or refuse congregate care placement. The individual's decision shall prevail. In those circumstances where the person is under a guardianship, the guardian shall be consulted to determine the extent of his or her authority. If such authority extends to the placement of the individual, the guardian's directive shall prevail.

[Statutory Authority: RCW 74.08.044. 86-16-019 (Order 2392), § 388-15-566, filed 7/28/86; 81-01-077 (Order 1579), § 388-15-566, filed 12/17/80; Order 1238, § 388-15-566, filed 8/31/77.]

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

(2) See WAC 388-92-025 for computation of available income for SSI or SSI-related recipients. See WAC 388-37-020(4) and 388-37-025 for computation of available income for continuing general assistance recipients.

(3) Payment will be limited to the amount approved by the department for the type of care authorized, i.e., regular, mental health, COPES, or alcoholism and/or drug treatment. There is no specialized congregate care rate for developmentally disabled persons.

(4) The department shall pay for contracted care a sum not to exceed the rates set forth in the most recent schedule of rates established and published by the department. The sum paid shall be decreased by the amount of the client's participation toward cost of care.

(5) The continuing general assistance standard for a congregate care resident shall be the contracted cost standard of the facility plus a specified amount for clothing, personal maintenance and necessary incidentals, as defined in chapter 388-29 WAC.

[Statutory Authority: RCW 74.08.044, 86-16-019 (Order 2392), § 388-15-568, filed 7/28/86; 82-10-064 (Order 1805), § 388-15-568, filed 5/5/82; Order 1238, § 388-15-568, filed 8/31/77.]

WAC 388-15-570 Family reconciliation services.

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

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

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

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

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

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

(5) Services are provided as follows:

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

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

(c) These services are not provided for chronic or long-term multiproblem situations, custody and marital disputes, cases receiving counseling services from other agencies, child abuse and neglect cases, foster family or group care services in need of follow-up services and post adoption cases still under supervision of an agency.

(6) Goals for family reconciliation services shall be limited to those specified in WAC 388-15-010 (1)(c). Also see WAC 388-15-010(2).

[Statutory Authority: RCW 74.08.090, 82-01-040 (Order 1732), § 388-15-570, filed 12/16/81; 81-20-063 (Order 1708), § 388-15-570,

filed 10/5/81. Statutory Authority: RCW 74.08.090 and 1979 c 155, 79-10-026 (Order 1431), § 388-15-570, filed 9/10/79. Statutory Authority: RCW 74.08.090, 78-09-098 (Order 1335), § 388-15-570, filed 9/1/78; Order 1238, § 388-15-570, filed 8/31/77.]

WAC 388-15-580 Support services. (1) Support services include activities required to support the determination of eligibility for financial, medical or special need assistance. It also includes casework activities required as support functions to recipients of assistance programs.

(2) Eligibility for this service is limited to those who are applying for or receiving financial or medical assistance.

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

[Order 1238, § 388-15-580, filed 8/31/77.]

WAC 388-15-600 Community options program entry system (COPES)--Purpose--Legal basis. (1) The purpose of the community options program entry system (COPES) is to:

(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 the recipients:

(a) Have gross monthly income less than three hundred percent of the federal Supplemental Security Income (SSI) benefit level, excluding the state supplement as described under WAC 388-95-320 (1)(a); and

(b) Have resources at or below the Medicaid standard as described under WAC 388-95-337 and 388-95-340(1); and

(c) Are assessed by the department as eligible for nursing facility care; and

(d) Require institutionalization in the absence of home and community-based waiver services; and

(e) Choose to reside in their own homes, in congregate care facilities, or in licensed adult family homes within Washington state; and

(f) Have a feasible department-developed and approved written plan of care for COPES services. 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) An eligible person may choose whether to participate in COPES or enter a nursing facility.

[Statutory Authority: RCW 74.08.090. 90-15-019 (Order 3039), § 388-15-610, filed 7/12/90, effective 8/12/90. 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 department may authorize the following services to COPES eligible recipients, based on department assessment of need and feasible plan of care:

(a) Congregate care as defined under 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 licensed 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 home care as defined under WAC 388-15-551 through 388-15-555;

(c) Adult day health;

(d) Home health services as defined under WAC 388-86-045;

(e) Direct personal care services as defined under WAC 388-15-820(4). 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) Household assistance as defined under WAC 388-15-820(6); and

(g) Case management.

(2) The department shall not authorize additional personal care services to recipients residing in congregate care facilities or adult family homes.

(3) The department shall provide adult day health and home health services only when the recipient requires congregate care, adult family home services, or personal care. The department shall include the actual cost for adult day health and home health services in the total plan of care cost computation.

[Statutory Authority: RCW 74.08.090. 90-15-019 (Order 3039), § 388-15-620, filed 7/12/90, effective 8/12/90. 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. The department shall:

(1) Allocate all nonexempt income of a person receiving COPES services according to procedures under WAC 388-83-200;

(2) Pay the providers of congregate care, home health services, adult day health care, and adult family home care a sum not exceeding the rates set forth in the most recent schedule of rates established and published by the department;

(3) Pay for care of recipients residing 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) Pay for personal care services provided by a relative, except a spouse. The department shall make payment to a father, mother, son, or daughter only when the:

(a) Relative will not provide the care unpaid; and

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

(5) Pay care providers, meeting or exceeding minimum performance standards for personal care of a recipient residing in the recipient's established residence, a sum not exceeding the department-established rate;

(6) Pay private and public agencies providing personal care an hourly unit rate established by the department; and

(7) Pay for COPES services which, combined with the recipient's income allocated for maintenance in the home, does not exceed ninety percent of the average state-wide monthly rate for nursing home care.

[Statutory Authority: RCW 74.08.090. 90-15-019 (Order 3039), § 388-15-630, filed 7/12/90, effective 8/12/90. 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.]

RESPITE 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.

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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.]

WAC 388-15-810 Medicaid personal care services—Legal basis—Purpose. (1) Legal authority for Medicaid personal care services program is found under RCW 74.09.520 and in the Medicaid state plan.

(2) The purpose of the Medicaid personal care services program is to enable eligible individuals to remain in community residences through the provision of semi-skilled maintenance or supportive services.

[Statutory Authority: RCW 74.08.090. 89-18-029 (Order 2856), § 388-15-810, filed 8/29/89, effective 9/29/89.]

WAC 388-15-820 Medicaid personal care services—Definitions. (1) "Applicant" means a person applying for Medicaid personal care services.

(2) "Client" means a person determined eligible for Medicaid personal care services.

(3) "Community residence" means:

- (a) The client's own home, whether in a building owned or rented by the client;
- (b) A licensed adult family home under department contract;
- (c) A licensed boarding home under department contract;
- (d) A licensed children's foster family home; or
- (e) A licensed group care facility.

(4) "Direct personal care services" means assistance with tasks involving direct client care which are directly related to the client's medical condition. Such assistance is limited to allowable help with the tasks listed under subdivisions (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), and (l) of this subsection. The type of help allowable for each task shall not include assistance that must be provided only by a licensed health professional.

(a) "Personal hygiene" means assistance with care of hair, teeth, dentures, shaving, filing of nails, other basic personal hygiene, and grooming needs. Personal hygiene includes supervising client when performing the tasks, assisting client when caring for own appearance, and performing grooming tasks for client when unable to care for own appearance.

(b) "Dressing" means assistance with dressing and undressing. Dressing includes supervising and guiding client when client is dressing and undressing, assisting with difficult tasks such as tying shoes and buttoning,

and completely dressing or undressing client when unable to participate in dressing or undressing self.

(c) "Bathing" means assisting client to wash self. Bathing includes supervising client able to bathe self when guided, assisting client with difficult tasks such as getting in or out of the tub or washing back, and completely bathing the client if totally unable to wash self.

(d) "Eating" means assistance with eating. Eating includes supervising client when able to feed self if guided, assisting with difficult tasks such as cutting food or buttering bread, and feeding the client when unable to feed self.

(e) "Toileting" means assistance with bladder or bowel problems. Toileting includes supervising the client when able to care for own toileting needs if guided, helping client to and from the bathroom, assisting with bedpan routines, diapering and lifting client on and off the toilet. Toileting may include performing routine peri/colostomy/catheter tasks, for the client when client is able to supervise the activities.

(f) "Ambulation" means assisting the client to move around. Ambulation includes supervising the client when walking alone or with the help of a mechanical device such as a walker if guided, assisting with difficult parts of walking such as climbing stairs, supervising the client if client is able to propel a wheelchair if guided, pushing the wheelchair, and providing constant physical assistance to the client if totally unable to walk alone or with a mechanical device.

(g) "Transfer" means assistance with getting in and out of a bed or wheelchair or on and off the toilet or in and out of the bathtub. Transfer includes supervising the client when able to transfer if guided, providing steady-ing, and helping the client when client assists in own transfer. Lifting the client when client is unable to assist in their own transfer requires specialized training.

(h) "Positioning" means assisting the client to assume a desired position. Positioning includes assistance in turning and positioning to prevent secondary disabilities, such as contractures and balance deficits.

(i) "Self-medication" means assisting the client to self-administer medications prescribed by attending physician. Self-medication includes reminding the client of when it is time to take prescribed medication, handing the medication container to the client, and opening a container.

(j) "Body care" means assisting the client with exercises, skin care including the application of ointments or lotions, changing dry bandages or dressings not requiring professional judgment. Body care excludes foot care beyond washing of feet and filing toenails. Body care excludes foot care for clients who are diabetic or have poor circulation. Body care excludes changing bandages or dressings when sterile procedures are required. Provision of body care tasks is limited. The client must be able to supervise the provision of these tasks.

(k) "Travel to medical services" means accompanying or transporting the client to a physician's office or clinic in the local area to obtain medical diagnosis or treatment.

(l) "Essential shopping" means assistance with shopping to meet the client's health care or nutritional needs. Limited to brief, occasional trips in the local area to shop for food, medical necessities, and household items required specifically for the health and maintenance of the client. Essential shopping includes assisting when the client can participate in shopping and doing the shopping when the client is unable to participate.

(5) "Handicapping condition" means a medical condition which causes a functional impairment in activities of daily living.

(6) "Household assistance" means assistance with incidental household services provided as an integral, but subordinate part of the personal care furnished directly to the client. Household assistance shall be considered an integral part of personal care when such assistance is directly related to a medical condition or to a service reflected in the client's service plan and is furnished along with a direct personal care service. The department shall not authorize household assistance as a Medicaid personal care task in an adult family home, licensed boarding home, children's foster family home, or children's group care facility.

(a) "Meal preparation" means assistance with preparing meals. Meal preparation includes planning meals including special diets, assisting clients able to participate in meal preparation, preparing meals for clients unable to participate, and cleaning up after meals. This task may not be authorized to just plan meals or clean up after meals. The client must need assistance with actual meal preparation.

(b) "Laundry" means washing, drying, ironing, and mending clothes and linens used by the client or helping the client perform these tasks.

(c) "Housework" means performing or helping the client perform those periodic tasks required to maintain the client in a safe and healthy environment. Activities performed include such things as cleaning the kitchen and bathroom, sweeping, vacuuming, mopping, cleaning the oven, and defrosting the freezer, shoveling snow. Washing inside windows and walls is allowed, but is limited to twice a year. Assistance with housework is limited to those areas of the home which are actually used by the client. This task is not a maid service and does not include yard care.

(d) "Wood supply" means splitting, stacking, or carrying wood for the client and used as the sole source of fuel for heating and/or cooking. This task is limited to splitting, stacking, or carrying wood the client has at own home. Using a chain saw or felling trees is not allowable.

(7) "Immediate family member" means the client's husband or wife, parent, or child.

(8) "Medicaid personal care services" means medically-oriented tasks, directed at the client or the client's immediate environment, that are necessitated by a client's handicapping condition. Such services shall be:

(a) Based on an assessment of applicant/client needs;

(b) Provided in conformance with a service plan ordered by the client's attending physician;

(c) Reviewed by a registered nurse at least every ninety days;

(d) Performed by qualified and trained personal care aides, excluding members of the client's immediate family.

(9) "Medically-oriented tasks" means direct personal care services, household assistance provided as an integral but subordinate part of the personal care furnished directly to the client, and supervision.

(10) "Personal care aide" means a person meeting the qualification and training requirements established by the department and providing direct personal care services to clients. This person may be an employee of a qualified agency provider or may be under contract as a qualified individual provider.

(11) "Personal care provider" means a qualified agency provider or a qualified individual provider under department contract to provide Medicaid personal care services.

(12) "Personal care service plan" means a plan which is:

(a) Developed by the department in cooperation with appropriate community agency staff;

(b) Written and describes the personal care services which will be provided, frequency of provision, and expected outcomes;

(c) Ordered by the client's attending physician.

(13) "Physician" means a doctor of medicine, osteopathy or podiatry, as defined under WAC 388-80-005(54), or the client's Christian Science practitioner.

(14) "Physician's order" means written approval by the client's attending physician of the specific personal services to be provided to the client.

(15) "Qualified agency provider" means a community agency which applied for licensing as a home care agency or home health agency.

(16) "Qualified individual provider" means a person meeting the individual provider qualifications established by the department.

(17) "Supervision" means being available to:

(a) Help the client with personal care tasks that cannot be scheduled (toileting, ambulation, transfer, positioning, some medication assistance); and/or

(b) Provide protective supervision to a client who cannot be left alone because of confusion, forgetfulness, or lack of judgment.

[Statutory Authority: RCW 74.08.090. 90-06-038 (Order 2950), § 388-15-820, filed 3/1/90, effective 4/1/90; 89-18-029 (Order 2856), § 388-15-820, filed 8/29/89, effective 9/29/89.]

WAC 388-15-830 Medicaid personal care services—Eligibility. (1) The department shall provide Medicaid personal care services to an individual:

(a) Certified as a Title XIX categorically needy medical assistance client; and

(b) Programmatically eligible; that is, due to a handicapped condition, is determined to need Medicaid personal care services to remain in a community residence; and

(c) Residing in own residence, in a licensed and contracted adult family home, a licensed boarding home

under department contract, a children's foster family home, or a children's group care facility; and

(d) With a physician's order approving provision of specific personal care services.

(2) Eligibility shall begin upon date of the department's service authorization.

(3) The department shall not authorize chore services or adult family home add-on services to an individual qualifying for Medicaid personal care service when the individual's service needs are met within the scope of the Medicaid personal care program.

[Statutory Authority: RCW 74.08.090. 89-18-029 (Order 2856), § 388-15-830, filed 8/29/89, effective 9/29/89.]

WAC 388-15-840 Medicaid personal care services—Assessment—Authorization. (1) The department shall provide an assessment of individuals applying for, or being referred for, Medicaid personal care services.

(2) The department shall use the approved assessment form in an interview with the applicant documenting:

(a) The applicant's functional capability to perform personal care tasks essential to health or safety;

(b) Current and potential care contributions by formal and informal supports available to the applicant;

(c) The applicant's preference for how care is provided.

(3) When children are assessed, the assessor shall consider the personal care applicant's age in determining if the degree of personal care needed is appropriate to the child's age, or the result of the applicant's functional impairment. The need for personal care services shall only be assessed for needs exceeding the level of age appropriate personal care.

(4) Assessment and reassessment shall be performed within the department-established time frames.

(5) The department shall be responsible for authorizing Medicaid personal care services.

(6) The number of hours authorized shall be based on the applicant/client's need for assistance with Medicaid personal care tasks as determined through the assessment process. Points shall be awarded for each task according to the degree of assistance needed, and the point total shall be converted into maximum allowable hours. The procedure for conversion of points to hours of service shall comply with WAC 388-15-212(7).

(7) The client's attending physician shall review and reauthorize the client's service plan at least once every six months.

[Statutory Authority: RCW 74.08.090. 89-18-029 (Order 2856), § 388-15-840, filed 8/29/89, effective 9/29/89.]

WAC 388-15-850 Medicaid personal care services—Nurse oversight. (1) A registered nurse shall visit the client at least once every ninety days to:

(a) Review the client's medical and/or mental condition;

(b) Review the service plan determining if revisions are required and, if so, recommend revisions;

(c) Review the client's need for continued care;

(d) Assess the quality of personal care services received;

(e) Assess the personal care provider's need for additional training.

(2) The registered nurse shall document the result of an oversight visit on the department-prescribed form.

[Statutory Authority: RCW 74.08.090, 89-18-029 (Order 2856), § 388-15-850, filed 8/29/89, effective 9/29/89.]

WAC 388-15-860 Medicaid personal care services—Personal care aide qualifications. (1) The department shall:

(a) Define minimum qualifications for personal care aides and require aides meet the qualifications;

(b) Define minimum orientation and training requirements for personal care aides and require documentation stating minimum requirements are met;

(c) Definitions for minimum qualifications and training requirements for personal care aides shall be contained in the department's field manual for Medicaid personal care.

[Statutory Authority: RCW 74.08.090, 89-18-029 (Order 2856), § 388-15-860, filed 8/29/89, effective 9/29/89.]

WAC 388-15-870 Medicaid personal care services—Service provision system. (1) Area agencies on aging shall contract with qualified agency providers to perform Medicaid personal care services at the department-established rate.

(2) Area agencies on aging shall provide or contract for registered nurse oversight for personal care services.

(3) The department shall contract with area agencies on aging to assume the above responsibilities.

(4) The department shall contract with qualified individual providers to perform Medicaid personal care services at the department-established rate.

(5) Agency providers shall deliver services to adult clients in the clients' own residences unless the personal care service plan exceeds eighty-five hours per month. Individual providers may deliver services to children in the child's own residence regardless of the hours authorized. Clients shall have freedom of choice in selecting a qualified agency provider.

(6) Individual providers under contract with the department shall deliver services to clients in the clients' own residence when the personal care service plan exceeds eighty-five hours per month. Clients shall have freedom of choice in selecting a qualified individual provider.

(7) Adult family home (AFH) sponsors or licensed boarding home staff shall provide services to clients in an AFH or licensed boarding home. Foster parents or group care facility staff shall provide services to children in a foster family home or group care facility. Clients shall have freedom of choice in selecting a licensed AFH or boarding home, provided the AFH or boarding home can meet their personal care needs.

[Statutory Authority: RCW 74.08.090, 90-06-038 (Order 2950), § 388-15-870, filed 3/1/90, effective 4/1/90; 89-18-029 (Order 2856), § 388-15-870, filed 8/29/89, effective 9/29/89.]

WAC 388-15-880 Payment and authorization. Payment and authorization.

(1) In the individual provider program, the department pays an hourly rate directly to the service provider. No in-home personal care service plans shall authorize services by an individual provider unless the service need exceeds eighty-five hours per month.

(2) In the contracted program, the department pays the contractor who pays the service provider.

(3) The department pays an hourly rate of five dollars and thirty-six cents for actual hours worked in providing Medicaid personal care services.

(4) No contractor shall pay service providers performing Medicaid personal care services less than five dollars and fifteen cents per hour.

(5) Authorizations for contracted Medicaid personal care services shall not exceed eight hundred four dollars and ninety-five cents per month.

(6) Authorizations for in-home Medicaid personal care services by an individual provider shall not exceed seven hundred seventy-two dollars and ten cents per month.

(7) Authorizations for Medicaid personal care in an adult family home shall not exceed sixty hours of service per month.

(8) Authorizations for Medicaid personal care in a licensed boarding home under department contract shall not exceed thirty hours per month.

(9) Payment shall not be made for services provided exceeding the department's authorization.

[Statutory Authority: RCW 74.08.090, 90-06-038 (Order 2950), § 388-15-880, filed 3/1/90, effective 4/1/90; 89-18-029 (Order 2856), § 388-15-880, filed 8/29/89, effective 9/29/89.]

Chapter 388-17 WAC

SENIOR CITIZENS SERVICES PROGRAM

WAC

| | |
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| 388-17-010 | Legal basis for senior citizens services program. |
| 388-17-020 | Definitions. |
| 388-17-100* | Rights and responsibilities of applicants and recipients. |
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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

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

- Repealed by 78-05-077 (Order 1292), filed 5/1/78. Statutory Authority: RCW 74.38.030.
- 388-17-220 Mental health training program. [Order 1174, § 388-17-220, filed 11/30/76.] Repealed by 78-05-077 (Order 1292), filed 5/1/78. Statutory Authority: RCW 74.38.030.
- 388-17-240 Volunteer programs. [Order 1174, § 388-17-240, filed 11/30/76.] Repealed by 78-05-077 (Order 1292), filed 5/1/78. Statutory Authority: RCW 74.38.030.

WAC 388-17-010 Legal basis for senior citizens services program. The following rules are adopted under the authority of chapter 74.38 RCW.

[Statutory Authority: RCW 74.38.030. 78-05-077 (Order 1292), § 388-17-010, filed 5/1/78; Order 1174, § 388-17-010, filed 11/30/76.]

WAC 388-17-020 Definitions. (1) All terms used in this chapter which are not defined herein shall have the same meaning as indicated in chapter 74.38 RCW.

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

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

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

(b) An applicant or recipient which provides the majority of the support for a person(s) residing with the applicant or recipient shall be considered a member of a household which includes the applicant or recipient and the dependent person(s).

[Statutory Authority: RCW 74.38.030. 78-05-077 (Order 1292), § 388-17-020, filed 5/1/78; Order 1174, § 388-17-020, filed 11/30/76.]

WAC 388-17-100 Rights and responsibilities of applicants and recipients. (1) Each applicant and/or recipient of the senior citizens services program shall have the following rights:

(a) Any individual wishing to do so shall have the right to apply for the senior citizens services program and have his or her eligibility determined within ten days. If an adverse decision is made regarding eligibility, the applicant will be provided written notice. The notice of eligibility shall include a statement of the reasons upon which an unfavorable decision is based and a statement of the individual's right to an adjudicative proceeding, and a statement of the individual's right to representation at the hearing by a friend, relative, or other representative.

(b) An eligible individual shall be given the requested services, within the limits of available funds, offered by the area agency on aging in his or her geographic area.

(c) An applicant or recipient feeling aggrieved by a decision of the area agency or service provider regarding his or her eligibility for senior citizens services shall have the right to an informal hearing provided by the area agency. The hearing shall be held within thirty days of the date a request is made, and a written decision shall be rendered within fifteen days after the hearing. If the applicant or recipient is dissatisfied with the outcome of the informal hearing, he or she may file an application

for an adjudicative proceeding. Any person desiring a proceeding must, within thirty days after receiving written notice of a decision regarding eligibility, file a written application with the area agency or the department.

(d) Information obtained by the department, area agency, or vendor identifying any applicant or recipient of senior citizens services is confidential and privileged and may not be disclosed or used either directly or indirectly in any manner or for any purpose except for purposes directly related to the administration of the program, unless the applicant or recipient requests in writing that the information be disclosed.

(e) Each applicant and recipient shall be treated with dignity and courtesy, and there shall be no discrimination against any individual because of race, sex, religious creed, political beliefs, national origin, or handicap.

(f) Each applicant for services for which a fee may be charged (all services except nutrition, health screening, information and assistance, and transportation) shall be fully informed in writing of his or her rights and responsibilities in connection with the senior citizens services program.

(2) An applicant and/or recipient shall have the following responsibilities:

(a) Each applicant for services for which a fee may be charged shall provide complete and accurate information on an application form provided by the department and cooperate in establishing his or her eligibility for services.

(b) If services provided by the senior citizens services program are available at no cost to the applicant through other sources, the applicant shall apply for these services through the appropriate agency.

(c) Each recipient of services for which a fee may be charged shall promptly report any changes in income or resources in writing affecting his or her eligibility or amount of fees to be paid for services.

[Statutory Authority: RCW 34.05.220 (1)(a) and 74.38.030. 90-04-070 (Order 2991), § 388-17-100, filed 2/5/90, effective 3/1/90. Statutory Authority: RCW 74.38.030. 83-13-070 (Order 1970), § 388-17-100, filed 6/16/83; 78-05-077 (Order 1292), § 388-17-100, filed 5/1/78; Order 1174, § 388-17-100, filed 11/30/76.]

WAC 388-17-120 Eligibility for senior citizens services--Application. (1) An application for the senior citizens services program is a request in writing made by an individual on his or her own behalf or in behalf of another person on a form specified by the department.

(2) An application shall contain a signed declaration that the information contained in the application is true, correct and complete to the best of the applicant's knowledge.

(3) Eligibility shall be determined on the basis of the declaration of circumstances contained in the application, in accordance with the rules of the department contained in this chapter.

(4) Each applicant for services for which a fee may be charged shall be given a notice of eligibility.

[Statutory Authority: RCW 74.38.030. 78-05-077 (Order 1292), § 388-17-120, filed 5/1/78; Order 1174, § 388-17-120, filed 11/30/76.]

WAC 388-17-160 Income and resources. (1) An individual whose income is at or below forty percent of the state median income for a family of four adjusted for family size, as determined by the department and whose resources are at or below the limits specified in this section, shall be eligible for services at no cost.

(a) The following shall be disregarded in determining the income and resources of an applicant or recipient:

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

(ii) The value of the U.S. Department of Agriculture donated foods (surplus commodities).

(iii) Any benefits received under Title III C, Nutrition Program for the Elderly, of the Older Americans Act of 1965, as amended.

(iv) Any compensation provided to volunteers in ACTION programs established by Titles I, II, and III of PL 93-113, the Domestic Volunteer Services Act of 1973.

(v) Any payment received from a foster care agency for children in the home.

(vi) Garden produce, livestock, and poultry used for home consumption.

(vii) Any real property held in trust for an individual Indian or Indian tribe.

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

(2) Effective July, 1983, the income tables for forty percent of median income are:

| Number In Family Unit | Monthly Income | Annual Income |
|-----------------------|----------------|---------------|
| 1 | \$ 466 | \$ 5,592 |
| 2 | 610 | 7,320 |
| 3 | 753 | 9,036 |
| 4 | 897 | 10,764 |
| 5 | 1,041 | 12,492 |
| 6 | 1,184 | 14,208 |

For each additional family household member, add \$15 for monthly income, or \$180 for annual income.

(3) Income means any real or personal property in cash or kind received by an applicant or recipient after applying for the senior citizens services program which is available to meet the requirements of the applicant or recipient and his or her dependents.

(4) Resources mean all real or personal property owned by or available to an applicant at the time of application which can be applied toward meeting the applicant's requirements, either directly or by conversion into money or its equivalent. Property available shall mean property over which the applicant has legal right of control.

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

(i) A home and lot normal for the community.

(ii) Used and useful household furnishings, personal clothing, and automobiles.

(iii) Personal property of great sentimental value.

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

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

(vi) Cash surrender value of life insurance.

(b) The total value of all other resources including cash, marketable securities, and real or personal property shall not exceed ten thousand dollars for a single person or fifteen thousand dollars for a family of two. This maximum shall be increased by one thousand dollars for each additional member of the household.

[Statutory Authority: RCW 74.38.030. 83-13-070 (Order 1970), § 388-17-160, filed 6/16/83; 80-02-135 (Order 1485), § 388-17-160, filed 2/1/80; 78-05-077 (Order 1292), § 388-17-160, filed 5/1/78; Order 1174, § 388-17-160, filed 11/30/76.]

WAC 388-17-180 Fee schedule. (1) Eligible persons whose income and/or resources exceed the limits specified in WAC 388-17-160 for free services shall be responsible for payment of the total, or a percentage, of the cost for each service provided as determined by the fee schedule published in DSHS Form 14-155(X) 7/82 incorporated by reference herein. For each size household, the percentage of the cost of the service for which the department will make payment is based on the following formula:

$$\frac{100\% \text{ State Median Income (SMI)} - \text{Household Income}}{100\% \text{ SMI} - 40\% \text{ SMI}} \times 100$$

(2) Service providers shall be responsible for collecting fees owed by eligible persons and reporting to area agencies all such fees paid or owed by eligible persons.

(3) Fees paid shall not exceed the cost of services provided.

[Statutory Authority: RCW 74.38.030. 83-13-070 (Order 1970), § 388-17-180, filed 6/16/83; 78-05-077 (Order 1292), § 388-17-180, filed 5/1/78; Order 1174, § 388-17-180, filed 11/30/76.]

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 adjudicative [hearing] [proceeding]. Only those issues raised at the complaint resolution procedure can be appealed to an adjudicative [hearing] [proceeding]. The adjudicative proceeding shall be governed by the Administrative Procedure Act (chapter 34.05 RCW) and chapter 388-08 WAC. If any provision in this section conflicts with chapter 388-08 WAC, the provision in this section governs.

(3) A service contract applicant's or provider's application for an adjudicative proceeding shall be written and filed at the department's office of appeals 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 application shall be sent to the local area agency. The application 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; and

(c) Include a copy of the complaint resolution determination being appealed.

(4) The department has the right to intervene in any adjudicative proceeding. To intervene, the department shall:

(a) File a written notice of intervention with the office of appeals or the presiding officer;

(b) Serve a copy of the notice on the parties; and

(c) Include in the notice the name, address, and telephone number of the department employee and/or assistant attorney general who represents the department.

[Statutory Authority: RCW 34.05.220 (1)(a) and 74.38.030. 90-04-070 (Order 2991), § 388-17-500, filed 2/5/90, effective 3/8/90. Statutory Authority: RCW 70.38.030. 87-03-015 (Order 2458), § 388-17-500, filed 1/13/87.]

Reviser's note: RCW 34.05.395 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 388-17-510 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 adjudicative proceeding. The proceeding shall be governed by the Administrative Procedure Act (chapter 34.05 RCW) and chapter 388-08 WAC. If any provision in this section conflicts with chapter 388-08 WAC, the provision in this section governs.

(2) An area agency on aging's application for an adjudicative proceeding shall be written and filed at the department's office of appeals within thirty days of the date the department first gave notice of the aggrieving action to the area agency. A copy of the application shall be sent to the unit of the department which gave notice of the aggrieving action to the area agency. The application 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; and

(c) Include a copy of the department decision being appealed or a description of that decision.

[Statutory Authority: RCW 34.05.220 (1)(a) and 74.38.030. 90-04-070 (Order 2991), § 388-17-510, filed 2/5/90, effective 3/8/90. Statutory Authority: RCW 70.38.030. 87-03-015 (Order 2458), § 388-17-510, filed 1/13/87.]

Chapter 388-18 WAC

LONG-TERM CARE OMBUDSMAN PROGRAM

WAC

388-18-010 Purpose.

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

WAC 388-18-010 Purpose. The purpose of this chapter is to implement the long-term care ombudsman program as provided for in chapter 43.190 RCW, RCW 36.39.060, 74.38.040, and 74.38.050.

[Statutory Authority: Chapter 43.190 RCW. 85-03-069 (Order 2190), § 388-18-010, filed 1/17/85.]

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

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

(2) "Legal representative" includes attorneys at law, attorneys in fact, trustees, and, in the case of the estate of a decedent, personal representatives as defined by RCW 11.02.005(1).

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

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

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

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

(7) "Volunteer ombudsmen" means any volunteer ombudsman certified by the ombudsman program.

[Statutory Authority: Chapter 43.190 RCW. 85-03-069 (Order 2190), § 388-18-020, filed 1/17/85.]

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

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

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

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

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

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

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

- (8) Establish procedures for ombudsmen access to long-term care facilities.
- (9) Establish a state-wide uniform complaint reporting system.
- (10) Establish procedures to ensure confidentiality of complaint files and appropriate release of file content.
- (11) Prepare an annual report by January 1st of each year.
- (12) Carry out such activities as the secretary deems appropriate.

[Statutory Authority: Chapter 43.190 RCW. 85-03-069 (Order 2190), § 388-18-030, filed 1/17/85.]

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

- (2) Monitor laws, regulations, and policies affecting the residents of long-term care facilities.
- (3) Provide the public with information and education programs about long-term care facilities.
- (4) Promote the development of consumer organizations, i.e., resident councils, family councils, family support groups, citizen advocacy groups, etc.
- (5) Identify major issues relating to long-term care.
- (6) Recruit and train volunteer ombudsmen.
- (7) Submit monthly reports to the state ombudsman office.
- (8) Carry out such activities as the state ombudsman deems appropriate.

[Statutory Authority: Chapter 43.190 RCW. 85-03-069 (Order 2190), § 388-18-040, filed 1/17/85.]

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

- (2) May participate in resident councils.
- (3) May participate in family councils.
- (4) Make regular visits to long-term care facilities including:
 - (a) Meeting new residents;
 - (b) Visiting residents, per request of residents' family, staff, or others;
 - (c) Linking/referring long-term care residents and family members to appropriate long-term care services and assisting them to obtain needed information/help.
- (5) Refer complaints requiring investigation or arbitration to appropriate ombudsman.
- (6) Participate in training programs provided by state and local ombudsmen.
- (7) Submit monthly activity reports to the volunteer coordinator.

[Statutory Authority: Chapter 43.190 RCW. 85-03-069 (Order 2190), § 388-18-050, filed 1/17/85.]

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

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

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

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

(b) State-certified volunteer ombudsmen shall receive a certificate and picture identification card from DSHS. The identification card shall be signed by the division director.

[Statutory Authority: Chapter 43.190 RCW. 85-03-069 (Order 2190), § 388-18-060, filed 1/17/85.]

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

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

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

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

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

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

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

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

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

(8) Ombudsmen and volunteer ombudsmen shall treat all information contained in residents' records as confidential.

[Statutory Authority: Chapter 43.190 RCW. 85-03-069 (Order 2190), § 388-18-070, filed 1/17/85.]

WAC 388-18-080 Reporting requirements. (1) All local ombudsmen programs shall submit monthly reports

to the state ombudsman office. All ombudsmen programs shall use the reporting forms provided by the state ombudsman office.

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

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

(4) Failure to submit monthly reports to the state ombudsman office shall be a sufficient reason to revoke certification status.

[Statutory Authority: Chapter 43.190 RCW. 85-03-069 (Order 2190), § 388-18-080, filed 1/17/85.]

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

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

(a) The name of the ombudsman;

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

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

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

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

WAC 388-18-100 Privacy during ombudsman visits.

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

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

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

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

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

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

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

(4) Conferences between an ombudsman and two or more residents or residents and facility administration may be necessary or appropriate to carry out the provisions of this chapter and applicable law. The ombudsman shall have discretion to seek such a conference,

provided that, if there is a reasonable likelihood private, privileged, or confidential information may be revealed at the conference, the ombudsman shall obtain written authorization for release of such information, signed by appropriate parties in accordance with the provisions of this chapter and applicable law, before proceeding with the conference.

(5) Ombudsman and volunteer ombudsman shall comply with the expressed wishes or preferences of residents with regard to visits and shall exercise due regard for the rights of other residents and facility schedules and routines, subject only to the requirements of this chapter and applicable law.

[Statutory Authority: Chapter 43.190 RCW. 85-03-069 (Order 2190), § 388-18-100, filed 1/17/85.]

WAC 388-18-110 Confidentiality of information.

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

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

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

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

(ii) The disclosure is required by court order.

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

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

(4) All ombudsmen programs shall have and keep in force written procedures and forms relating to the disclosure of confidential information. Such procedures and forms shall be reviewed by and subject to the approval of the state ombudsman office. s

[Statutory Authority: Chapter 43.190 RCW. 85-03-069 (Order 2190), § 388-18-110, filed 1/17/85.]

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

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

(3) The ombudsman office shall make appropriate referrals to other public and private agencies.

[Statutory Authority: Chapter 43.190 RCW. 85-03-069 (Order 2190), § 388-18-120 filed 1/17/85.]

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

the office of the long-term care ombudsman and a description of the services provided by the office.

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

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

(4) This information shall also be distributed to the residents, family members, and legal guardians upon the resident's admission to the facility.

[Statutory Authority: Chapter 43.190 RCW. 85-03-069 (Order 2190), § 388-18-130, filed 1/17/85.]

Chapter 388-20 WAC EXCEPTION TO RULE

WAC

388-20-010 Rules—Applicability.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

388-20-020 Rules—Procedures for exceptions. [Order 773, § 388-20-020, filed 2/16/73; Order 686, § 388-20-020, filed 5/25/72; Order 528, § 388-20-020, filed 3/31/71, effective 5/1/71; Order 348, § 388-20-020, filed 5/28/69; Order 273, § 388-20-020, filed 1/29/68; Regulation 4.00 (part), filed 12/31/65, effective 2/1/66; Regulation 4.00, filed 1/24/64.] Repealed by 83-14-028 (Order 1976), filed 6/30/83. Statutory Authority: RCW 74.08.090.

WAC 388-20-010 Rules—Applicability. (1) The rules for determining eligibility and amount of payment are based on law and are designed to permit the granting of necessary assistance considering the applicant's requirements, resources and ability to help himself or herself. The purpose is to assure the meeting of need on a modest, reasonable basis. The result of granting assistance according to these rules should be to ease the conditions individuals would face without such assistance and to increase opportunities for functioning effectively under arrangements adapted to the individual's particular circumstances.

(2) The rules are necessarily based on conditions considered to apply in the great majority of situations. Individual circumstances may exist where application of the rule seems to work in opposition to the objective desired. This may occur when the person's situation differs from that of the majority or when his or her circumstances are peculiar. In these cases, exceptions may be considered.

(3) An exception cannot be made to a specific provision of the law. However, individual case exception to a rule not specifically enunciated in the law can be authorized by the secretary or his or her designee when it appears to be in the best interest of overall economy and the individual's welfare.

(4) Exception decisions are not subject to the fair hearing procedures of chapter 388-08 WAC.

[Statutory Authority: RCW 74.08.090. 83-14-028 (Order 1976), § 388-20-010, filed 6/30/83; Order 773, § 388-20-010, filed 2/16/73; Order 528, § 388-20-010, filed 3/31/71, effective 5/1/71; Order 348, § 388-20-010, filed 5/28/69; Regulation 4.00 (part), filed 12/31/65, effective 2/1/66; Regulation 4.00, filed 1/24/64.]

Chapter 388-22 WAC

DETERMINING AND VERIFYING ELIGIBILITY-- DEFINITIONS

WAC

388-22-030 Definitions.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

388-22-010 Principles in determining eligibility. [Regulation 5.10, filed 7/27/67; Regulation 5.10, filed 1/24/64.] Repealed by Order 529, filed 3/31/71, effective 5/1/71.

388-22-020 Verifying eligibility and reeligibility. [Order 1016, § 388-22-020, filed 4/1/75; Order 943, § 388-22-020, filed 6/28/74; Order 871, § 388-22-020, filed 11/20/73; Order 529, § 388-22-020, filed 3/31/71, effective 5/1/71; Order 266, § 388-22-020, filed 12/5/67; Regulation 5.20, filed 7/27/67; Regulation 5.20, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.

WAC 388-22-030 Definitions. This section contains definitions of words and phrases extensively used in the department's rules concerning the financial aid programs. This section provides a central location for definitions while eliminating the need to repeat the same in each WAC chapter. Related definitions are grouped under the key word.

For medical assistance—Title XIX and medical services (fully state financed) program definitions, see chapter 388-80 WAC. For food stamp program definitions, see chapter 388-49 WAC.

(1) "Adequate consideration" means the reasonable value of the goods or services received in exchange for transferred property approximates the reasonable value of the property transferred.

(2) "Adult" means a person eighteen years of age or older.

(3) "Applicant" means any member of an assistance unit by or for whom a request for assistance has been made.

(4) "Application" means a written request for financial assistance or a written or oral request for medical or social service, provided by the department of social and health services, made by a person in the person's own behalf or in behalf of another person.

(5) "Assistance unit" means a person or group of persons required to be included together when determining eligibility for an assistance program.

(6) "Authorization" means an official approval of a departmental action.

(a) "Authorization date" means the date the prescribed form authorizing assistance is signed.

(b) "Authorization of grant" means attesting the applicant's eligibility for assistance and giving authority to make payment accordingly.

(7) "Automobile" means a motorized vehicle.

(8) "Board and room" means a living arrangement where a person purchases food, shelter, and household maintenance from one vendor.

(9) "Boarding home" means a place where a person purchases food, shelter, and household maintenance on a board and room basis.

(10) "CFR" means the code of federal regulations established by the federal government.

(11) "Cash savings" means money which is not classified as income.

(12) "Certification date" means the date the worker certifies changes in a client's case and authorizes a change in grant.

(13) "Child" or "minor child" means a person under 18 years of age.

(14) "Chore services" means household, yard, and/or personal care services which assist a person in the person's own home.

(15) "Client" means an applicant and/or recipient of financial, medical and/or social services.

(16) "Continuing assistance" means payments to persons who are eligible for and receive regular monthly grants on a prepayment basis.

(17) "Dependent child" means a child who is not self-supporting, married, or a member of the armed forces of the United States. Receiving public assistance does not constitute self-support.

(18) "Disability." (See WAC 388-93-025.)

(19) "Disaster assistance" means a financial grant or temporary housing for eligible victims of an emergency or major disaster as declared by the governor or president.

(20) "Effective date" means the date eligibility for a grant begins, changes, or ends.

(21) "Encumbrances" means any mortgage, claim, lien, charge or other legally enforceable liability, such as past due taxes, attached to and binding on property.

(22) "Entitlement" means any form of benefit, such as compensation, insurance, pension retirement, military, bonus, allotment, allowance payable in cash or in-kind in which a client may have a claim or interest.

(23) "Equity" means quick-sale value less encumbrances.

(24) "Estate" means all real and personal property that a deceased person has a right or interest as of the date of death.

(25) "Exception to policy" means a waiver by the secretary's designee to a department policy for a specific client experiencing an undue hardship because of the policy. The waiver may not be contrary to law.

(26) "Fair hearing" means an administrative proceeding to hear and decide a client appeal of a department action or decision.

(27) "Federal aid" means the assistance grant programs funded in part by the United States government.

(28) "Food stamp program" means the program administered by the department in cooperation with the

U.S. Department of Agriculture to certify eligible households to receive food coupons used to buy food.

(29) "Fraud."

(a) For financial aid programs, fraud means a deliberate, intentional and willful act with the specific purpose of deceiving the department with respect to any material fact, condition or circumstance affecting eligibility or need.

(b) "Food stamp fraud" is defined in chapter 388-49 WAC.

(30) "Funeral" means the care of the remains of a deceased person with, appropriate services including necessary costs of, needed facilities, a lot or cremation, and the customary memorial marking of a grave.

(31) "General assistance" means state-funded assistance to eligible pregnant or incapacitated persons who are not eligible for or not receiving federal aid assistance.

(32) "Grant" means an entitlement awarded to a client and paid by state warrants redeemable at par.

(a) "Grant adjustment" means postpayment of the difference between the amount a client was eligible for in a given period and the amount already paid.

(b) "Initial grant" means the payment due from date of eligibility to the date of the first regular grant.

(c) "Minimum grant" means ten dollars, unless a court decision requires payment of a smaller amount, or the grant would have exceeded ten dollars prior to applying a mandatory overpayment deduction.

(d) "One-time grant" means a payment supplementing or replacing a regular grant.

(e) "Regular grant" means the monthly prepayment of assistance on a continuing basis.

(33) "Grantee" means the person or persons to or for whom assistance is paid.

(34) "House" means a separate structure of one or more rooms.

(35) "Household maintenance" means the requirements for space heating, water heating, cooking, lights, refrigeration, household supplies, garbage, sewage disposal, and water.

(36) "Income" means any appreciable gain in real or personal property (cash or in-kind) received by a client during the month for which eligibility is determined, and that can be applied toward the needs of the assistance unit.

(a) "Cash income" means income in the form of money, bank notes, checks or any other readily liquidated form.

(b) "Earned income" means income in cash or in-kind earned as wages, salary, commissions or profit from activities in which the individual is engaged as a self-employed person or as an employee.

(c) "Exempt income" means net income which is not deducted from the cost of requirements to determine need.

(d) "Income in-kind" means income in the form of a requirement which contributes appreciably toward meeting the need for the requirement. Income in-kind shall be evaluated in terms of its cash equivalent under WAC 388-28-600.

(e) "Net income" means gross income less cost of producing or maintaining the income.

(f) "Nonexempt income" means net income which is deducted from the cost of requirements to determine need.

(g) "Recurrent income" means income which can be predicted to occur at regular intervals.

(37) "Incapacity" (see WAC 388-24-065 for AFDC and WAC 388-37-030 and 388-37-032 for GA-U).

(38) "Inquiry" means a request for information about the department and/or the services offered by the department.

(39) "Institution" means a treatment facility within which an individual receives professional care specific to that facility.

(a) "Institution-medical" provides medical, nursing or convalescent care by professional personnel.

(b) "Institution-private" is operated by nongovernmental authority by private interests.

(c) "Institution-public" is supported by public funds and administered by a governmental agency.

(d) "Institutional services" are those items and services furnished to individuals in a particular institution.

(e) "Nursing home" means a public facility or private licensed facility certified by the department to provide skilled nursing and/or intermediate care.

(40) "Joint account" means a numbered account within a financial institution which is registered to two or more parties and is accessible to each party for withdrawal of a cash resource (see WAC 388-28-430 (2)(a)).

(41) "Living in own home" means a living arrangement other than a boarding home, hospital, nursing home, or other institution.

(42) "Marketable securities" means stocks, bonds, mortgages, and all other forms of negotiable securities.

(43) "Minor" means a person under eighteen years of age.

(44) "Need" is the difference between the assistance unit's financial requirements, by departmental standards, and the value of all nonexempt net income and resources received by or available to the assistance unit.

(45) "Need under normal conditions of living" means the Washington state gross median income adjusted for family size as promulgated by the secretary of HEW, under the authority granted by Title XX of the Social Security Act minus other income during a period of time when not receiving public assistance.

(46) "Overpayment" means any assistance paid to an assistance unit where:

(a) Eligibility for the payment did not exist; or

(b) Assistance paid was in excess of need.

(47) "Payee" means the person in whose name a warrant or check is issued.

(48) "Permanent and total disability" means the inability to do any substantial gainful activity because of a medically determinable physical or mental impairment which can be expected to result in death or which has lasted or is expected to last for at least twelve consecutive months.

(49) "Property" means all resources and/or income possessed by a client.

(a) "Personal property" means any form of property which is not real property.

(b) "Real property" is land, buildings thereon and fixtures permanently attached to such buildings. Growing crops are included. Any structure used as a dwelling shall be considered as real property.

(c) "Transfer of property" means a conveyance of title to, or any interest in, property from one party to another through a bill of sale, deed, or any other instrument conveying the interest in property.

(d) "Used and useful property" means property which currently serves a practical purpose for a client.

(50) "Protective payment" means a grant payment to an individual on behalf of an eligible recipient.

(51) "Psychiatric facility" means an institution legally qualified to administer psychiatric inpatient treatment.

(52) "Public assistance" means public aid to persons in need thereof for any cause including services, medical care, assistance grants, disbursing orders, and work relief.

(53) "Recipient" means any person within an assistance unit receiving assistance.

(54) "Reinstate" means an authorization to resume payment of a grant from the category in which payment was previously suspended.

(55) "Requirement" means an item of maintenance or a service recognized by the department as essential to the welfare of an individual.

(a) "Additional requirement" means a requirement which is essential for some clients under specified conditions. See WAC 388-29-150 through 388-29-270.

(b) "Basic requirements" means the needs essential to all persons; food, clothing, personal maintenance and necessary incidentals, shelter and household maintenance.

(56) "Resource" means an asset, tangible or intangible, owned by or available to a client which can be applied toward meeting financial need, either directly or by conversion into money or its equivalent. Any resource obtained on or after the first of the month in which eligibility is determined is called "income."

(a) "Exempt resource" is a resource which by policy is not considered in computing financial need.

(b) "Nonexempt resource" means a resource which is not exempt, and the value of which is used to determine financial need.

(57) "Restitution" means repayment to the state of assistance paid contrary to law.

(58) "Separate property" means real or personal property which was acquired by either spouse before marriage, or as a result of gift or inheritance, or was acquired and paid for entirely out of income from separate property.

(59) "Statements in support of application" means any form or document required under department regulations.

(60) "Suspension" means a temporary discontinuance of a grant payment.

(61) "Terminate" means discontinuance of payment or suspension status.

(62) "Transfer" means reassignment of a case record from one CSO to another in accordance with a client's change of residence.

(63) "Unmarried parents" means a man and a woman not legally married who are the natural parents of the same child.

(64) "Value" means the worth of an item in money or goods at a certain time.

(a) "Ceiling value" means the limitation established by the department on the gross market value of nonexempt property.

(b) "Fair market value" means the price at which a seller willing, but not required to sell, might sell to a purchaser, willing but not required to purchase.

(c) "Quick-sale value" or "forced-sale value" is the value at which property can be converted into cash almost immediately, and without waiting for "the best offer."

(65) "Vendor payment" means an authorized payment to an individual, corporation or agency for goods furnished or services rendered to an individual eligible for public assistance.

(66) "Vocational training" means an organized curriculum in a school, training unit, or training program under recognized sponsorship with a specific vocational training objective.

(67) "Warrant" means the state treasurer's warrant issued in payment of a grant.

(68) "Warrant register" means the list of warrants issued specifying payee's name, amount of payment, warrant number, and for each AFDC payment the number of matchable persons whose need is being met by the grant.

(a) "Regular warrant register" means the list of regular grants paid.

(b) "Supplemental warrant register" means the list of initial, adjusting and one-time grants paid.

[Statutory Authority: RCW 74.08.090, 89-11-102 (Order 2801), § 388-22-030, filed 5/24/89; 80-09-021 (Order 1521), § 388-22-030, filed 7/9/80; 78-10-036 (Order 1338), § 388-22-030, filed 9/18/78; Order 1131, § 388-22-030, filed 7/8/76; Order 1058, § 388-22-030, filed 10/1/75; Order 745, § 388-22-030, filed 12/7/72; Order 648, § 388-22-030, filed 2/9/72; Order 617, § 388-22-030, filed 10/27/71; Order 529, § 388-22-030, filed 3/31/71, effective 5/1/71; Order 353, § 388-22-030, filed 5/29/69; Regulation 5.30, filed 6/14/66; Regulation 5.30, filed 1/24/64.]

Chapter 388-24 WAC

AID TO FAMILIES WITH DEPENDENT CHILDREN--ELIGIBILITY

WAC

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| 388-24-040 | Aid to families with dependent children—Summary of eligibility conditions. |
| 388-24-042 | Aid to families with dependent children—Eligibility of strikers. |
| 388-24-044 | Mandatory monthly reporting. |
| 388-24-050 | Aid to families with dependent children—Assistance unit. |
| 388-24-052 | Provision of Social Security numbers. |

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| 388-24-055 | Aid to families with dependent children—regular—Deprivation of parental support or care. |
| 388-24-060 | Aid to families with dependent children—regular—Deprivation due to death. |
| 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. |
| 388-24-108 | Eligibility conditions applicable to AFDC—Assignment of rights to support. |
| 388-24-109 | Eligibility conditions applicable to AFDC—Support enforcement cooperation. |
| 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. |
| 388-24-200 | Reporting child neglect or abuse—Coordination of department services. |
| 388-24-207 | Aid to families with dependent children—foster care—Summary of eligibility conditions. |
| 388-24-210 | Aid to families with dependent children—foster care—Assistance unit. |
| 388-24-215 | Aid to families with dependent children—foster care—Requirements. |
| 388-24-220 | Aid to families with dependent children—foster care—Standards and requirements. |
| 388-24-225 | Aid to families with dependent children—foster care—Income and nonexempt resources. |
| 388-24-235 | Aid to families with dependent children—foster care—Medical care. |
| 388-24-243 | Aid to families with dependent children—foster care—Nonprofit agency placement. |
| 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. |
| 388-24-550 | Assistance to minor child. |

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

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| 388-24-005 | Organization of chapter. [Regulation 6.00, filed 12/21/64, effective 2/1/65; Regulation 6.00, filed 1/24/64.] Repealed by Order 530, filed 3/31/71, effective 5/1/71. |
| 388-24-010 | Aid to blind—Summary of eligibility conditions. [Order 618, § 388-24-010, filed 10/27/71; Order 530, § 388-24-010, filed 3/31/71, effective 5/1/71; Regulation 6.11, filed 6/30/67; Regulation 6.11, filed 6/3/65, 1/24/64.] Repealed by Order 917, filed 3/14/74. |
| 388-24-015 | Aid to blind—Blindness defined. [Order 530, § 388-24-015, filed 3/31/71, effective 5/1/71; Regulation 6.121, filed 1/24/64.] Repealed by Order 917, filed 3/14/74. |
| 388-24-020 | Aid to blind—Publicly soliciting alms defined. [Order 530, § 388-24-020, filed 3/31/71, effective 5/1/71; Regulation 6.122, filed 1/24/64.] Repealed by Order 917, filed 3/14/74. |
| 388-24-025 | Aid to blind—Determining blindness. [Order 530, § 388-24-025, filed 3/31/71, effective 5/1/71; Regulation 6.13, filed 1/24/64.] Repealed by Order 917, filed 3/14/74. |
| 388-24-030 | Factors—Authorization procedure for determining blindness. [Regulation 6.131, filed 1/24/64.] Repealed by Order 530, filed 3/31/71, effective 5/1/71. |

- 388-24-032 Factors—Services. [Order 530, § 388-24-032, filed 3/31/71, effective 5/1/71.] Repealed by Order 917, filed 3/14/74.
- 388-24-045 Aid to families with dependent children—Sub-categories of AFDC. [Order 441, § 388-24-045, filed 4/15/70; Order 365, § 388-24-045, filed 7/9/69; Regulation 6.211, filed 8/29/66; Regulation 6.211, filed 12/31/65.] Repealed by Order 530, filed 3/31/71, effective 5/1/71.
- 388-24-071 Aid to families with dependent children—Termination of deprivation. [Order 730, § 388-24-071, filed 10/27/72.] Repealed by Order 923, filed 4/15/74.
- 388-24-075 Aid to families with dependent children—regular—Multiple deprivation factors. [Statutory Authority: RCW 43.20A.550. 79-11-081 (Order 1444), § 388-24-075, filed 10/23/79. Statutory Authority: RCW 74.08.090. 78-12-027 (Order 1357), § 388-24-075, filed 11/15/78; Order 597, § 388-24-075, filed 9/1/71; Order 530, § 388-24-075, filed 3/31/71, effective 5/1/71; Order 496, § 388-24-075, filed 11/25/70, effective 1/1/71; Regulation 6.2214, filed 10/13/66, effective 11/13/66; Regulation 6.2214, filed 8/29/66; Regulation 6.2214, filed 12/31/65.] Repealed by 81-10-012 (Order 1644), filed 4/27/81. Statutory Authority: RCW 74.08.090.
- 388-24-080 Aid to families with dependent children—regular—Employed parent. [Order 597, § 388-24-080, filed 9/1/71; Order 530, § 388-24-080, filed 3/31/71, effective 5/1/71; Order 447, § 388-24-080, filed 5/14/70, effective 6/15/70; Regulation 6.222, filed 8/29/66; Regulation 6.222, filed 12/31/65, 1/24/64.] Repealed by 79-11-081 (Order 1444), filed 10/23/79. Statutory Authority: RCW 43.20A.550.
- 388-24-095 Eligibility conditions applicable to AFDC—Use of resources for employment or training—Unemployed employable and unemployable person defined. [Order 748, § 388-24-095, filed 12/7/72; Order 609, § 388-24-095, filed 9/22/71; Order 530, § 388-24-095, filed 3/31/71, effective 5/1/71; Order 496, § 388-24-095, filed 11/25/70, effective 1/1/71; Order 447, § 388-24-095, filed 5/14/70, effective 6/15/70; Order 319, § 388-24-095, filed 11/27/68; Emergency Order 305, § 388-24-095, filed 9/20/68; Regulation 6.2311, filed 8/29/66 and 12/31/65.] Repealed by Order 829, filed 7/26/73.
- 388-24-097 Full-time employment. [Order 447, § 388-24-097, filed 5/14/70, effective 6/15/70.] Repealed by Order 496, filed 11/25/70, effective 1/1/71 and Order 530, filed 3/31/71, effective 5/1/71.
- 388-24-100 Eligibility factors applicable to aid to dependent children—regular and aid to dependent children—employable—Employable person in or not in labor force. [Regulation 6.2312, filed 8/29/66; Regulation 6.2312, filed 12/31/65.] Repealed by Order 319, filed 11/27/68 and Emergency Order 305, filed 9/20/68.
- 388-24-105 Eligibility factors applicable to aid to dependent children—regular and aid to dependent children—employable—Registration of unemployed person in the labor force with state employment service. [Regulation 6.2313, filed 8/29/66; Regulation 6.2313, filed 12/31/65.] Repealed by Order 319, filed 11/27/68 and Emergency Order 305, filed 9/20/68.
- 388-24-107 Eligibility conditions applicable to AFDC—R and AFDC—E—Registration and participation in employment programs. [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.] Repealed by 91-02-092 (Order 3129), filed 12/31/90, effective 1/31/91. Statutory Authority: RCW 74.04.050.
- 388-24-110 Eligibility factors applicable to aid to dependent children—regular and aid to dependent children—employable—Verification of unemployment compensation status. [Regulation 6.2314, filed 8/29/66; Regulation 6.2314, filed 12/31/65.] Repealed by Order 319, filed 11/27/68 and Emergency Order 305, filed 9/20/68.
- 388-24-114 Procedures affecting abandoned child. [Order 1241, § 388-24-114, filed 9/23/77.] Repealed by 89-12-079 (Order 2808), filed 6/7/89. Statutory Authority: RCW 74.08.090.
- 388-24-115 Eligibility factors applicable to aid to dependent children—regular and aid to dependent children—employable—Acceptance of available employment. [Regulation 6.2315, filed 8/29/66; Regulation 6.2315, filed 12/31/65.] Repealed by Order 319, filed 11/27/68 and Emergency Order 305, filed 9/20/68.
- 388-24-120 Eligibility factors applicable to aid to dependent children—regular and aid to dependent children—employable—Referral for other services. [Regulation 6.2316, filed 8/29/66; Regulation 6.2316, filed 12/31/65.] Repealed by Order 319, filed 11/27/68 and Emergency Order 305, filed 9/20/68.
- 388-24-130 Living in home of relative of specified degree—Financial need. [Regulation 6.233, filed 8/29/66; Regulation 6.233, filed 1/24/64.] Repealed by Order 291, filed 6/12/68 and Emergency Order 288, filed 5/1/68.
- 388-24-135 Aid to families with dependent children—Employable parent—Summary of eligibility conditions. [Statutory Authority: RCW 74.08.090. 80-14-014 (Order 1546), § 388-24-135, filed 9/23/80. Statutory Authority: RCW 43.20A.550. 79-11-081 (Order 1444), § 388-24-135, filed 10/23/79. Statutory Authority: RCW 74.08.090. 79-03-013 (Order 1368), § 388-24-135, filed 2/15/79; Order 1189, § 388-24-135, filed 2/18/77; Order 1101, § 388-24-135, filed 2/25/76; Order 1051, § 388-24-135, filed 9/10/75; Order 748, § 388-24-135, filed 12/7/72; Order 638, § 388-24-135, filed 1/28/72; Order 597, § 388-24-135, filed 9/1/71; Order 530, § 388-24-135, filed 3/31/71, effective 5/1/71; Order 338, § 388-24-135, filed 2/14/69; Order 319, § 388-24-135, filed 11/27/68; Emergency Order 305, § 388-24-135, filed 9/20/68; Order 291, § 388-24-135, filed 6/12/68; Emergency Order 287, filed 5/1/68; Regulations 6.24 and 6.241, filed 8/29/66; Regulations 6.24 and 6.241, filed 12/31/65, 7/13/65, 6/17/64 and 1/24/64.] Repealed by 81-10-012 (Order 1644), filed 4/27/81. Statutory Authority: RCW 74.08.090.
- 388-24-137 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.
- 388-24-140 Living in home of relative of specified degree—Deprivation due to unemployment of parent. [Regulation 6.242, filed 8/29/66; Regulation 6.242, filed 12/31/65.] Repealed by Order 291, filed 6/12/68 and Emergency Order 288, filed 5/1/68.
- 388-24-145 Living in home of relative of specified degree—Employability of parent. [Regulation 6.2421, filed 8/29/66; Regulation 6.2421, filed 12/31/65.] Repealed by Order 291, filed 6/12/68 and Emergency Order 288, filed 5/1/68.
- 388-24-150 Living in home of relative of specified degree—Unemployed parent. [Regulation 6.2422, filed 8/29/66; Regulation 6.2422, filed 12/31/65.] Repealed by Order 291, filed 6/12/68 and Emergency Order 288, filed 5/1/68.
- 388-24-155 Parent in the labor force. [Regulation 6.2423, filed 8/29/66; Regulation 6.2423, filed 12/31/65.] Repealed by Order 291, filed 6/12/68 and Emergency Order 288, filed 5/1/68.
- 388-24-160 Aid to dependent child of unemployed parent—Financial need. [Regulation 6.243, filed 8/29/66; Regulation 6.243, filed 12/31/65.] Repealed by Order 356, filed 5/29/69.
- 388-24-180 Aid to families with dependent children—Children eighteen, nineteen, twenty years of age. [Order 530, § 388-24-180, filed 3/31/71, effective 5/1/71; Regulation 6.26, filed 7/13/65; Regulation 6.26, filed 1/24/64.] Repealed by Order 618, filed 10/27/71.
- 388-24-190 Coordination of public assistance and child welfare services—Responsibility for protective care for children. [Order 530, § 388-24-190, filed 3/31/71, effective 5/1/71; Regulation 6.271, filed 1/24/64.] Repealed by 89-12-079 (Order 2808), filed 6/7/89. Statutory Authority: RCW 74.08.090.
- 388-24-195 Coordination of public assistance and child welfare services—Transfer of cases involving services to children. [Regulation 6.272, filed 1/24/64.] Repealed by Order 530, filed 3/31/71, effective 5/1/71.
- 388-24-205 Aid to dependent children—Foster family care. [This is reference section only.] Repealed by Order 917, filed 3/14/74.
- 388-24-230 Aid to families with dependent children—foster care—Authorization and payment. [Order 291, § 388-24-230, filed 6/12/68; Regulation 6.286, filed 1/24/64.] Repealed by Order 469, filed 8/19/70.
- 388-24-240 Aid to families with dependent children—foster care—Assignment of cases. [Order 291, § 388-24-240, filed 6/12/68; Regulation 6.288, filed 1/24/64.] Repealed by Order 469, filed 8/19/70.
- 388-24-270 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.
- 388-24-275 Emergency assistance to needy families with children—Aliens. [Statutory Authority: RCW 74.08.090. 78-10-036 (Order 1338), § 388-24-275, filed 9/18/78; Order 1004, § 388-24-275, filed 1/24/75.]
- Repealed by 80-16-039 (Order 1565), filed 11/3/80. Statutory Authority: RCW 74.08.090.
- 388-24-276 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.
- 388-24-360 Disability assistance. [Order 783, § 388-24-360, filed 3/16/73; Order 563, § 388-24-360, filed 5/19/71; Order 530, § 388-24-360, filed 3/31/71, effective 5/1/71; Regulation 6.30, filed 6/17/64; Regulation 6.30, filed 1/24/64.] Repealed by Order 917, filed 3/14/74.
- 388-24-365 Disability assistance—Summary of eligibility conditions. [Order 563, § 388-24-365, filed 5/19/71; Order 530, § 388-24-365, filed 3/31/71, effective 5/1/71; Order 365, § 388-24-365, filed 7/9/69; Regulation 6.31, filed 6/17/64; Regulation 6.31, filed 1/24/64.] Repealed by Order 917, filed 3/14/74.
- 388-24-370 Disability assistance—Permanent and total disability. [Order 563, § 388-24-370, filed 5/19/71; Order 530, § 388-24-370, filed 3/31/71, effective 5/1/71; Regulation 6.32, filed 6/17/64; Regulations 6.32, 6.321, et. seq., filed 1/24/64.] Repealed by Order 917, filed 3/14/74.
- 388-24-375 Disability assistance—Application. [Order 563, § 388-24-375, filed 5/19/71.] Repealed by Order 917, filed 3/16/74.
- 388-24-380 Disability assistance—Local office responsibility. [Order 530, § 388-24-380, filed 3/31/71, effective 5/1/71; Regulation 6.33, filed 6/17/64; Regulation 6.33, filed 1/24/64.] Repealed by Order 563, filed 5/19/71.
- 388-24-382 Disability assistance—Periodic review of permanent and total disability. [Order 563, § 388-24-382, filed 5/19/71.] Repealed by Order 917, filed 3/14/74.
- 388-24-384 Disability assistance—Reapplication. [Order 563, § 388-24-384, filed 5/19/71.] Repealed by Order 917, filed 3/14/74.
- 388-24-390 Medical division representative's responsibility. [Regulation 6.34, filed 6/17/64; Regulation 6.343, filed 1/24/64.] Repealed by Order 530, filed 3/31/71, effective 5/1/71. Repealed by Order 563, filed 5/19/71.
- 388-24-392 Medical division representatives responsibility—State office review team supervisory function. [Order 563, § 388-24-392, filed 5/19/71.] Repealed by Order 917, filed 3/14/74.
- 388-24-400 Medical division representatives responsibility—Area review team—Composition—Function. [Order 609, § 388-24-400, filed 9/22/71; Order 563, § 388-24-400, filed 5/19/71; Order 530, § 388-24-400, filed 3/31/71, effective 5/1/71; Regulation 6.35, filed 6/17/64; Regulation 6.341, filed 1/24/64.] Repealed by Order 917, filed 3/14/74.
- 388-24-405 State office responsibility—Division of medical care. [Regulation 6.36, filed 6/17/64.] Repealed by Order 530, filed 3/31/71, effective 5/1/71.
- 388-24-410 State office responsibility—Refusal to accept available and recommended medical treatment. [Order 563, § 388-24-410, filed 5/19/71; Order 530, § 388-24-410, filed 3/31/71, effective 5/1/71; Regulation 6.37, filed 6/17/64, effective 8/1/64.] Repealed by Order 917, filed 3/14/74.
- 388-24-455 Old age assistance—Summary of eligibility conditions. [Order 530, § 388-24-455, filed 3/31/71, effective 5/1/71; Order 365, § 388-24-455, filed 7/9/69; Order 247, § 388-24-455, filed 11/1/67; Regulations 6.40 and 6.41, filed 1/24/64.] Repealed by Order 917, filed 3/14/74.
- 388-24-475 Continuing general assistance—Summary of eligibility conditions. [Order 609, § 388-24-475, filed 9/22/71; Order 530, § 388-24-475, filed 3/31/71, effective 5/1/71; Order 365, § 388-24-475, filed 7/9/69; Order 344, § 388-24-475, filed 4/16/69; Order 291, § 388-24-475, filed 6/12/68; Emergency Order 287, filed 5/1/68; Order 247, § 388-24-475,

- filed 11/1/67; Regulation 6.51, filed 12/31/65; Regulation 6.51 filed 1/24/64.] Repealed by Order 841, filed 8/9/73.
- 388-24-485 Continuing general assistance—Factors. [Regulation 6.52, filed 1/24/64.] Repealed by Order 291, filed 6/12/68 and Emergency Order 288, filed 5/1/68.
- 388-24-490 Continuing general assistance—Limitations. [Order 247, § 388-24-490, filed 11/1/67; Regulation 6.521, filed 1/24/64.] Repealed by Order 291, filed 6/12/68 and Emergency Order 288, filed 5/1/68.
- 388-24-495 Continuing general assistance—Unemployability. [Order 609, § 388-24-495, filed 9/22/71; Order 530, § 388-24-495, filed 3/31/71, effective 5/1/71; Order 247, § 388-24-495, 11/1/67; Regulation 6.522, filed 12/31/65; Regulation 6.522, filed 1/24/64.] Repealed by Order 841, filed 8/9/73.
- 388-24-500 Continuing general assistance—Refusal to accept available and recommended medical treatment. [Order 530, § 388-24-500, filed 3/31/71, effective 5/1/71; Order 247, § 388-24-500, filed 11/1/67; Regulation 6.523, filed 1/24/64.] Repealed by Order 841, filed 8/9/73.
- 388-24-505 Continuing general assistance—Standards for requirements. [Order 530, § 388-24-505, filed 3/31/71, effective 5/1/71; Regulation 6.524, filed 1/24/64.] Repealed by Order 841, filed 8/9/73.
- 388-24-510 Continuing general assistance—General assistance—unemployable person for federal aid recipient from another state. [Regulation 6.525, filed 1/24/64.] Repealed by Order 280, filed 2/14/68.

WAC 388-24-040 Aid to families with dependent children—Summary of eligibility conditions. 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 388-24-042 Aid to families with dependent children--Eligibility of strikers. (1) "Strike" shall mean any concerted stoppage, slowdown, or other interruption of work by employees, including a stoppage by reason of the expiration of a collective-bargaining agreement.

(2) The department shall determine:

(a) As ineligible, any AFDC or refugee assistance unit in which the parent(s) or only eligible child participates in a strike on the last day of the month; or

(b) As eligible, only the otherwise eligible parent and sibling(s) of a child in the home who participates in a strike on the last day of the month.

[Statutory Authority: RCW 74.08.090. 89-12-079 (Order 2808), § 388-24-042, filed 6/7/89; 83-22-066 (Order 2033), § 388-24-042, filed 11/2/83; 82-09-034 (Order 1792), § 388-24-042, filed 4/14/82; 82-01-009 (Order 1728), § 388-24-042, filed 12/4/81.]

WAC 388-24-044 Mandatory monthly reporting.

(1) As a condition of continuing eligibility for AFDC, certain recipients must return to the department a completed monthly report by the fifth day of the month following the month for which the report describes the household circumstances. Recipients required to report monthly are those who:

(a) Are currently employed, or

(b) Have recent work history.

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

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

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

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

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

(7) Failure to return a completed report by the fifth day of the month shall result in termination except as provided in subsection (9) of this section.

(8) The department shall give advance and adequate notice to the recipient who does not submit a completed monthly report timely as defined in subsection (7) of this section.

(9) If the recipient furnishes the completed report to the department within ten days from the date of a termination notice pursuant to subsections (1) and (7) of this section, the department shall:

(a) Accept the replacement form; and

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

(10) If the information on the replacement form indicates the recipient is ineligible or eligible for an amount less than the prior month's payment, the department shall give adequate notice to the recipient.

(11) Requirements in subsections (2), (3), (4), (5), and (6) of this section are effective with monthly reports generated in November 1985.

[Statutory Authority: RCW 74.08.090. 86-16-044 (Order 2400), § 388-24-044, filed 8/1/86; 86-01-010 (Order 2316), § 388-24-044, filed 12/5/85; 84-23-028 (Order 2169), § 388-24-044, filed 11/14/84; 84-09-074 (Order 2096), § 388-24-044, filed 4/18/84; 83-17-012 (Order 1993), § 388-24-044, filed 8/5/83; 82-17-067 (Order 1863), § 388-24-044, filed 8/18/82; 82-10-060 (Order 1799), § 388-24-044, filed 5/5/82.]

WAC 388-24-050 Aid to families with dependent children—Assistance unit. (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 388-24-052 Provision of Social Security numbers. (1) As a condition of eligibility, the department shall require each applicant for or recipient of assistance to:

(a) Furnish a Social Security number; or

(b) Apply for a Social Security number if the number is unknown or has not been issued; and

(c) Report any new or previously unknown Social Security number following its receipt.

(2) The department shall not deny, delay, or terminate assistance pending issuance of Social Security numbers.

(3) If any person in the assistance unit fails to furnish or apply for a Social Security number, the department shall determine such person to be ineligible.

(4) If a client needs help in obtaining a Social Security number, the department shall:

(a) Refer the client to the nearest Social Security office; and

(b) Furnish requested verification from department records.

[Statutory Authority: RCW 74.08.090. 89-12-079 (Order 2808), § 388-24-052, filed 6/7/89; 85-18-041 (Order 2275A), § 388-24-052, filed 8/30/85; 80-06-066 (Order 1501), § 388-24-052, filed 5/22/80; Order 1054, § 388-24-052, filed 9/25/75.]

WAC 388-24-055 Aid to families with dependent children—regular—Deprivation of parental support or care. (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 388-24-060 Aid to families with dependent children--Regular--Deprivation due to death. (1) If either or both parents are deceased, a child is considered as deprived of parental support or care except that:

(2) Deprivation of parental support or care due to death is overcome by marriage or remarriage of the remaining parent. A stepparent is legally responsible for providing support and care to a stepchild.

[Order 597, § 388-24-060, filed 9/1/71; Order 530, § 388-24-060, filed 3/31/71, effective 5/1/71; Regulation 6.221, 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 home-making. 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; and

(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.

(5) 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.

(6) 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.

(7) 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 74.04.050, 90-16-081 (Order 3046), § 388-24-070, filed 7/31/90, effective 8/31/90. 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 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 earning the greater amount of income in the twenty-four-calendar-month period immediately preceding the month the application for assistance is filed. The department shall:

(a) Designate the qualifying parent using the best evidence available;

(b) Consider the earnings of both parents regardless of when the relationship began;

(c) Continue the designation for each consecutive month the family remains on assistance based on the current application; and

(d) Designate the qualifying parent if both parents earned an identical amount of income.

(3) The department shall consider the qualifying parent unemployed when the qualifying parent:

(a) Is employed less than one hundred hours a month;

(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;

(c) Participates in institutional and work experience training under the JOBS program and is not otherwise employed over one hundred hours; or

(d) Works temporarily for the 1990 federal census demonstration project in a position exempted by the project waiver and is not otherwise employed over one hundred hours.

(4) The qualifying parent shall be unemployed as defined in subsection (3) of this section for thirty days or more before the date AFDC-E is authorized except when:

(a) AFDC-E is terminated due to employment of the qualifying parent;

(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) During the same thirty-day period, or subsequently, the qualifying parent shall not have:

(a) Refused a bona fide offer of employment;

(b) Refused training for employment;

(c) Voluntarily left a job without good cause; or

(d) If eligible, refused to apply for or accept unemployment compensation.

(6) The qualifying parent shall participate, as required in the JOBS program.

(7) The qualifying parent shall have one of the following:

(a) Six or more quarters of work within any thirteen calendar quarter period ending within one year before the application for assistance.

(i) A "quarter of work" means a calendar quarter in which the parent earned income of fifty dollars or more, or participated in the OPPORTUNITIES, FIP, or JOBS program.

(ii) A "calendar quarter" means three consecutive months ending March 31st, June 30th, September 30th, or December 31st.

(b) Within one year before the application, received, or had such a work history to be eligible to receive, unemployment compensation.

[Statutory Authority: RCW 74.08.090, 90-21-123 (Order 3087), § 388-24-074, filed 10/23/90, effective 11/23/90; 89-12-079 (Order 2808), § 388-24-074, filed 6/7/89; 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 job opportunities and basic skills program (JOBS) participation as provided in WAC 388-47-100.

(2) A mandatory JOBS participant failing to cooperate in appraisal shall be subject to provisions of chapter 388-47 WAC, unless the participant:

(a) Is exempt from JOBS participation;

(b) Has not been notified of nonexempt status for JOBS participation; or

(c) Is a JOBS program volunteer participant.

(3) A child's eligibility shall not be affected by the JOBS program participation requirement for the parent or needy caretaker relative.

(4) The eligibility of a non qualifying parent not participating in JOBS shall be affected by the program participation requirement of the qualifying parent in the AFDC-E program.

(5) An individual determined exempt from participation in JOBS on the basis of documented incapacity shall be referred to DVR as described under WAC 388-52-150 through 388-52-155.

[Statutory Authority: RCW 74.08.090. 90-21-123 (Order 3087), § 388-24-090, filed 10/23/90, effective 11/23/90. 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.]

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 388-24-109 Eligibility conditions applicable to AFDC—Support enforcement cooperation. (1) As a condition of eligibility, the department shall require each applicant for or recipient of AFDC to cooperate as specified in WAC 388-14-200 unless the department

has established good cause as specified in WAC 388-24-111.

(2) Department IV-A staff shall base the determination of client cooperation on all evidence in its possession.

[Statutory Authority: RCW 74.08.090. 89-22-133 (Order 2896), § 388-24-109, filed 11/1/89, effective 12/2/89; 81-10-012 (Order 1644), § 388-24-109, filed 4/27/81; 78-09-053 (Order 1330), § 388-24-109, filed 8/22/78; Order 1054, § 388-24-109, filed 9/25/75.]

WAC 388-24-111 Good cause not to cooperate with support enforcement. (1) The department shall waive the requirement for client cooperation in WAC 388-24-109 if the client claims and the department determine cooperation would not be in the best interest of the eligible child.

(2) The department shall inform a client of:

(a) How establishing paternity and collecting support 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 provide:

(a) Corroborative evidence supporting the good cause circumstances; or

(b) 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 client claim is based on an allowable circumstance under subsection (6) of this section; and

(b) The evidence supplied by the client corroborates that cooperation would be against the best interest of the child; or

(c) 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 only determine cooperation is against the best interest of the child if the claim is based on one of the following:

(a) The client's cooperation can reasonably be anticipated to result in serious physical or emotional harm which is detrimental to the:

(i) Child; or

(ii) Caretaker relative to the extent the impairment reduces their capacity to care for the child adequately; or

(b) Establishing paternity or securing support 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 upon which the department determines 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 shows cooperation by the caretaker relative would not be in the best interest of the child;

(e) Child-placement agency verification, including the dates of counseling, regarding the issue of whether to keep or relinquish the child for adoption; or

(f) Sworn statements from knowledgeable persons, other than the client, regarding the circumstances upon which the claim is based.

(8) If the client requests, the department shall assist the client in obtaining 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) Before such contact, shall notify and allow the client the opportunity to:

(i) Present additional evidence or information that makes contact unnecessary;

(ii) Withdraw the application for assistance;

(iii) Have the good cause claim denied; or

(iv) Request a fair hearing.

(10) Where the department bases good cause on emotional harm, the department shall consider and document the following factors:

(a) Past and present emotional state of the individual subject to emotional harm;

(b) Degree and probable duration of the emotional upset;

(c) Degree of cooperation required; and

(d) Child's involvement in the paternity establishment or support enforcement activity.

(11) Department IV-A staff shall also determine if support enforcement could proceed without risk, detrimental to the child or caretaker relative where the collection activities would not involve their participation. If the title IV-D staff can proceed where such activity will not cause risk of harm, IV-A staff shall:

(a) Document this decision in the case file; and

(b) Notify the client of this decision so the client may withdraw the application; and

(c) Provide available information about the absent parent to IV-D staff if the application is not withdrawn.

(12) Before 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 has a valid claim basis as stated in subsection (6) of this section and has provided corroborative evidence and 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 every six months, 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 74.04.050, 90-16-081 (Order 3046), § 388-24-111, filed 7/31/90, effective 8/31/90. 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 388-24-200 Reporting child neglect or abuse--Coordination of department services. (1) When a department employee has reason to believe a child is neglected or abused, that employee shall report, or cause a report to be made, to the proper department staff or law enforcement agency as provided under RCW 26.44.040.

(2) The department shall determine the social service needs for dependent, neglected, and abused children.

[Statutory Authority: RCW 74.08.090. 89-12-079 (Order 2808), § 388-24-200, filed 6/7/89; Order 530, § 388-24-200, filed 3/31/71, effective 5/1/71; Regulation 6.273, filed 1/24/64.]

WAC 388-24-207 Aid to families with dependent children--foster care--Summary of eligibility conditions. To be eligible for aid to families with dependent children--foster care a child shall:

(1) Meet all the eligibility requirements in WAC 388-24-040, except for his removal from his or a relative's home as specified in subsection (2); and

(2) Have been removed after April 30, 1961 from a relative's home (WAC 388-24-125) as a result of a judicial determination to the effect that remaining in the relative's home would be contrary to his welfare, for any reason, and who has been placed in foster care as a result of such determination; and

(3) Be under the direct care or supervision of the department in a licensed family foster home, nonprofit group home, or nonprofit child care institution; and

(4) Meet one of the following conditions:

(a) Be receiving AFDC for the month in which court proceedings leading to such determination were initiated, or

(b) Have been eligible to receive AFDC, had application been made, for the month in which court action for his removal was initiated, or

(c) Lived with a specified relative within six months prior to the month in which court proceedings were initiated, and would have been eligible for AFDC in and for the month in which court proceedings were initiated if in that month he had been living with such relative and application for AFDC had been made.

[Order 978, § 388-24-207, filed 10/28/74; Order 530, § 388-24-207, filed 3/31/71, effective 5/1/71; Order 469, § 388-24-207, filed 8/19/70; Order 291, § 388-24-207, filed 6/12/68; Emergency Order 287, filed 5/1/68; Regulation 6.281, filed 6/3/65; Regulation 6.281, filed 1/24/64.]

WAC 388-24-210 Aid to families with dependent children--foster care--Assistance unit. The AFDC foster care assistance unit shall consist of only the eligible child.

[Order 530, § 388-24-210, filed 3/31/71, effective 5/1/71; Order 469, § 388-24-210, filed 8/19/70; Order 291, § 388-24-210, filed 6/12/68; Emergency Order 287, filed 5/1/68; Regulation 6.282, filed 1/24/64.]

WAC 388-24-215 Aid to families with dependent children--foster care--Requirements. (1) The basic requirements of the eligible child shall be foster family home care, clothing and personal incidentals.

(2) Additional requirements for the eligible child shall be school supplies when not provided by the school, needed transportation costs and psychological services.

[Order 291, § 388-24-215, filed 6/12/68; Emergency Order 287, filed 5/1/68; Regulation 6.283, filed 1/24/64.]

Reviser's note: Order 530, filed 3/31/71, effective 5/1/71, states that WAC 388-24-215 is amended, however, an amended section was not filed with this order.

WAC 388-24-220 Aid to families with dependent children--foster care--Standards and requirements. (1) The basic requirements of the eligible child shall be care according to

(a) The monthly cost standards for family foster home care in WAC 388-70-042, or

(b) The monthly cost standard for foster care and related services paid by the department to licensed nonprofit child caring agencies and institutions.

(1990 Ed.)

[Order 978, § 388-24-220, filed 10/28/74; Order 530, § 388-24-220, filed 3/31/71, effective 5/1/71; Order 469, § 388-24-220, filed 8/19/70; Order 291, § 388-24-220, filed 6/12/68; Emergency Order 287, filed 5/1/68; Regulation 6.284, filed 1/24/64.]

WAC 388-24-225 Aid to families with dependent children--foster care--Income and nonexempt resources.

The income and resources of the child shall be taken into consideration in determining need according to the rules in WAC 388-28-535(3). Support from parents shall be determined and secured according to the rules in WAC 388-70-075. When the child's parents receive public assistance, the parents' nonexempt income and resources are used first to meet the parents' need including the need of the parents' other minor children.

[Order 978, § 388-24-225, filed 10/28/74; Order 530, § 388-24-225, filed 3/31/71, effective 5/1/71; Order 291, § 388-24-225, filed 6/12/68; Regulation 6.285, filed 1/24/64.]

WAC 388-24-235 Aid to families with dependent children--foster care--Medical care.

Medical care shall be provided children receiving AFDC-FC in accordance with the rules and procedures which govern the granting of medical care to other children receiving care from foster care funds.

[Order 530, § 388-24-235, filed 3/31/71, effective 5/1/71; Order 469, § 388-24-235, filed 8/19/70; Order 291, § 388-24-235, filed 6/12/68; Regulation 6.287, filed 1/24/64.]

WAC 388-24-243 Aid to families with dependent children--foster care--Nonprofit agency placement.

(1) When a child is eligible for AFDC-FC and placed with a licensed nonprofit child-caring agency, the custody, planning and casework service shall be developed and maintained by the nonprofit agency. Direct contact with the child and foster home, and casework service to the parents where appropriate, shall be maintained by the agency or institutional staff caring for the child. A quarterly progress report shall be made to the local office authorizing payment for the child's care.

(2) The local office has final responsibility for determining initial and ongoing eligibility for financial support and for approval of the placement and the plan for child care. No payment for care shall be made without the approval of such placement and plan by the local office. This control shall be maintained through written agreements, documentary reports and supervisory conferences with the nonprofit agency.

[Order 530, § 388-24-243, filed 3/31/71, effective 5/1/71; Order 469, § 388-24-243, filed 8/19/70.]

WAC 388-24-250 Consolidated emergency assistance program--Conditions of eligibility.

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; or

(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 a 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 before application or after application.

(a) Households refusing a bona fide offer of employment or voluntary termination without good cause within thirty days before 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) The following conditions when verified shall constitute good cause for refusal or termination of employment:

(i) Physical, mental, or emotional inability of the individual to satisfactorily perform the work required;

(ii) Inability of the individual to get to and from the job without undue cost or hardship to the individual (travel time in excess of one hour, one way, is considered undue hardship);

(iii) The nature of the work would be hazardous to the individual;

(iv) The wages do not meet any applicable minimum wage requirements and are not customary for such work in the community;

(v) The job is available because of a labor dispute; or

(vi) Child care is not available to the household.

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

(9) Are not aliens granted lawful temporary resident status under sections 245A and 210A of the Immigration and Nationality Act. Disqualification due to this provision applies for a period of five years from the date the temporary residence status was granted.

[Statutory Authority: RCW 74.04.660. 91-02-071 (Order 3121), § 388-24-250, filed 12/28/90, effective 1/1/91; 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 in which eligibility is established. 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) Ninety 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, 91-02-071 (Order 3121), § 388-24-254, filed 12/28/90, effective 1/1/91; 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 388-24-550 Assistance to minor child. (1) A minor is a person under the age of eighteen.

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

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

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

(a) Is married,

(b) Is in the military service,

(c) Has been declared emancipated by a court of competent jurisdiction prior to the application for assistance,

(d) Is applying for medical assistance related to pregnancy.

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

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

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

(8) If a minor parent's legal guardian has a court-ordered responsibility for the support of such minor parent, such legal guardian's income, with respect to determining the availability of such income to meet the needs of the minor parent, shall be treated the same as the income of a minor parent's parent as specified in subsection (7) of this section.

[Statutory Authority: RCW 74.08.090, 85-18-041 (Order 2275A), § 388-24-550, filed 8/30/85; Order 1097, § 388-24-550, filed 2/13/76; Order 1049, § 388-24-550, filed 8/29/75; Order 1007, § 388-24-550, filed 2/13/75; Order 842, § 388-24-550, filed 8/9/73; Order 741, § 388-24-550, filed 11/22/72.]

Chapter 388-26 WAC

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

WAC

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| 388-26-010 | Factors common to two or more programs. [Regulation 7.00, filed 1/24/64.] Repealed by Order 531, filed 3/31/71, effective 5/1/71. |
| 388-26-020 | Age—Policies and procedures. [Regulation 7.10, filed 1/24/64.] Repealed by Order 917, filed 3/14/74. |
| 388-26-030 | Verification methods. [Regulation 7.12, filed 1/24/64.] Repealed by Resolution 217, filed 7/27/67. |
| 388-26-035 | Documentary evidence. [Regulation 7.13, filed 1/24/64.] Repealed by Resolution 217, filed 7/27/67. |
| 388-26-085 | Residence of women. [Regulation 7.252, filed 1/24/64.] Repealed by Order 366, filed 7/9/69. |
| 388-26-090 | Residence of Indians. [Regulation 7.253, filed 1/24/64.] Repealed by Order 366, filed 7/9/69. |
| 388-26-095 | Residence of inmate or patient in Washington state institution. [Order 248, § 388-26-095, filed 11/1/67; Regulation 7.254, filed 1/24/64.] Repealed by Order 366, filed 7/9/69. |
| 388-26-100 | Servicemen and their dependents. [Regulation 7.255, filed 1/24/64.] Repealed by Order 366, filed 7/9/69. |

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| 388-26-110 | Residence requirements of other states. [Regulation 7.27, filed 1/24/64.] Repealed by Order 366, filed 7/9/69. |
| 388-26-115 | Residence—Verification. [Order 531, § 388-26-115, filed 3/31/71, effective 5/1/71; Order 366, § 388-26-115, filed 7/9/69; Regulation 7.28, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77. |
| 388-26-122 | Citizenship and alienage—Verification of citizenship. [Order 942, § 388-26-122, filed 6/26/74.] Repealed by Order 1241, filed 9/23/77. |
| 388-26-124 | Citizenship and alienage—Verification of lawful admission for permanent residence in United States. [Order 942, § 388-26-124, filed 6/26/74.] Repealed by Order 1241, filed 9/23/77. |
| 388-26-126 | Citizenship and alienage—Verification of permanent residence in United States under color of law. [Order 942, § 388-26-126, filed 6/26/74.] Repealed by Order 1241, filed 9/23/77. |
| 388-26-128 | Citizenship and alienage—Probative value. [Order 942, § 388-26-128, filed 6/26/74.] Repealed by Order 1241, filed 9/23/77. |
| 388-26-130 | Concurrent eligibility—Policies. [No history, a caption section only.] Repealed by Order 531, filed 3/31/71, effective 5/1/71. |
| 388-26-135 | Concurrent eligibility—Federal aid programs. [Order 531, § 388-26-135, filed 3/31/71, effective 5/1/71; Regulation 7.31, filed 1/24/64.] Repealed by Order 917, filed 3/14/74. |
| 388-26-140 | Concurrent eligibility—Federal aid and general assistance. [Order 531, § 388-26-140, filed 3/31/71, effective 5/1/71; Regulation 7.32, filed 1/24/64.] Repealed by Order 841, filed 8/9/73. |
| 388-26-200 | Transfer of property. [Order 531, § 388-26-200, filed 3/31/71, effective 5/1/71; Regulation 7.50, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77. |
| 388-26-205 | Transfer of property—Definitions. [Order 531, § 388-26-205, filed 3/31/71, effective 5/1/71; Order 458, § 388-26-205, filed 5/26/70, effective 7/1/70; Regulation 7.51, filed 12/21/64, effective 2/1/65; Regulation 7.51, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77. |
| 388-26-210 | Transfer of property—With intent to qualify for public assistance. [Order 531, § 388-26-210, filed 3/31/71, effective 5/1/71; Order 458, § 388-26-210, filed 5/26/70, effective 7/1/70; Regulation 7.52, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77. |
| 388-26-215 | Transfer of property—Transfer within two years prior to application. [Order 531, § 388-26-215, filed 3/31/71, effective 5/1/71; Order 458, § 388-26-215, filed 5/26/70, effective 7/1/70; Regulation 7.53, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77. |
| 388-26-220 | Transfer of property—Adequate consideration. [Order 531, § 388-26-220, filed 3/31/71, effective 5/1/71; Regulation 7.54, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77. |
| 388-26-225 | Transfer of property—Exceptions. [Order 531, § 388-26-225, filed 3/31/71, effective 5/1/71; Regulation 7.55, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77. |
| 388-26-230 | Transfer of property—Adjustment in period of ineligibility. [Order 531, § 388-26-230, filed 3/31/71, effective 5/1/71; Order 458, § 388-26-230, filed 5/26/70, effective 7/1/70; Regulation 7.56, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77. |
| 388-26-235 | Transfer of property—Assistance during period of ineligibility. [Order 531, § 388-26-235, filed 3/31/71, effective 5/1/71; Order 458, § 388-26-235, filed 5/26/70, effective 7/1/70; Regulation 7.57, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77. |
| 388-26-245 | Transfer of property—Life estate, release, assignment—Adequate consideration. [Order 531, § 388-26-245, filed 3/31/71, effective 5/1/71; Order 458, § 388-26-245, filed 5/26/70, effective 7/1/70; Order 256, § 388-26-245, filed 11/8/67; Regulation 7.58, |

388-26-250 filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
 State insurance commissioner's table for determining valuation of present worth of life and term estates or annuities. [Order 531, § 388-26-250, filed 3/31/71, effective 5/1/71; Order 256, § 388-26-250, filed 11/8/67; Regulation 7.581, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.

WAC 388-26-025 Age determination--Specific considerations. (1) Prior to authorizing a public assistance grant, the 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
- (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.]

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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.]

WAC 388-26-145 Citizenship and alienage—Program preferences. An individual who is eligible for AFDC benefits and who also is eligible for SSI benefits has the right to elect which program he wishes to enter and which benefits he wishes to claim. An individual may not receive AFDC and SSI benefits concurrently.

[Order 910, § 388-26-145, filed 3/1/74; Order 606, § 388-26-145, filed 9/22/71; Order 531, § 388-26-145, filed 3/31/71, effective 5/1/71; Regulation 7.33, filed 1/24/64.]

WAC 388-26-149 Property transfer. Transfer of property may affect current and future eligibility of the applicant or recipient. See WAC 388-28-457 through 388-28-473 for policies regarding the effect of property transfers on need.

[Order 1241, § 388-26-149, filed 9/23/77.]

Chapter 388-28 WAC

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

WAC

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Reviser's note: Administrative Order 532 filed with the code reviser on March 31, 1971, purported to adopt editorial revisions to chapter 388-28 WAC relating to eligibility for public assistance. Emergency Order 559, filed 4/30/71 and Permanent Order 574, filed 6/22/71 repealed Order 532, filed 3/31/71, before its effective date of May 1, 1971.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

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| 388-28-010 | Standards for requirements—Person in own home. [Order 561, § 388-28-010, filed 5/5/71; Order 521, § 388-28-010, filed 3/2/71; Order 442, § 388-28-010, filed 4/15/70; Regulation 8.11, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77. |
| 388-28-020 | Standards for requirements—Family relationships. [Order 963, § 388-28-020, filed 8/19/74; Order 917, § 388-28-020, filed 3/14/74; Order 742, § 388-28-020, filed 11/22/72; Order 650, § 388-28-020, filed 2/9/72; Order 561, § 388-28-020, filed 5/5/71; Order 521, § 388-28-020, filed 3/2/71; Order 442, § 388-28-020, filed 4/15/70; Regulation 8.12, filed 6/14/66; Regulation 8.12, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77. |
| 388-28-025 | Standards for requirements—Limitations on require- ments. [Order 917, § 388-28-025, filed 3/14/74; Regulation 8.13, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77. |
| 388-28-030 | Assistance unit—Supplemental security income benefi- ciary excluded. [Order 943, § 388-28-030, filed 6/28/74.] Repealed by Order 1241, filed 9/23/77. |
| 388-28-035 | Assistance units—Aid to blind, old age assistance and disability assistance. [Emergency Order 613, § 388- 28-035, filed 10/1/71; Order 604, § 388-28-035, filed 9/22/71; Order 292, § 388-28-035, filed 6/12/68; Emergency Order 289, filed 5/1/68; Regu- lation 8.141, filed 1/24/64.] Repealed by Order 917, filed 3/14/74. |
| 388-28-040 | Assistance units—Aid to families with dependent children. [Order 823, § 388-28-040, filed 7/26/73; Emergency Order 613, § 388-28-040, filed 10/1/71; Order 604, § 388-28-040, filed 9/22/71; Order 292, § 388-28-040, filed 6/12/68; Emergency Order 289, filed 5/1/68; Regulation 8.142, filed 8/29/66; Regu- lation 8.142, filed 6/14/66, 1/24/64.] Repealed by Order 978, filed 10/28/74. |
| 388-28-045 | Assistant units—Disability assistance. [Order 292, § 388-28-045, filed 6/12/68; Emergency Order 289, filed 5/1/68; Regulation 8.143, filed 1/24/64.] Re- pealed by Order 604, filed 9/22/71. |
| 388-28-050 | Assistance units—Continuing general assistance. [Or- der 650, § 388-28-050, filed 2/9/72; Order 619, § 388-28-050, filed 10/27/71; Order 345, § 388-28- 050, filed 4/16/69; Order 292, § 388-28-050, filed 6/12/68; Emergency Order 289, filed 5/1/68; Regu- lation 8.144, filed 1/24/64.] Repealed by Order 841, filed 8/9/73. |
| 388-28-055 | Assistance units—Housekeeper. [Order 917, § 388- 28-055, filed 3/14/74; Order 650, § 388-28-055, filed 2/9/72; Regulation 8.145, filed 1/24/64.] Re- pealed by Order 1241, filed 9/23/77. |
| 388-28-060 | Assistance units—Computing and allocating basic re- quirements of person in own home. [Order 345, § 388-28-060, filed 4/16/69; Regulation 8.15, filed |

- 7/13/65; Regulation 8.15, filed 1/24/64.] Repealed by Order 521, filed 3/2/71.
- 388-28-065 Assistance units—Food, clothing, personal maintenance and necessary incidentals. [Order 345, § 388-28-065, filed 4/16/69; Regulation 8.151, filed 3/31/66; Regulation 8.151, filed 1/24/64.] Repealed by Order 521, filed 3/2/71.
- 388-28-070 Assistance units—Shelter. [Order 345, § 388-28-070, filed 4/16/69; Regulation 8.152, filed 1/24/64.] Repealed by Order 521, filed 3/2/71.
- 388-28-075 Assistance units—Household maintenance. [Order 345, § 388-28-075, filed 4/16/69; Order 292, § 388-28-075, filed 6/12/68; Emergency Order 289, filed 5/1/68; Regulation 8.153, filed 1/24/64.] Repealed by Order 521, filed 3/2/71.
- 388-28-080 Monthly cost of basic requirements—Maximums—Person in own home—Person in medical institution. [Order 1131, § 388-28-080, filed 7/8/76; Order 963, § 388-28-080, filed 8/19/74; Order 902, § 388-28-080, filed 1/29/74; Order 650, § 388-28-080, filed 2/9/72; Order 561, § 388-28-080, filed 5/5/71; Order 521, § 388-28-080, filed 3/2/71; Regulation 8.20, filed 7/27/67; Regulation 8.20, filed 8/29/66, 3/31/66, 12/31/65, 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-28-085 Monthly cost of basic requirements as adjusted for maximum grant limitations—Food. [Order 561, § 388-28-085, filed 5/5/71; Order 521, § 388-28-085, filed 3/2/71; Order 375, § 388-28-085, filed 8/7/69; Regulation 8.21, filed 7/27/67; Regulation 8.21, filed 2/23/67, 1/24/64.] Repealed by Order 650, filed 2/9/72.
- 388-28-090 Monthly cost of basic requirements as adjusted for maximum grant limitations—Clothing. [Order 561, § 388-28-090, filed 5/5/71; Order 521, § 388-28-090, filed 3/2/71; Order 375, § 388-28-090, filed 8/7/69; Regulation 8.22, filed 7/27/67; Regulation 8.22, filed 2/23/67, 8/29/66, 1/24/64.] Repealed by Order 650, filed 2/9/72.
- 388-28-095 Monthly cost of basic requirements as adjusted for maximum grant limitations—Personal maintenance and necessary incidentals. [Order 561, § 388-28-095, filed 5/5/71; Order 521, § 388-28-095, filed 3/2/71; Order 375, § 388-28-095, filed 8/7/69; Regulation 8.23, filed 7/27/67; Regulation 8.23, filed 2/23/67, 8/29/66, 1/24/64.] Repealed by Order 650, filed 2/9/72.
- 388-28-098 Increases in monthly standards for basic requirements. [Order 927, § 388-28-098, filed 4/15/74.] Repealed by Order 963, filed 8/19/74. This section was repealed before publication in WAC.
- 388-28-100 Monthly standards for basic requirements—AFDC and continuing general assistance. [Order 1234, § 388-28-100, filed 8/31/77; Order 1145, § 388-28-100, filed 8/26/76; Order 1101, § 388-28-100, filed 2/25/76; Order 1040, § 388-28-100, filed 8/7/75; Order 993, § 388-28-100, filed 12/31/74; Order 963, § 388-28-100, filed 8/19/74 (§ 388-28-100 was repealed by Order 930, filed 4/25/74 and filed as amended by subsequent orders); Order 902, § 388-28-100, filed 1/29/74; Order 823, § 388-28-100, filed 7/26/73; Order 744, § 388-28-100, filed 11/30/72; Order 724, § 388-28-100, filed 10/12/72; Order 650, § 388-28-100, filed 2/9/72.] Repealed by Order 1241, filed 9/23/77.
- 388-28-105 Increases in monthly standards for basic requirements—Shelter. [Order 561, § 388-28-105, filed 5/5/71; Order 521, § 388-28-105, filed 3/2/71; Order 375, § 388-28-105, filed 8/7/69; Regulation 8.241, filed 7/27/67; Regulation 8.241, filed 2/23/67, 8/29/66, 1/24/64.] Repealed by Order 650, filed 2/9/72.
- 388-28-110 Monthly cost of basic requirements—Home ownership. [Order 375, § 388-28-110, filed 8/7/69; Regulation 8.242, filed 7/27/67; Regulation 8.242, filed 2/23/67, 1/24/64.] Repealed by Order 521, filed 3/2/71.
- 388-28-115 Monthly cost of basic requirements as adjusted for maximum grant limitations—Supplied shelter. [Order 521, § 388-28-115, filed 3/2/71; Regulation 8.243, filed 1/24/64.] Repealed by Order 604, filed 9/22/71.
- 388-28-125 Monthly cost of basic requirements as adjusted for maximum grant limitations—Household maintenance—Utilities—Household supplies. [Order 521, § 388-28-125, filed 3/2/71; Order 375, § 388-28-125, filed 8/7/69; Regulation 8.251, filed 7/27/67; Regulation 8.251, filed 2/23/67, 8/29/66, 1/24/64.] Repealed by Order 650, filed 2/9/72.
- 388-28-130 Fuel for space heating. [Order 521, § 388-28-130, filed 3/2/71; Order 375, § 388-28-130, filed 8/7/69; Regulation 8.252, filed 7/27/67; Regulation 8.252, filed 2/23/67, 1/24/64.] Repealed by Order 650, filed 2/9/72.
- 388-28-133 Maximums to monthly standards for basic requirements. [Order 1234, § 388-28-133, filed 8/31/77; Order 1145, § 388-28-133, filed 8/26/76; Order 1040, § 388-28-133, filed 8/7/75; Order 963, § 388-28-133, filed 8/19/74; Order 927, § 388-28-133, filed 4/15/74; Order 902, § 388-28-133, filed 1/29/74; Order 823, § 388-28-133, filed 7/26/73; Order 721, § 388-28-133, filed 9/28/72; Order 650, § 388-28-133, filed 2/9/72; Order 561, § 388-28-133, filed 5/5/71.] Repealed by Order 1241, filed 9/23/77.
- 388-28-134 Additional monthly allowance for noninstitutionalized adult recipient of continuing general assistance. [Order 1052, § 388-28-134, filed 10/9/75; Order 917, § 388-28-134, filed 3/14/74; Order 823, § 388-28-134, filed 7/26/73; Order 721, § 388-28-134, filed 9/28/72.] Repealed by Order 1234, filed 8/31/77.
- 388-28-135 Standards for requirements—Transportation—Old age and aid to blind assistance only. [Order 442, § 388-28-135, filed 4/15/70; Order 375, § 388-28-135, filed 8/7/69; Regulation 8.26, filed 7/27/67, 2/23/67, 1/24/64.] Repealed by Order 521, filed 3/2/71.
- 388-28-136 Cost standards for requirements—Person in medical institution. [Order 1145, § 388-28-136, filed 8/26/76; Order 1052, § 388-28-136, filed 9/10/75; Order 1017, § 388-28-136, filed 4/14/75.] Repealed by Order 1241, filed 9/23/77.
- 388-28-137 Cost standards for requirements—Person in congregate care facility. [Order 1234, § 388-28-137, filed 8/31/77; Order 1145, § 388-28-137, filed 8/26/76; Order 1076, § 388-28-137, filed 12/17/75; Order 1052, § 388-28-137, filed 9/10/75; Order 1017, § 388-28-137, filed 4/14/75.] Repealed by Order 1241, filed 9/23/77.
- 388-28-138 Cost standards for requirements—Maternity home care. [Order 1234, § 388-28-138, filed 8/31/77; Order 1116, § 388-28-138, filed 4/28/76.] Repealed by Order 1241, filed 9/23/77.
- 388-28-140 Monthly standards for basic requirements—AFDC—Child living with relative not in need. [Order 1234, § 388-28-140, filed 8/31/77; Order 1145, § 388-28-140, filed 8/26/76; Order 1052, § 388-28-140, filed 9/10/75; Order 1007, § 388-28-140, filed 2/13/75; Order 976, § 388-28-140, filed 10/28/74; Order 902, § 388-28-140, filed 1/29/74; Order 823, § 388-28-140, filed 7/26/73; Order 650, § 388-28-140, filed 2/9/72; Order 375, § 388-28-140, filed 8/7/69; Order 346, § 388-28-140, filed 4/16/69; Regulation 8.27, filed 7/27/67; Regulation 8.27, filed 2/23/67, 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-28-142 Monthly standards for basic requirements—AFDC—Child in need of specialized education or training. [Order 1234, § 388-28-142, filed 8/31/77; Order 1052, § 388-28-142, filed 9/10/75; Order 823, § 388-28-142, filed 7/26/73; Order 650, § 388-28-142, filed 2/9/72; Order 561, § 388-28-142, filed

- 5/5/71; Order 521, § 388-28-142, filed 3/2/71; Order 346, § 388-28-142, filed 4/16/69.] Repealed by Order 1241, filed 9/23/77.
- 388-28-150 Standards for additional requirements under specified circumstances. [Order 1176, § 388-28-150, filed 12/23/76; Order 650, § 388-28-150, filed 2/9/72; Regulation 8.30, filed 7/27/67; Regulation 8.30, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-28-155 Standards for additional requirements under specified circumstances—Child care expenses for employed person. [Order 1236, § 388-28-155, filed 8/31/77.] Repealed by 78-06-086 (Order 1303), filed 6/2/78. Statutory Authority: RCW 74.04.510 and 74.08.090.
- 388-28-160 Standards for additional requirements under specified circumstances—Board. [Order 823, § 388-28-160, filed 7/26/73; Order 650, § 388-28-160, filed 2/9/72; Order 521, § 388-28-160, filed 3/2/71; Order 375, § 388-28-160, filed 8/7/69; Regulation 8.311, filed 7/27/67; Regulation 8.311, filed 2/23/67, 1/24/64.] Repealed by Order 1052, filed 9/10/75.
- 388-28-165 Standards for additional requirements under specified circumstances—Restaurant meals. [Order 1234, § 388-28-165, filed 8/31/77; Order 1145, § 388-28-165, filed 8/26/76; Order 1052, § 388-28-165, filed 9/10/75; Order 823, § 388-28-165, filed 7/26/73; Order 650, § 388-28-165, filed 2/9/72; Order 521, § 388-28-165, filed 3/2/71; Order 375, § 388-28-165, filed 8/7/69; Regulation 8.312, filed 7/27/67; Regulation 8.312, filed 2/23/67, 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-28-170 Standards for additional requirements under specified circumstances—Daily restaurant meals. [Order 1234, § 388-28-170, filed 8/31/77; Order 1145, § 388-28-170, filed 8/26/76; Order 1052, § 388-28-170, filed 9/10/75; Order 902, § 388-28-170, filed 1/29/74; Order 823, § 388-28-170, filed 7/26/73; Order 650, § 388-28-170, filed 2/9/72; Order 375, § 388-28-170, filed 8/7/69; Regulation 8.313, filed 7/27/67; Regulation 8.313, filed 2/23/67, 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-28-180 Standards for additional requirements under specified circumstances—Home delivered meals (meals-on-wheels). [Order 650, § 388-28-180, filed 2/9/72; Regulation 8.315, filed 7/27/67; Regulation 8.315, filed 12/21/64, effective 2/1/65.] Repealed by Order 1241, filed 9/23/77.
- 388-28-185 Standards for additional requirements under specified circumstances—Personal and household service in own home—Adult without minor children in household. [Order 393, § 388-28-185, filed 10/15/69; Regulation 8.32, filed 12/21/64, effective 2/1/65; Regulation 8.32, filed 1/24/64.] Repealed by Order 601, filed 9/8/71.
- 388-28-190 Standards for additional requirements under specified circumstances—Determination of need for service. [Order 393, § 388-28-190, filed 10/15/69; Regulation 8.321, filed 3/21/67; Regulation 8.321, filed 12/21/64.] Repealed by Order 601, filed 9/8/71.
- 388-28-195 Standards for additional requirements under specified circumstances—Cost standard. [Order 393, § 388-28-195, filed 10/15/69; Regulation 8.322, filed 3/21/67; Regulation 8.322, filed 12/24/64, effective 2/1/65.] Repealed by Order 601, filed 9/8/71.
- 388-28-200 Monthly cost of basic requirements as adjusted for maximum grant limitations—Computation of payment for personal and household services in kind. [Order 561, § 388-28-200, filed 5/5/71; Order 521, § 388-28-200, filed 3/2/71; Regulation 8.323, filed 12/21/64, effective 2/1/65.] Repealed by Order 601, filed 9/8/71.
- 388-28-205 Standards for additional requirements under specified circumstances—Old age and survivors insurance tax. [Regulation 8.324, filed 12/21/64, effective 2/1/65.] Repealed by Order 601, filed 9/8/71.
- 388-28-210 Standards for additional requirements under specified circumstances—Personal and household service in own home for adult without minor children in household—Continuing eligibility for services. [Order 403, § 388-28-210, filed 11/24/69; Order 375, § 388-28-210, filed 8/7/69; Regulation 8.325, filed 7/27/67; Regulation 8.325, filed 12/24/64, effective 2/1/65.] Repealed by Order 601, filed 9/8/71.
- 388-28-220 Standards for additional requirements under specified circumstances—Transportation to state of legal residence. [Order 969, § 388-28-220, filed 9/13/74; Order 650, § 388-28-220, filed 2/9/72; Regulation 8.33, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-28-225 Standards for additional requirements under specified circumstances—Food for guide dog. [Order 1234, § 388-28-225, filed 8/31/77; Order 1145, § 388-28-225, filed 8/26/76; Order 1052, § 388-28-225, filed 9/10/75; Order 902, § 388-28-225, filed 1/29/74; Order 823, § 388-28-225, filed 7/26/73; Order 650, § 388-28-225, filed 2/9/72; Order 375, § 388-28-225, filed 8/7/69; Order 268, § 388-28-225, filed 12/5/67; Regulation 8.34, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-28-230 Standards for additional requirements under specified circumstances—Telephone. [Order 650, § 388-28-230, filed 2/9/72; Regulation 8.35, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-28-235 Standards for additional requirements under specified circumstances—Laundry. [Order 1234, § 388-28-235, filed 8/31/77; Order 1145, § 388-28-235, filed 8/26/76; Order 1052, § 388-28-235, filed 9/10/75; Order 823, § 388-28-235, filed 7/26/73; Order 650, § 388-28-235, filed 2/9/72; Order 268, § 388-28-235, filed 12/5/67; Regulation 8.36, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-28-245 Standards for additional requirements under specified circumstances—Housekeeping service in household with minor children. [Order 650, § 388-28-245, filed 2/9/72; Order 375, § 388-28-245, filed 8/7/69; Order 268, § 388-28-245, filed 12/5/67; Regulation 8.38, filed 12/21/64, effective 2/1/65; Regulation 8.83, filed 1/24/64.] Repealed by Order 1088, filed 1/19/76.
- 388-28-250 Standards for additional requirements under specified circumstances—Cost of participating in supplemental medical insurance benefits (SMIB) under Title XVIII-B of the Social Security Act. [Emergency Order 290, § 388-28-250, filed 5/1/68; Regulation 8.39, filed 8/29/66.] Repealed by Order 292, filed 6/12/68.
- 388-28-251 Winterizing homes. [Order 1045, § 388-28-251, filed 8/14/75.] Repealed by Order 1241, filed 9/23/77.
- 388-28-260 Requirements of person in boarding home—Continuing general assistance. [Order 1234, § 388-28-260, filed 8/31/77; Order 1145, § 388-28-260, filed 8/26/76; Order 1052, § 388-28-260, filed 9/10/75; Order 902, § 388-28-260, filed 1/29/74; Order 823, § 388-28-260, filed 7/26/73; Order 731, § 388-28-260, filed 10/27/72; Order 650, § 388-28-260, filed 2/9/72; Order 521, § 388-28-260, filed 3/2/71; Order 375, § 388-28-260, filed 8/7/69; Regulation 8.411, filed 7/27/67; Regulation 8.411, filed 2/23/67, 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-28-270 Requirements of person in boarding home—Clothing—Aid to blind, disability assistance, old age assistance, general assistance—unemployable. [Order 521, § 388-28-270, filed 3/2/71; Regulation 8.412, filed 1/24/64.] Repealed by Order 650, filed 2/9/72.
- 388-28-275 Requirements of person in boarding home—Personal maintenance and necessary incidentals—Aid to blind, disability assistance, old age assistance, general assistance—unemployable. [Order 521, § 388-28-275, filed 3/2/71; Regulation 8.413, filed 1/24/64.] Repealed by Order 650, filed 2/9/72.

- 388-28-280 Requirements of person with other living arrangements—Transportation. [Regulation 8.414, filed 1/24/64.] Repealed by Order 521, filed 3/2/71.
- 388-28-285 Requirements of person in boarding home—Additional requirements. [Order 917, § 388-28-285, filed 3/14/74; Order 375, § 388-28-285, filed 8/7/69; Regulation 8.415, filed 7/27/67; Regulation 8.415, filed 8/29/66, 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-28-290 Requirements of person with other living arrangement—Institutional living arrangement. [Order 375, § 388-28-290, filed 8/7/69; Regulation 8.42, filed 1/24/64.] Repealed by Order 917, filed 3/14/74.
- 388-28-292 Adult family home—Care defined. [Order 455, § 388-28-292, filed 5/18/70.] Repealed by Order 813, filed 6/28/73.
- 388-28-293 Adult family home—Determination of need for care and placement. [Order 455, § 388-28-293, filed 5/18/70.] Repealed by Order 813, filed 6/28/73.
- 388-28-294 Adult family home care—Cost standards. [Order 1234, § 388-28-294, filed 8/31/77; Order 1145, § 388-28-294, filed 8/26/76; Order 1052, § 388-28-294, filed 9/10/75; Order 963, § 388-28-294, filed 8/19/74; Order 902, § 388-28-294, filed 1/29/74; Order 823, § 388-28-294, filed 7/26/73; Order 731, § 388-28-294, filed 10/27/72; Order 650, § 388-28-294, filed 2/9/72; Order 552, § 388-28-294, filed 4/1/71; Order 455, § 388-28-294, filed 5/18/70.] Repealed by Order 1241, filed 9/23/77.
- 388-28-295 Adult family home—Standards for payment approval. [Order 455, § 388-28-295, filed 5/18/70.] Repealed by Order 813, filed 6/28/73.
- 388-28-296 Adult family home—Standards for home and sponsor. [Order 455, § 388-28-296, filed 5/18/70.] Repealed by Order 813, filed 6/28/73.
- 388-28-297 Adult family home—Services to be provided. [Order 455, § 388-28-297, filed 5/18/70.] Repealed by Order 813, filed 6/28/73.
- 388-28-298 Adult family home—Application for approval for payment—Home study. [Order 635, § 388-28-298, filed 1/13/72; Order 455, § 388-28-298, filed 5/18/70.] Repealed by Order 813, filed 6/28/73.
- 388-28-305 Property rights and entitlements—Rights inherent in relationship. [Order 942, § 388-28-305, filed 6/26/74; Order 703, § 388-28-305, filed 8/11/72; Order 445, § 388-28-305, filed 4/28/70; Regulation 8.51, filed 1/24/64.] Repealed by Order 1054, filed 9/25/75.
- 388-28-315 Property rights and entitlements—Support for dependent children—Parents' responsibility. [Order 942, § 388-28-315, filed 6/26/74; Order 703, § 388-28-315, filed 8/11/72; Order 619, § 388-28-315, filed 10/27/71; Order 481, § 388-28-315, filed 9/29/70, effective 11/1/70; Regulation 8.521, filed 1/24/64.] Repealed by Order 1054, filed 9/25/75.
- 388-28-320 Property rights and entitlements—Absent parent's responsibility—Liability—Recovery. [Order 942, § 388-28-320, filed 6/26/74; Order 703, § 388-28-320, filed 8/11/72; Order 481, § 388-28-320, filed 9/29/70, effective 11/1/70; Regulation 8.522, filed 1/24/64.] Repealed by Order 1054, filed 9/25/75.
- 388-28-323 Property rights and entitlements—Applicant or recipient responsibility. [Order 942, § 388-28-323, filed 6/26/74; Order 703, § 388-28-323, filed 8/11/72; Order 616, § 388-28-323, filed 10/13/71; Order 481, § 388-28-323, filed 9/29/70, effective 11/1/70.] Repealed by Order 1054, filed 9/25/75.
- 388-28-325 Support for dependent children—Obtaining support from absent parent. [Regulation 8.523, filed 1/24/64.] Repealed by Order 481, filed 9/29/70, effective 11/1/70.
- 388-28-330 Support enforcement services. [Regulation 8.524, filed 1/24/64.] Repealed by Order 481, filed 9/29/70, effective 11/1/70.
- 388-28-335 Support enforcement services—Budgeting payments. [Order 274, § 388-28-335, filed 1/29/68; Emergency Order 272, § 388-28-335, filed 12/29/67; Regulation 8.525, filed 1/24/64.] Repealed by Order 481, filed 9/29/70, effective 11/1/70.
- 388-28-337 Property rights and entitlements—Full grant plan. [Order 942, § 388-28-337, filed 6/26/74; Order 703, § 388-28-337, filed 8/11/72; Order 616, § 388-28-337, filed 10/13/71; Order 481, § 388-28-337, filed 9/29/70, effective 11/1/70; Order 274, § 388-28-337, filed 1/29/68; Emergency Order 272, § 388-28-337, filed 12/29/67.] Repealed by Order 1054, filed 9/25/75.
- 388-28-338 Support for dependent children—Optional support plans. [Order 616, § 388-28-338, filed 10/13/71; Order 481, § 388-28-338, filed 9/29/70, effective 11/1/70.] Repealed by Order 703, filed 8/11/72.
- 388-28-340 Property rights and entitlement—Establishment of paternity of illegitimate child. [Order 942, § 388-28-340, filed 6/26/74; Order 703, § 388-28-340, filed 8/11/72; Order 664, § 388-28-340, filed 3/23/72; Order 616, § 388-28-340, filed 10/13/71; Order 481, § 388-28-340, filed 9/29/70, effective 11/1/70; Regulation 8.526, filed 1/24/64.] Repealed by Order 1054, filed 9/25/75.
- 388-28-343 Confidentiality. [Order 942, § 388-28-343, filed 6/26/74.] Repealed by Order 1054, filed 9/25/75.
- 388-28-345 Confidentiality—Procedures affecting abandoned child. [Order 889, § 388-28-345, filed 12/27/73; Order 703, § 388-28-345, filed 8/11/72; Order 481, § 388-28-345, filed 9/29/70, effective 11/1/70; Regulation 8.527, filed 1/24/64.] Repealed by Order 1241, filed 9/23/77.
- 388-28-395 Community, separate and jointly owned property—Premium for supplementary medical insurance—Title XVIII, Part B. [Order 292, § 388-28-395, filed 6/12/68; Emergency Order 289, filed 5/1/68; Regulation 8.571, filed 12/31/65, effective 7/1/66.] Repealed by Order 917, filed 3/14/74.
- 388-28-455 Nonexempt resources—Real property—Nonexempt. [Statutory Authority: RCW 74.08.090. 82-18-063 (Order 1870), § 388-28-455, filed 9/1/82; Regulation 8.641, filed 1/24/64.] Repealed by 84-07-019 (Order 2087), filed 3/14/84. Statutory Authority: RCW 74.08.090.
- 388-28-490 Use of income and income potentials—Recording net cash income computation. [Regulation 8.821, filed 1/24/64.] Repealed by Order 650, filed 2/9/72.
- 388-28-525 Net cash income—Self-employment income and expenses. [Order 891, § 388-28-525, filed 12/27/73; Regulation 8.842, filed 1/24/64.] Repealed by 79-04-013 (Order 1369), filed 3/15/79. Statutory Authority: RCW 74.08.090.
- 388-28-550 Net cash income—Income for education or vocational training. [Order 749, § 388-28-550, filed 12/7/72; Order 375, § 388-28-550, filed 8/7/69; Order 296, § 388-28-550, filed 8/26/68; Regulation 8.845, filed 5/17/67; Regulation 8.845, filed 2/3/67, 12/31/65, 1/24/64.] Repealed by Order 891, filed 12/27/73.
- 388-28-576 Tax Reduction Act of 1975—Payments disregarded. [Order 1229, § 388-28-576, filed 8/23/77; Order 1175, § 388-28-576, filed 12/8/76; Order 1110, § 388-28-576, filed 4/15/76; Order 1028, § 388-28-576, filed 5/29/75.] Repealed by 80-04-051 (Order 1496), filed 3/21/80. Statutory Authority: RCW 74.08.090.
- 388-28-605 Net cash income—Produce and supplied food. [Order 521, § 388-28-605, filed 3/2/71; Regulation 8.851, filed 7/13/65; Regulation 8.851, filed 3/11/65, 1/24/64.] Repealed by Order 561, filed 5/5/71.
- 388-28-610 Net cash income—Fuel, water, electricity. [Order 521, § 388-28-610, filed 3/2/71; Regulation 8.852, filed 7/13/65; Regulation 8.852, filed 1/24/64.] Repealed by Order 561, filed 5/5/71.
- 388-28-615 Net cash income—Shelter. [Order 521, § 388-28-615, filed 3/2/71; Regulation 8.853, filed 3/31/66; Regulation 8.853, filed 7/13/65, 1/24/64.] Repealed by Order 561, filed 5/5/71.

- 388-28-625 Net cash income—Annual gross value of supplied food per person by number of months and proportions available. [Regulation 8.854, filed 1/24/64.] Repealed by Order 521, filed 3/2/71.
- 388-28-630 Aid to the blind applicant with self-support plan. [Regulation 8.86, filed 6/30/67; Regulation 8.86, filed 6/30/74, 1/24/64.] Repealed by Order 917, filed 3/14/74.
- 388-28-635 Aid to the blind applicant with self-support plan—Approval of aid to the blind applicant's self-support plan. [Regulation 8.861, filed 1/24/64.] Repealed by Order 917, filed 3/14/74.
- 388-28-640 Aid to the blind applicant with self-support plan—Comparing requirements' costs with values of nonexempt resources and income to determine financial need and to authorize grant. [Regulation 8.90, filed 1/24/64.] Repealed by Order 604, filed 9/22/71.
- 388-28-645 Aid to the blind applicant with self-support plan—Eligibility or ineligibility of applicant. [Regulation 8.91, filed 1/24/64.] Repealed by Order 604, filed 9/22/71.

WAC 388-28-005 Financial need—Rules and procedures. (1) To be eligible for public assistance an applicant must be in financial need. Financial need exists when the applicant's payment level as hereinafter specified and adjusted for the maximum grant limitations plus authorized additional requirements exceeds the value of nonexempt resources currently possessed and the amount of his nonexempt recurrent and nonrecurrent income. The difference thus computed represents the extent of need which exists.

(2) The rules in chapter 388-28 WAC governing determination of an applicant's financial need for assistance also govern the determination of the continuing need of a recipient unless specifically stated otherwise.

(3) Need is subject to change whenever the recipient's financial circumstances change in such a way that the appropriate payment level or his income is increased or decreased in relation to the standards for assistance.

[Statutory Authority: RCW 74.08.090. 83-04-033 (Order 1940), § 388-28-005, filed 1/28/83, effective 3/1/83; Order 1241, § 388-28-005, filed 9/23/77; Order 561, § 388-28-005, filed 5/5/71; Regulation 8.00, filed 1/24/64.]

WAC 388-28-300 Property rights and entitlements. WAC 388-28-300 through 388-28-392 deal with rules governing rights to property as these affect eligibility for public assistance. "Property" as used in this section includes both "resources" and "income" as defined in WAC 388-22-030.

[Statutory Authority: RCW 74.08.090. 85-18-042 (Order 2276), § 388-28-300, filed 8/30/85; Order 1241, § 388-28-300, filed 9/23/77; Order 445, § 388-28-300, filed 4/28/70; Regulation 8.50, filed 1/24/64.]

WAC 388-28-350 Confidentiality—Stepparent responsibility. (1) The income and resources of a stepparent are deemed to be available to meet the requirements of the stepchild and its parent in the same manner as the income and resources of the natural or adoptive parent. See WAC 388-28-560.

(2) The stepparent's responsibility for support ceases when the marriage is terminated by death or divorce.

(3) The natural parent of such child is not relieved of a legal obligation to support his child by this provision.

[Order 1132, § 388-28-350, filed 7/8/76; Order 481, § 388-28-350, filed 9/29/70, effective 11/1/70; Regulation 8.53, filed 1/24/64.]

WAC 388-28-355 Nonrelated adult in household. (1) When a dependent child lives with one parent and another person not legally married to the parent:

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

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

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

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

(4) The natural parent is not relieved of a legal obligation to support his or her child by contributions from the nonrelated adult toward the child's support.

[Statutory Authority: RCW 74.08.090. 85-18-042 (Order 2276), § 388-28-355, filed 8/30/85; 83-04-033 (Order 1940), § 388-28-355, filed 1/28/83, effective 3/1/83; 78-10-036 (Order 1338), § 388-28-355, filed 9/18/78; Order 1018, § 388-28-355, filed 4/23/75; Order 786, § 388-28-355, filed 4/12/73; Order 650, § 388-28-355, filed 2/9/72; Order 481, § 388-28-355, filed 9/29/70, effective 11/1/70; Order 445, § 388-28-355, filed 4/28/70; Regulation 8.54, filed 6/14/66; Regulation 8.54, filed 1/24/64.]

WAC 388-28-360 Community, separate and jointly owned property—Community property. (1) All property, either real or personal, held in the name of either the husband or wife or both is presumed to be community property. Any income received by either the husband or wife is presumed to be community income. The earnings of the husband, or wife, or both, if not legally separated, are community income.

(2) Property subject to the disposition of either the applicant or his (her) spouse, is presumed to be community property for the purpose of determining eligibility. This presumption stands until overcome by positive evidence to the contrary.

(3) Community property is considered to constitute a resource available to the family unit and hence to both or either spouse. Each member of the marital community shall have his or her eligibility determined on the basis of a family unit and on the basis of the total community property holdings and income, regardless of whether one or both are applicants.

[Regulation 8.551, filed 1/24/64.]

WAC 388-28-365 Community, separate and jointly owned property—Separate property. (1) 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 34.05.395 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 388-28-380 Community, separate and jointly owned property--Property jointly owned (not community). When an applicant has less than full title to property (title is shared with some person other than the spouse and other than the contract vendor, mortgage or lien holder) eligibility shall be determined upon the basis of the applicant's equity in his fractional interest in the value of the property.

[Regulation 8.554, filed 1/24/64.]

WAC 388-28-385 Community, separate and jointly owned property--Property ownership--Verification. In the absence of definite evidence to the contrary produced by the applicant, legally executed bills of sale, purchasing contracts, official tax records, or documents executed for purposes such as securing loans and which specify the applicant as owner, or as carrying the obligation attendant upon ownership, shall be presumed to establish the ownership of such resource by the applicant.

[Regulation 8.56, filed 1/24/64.]

WAC 388-28-390 Community, separate and jointly owned property--Entitlements. (1) "Entitlement" means any claim or interest, payable in cash or in kind, a client may have in the following:

- (a) Benefit;
- (b) Compensation;
- (c) Insurance;
- (d) Pension (retirement, military, etc.);
- (e) Bonus;
- (f) Allotment;
- (g) Allowance, etc.

(2) The department shall:

- (a) Determine the interest a client may have in any entitlement; and
- (b) Refer the client to the proper agency to apply for such benefits;
- (c) Assist the client, when requested to do so, in obtaining such benefits;

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(d) Deny a client who refuses to establish the existence of an entitlement and its value; and

(e) Consider the resource amount which the client may claim in computing the financial need whether or not the client chooses to receive the entitlement.

[Statutory Authority: RCW 74.08.090. 89-07-038 (Order 2774), § 388-28-390, filed 3/10/89; Order 917, § 388-28-390, filed 3/14/74; Regulation 8.57, filed 2/3/67; Regulation 8.57, filed 12/31/65, 1/24/64.]

WAC 388-28-392 Community, separate, and jointly owned property--Time-loss compensation--Lien. (1) The department of social and health services shall file a lien to recover time-loss compensation payable to a public assistance client, unless the client's time-loss benefits are based upon an injury or illness occurring before July 1, 1972.

(2) By accepting public assistance, adult and minor clients subrogate to the department the clients' right to recover time-loss compensation. The department shall compute payments for time-loss compensation and public assistance paid for less than a full month on the actual number of days paid. The department shall not make a further claim under this lien when:

(a) Duplicated benefits terminate; or

(b) Continued assistance is required to supplement time-loss compensation to bring the assistance unit up to the grant standard.

(3) When an assistance unit consists of unmarried parents, the department shall recover time-loss benefits as though the injured worker and the injured worker's dependents comprise a separate assistance unit.

(a) The department shall consider any common children to be part of the injured worker's assistance unit.

(b) The department shall budget any income received by the injured worker or dependents against the separate assistance grant of the injured worker and the injured worker's dependents.

(4) The department shall file a statement of lien and notice to withhold and deliver with the department of labor and industries or the self-insurer.

The department shall mail a copy of the notice to the client no later than the first following working day.

(5) The department shall advise a client of the provision in WAC 388-28-392 when the client may be eligible for time-loss compensation.

(6) The department shall advise a client of the client's right to a fair hearing as provided in chapter 388-08 WAC.

[Statutory Authority: RCW 74.08.090. 91-02-070 (Order 3111), § 388-28-392, filed 12/28/90, effective 1/28/91; 85-18-066 (Order 2280), § 388-28-392, filed 9/4/85; 82-12-066 (Order 1818), § 388-28-392, filed 6/2/82; Order 842, § 388-28-392, filed 8/9/73.]

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

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

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

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

(2) Consideration of resources and resource potentials.

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

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

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

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

(5) Clarification of ownership or value.

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

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

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

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

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

In determining whether an applicant is proceeding with reasonable diligence to make a resource potential available to meet need, the local office is governed by

the factors involved in individual situations. The applicant is responsible for submitting evidence in the form of statements or letters indicating the factors involved and the approximate time a final decision could be expected. A definite period of time is determined by the local office, made known to the applicant, and recorded.

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

[Statutory Authority: RCW 74.08.090. 84-07-019 (Order 2087), § 388-28-400, filed 3/14/84; 83-04-033 (Order 1940), § 388-28-400, filed 1/28/83, effective 3/1/83; Order 1096, § 388-28-400, filed 2/13/76; Regulation 8.61, filed 1/24/64.]

WAC 388-28-410 Effect of resources on financial need--Exempt and nonexempt resources. When a determination has been made that an applicant possesses a resource in accordance with the considerations in WAC 388-28-400, such resources shall be classified as exempt or nonexempt in accordance with WAC 388-28-415 through 388-28-455.

[Statutory Authority: RCW 74.08.090. 84-07-019 (Order 2087), § 388-28-410, filed 3/14/84; 80-14-061 (Order 1547), § 388-28-410, filed 10/1/80; Regulation 8.62, filed 1/24/64.]

WAC 388-28-415 Effect of resources on financial need--Exempt resources. An applicant may possess and retain exempt resources and be eligible for public assistance. While the fact of ownership does not make an applicant ineligible, the use of such properties to produce income (such as rental of a room in the home), or to meet the cost of an item included in the standard of need (such as wood on the home property meeting the need for fuel) does affect financial need.

[Statutory Authority: RCW 74.08.090. 84-07-019 (Order 2087), § 388-28-415, filed 3/14/84; 83-04-033 (Order 1940), § 388-28-415, filed 1/28/83, effective 3/1/83; Regulation 8.63, filed 1/24/64.]

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

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

(a) Yard and home garden space;

(b) Road to get to the home;

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

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

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

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

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

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

(b) "Disabled sons or daughters" means one or more unmarried, natural or adopted, minor or adult sons or daughters with a medically-verified disability significantly handicapping them in performing employment or homemaking activities and dependent on the applicant for their livelihood.

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

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

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

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

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

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

In the event the evaluation from the three physicians indicates unanimously it is their medical opinion the individual will be unable to return to his or her home during the remainder of his or her lifetime, the home, if not

occupied by his or her dependents, shall be considered nonexempt property which can be made available to meet need.

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

(iii) For absences resulting from natural disaster, the local office administrator determines the residence is accessible and inhabitable. When a home that is determined inaccessible or uninhabitable could, in the judgment of the CSO administrator, become accessible and inhabitable with reasonable effort and expense to the applicant, the home is presumed to be a nonexempt resource.

[Statutory Authority: RCW 74.08.090. 85-18-042 (Order 2276), § 388-28-420, filed 8/30/85; 84-07-019 (Order 2087), § 388-28-420, filed 3/14/84; 80-14-061 (Order 1547), § 388-28-420, filed 10/1/80; Order 373, § 388-28-420, filed 8/1/69; Regulation 8.631, filed 1/24/64.]

WAC 388-28-425 Effect of resources on financial need—Real property other than home—All programs. (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 388-28-430 Effect of resources on financial need—Personal property exemptions—Ceiling values—General assistance. (1) The following personal property is an exempt resource for general assistance. There is no ceiling value on such property.

(a) Used and useful household furnishings and personal clothing. Household furnishings and personal clothing in storage shall be presumed to be not used and useful, but all other household furnishings and personal clothing shall be presumed to be used and useful and

both presumptions stand in the absence of evidence to the contrary.

(b) Personal property of "great sentimental value" may be exempted when the applicant establishes the circumstances and conditions giving the personal property this value. When the intrinsic value is relatively high (stamp or coin collections, etc.), there may be need to review the personal property carefully.

(c) Term and/or burial insurance for the use of the applicant or recipient.

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

(2) The following items are resources which must be evaluated within the following maxima or ceiling values for general assistance:

(a) The total value of cash, marketable securities, cash discount value of real estate or chattel mortgages and sales contracts, and any excess of values exempted under subsections (2)(b) and (c) of this section and any other resources not specifically exempted shall not exceed one thousand five hundred dollars for a single person, or two thousand two hundred fifty dollars for a family of two or more.

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

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

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

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

[Statutory Authority: RCW 74.08.090. 84-07-019 (Order 2087), § 388-28-430, filed 3/14/84; 82-14-049 (Order 1840), § 388-28-430, filed 6/30/82; 82-09-034 (Order 1792), § 388-28-430, filed 4/14/82; 82-01-009 (Order 1728), § 388-28-430, filed 12/4/81; 81-12-036 (Order 1659), § 388-28-430, filed 6/2/81; 80-14-061 (Order 1547), § 388-28-430, filed 10/1/80; 79-04-013 (Order 1369), § 388-28-430, filed 3/15/79; 78-04-036 (Order 1282), § 388-28-430, filed 3/20/78; Order 1241, § 388-28-430, filed 9/23/77; Order 1106, § 388-28-430, filed 3/11/76; Order 891, § 388-28-430, filed 12/27/73; Order 373, § 388-28-430, filed 8/1/69; Order 295, § 388-28-430, filed 8/5/68; Regulation 8.632, filed 8/10/67; Regulation 8.632, filed 7/13/65; 12/21/64, effective 2/1/65; 6/17/64, effective 8/1/64, 1/24/64.]

WAC 388-28-435 Effect of resources on financial need--Personal property exemptions--Ceiling values--AFDC and RA. (1) 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 388-28-438 Effect of resources on financial need--Personal property exemptions--All programs. (1) Funds represented by values within the ceiling values are not used to determine financial need or to compute grants.

(2) Funds represented by values in excess of the maxima or ceilings are nonexempt; that is, they are used to determine financial need and to compute general assistance grants. If the funds are in excess of the ceiling value for AFDC and refugee assistance, the applicant/recipient is ineligible.

(3) All cash savings held by the applicant or held jointly with any other person shall be considered. Any funds on deposit, in hand, or in any place from which cash may be drawn by the applicant, is a cash fund. A cash fund includes a bank account, savings, funds held in trust for future use (when applicant can make withdrawals), savings bonds, advance insurance premium payments, interest, etc.

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

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

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

(7) When the equity of another person in an unassignable policy held by an applicant can be established, the amount of such equity may be deducted in determining the applicant's holdings in insurance, provided the person holding the equity is named as beneficiary of the proceeds to the extent of such equity and without power or revocation by the insured.

(8) An insurance policy legally assigned belongs to the assignee and may not be regarded as the property of the insured. However, the assignment of a policy within two years prior to application or by a recipient must be evaluated as the transfer of a resource.

(9) In determining the resource value of automobiles, the national automobile dealers association official used car guide shall be used. For automobiles listed in this guide, "average loan" value in the current edition shall be presumed to be the resource value.

(10) In determining the resource value of recreational vehicles, the *Kelley Bluebook R.V. Guide* shall be used. For vehicles listed in this guide, "wholesale" value in the current edition shall be presumed to be the resource value.

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

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

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

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

WAC 388-28-439 Effect of resources on need—Property used in self-employment. (1) Real and personal property used in a self-employment enterprise such as land, buildings, tools, farm machinery, livestock, business equipment, and inventory can be declared an exempt resource by the CSO on the basis of an agreed plan. The following conditions apply:

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

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

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

[Title 388 WAC—p 136]

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

(b) Good will is an intangible asset. It has no value unless the business is sold, and therefore is not an available resource.

[Statutory Authority: RCW 74.08.090, 85-18-042 (Order 2276), § 388-28-439, filed 8/30/85.]

WAC 388-28-440 Accumulation and depletion of allowable cash resource reserves. (1) Recipients may spend their cash reserves and rebuild them with succeeding public assistance grants, with funds from other exempt sources, or other income which has been considered in computing financial need. Recipients may place grants in accounts along with cash reserves and then spend out of those accounts during the month.

(2) Cash on hand may exceed the specified limits for a maximum of thirty days if it has already been considered in computing financial need.

(3) For general assistance only, allowable cash reserves may be accumulated from nonrecurrent cash lump-sum sources, including the following:

(a) Income tax refunds.

(b) Inheritances.

(c) Insurance benefits.

(d) Gifts.

(e) Prizes and awards.

(f) Repayment of debts owed the recipient.

(g) Proceeds from the sale of exempt property.

(h) Social Security death benefits.

(i) Indian per capita payments generated by tribally held land or business.

(4) In general assistance only if a lump sum, when added to existing reserves, causes the resources to exceed allowable limits, the excess is newly acquired income to be treated in accordance with WAC 388-28-484.

(5) 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 388-28-450 Nonexempt resources--Effect on financial need. The possession of a nonexempt resource by an applicant affects his or her financial need to the extent the value of the resource decreases his or her need for public assistance.

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

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

(3) For AFDC and RA, the fair market value shall be reassessed if the applicant provides acceptable evidence that a good-faith effort has been made to sell the resource at the fair market value determined by the department and the value is less than the resource ceiling. If the total value of the nonexempt resource exceeds the maximum in WAC 388-28-435(2), the applicant is ineligible.

[Statutory Authority: RCW 74.08.090. 85-18-042 (Order 2276), § 388-28-450, filed 8/30/85; 84-07-019 (Order 2087), § 388-28-450, filed 3/14/84; Order 1241, § 388-28-450, filed 9/23/77; Regulation 8.64, filed 1/24/64.]

WAC 388-28-457 Transfer of property. WAC 388-28-457 through 388-28-465 deal with the transfer of property prior to or at the time of application. If previously owned property was transferred for less than adequate consideration, the value of such transferred resource may affect the eligibility of the applicant.

[Statutory Authority: RCW 74.08.090. 80-14-061 (Order 1547), § 388-28-457, filed 10/1/80; 78-05-088 (Order 1293), § 388-28-457, filed 5/3/78; Order 1241, § 388-28-457, filed 9/23/77.]

WAC 388-28-458 Definitions. (1) "Adequate consideration" shall mean that the reasonable value of the goods or services received in exchange for the transferred property approximates the reasonable value of the property transferred.

(2) "Need under normal conditions of living" shall mean the Washington state gross median income adjusted for family size, as promulgated by the secretary of HEW, under the authority granted by Title XX of the Social Security Act, minus other income, during a period of time when not receiving public assistance.

(3) "Public assistance need" means the monthly amount of the department's standards for requirements minus all available income.

(4) "Reasonable value" refers to a reasonable value of the property transferred and the reasonable value of the goods or services received in exchange for the transferred property. The reasonable value of real or personal property transferred and/or received in return is not less than quick-sale value as of the date of transfer.

When property is in the form of cash no question exists as to the value. Items in kind are always evaluated to determine their reasonable value.

(5) "Transfer" shall mean any act or omission to act whereby title to or any interest in property is assigned,

set over, or otherwise vested or allowed to vest in another person; including delivery of personal property, bills of sale, deeds, mortgages, pledges or any other instrument conveying or relinquishing an interest in property. Transfer of title to a resource occurs by

- (a) An intentional act or transfer, or
- (b) Failure to act to preserve title to the resource.

[Order 1241, § 388-28-458, filed 9/23/77.]

WAC 388-28-459 Transfer of property with intent to qualify for public assistance. (1) In the absence of an admission by the applicant, the department shall investigate the facts of the transfer of the nonexempt property on the presumption that an applicant made the transfer with intent to qualify for assistance only when:

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

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

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

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

(3) If the applicant does not overcome the presumption, the rules in WAC 388-28-460 pertain and shall be followed.

[Statutory Authority: RCW 74.08.090. 78-05-088 (Order 1293), § 388-28-459, filed 5/3/78; Order 1241, § 388-28-459, filed 9/23/77.]

WAC 388-28-460 Transfer within two years prior to application. (1) An applicant who transfers any nonexempt real or personal property within two years immediately prior to the date of application (or during the application period) without having received adequate consideration for such property shall be deemed to have a resource available to meet his/her needs under normal conditions of living. Personal property as used in this rule means any form of nonexempt property, including money, which is not real property.

(2) The amount considered available to meet need shall be the difference between the reasonable value of the consideration received for the transferred property and the reasonable value of the property transferred. In determining this amount the rules in WAC 388-28-461 and 388-28-462 shall be considered.

(3) If the transfer is taken into account before assistance is authorized the applicant is ineligible from the date of transfer for a period of time determined by dividing the amount considered available to meet need, computed according to subsection (2), by need under normal conditions of living as defined in WAC 388-28-458.

(4) If the transfer is taken into account after assistance is authorized

(a) The amount of need under normal conditions of living is determined for the period from date of transfer to date of authorization.

(b) If the amount determined according to subsection (4)(a) equals or exceeds the amount considered available to meet need, the transfer does not affect past, current or future eligibility.

(c) If the amount determined according to subsection (4)(a) is less than the amount considered available to meet need, the individual is ineligible for assistance granted, up to the value of this difference, for the period from grant authorization to the date of grant adjustment to correct the mistake. The amount for which he is ineligible is an overpayment subject to the definition in WAC 388-44-010.

(d) If the sum of the amount of need prior to date of authorization ((4)(a)) and the overpayment ((4)(c)), is less than the amount considered available to meet need, the difference is deemed available to meet future need from the date of grant adjustment to correct the mistake. The individual is ineligible during a future period determined by dividing the difference by need under normal conditions of living. See WAC 388-28-463 for adjustments during this period of ineligibility.

(5) The period of ineligibility shall not exceed two years.

[Statutory Authority: RCW 74.08.090, 78-05-088 (Order 1293), § 388-28-460, filed 5/3/78; Order 1241, § 388-28-460, filed 9/23/77.]

WAC 388-28-461 Transfer of property--Adequate consideration. In determining whether the value of the consideration which the applicant received from the transfer of property is adequate or less than adequate in respect to WAC 388-28-459 and 388-28-460 the following factors shall be taken into account:

(1) Circumstances necessitating the transaction. If the applicant's circumstances were such that a forced sale was reasonably indicated, with little time for seeking possible purchasers, the amount realized may be considered adequate although less than the amount which could have been realized by a more leisurely sale.

(2) The business experience or acumen of the seller. One with little experience in business will probably not make as advantageous a deal as one who is experienced and knows how to get the best possible trade.

(3) The market demand for the type of resource transferred. Certain property, such as some securities, automobile, etc., can be readily sold; whereas other property can only be sold on forced sale to speculators, who presumably would pay very little. This might apply to real estate in a locality where there is little demand for property.

(4) Market value of the item transferred may be used as a guide to the reasonableness of the consideration which should have been received. However, less than market value shall not be considered unreasonable if, in view of all existing circumstances and factors, the individual's plan in regard to the transfer had any reasonable basis as illustrated below:

(a) A consideration shall not be deemed reasonable in terms of what should have been received when the consideration received only reduced or diminished the applicant's existent rights and there were no conditioning factors present. For example, an applicant who was the holder of a \$1,000 note, but who settled the note by accepting \$500 would ordinarily be considered to have received less than reasonable consideration. It might be reasonable consideration, however, if there were disputes about the note, etc., and a reasonable compromise seemed desirable.

(b) A transfer of property in settlement of a legally enforceable debt approximately equal to the current fair market value of the property transferred represents reasonable consideration. Likewise, settlement of an unresolved claim (such as a claim for damages) by the transfer of property of approximately equal value is regarded as reasonable consideration in the absence of evidence indicating fraud or collusion. (The advice of the applicant's attorney suggesting settlement would, of course, be substantiating evidence.) The existence of a debt must be established by one or more of the following types of evidence:

(i) A legally recorded instrument evidencing the existence of the debt and executed at or about the time the debt was allegedly incurred

(ii) Other documentary evidence—for example, cancelled checks, receipts, notes, mortgages, or written agreements executed by the principals at or about the time the debt was allegedly incurred

(iii) The sworn affidavits or testimony of at least two disinterested persons not parties to the transaction or directly or indirectly benefiting therefrom, who were in a position to have first-hand knowledge of the situation and arrangements between the principals at the time the debt was allegedly incurred and whose statement corroborates the sworn statement or testimony of the principals.

(iv) Such other evidence as would be accepted by a court of law to establish a debt, such as record of account, etc.

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

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

(5) Debts incurred from the services of a minor child or for loans from a minor child are not recognized as legal obligations.

[Statutory Authority: RCW 74.08.090, 78-05-088 (Order 1293), § 388-28-461, filed 5/3/78; Order 1241, § 388-28-461, filed 9/23/77.]

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

(1) The applicant was the victim of fraud, misrepresentation or coercion and the transfer was based upon such fraud, misrepresentation or coercion; providing that the applicant has initiated and taken any and all possible

steps to recover such property or the equivalent thereof in damages. Such facts are established by competent legal advice from the applicant's attorney or, if he has none, the prosecuting attorney. In the event that action has been taken for restitution or damages the applicant may be eligible until the action is concluded providing he proceeds with due diligence.

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

(3) The property was transferred to a spouse pursuant to a divorce or legal separation settlement approved by or ordered by a court of competent jurisdiction.

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

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

(6) The act was the execution of a mortgage of exempt property to secure antecedent debts, the only consideration for which was the forbearance of suit by the mortgagee. "Antecedent debts" means debts which occurred prior to and apart from the transaction giving rise to the execution of the note and mortgage. "Forbearance of suit" refers to the creditor's promise not to enforce his right to payment of the debt by legal proceedings in court. Situations coming under this provision are cleared in writing with the assistant attorney general in the state office.

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

WAC 388-28-463 Transfer of property--Adjustment in period of ineligibility. (1) The past and future period of ineligibility as determined in WAC 388-28-459 and 388-28-460 may be reduced if during such time of ineligibility the applicant has demonstrable, unusual nonrecurrent expenses, such as extensive hospitalization, surgery, major disaster, etc., or a major unforeseen change in circumstances.

(2) An applicant who secures a return of the property transferred, or the equivalent value, may be eligible if otherwise qualified. In addition, if he secures a return or a portion of the resource or the equivalent value, the period of ineligibility may be accordingly reduced.

[Order 1241, § 388-28-463, filed 9/23/77.]

WAC 388-28-464 Transfer of property--Assistance during period of ineligibility. An applicant 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.]

(1990 Ed.)

WAC 388-28-465 Transfer of property--Life estate, release, assignment--Adequate consideration. (1) The release of a life estate in real property is a transfer of a right in such property and, if done without reasonable consideration, may be regarded as a transfer of property. See WAC 388-28-459 and 388-28-460 to determine how the transferred amount, computed according to subsections (2) through (7) affects eligibility.

(2) When an applicant releases or assigns a life estate, the value of the right transferred shall be determined by using the state insurance commissioner's table for determining valuation of present worth of life and term estates or annuities.

(3) Deleted.

(4) When an individual had complete title to property, transfer with retention or reacquisition of life estate is never adequate consideration, since the individual accepts back less title and less right than he had before.

(5) Life estate in property previously owned may be adequate and reasonable consideration if the individual receives other consideration, such as a release from encumbrances against the property, or the settlement of claims or interests in the property, or the promise in writing of other valuable considerations such as money or services.

(6) Whether life estate was adequate and reasonable consideration requires a determination of

(a) The applicant's equity in the property, and

(b) A determination of his equity in the life estate together with the additional considerations.

(7) The known actual value of a transferred life estate is used if it is greater than the value established according to the insurance commissioner's table.

[Order 1241, § 388-28-465, filed 9/23/77.]

WAC 388-28-470 Transfer of exempt property by recipient. (1) The rules in WAC 388-28-470 through 388-28-473 apply to the transfer, in whole or part, by a recipient of various types of property which he owned when he applied for public assistance and which has been declared exempt property.

(2) Exempt property which a recipient may retain and be eligible for public assistance must continue to be retained to be exempt except as provided in WAC 388-28-471 and 388-28-472.

(3) "Transfer" is used as defined in WAC 388-28-458(5) and 388-28-462.

[Order 1241, § 388-28-470, filed 9/23/77.]

WAC 388-28-471 Exempt property transferable without consent. (1) Exempt personal property may be transferred without the consent of the local office.

(2) The transfer of exempt personal property will not affect financial need if the following conditions are met.

(a) Proceeds from the transfer in excess of departmental ceiling limits must be expended within sixty days from the date received.

(i) A reasonable delay beyond sixty days may be allowed when the recipient is prevented from carrying out a reinvestment plan because of illness or complications involving the mechanics of the transaction.

[Title 388 WAC--p 139]

(b) Property holdings must be within the department's ceiling limits when the transactions are completed.

(3) The cash reserve may be used for any purpose.

[Order 1241, § 388-28-471, filed 9/23/77.]

WAC 388-28-472 Exempt property transferable with consent. (1) With the written approval of the local office a recipient may transfer any exempt real property or interest in such property, without penalty, to

(a) Buy a home or life estate in a home,

(b) Make necessary repairs or improvements on his home, and/or

(c) Purchase any exempt personal property.

(2) The local office shall approve such transactions if the following conditions are met.

(a) Adequate consideration as specified in WAC 388-28-461 must be received for the property transferred and for the proceeds reinvested.

(b) Reinvestment must be initiated within sixty days.

(i) A reasonable delay beyond sixty days may be allowed when the recipient is temporarily prevented from carrying out a reinvestment plan because of illness or complications involving the mechanics of the transaction.

(c) Property holdings must be within the department's ceiling limits when the transactions are completed.

[Order 1241, § 388-28-472, filed 9/23/77.]

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

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

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

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

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

(c) General assistance is terminated when the amount considered available from subsection (2) of this section and other income available in the next two months is more than two months' requirements. The future period of ineligibility is determined using current requirements and the method described in WAC 388-28-460.

[Title 388 WAC—p 140]

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

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

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

(5) The rules in WAC 388-28-463 and 388-28-464 apply to transfers under this section.

[Statutory Authority: RCW 74.08.090. 84-07-019 (Order 2087), § 388-28-473, filed 3/14/84; 83-04-033 (Order 1940), § 388-28-473, filed 1/28/83, effective 3/1/83; Order 1241, § 388-28-473, filed 9/23/77.]

WAC 388-28-474 Replacement of exempt property.

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

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

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

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

(3) Any remaining portion of the settlement, after applying subsections (1) and (2) of this section, shall be considered newly acquired nonexempt income.

[Statutory Authority: RCW 74.08.090. 82-10-059 (Order 1798), § 388-28-474, filed 5/5/82; 82-01-009 (Order 1728), § 388-28-474, filed 12/4/81; 80-14-061 (Order 1547), § 388-28-474, filed 10/1/80; 78-06-088 (Order 1302), § 388-28-474, filed 6/2/78; Order 1241, § 388-28-474, filed 9/23/77.]

WAC 388-28-475 Use of income and income potentials.

(1) Meaning of income (see definition in WAC 388-22-030). Income 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, including garnisheed 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 74.08.090. 89-22-038 (Order 2889), § 388-28-475, filed 10/27/89, effective 11/27/89. 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) To be eligible for AFDC, a client shall meet the following income tests:

(i) The one hundred eighty-five percent of need test as defined under WAC 388-28-484(7);

(ii) If the assistance unit has not received assistance in one of the four months before the month of application, the assistance unit's monthly nonexempt unearned income plus monthly earned income, as defined under WAC 388-28-570, less the disregards and deductions contained under WAC 388-28-535, 388-28-570(4), and 388-28-570 (6)(a)(i) and (iv), shall be below the appropriate state need standard plus additional requirements. This test does not apply if the assistance unit received assistance in one of the four months before the month of application; and

(iii) The assistance unit's monthly nonexempt unearned income plus monthly nonexempt earned income as determined under WAC 388-28-570 shall be below the appropriate state payment standard plus additional requirements.

(b) To be eligible for general assistance unemployable (GA-U), a client's monthly nonexempt income shall be below the monthly payment standard plus authorized additional requirements.

(2) Grant amount.

(a) The department shall determine the grant amount for the month of application by subtracting all nonexempt 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 nonexempt 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.

(3) 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 up to thirty cumulative dollars received by each member of the AFDC assistance unit per calendar quarter. The department, unless otherwise specified by the donor, shall determine an individual's share in a gift to more than one person by dividing the amount of the gift by the number of persons receiving the gift.

(c) The department shall disregard as income an earned income credit (EIC).

(4) Loans.

(a) The department shall consider a bona fide loan as exempt income or resource. The department shall consider a loan bona fide when the loan is a debt the borrower has an obligation to repay.

(b) The department shall not consider as income to a client money received from loan repayment; however, the department shall consider any interest paid in the loan as newly acquired income.

(5) Gifts other than cash.

(a) The department shall disregard gifts other than cash as defined under WAC 388-22-030 (36)(a) provided such gifts are within the allowable program resource limits.

(6) 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 unearned income. Lump sums may include, but are not limited to:

(i) Lottery winnings,

(ii) An inheritance,

(iii) Personal injury award,

(iv) Workers compensation awards, or

(v) Social Security back payments.

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

[Statutory Authority: RCW 74.08.090. 91-01-047 (Order 3112), § 388-28-480, filed 12/12/90, effective 1/12/91; 90-18-005 (Order 3062), § 388-28-480, filed 8/23/90, effective 9/23/90; 89-18-057 (Order 2865), § 388-28-480, filed 9/1/89, effective 10/2/89; 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 388-28-481 Nonexempt resources and income known at time of application. Net recurrent or nonrecurrent nonexempt income and nonexempt resource values in cash or kind known to the local office at the time of application shall be taken into account in computing eligibility for payment as specified in WAC 388-28-400 through 388-28-650. WAC 388-28-481 through 388-28-484 shall be applicable when determining the continuing grant amount of the recipient. If a general assistance recipient retains a nonexempt resource which has been used to compute his or her grant amount at the time of application, the policy in WAC 388-28-484(8) shall be applied to compute his or her eligibility for payment.

[Statutory Authority: RCW 74.08.090. 83-04-033 (Order 1940), § 388-28-481, filed 1/28/83, effective 3/1/83; 82-01-009 (Order 1728), § 388-28-481, filed 12/4/81; Order 1241, § 388-28-481, filed 9/23/77.]

WAC 388-28-482 Effect of newly acquired income and property on continuing need. (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) 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. An intercepted income tax refund is not available to meet need until it is actually received. The earned income tax credit portion of the refund shall be disregarded as 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. 89-18-057 (Order 2865), § 388-28-482, filed 9/1/89, effective 10/2/89; 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.]

WAC 388-28-483 Prospective eligibility, prospective budgeting, and retrospective budgeting. (1) Definitions. The department shall call the:

(a) Calendar month for which payment is made, the payment month.

(b) Second calendar month preceding the payment month, the budget month.

(c) Calendar month between the budget month and the payment month, the process month.

(2) Eligibility determination. The department shall determine eligibility based on the best estimate of income and circumstances existing in the payment month.

(3) Prospective budgeting.

(a) Except as specified under subsections (3)(d) and (4)(a) of this section, 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 existing 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.

(d) The department shall budget income prospectively for one month if the case has been closed less than one

month and the case was closed in the first prospective month.

(4) Retrospective budgeting.

(a) The department shall retrospectively budget all income for the first two months of initial eligibility if one of the following exist:

(i) A case is reopened as terminated in error;

(ii) An individual having had income deemed to an assistance unit is added to that assistance unit;

(iii) Assistance had been suspended as specified under subsection (5) of this section 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 the circumstances reported in the budget month.

(iv) A case is reopened that has been closed less than one month and was closed in the second prospective month; and

(v) A case is reopened that has been closed less than one month and was closed in a retrospective month.

(b) After the first two months of initial eligibility, the department shall budget all income retrospectively, except as specified under subsection (4)(e) of this section.

(c) The department shall compute the amount of assistance based on the income or circumstances existing in the budget month.

(d) The department shall consider all income received during the calendar month of application approval for retrospective budgeting purposes, except as specified under subsection (4)(e) of this section.

(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. 89-18-036 (Order 2861), § 388-28-483, filed 8/29/89, effective 9/29/89; 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.]

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

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

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

(b) For AFDC and refugee assistance, when the assistance unit's nonrecurrent lump-sum income, plus other income, after applicable disregards exceeds the payment standard, plus authorized additional requirements, the unit shall be ineligible for assistance. Ineligibility shall exist for the number of full months derived by dividing this total income by the need standard plus authorized additional requirements. A minimum period of ineligibility shall be one month.

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

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

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

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

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

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

(c) The department shall suspend a general assistance grant when a recipient's nonrecurrent income equals or exceeds one month's payment level plus authorized additional requirements, but is less than two months' payment level plus authorized additional requirements minus other income.

(i) The recipient's grant is suspended from the effective date specified in WAC 388-28-483.

(ii) The suspense period is determined exactly, that is, up to the date of the absorption of the income.

(d) If the income is recurrent and equal to or in excess of one month's payment level plus authorized additional requirements minus other income, the recipient is ineligible from the effective date specified in WAC 388-28-483 and the grant is terminated, except for persons in institutions other than nursing homes as provided in WAC 388-34-160.

(e) For general assistance if the income is recurrent or nonrecurrent and its value is in excess of two months' payment level plus authorized additional requirements minus other income, the recipient is ineligible from the effective date specified in WAC 388-28-483 and the grant is terminated. Ineligibility shall continue for two months. The period of ineligibility, however, may be reduced if the applicant has verifiable expenses such as medical care, unforeseen disaster or other changes in circumstances making it impossible for him or her to live on his or her resource for the two-month period of ineligibility. The eligibility of a former recipient reapplying shall be determined on the same basis as a new applicant.

(3) If income is not taken into account in assistance payments but is subsequently discovered, an overpayment shall be established according to chapter 388-44 WAC.

(4) If a general assistance recipient has been determined to be ineligible for a current or future period of time and his or her grant will be suspended or terminated for such period of time due to either newly acquired income, or transfer of property, and is in need during such period of ineligibility, assistance may be granted within the limits of the rule in WAC 388-28-464.

(5) A person acquiring income during suspended status shall be treated as a recipient in terms of eligibility, not as an applicant.

(6) Rules and procedure in chapter 388-44 WAC are followed in respect to overpayment.

(7) An applicant or recipient whose nonexempt gross income exceeds one hundred eighty-five percent of the standard of need for the appropriate household size plus additional requirements authorized for that assistance unit, is not eligible for AFDC or refugee assistance from the date specified in WAC 388-28-483. The income of all members of the assistance unit and the income of natural, adoptive, or stepparents of children in the assistance unit residing in the same household, shall be considered in this test except for income identified in WAC 388-28-575 and in subsection (7)(a) and (b) of this section.

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

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

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

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

(8) Income taken into account in computing financial need according to subsection (2) of this section if retained by a GA-U recipient does not affect his or her eligibility unless the amount retained at the time of the next periodic review exceeds the exempt property holdings permitted for an applicant. In this event the rule on nonexempt resources or income pertaining to an applicant is applied.

[Statutory Authority: RCW 74.08.090, 86-23-021 (Order 2442), § 388-28-484, filed 11/10/86; 85-18-042 (Order 2276), § 388-28-484, filed 8/30/85; 85-04-024 (Order 2200), § 388-28-484, filed 1/30/85; 84-07-019 (Order 2087), § 388-28-484, filed 3/14/84; 83-04-033 (Order 1940), § 388-28-484, filed 1/28/83, effective 3/1/83; 82-09-034 (Order 1792), § 388-28-484, filed 4/14/82; 82-01-009 (Order 1728), § 388-28-484, filed 12/4/81; 79-06-029 (Order 1396), § 388-28-484, filed 5/16/79; Order 1241, § 388-28-484, filed 9/23/77.]

WAC 388-28-485 Use of income and income potentials—Parental income and support. (1) Support payments made by or in behalf of an absent parent are income to the child(ren) and are to be treated in accordance with WAC 388-14-210.

(2) When the custodial parent is not included in the assistance unit because of noncompliance with WAC 388-24-108 and 388-24-109:

(a) The income of such parents is allocated according to WAC 388-28-560(2).

(b) Support payments paid directly to the parent and not forwarded to the office of support enforcement are income to the child(ren) and are to be taken into account in determining the need of the assistance unit.

[Order 1054, § 388-28-485, filed 9/25/75.]

WAC 388-28-500 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 388-28-515 Net cash income--Determination--Employment or training expenses--Deductions from gross income. (1) "Gross income" means the total wages, commissions, salary, bonus, in cash or in-kind, currently earned by an individual or income received for the purpose of obtaining remedial education or vocational training.

(a) The thirty dollars monthly incentive payment made by DES to any participant in a WIN program of institutional and work experience training is disregarded in AFDC.

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

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

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

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

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

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

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

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

(4) For general assistance, the following work-related expenses shall be deducted when claimed and verified under the actual method.

(a) Payroll deductions required by law or as a condition of employment in the amounts actually withheld.

(b) The necessary cost for transportation of the recipient to and from the place of employment or training in accordance with the following limitations:

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

(ii) When public transportation is available near the recipient's regular place of residence and practical for his or her use, the allowance shall be the cost for such transportation from the recipient's home to the stop nearest his or her employment or training. The amount allowed is the actual cost of common carrier, based upon commuter's book of tickets, bus tokens at reduced quantity rate, etc., when available.

(iii) The term "public transportation" includes scheduled intracity and intercity busses, trains, boats, etc., but not "for hire" vehicles, such as taxis and rental cars unless no other means of public transportation is available.

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

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

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

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

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

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

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

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

[Statutory Authority: RCW 74.08.090, 85-18-042 (Order 2276), § 388-28-515, filed 8/30/85; 85-04-024 (Order 2200), § 388-28-515,

filed 1/30/85; 82-01-009 (Order 1728), § 388-28-515, filed 12/4/81; 80-14-061 (Order 1547), § 388-28-515, filed 10/1/80; 79-06-007 (Order 1393), § 388-28-515, filed 5/8/79; 78-10-036 (Order 1338), § 388-28-515, filed 9/18/78; Order 1236, § 388-28-515, filed 8/31/77; Order 1229, § 388-28-515, filed 8/23/77; Order 1173, § 388-28-515, filed 11/24/76; Order 1096, § 388-28-515, filed 2/13/76; Order 975, § 388-28-515, filed 10/11/74; Order 891, § 388-28-515, filed 12/27/73; Order 445, § 388-28-515, filed 4/28/70; Order 375, § 388-28-515, filed 8/7/69; Order 329, § 388-28-515, filed 1/8/69; Order 296, § 388-28-515, filed 8/26/68; Regulation 8.841, filed 7/27/67; Regulation 8.841, filed 5/17/67, 2/23/67, 1/24/64.]

WAC 388-28-520 Income from self-employment.

(1) Earned income from self-employment is the amount left after deducting business expenses from gross business income. The applicable program earnings exemptions, and work expense allowances, are further deducted from self-employment earned income to determine the net amount available to meet need. See WAC 388-28-515.

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

(b) For general assistance, personal work expenses in the form of self-employment taxes (FICA) and income taxes are deductible when paid.

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

(a) Rental of business equipment or property.

(b) Utilities.

(c) Postage.

(d) Telephone.

(e) Office supplies.

(f) Advertising.

(g) Insurance.

(h) Legal, accounting, and other professional fees.

(i) The cost of goods sold, including wages paid to employees producing salable goods, raw materials, stock, and replacement or reasonable accumulation of inventory, provided inventory has been declared exempt on the basis of an agreed plan pursuant to WAC 388-28-439.

(j) Interest on business indebtedness.

(k) Wages and salaries paid to employees not producing salable goods.

(l) Commissions paid to agents and independent contractors.

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

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

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

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

(iv) If a vehicle is needed for both business and private purposes, the mileage and expenses attributable to

the business must be documented in a daily log and is subject to verification by the department.

(v) Transportation to and from the place of business is not a business expense, but is a personal work expense to be treated according to WAC 388-28-515(3) in general assistance and is covered by the seventy-five dollars work expense deduction for AFDC and refugee assistance.

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

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

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

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

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

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

(c) Amounts claimed as depreciation.

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

(e) Entertainment expenses.

[Statutory Authority: RCW 74.08.090. 85-18-042 (Order 2276), § 388-28-520, filed 8/30/85; 82-01-009 (Order 1728), § 388-28-520, filed 12/4/81; 79-04-013 (Order 1369), § 388-28-520, filed 3/15/79.]

WAC 388-28-530 Net cash income--Board, room rental, board and room. (1) The net income from operating a rooming, boarding, or boarding and rooming home shall be computed as follows effective July 1, 1984.

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

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

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

(2) If a recipient is engaged in the management and operation of a rooming, boarding, or boarding and rooming home, the net income as computed in accordance with subsection (1) of this section is considered earned income to that recipient.

[Statutory Authority: RCW 74.08.090. 84-13-049 (Order 2104), § 388-28-530, filed 6/18/84; 83-17-070 (Order 2008), § 388-28-530, filed 8/19/83; 80-15-002 (Order 1550), § 388-28-530, filed 10/2/80; 79-10-083 (Order 1434), § 388-28-530, filed 9/21/79; 78-10-054 (Order 1344), § 388-28-530, filed 9/22/78; Order 1234, § 388-28-530, filed 8/31/77; Order 1206, § 388-28-530, filed 4/29/77; Order 786, § 388-28-530, filed 4/12/73; Order 650, § 388-28-530, filed 2/9/72; Regulation 8.843, filed 1/24/64.]

WAC 388-28-532 Income--Foster homes for children and adult family homes. (1) Foster home for children. When a public assistance client operates a foster home for children, the department shall:

(a) Disregard as income a foster care payment made for the care of a child;

(b) Regard as earned income retainer fees received to reserve beds for foster children.

(2) Adult family homes. When a public assistance client operates an adult family home, the department shall regard the adult family home payment as self-employment income.

[Statutory Authority: RCW 74.08.090, 89-22-130 (Order 2892), § 388-28-532, filed 11/1/89, effective 12/2/89; Order 786, § 388-28-532, filed 4/12/73.]

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

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

(a) All earned income of a child in an assistance unit shall be disregarded in determining eligibility for six months when he or she is a full-time student and disregarded in determining payment amount when he or she is a full-time student or a part-time student who is not a full-time employee.

(b) A student is one attending a school, college or university, or a course of vocational or technical training designed to fit him or her for gainful employment. A full-time student must have a school schedule equal to a full-time curriculum. A part-time student must have a school schedule equal to at least one-half of a full-time curriculum. A student enrolled during the school term just completed and planning to return to school when school reopens shall retain his or her status as a student during the summer vacation.

(c) A child earning income by working in a sheltered workshop or other training facility for handicapped children shall be considered, for purposes of income exemption, as being at least a part-time student working less than full time.

(d) To be employed full time, a child must be working thirty-five hours a week or the number of hours considered full time by the industry for which he or she works, whichever is less.

(e) Summer employment of students shall not be considered as full-time employment due to the temporary nature of such employment, even though the hours worked may exceed thirty-five hours a week.

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

(2) A child may receive income paid in his or her behalf to the parent or parents or other needy caretaker relative. Such income includes earned income, allotments, retirement, survivors and disability insurance, veterans' benefits, court-ordered support payments, trust fund payments, or other income legally designated for

the benefit of an individual child. Such income of a child ineligible to be included as a member of the assistance unit shall be considered as follows:

(a) If the child is ineligible due to noncooperation with the Washington state employment opportunities programs, or with child support enforcement if the child is a minor parent, such child's income shall be considered available to meet the need of the assistance unit;

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

(3) A stepchild may receive income as specified in subsection (2) of this section. According to WAC 388-24-050(3), when the assistance unit does not include a stepchild's sibling or half-sibling, the family shall have the option to:

(a) Include the stepchild as a member of the assistance unit with all of the stepchild's income considered as available to the assistance unit; or

(b) Exclude the stepchild from the assistance unit, with none of the stepchild's income considered as available to the assistance unit.

(4) If the income of an ineligible child or stepchild, including a stepchild excluded from the assistance unit as specified in subsection (3) of this section, contains a portion for such child's caretaker relative, that portion shall be considered as available to the assistance unit.

[Statutory Authority: RCW 74.08.090, 86-23-021 (Order 2442), § 388-28-535, filed 11/10/86; 85-18-042 (Order 2276), § 388-28-535, filed 8/30/85; 85-04-024 (Order 2200), § 388-28-535, filed 1/30/85; 83-23-058 (Order 2049), § 388-28-535, filed 11/16/83; 83-04-033 (Order 1940), § 388-28-535, filed 1/28/83, effective 3/1/83; 82-13-082 (Order 1831), § 388-28-535, filed 6/21/82; 82-01-009 (Order 1728), § 388-28-535, filed 12/4/81; 80-14-061 (Order 1547), § 388-28-535, filed 10/1/80; 78-05-019 (Order 1287), § 388-28-535, filed 4/13/78; Order 1221, § 388-28-535, filed 8/8/77; Order 1194, § 388-28-535, filed 3/3/77; Order 1131, § 388-28-535, filed 7/8/76; Order 1004, § 388-28-535, filed 1/24/75; Order 976, § 388-28-535, filed 10/28/74; Order 749, § 388-28-535, filed 12/7/72; Order 619, § 388-28-535, filed 10/27/71; Order 375, § 388-28-535, filed 8/7/69; Order 320, § 388-28-535, filed 11/27/68; Emergency Order 309, filed 9/20/68; Order 296, § 388-28-535, filed 8/27/68; Regulation 8.844, filed 10/4/67; Regulation 8.844, filed 5/17/67, 3/31/66, 6/17/64, 1/24/64.]

WAC 388-28-555 Net cash income--Guardianship costs--Retired, disabled and survivors insurance benefits--Veterans benefits. When appointment of a legal guardian is required by the Social Security Administration or the Veterans Administration as a condition for receipt of a benefit from either agency, the necessary costs of securing a guardian shall be deducted from the benefit received to determine the individual's net income.

[Order 1021, § 388-28-555, filed 4/29/75; Regulation 8.846, filed 1/24/64.]

WAC 388-28-560 Income for support of legal dependents. (1) The department shall allot the income of a parent or stepparent in the assistance unit after applying the proper earned income exemptions in WAC 388-28-570(6). The department shall allot the income in the following order:

(a) To pay court or administratively ordered support for a legal dependent not living in the parent or

stepparent's home. The department shall verify support payments and exempt up to the amount of the one-person continuing assistance need standard for each legal dependent;

(b) To meet the needs of family members not eligible for AFDC but who are the legal responsibility of the parent or stepparent. The exempt amount shall not exceed the appropriate payment standard;

(c) To meet the needs of members of the AFDC assistance unit.

(2) After applying the earned income work expense and dependent care exemptions allowed in WAC 388-28-570(6), the department shall allot the income of a parent or stepparent in the household, but not in the assistance unit as in subsections (1)(a), (b), and (c) of this section. The department shall not allot any income to the needs of the parent or stepparent if that person is sanctioned or failed to cooperate with the department.

[Statutory Authority: RCW 74.08.090. 89-24-041 (Order 2912), § 388-28-560, filed 12/1/89, effective 1/1/90. 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 388-28-570 Net cash income--Exempt earned income. (1) For rules on exempting earned income of a full- or part-time student, see WAC 388-28-535. For rules exempting income from training, see WAC 388-28-515. For rules exempting earned income for refugee assistance, see WAC 388-55-010. For rules on other income, see WAC 388-28-580.

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

(3) For an AFDC recipient, earned income includes earnings under Title I of the Elementary and Secondary Education Act, all earnings received under the Economic Opportunity Act, wages from WIN on-the-job training, and wages paid under the Job Training Partnership Act (JTPA). See WAC 388-28-535(2) for treatment of a child excluded from the grant.

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

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

(b) Benefits accruing as compensation or reward for service, or as compensation for lack of employment, for

example, pensions and benefits from labor organizations, veterans' benefits, unemployment compensation, Social Security, etc.

(c) Income from WIN incentive payments and training-related expenses derived from WIN institutional or work experience training.

(d) Income received under the Job Training Partnership Act for training allowances, payments for support services, etc.

(5) In AFDC, refugee assistance, and general assistance when payment of income earned over a period of more than one month is delayed, the exemption applies to the period during which the income was earned.

(6) Aid to families with dependent children.

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

(i) Ninety dollars for work expenses, regardless of the number of hours worked per month.

(ii) For each nonstudent dependent child and adult found otherwise eligible to receive assistance or having received assistance in one of the four prior months, thirty dollars and one-third of the remainder not already disregarded. The thirty dollars and one-third disregard shall be applied for a maximum of four consecutive months; it cannot be applied again until the recipient has been a nonrecipient for twelve consecutive months.

(iii) After expiration of the disregard in subsection (6)(a)(ii) of this section, thirty dollars for a maximum of eight consecutive months, whether or not the recipient has earnings or is receiving assistance; it cannot be applied again until the recipient has been a nonrecipient for twelve consecutive months.

(iv) The actual cost not to exceed the following amounts depending upon the number of hours worked per month for the care of each dependent child or incapacitated adult living in the same home and receiving AFDC. No deduction shall be made for child care provided by a parent or stepparent. The amount incurred must be verified by the provider. The expense must have been incurred for the month of employment being reported to be allowed as a deduction.

| Hours Worked Per Month | Child Care Maximum Deductions Child 2 Years of Age or Older | Child Care Maximum Deductions Child Under 2 Years of Age |
|------------------------|---|--|
| 0 - 40 | \$ 43.75 | \$ 50.00 |
| 41 - 80 | 87.50 | \$100.00 |
| 81 - 120 | 131.25 | \$150.00 |
| 121 or more | 175.00 | \$200.00 |

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

(i) Terminated the individual's employment or reduced the individual's earned income without good cause; or

(ii) Refused without good cause to accept employment in which the individual is able to engage which is offered

through employment security department, or is otherwise offered by an employer if the offer of such employment is determined by the local office to be a bona fide offer of employment.

(c) The exemptions and deductions in subsection (6)(a) of this section will not be applied for any month the recipient failed without good cause to make a timely report of income. When a timely report is made under these circumstances, the thirty-dollar and one-third exemption shall be counted in the applicable time limits. Good cause shall be determined by the department. Any circumstance beyond the control of the recipient shall constitute good cause.

To be considered timely, a report must be received by the department:

(i) On or before the eighteenth day of the month following the month in which the income was received, or

(ii) By the first following work day if the eighteenth day of the month falls on a weekend or holiday.

(d) If a recipient requests termination in order to break the consecutiveness of the applicable time limits for the thirty-dollar plus one-third exemption, and would have been eligible, the months of voluntary non-receipt of assistance shall be counted toward the applicable time limits.

(e) If a recipient quits work without good cause, the thirty-dollar and one-third exemption shall be deemed to have been received and shall be counted toward the applicable time limits.

(f) Months in which the applicant/recipient received the thirty-dollar and one-third exemption in another state shall not apply toward the applicable time limits.

(7) The following conditions when verified shall constitute good cause for refusal of an offer of employment or refusal to continue employment:

(a) Physical, mental, or emotional inability of the individual to satisfactorily perform the work required;

(b) Inability of the individual to get to and from the job without undue cost or hardship to the individual;

(c) The nature of the work would be hazardous to the individual;

(d) The wages do not meet any applicable minimum wage requirements and are not customary for such work in the community;

(e) The job is available because of a labor dispute; or

(f) Adequate child care is not available to the AFDC household.

[Statutory Authority: RCW 74.08.090, 90-17-116 (Order 3050), § 388-28-570, filed 8/21/90, effective 9/21/90; 89-18-057 (Order 2865), § 388-28-570, filed 9/1/89, effective 10/2/89; 87-01-096 (Order 2449), § 388-28-570, filed 12/22/86; 85-18-042 (Order 2276), § 388-28-570, filed 8/30/85; 85-04-024 (Order 2200), § 388-28-570, filed 1/30/85; 83-23-058 (Order 2049), § 388-28-570, filed 11/16/83; 82-19-056 (Order 1876), § 388-28-570, filed 9/15/82; 82-09-034 (Order 1792), § 388-28-570, filed 4/14/82; 82-01-009 (Order 1728), § 388-28-570, filed 12/4/81; Order 1236, § 388-28-570, filed 8/31/77; Order 975, § 388-28-570, filed 10/11/74; Order 891, § 388-28-570, filed 12/27/73; Order 749, § 388-28-570, filed 12/7/72; Order 619, § 388-28-570, filed 10/27/71; Order 445, § 388-28-570, filed 4/28/70; Order 372, § 388-28-570, filed 8/1/69; Order 329, § 388-28-570, filed 1/8/69; Order 296, § 388-28-570, filed 8/26/68; Regulation 8.848, filed 10/4/67; Regulation 8.848, filed 5/17/67, 2/3/67, 11/22/66, 12/31/65, 7/13/65, 1/24/64.]

WAC 388-28-575 Disregard of income and resources. (1) For aid to families with dependent children (AFDC), the department shall disregard as income and as a resource the following payments:

(a) Grants, loans, or federal work study to an undergraduate student insured by the Secretary of Education, U.S. Department of Education;

(b) The income of a Supplemental Security Income recipient;

(c) The monthly child support incentive payment from the office of support enforcement;

(d) AFDC benefits resulting from a court order modifying a department policy; and

(e) Wages earned during the 1990 Federal Census Demonstration Project by a temporary census worker eligible for the exclusion.

(2) For AFDC and general assistance (GA), the department shall disregard as income and as a resource the following payments:

(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;

(f) Energy assistance payments;

(g) Per capita judgment funds under Public Law (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.

(h) Indian claim settlement per capita funds or funds held in trust under P.L. 93-134 or P.L. 94-114;

(i) Two thousand dollars per individual per calendar year received under the Alaska Native Claims Settlement Act or under P.L. 98-64;

(j) Veterans' Administration educational assistance for the student's educational expenses and child care necessary for school attendance;

(k) Housing and Urban Development (HUD) community development block grant funds that preclude use for current living costs;

(l) Restitution payments made under the Wartime Relocation of Civilians Act, P.L. 100-383. The department shall disregard income and resources derived from restitution payments;

(m) A previous underpayment of assistance under WAC 388-33-195;

(n) Payment from the annuity fund established by the Puyallup Tribe of Indians Settlement Act of 1989, P.L. 101-41, made to a Puyallup Tribe member upon reaching twenty-one years of age.

(i) Real or personal property purchased directly with funds from the annuity fund payment up to the amount of the funds from the annuity fund payment hereafter referred to as the initial investments.

(ii) Income derived either from the annuity fund payment or the initial investments shall be treated as newly acquired income per WAC 388-28-482 and 388-28-484.

(iii) When the initial investments are nonexempt resources, appreciation in value shall be applied to the resource ceiling value as specified for the applicable program in WAC 388-28-430 (2)(a) or WAC 388-28-435(1). When appreciation is in excess of the applicable ceiling value, the department shall apply for AFDC WAC 388-28-438(2) and for GA-U WAC 388-28-450(2). The department shall determine appreciation in value at the time of eligibility review.

(iv) Proceeds from the transfer of the initial investments are treated according to WAC 388-28-471. After sixty days, if funds are in excess of the applicable ceiling value, the department shall apply for AFDC WAC 388-28-438(2) and for GA-U WAC 388-28-440 (3) and (4).

(o) Payments from the trust fund established by the P.L. 101-41 made to a Puyallup Tribe member; and

(p) Payments made from the Agent Orange Settlement Fund or any other funds established to settle Agent Orange liability claims. Under P.L. 101-201, the effective date of the disregard is retroactive to January 1, 1989.

[Statutory Authority: RCW 74.08.090. 90-11-003 (Order 2975), § 388-28-575, filed 5/3/90, effective 6/3/90; 89-17-031 (Order 2848), § 388-28-575, filed 8/8/89, effective 9/8/89; 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.]

WAC 388-28-578 Assistance from other agencies and organizations. (1) Assistance from other agencies and organizations shall not be deducted in determining the amount of assistance to be paid by the department provided that no duplication shall exist between such other assistance and that provided by the department. To assure nonduplication, aid from other agencies will be considered in relation to:

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

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

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

(2) If the assistance is available to meet need, the assistance shall be exempted up to the difference between the need standard and the payment standard.

[Statutory Authority: RCW 74.08.090. 82-17-003 (Order 1854), § 388-28-578, filed 8/5/82; Order 891, § 388-28-578, filed 12/27/73.]

WAC 388-28-580 Other income. Net income from any other nonexempt source shall be the gross amount less any cost of securing or maintaining the income.

[Order 1224, § 388-28-580, filed 7/19/77; Order 891, § 388-28-580, filed 12/27/73; Order 877, § 388-28-580, filed 11/27/73; Order 770, § 388-28-580, filed 1/26/73; Order 650, § 388-28-580, filed 2/9/72; Order 521, § 388-28-580, filed 3/2/71; Order 520, § 388-28-580, filed 2/24/71; Order 445, § 388-28-580, filed 4/28/70; Order 372, § 388-28-580, filed 8/1/69; Order 268, § 388-28-580, filed 12/5/67; Regulation 8.849, filed 12/28/66, 7/13/65, 1/24/64.]

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

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

(3) Any alien whose sponsor is a public or private agency or organization is ineligible for assistance for three years from the date of entry into the United States, unless the agency or organization is either no longer in existence or has become unable to meet the alien's needs.

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

(5) For all subsections in this section, the income and resources of an individual sponsor (and the sponsor's spouse if living with the sponsor) shall be deemed to be the unearned income and resources of an alien for three years following the alien's entry into the United States.

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

(a) The sponsor's total monthly unearned income, added to the sponsor's total monthly earned income reduced by twenty percent (not to exceed one hundred seventy-five dollars) of the total of any amounts received by the sponsor in the month as wages or salary or as net earnings from self-employment, plus the full amount of any costs incurred in producing self-employment income in the month.

(b) The amount described in subsection (6)(a) of this section reduced by:

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

(ii) Any amounts actually paid by the sponsor to people not living in the household claimed by the sponsor as

dependents to determine his or her federal personal income tax liability; and

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

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

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

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

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

(a) Meets the definition of refugee in WAC 388-55-010; or

(b) Is the dependent child of the sponsor or sponsor's spouse.

(11) Any sponsor of an alien and the alien shall be jointly and individually liable for any overpayment of assistance made to the alien during the three years after the alien's entry into the United States due to the sponsor's failure to provide correct information, except where such sponsors were without fault or where good cause existed.

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

(b) Good cause and no fault shall be defined as any circumstance beyond the control of the sponsor.

[Statutory Authority: RCW 74.08.090, 85-03-068 (Order 2189), § 388-28-590, filed 1/17/85; 83-04-060 (Order 1942), § 388-28-590, filed 2/2/83; 82-19-056 (Order 1876), § 388-28-590, filed 9/15/82; 82-01-009 (Order 1728), § 388-28-590, filed 12/4/81.]

WAC 388-28-600 Determination of net income in-kind. (1) Definitions

(a) "Supplied" as used herein means the in-kind item is furnished to the applicant or recipient without work or cost on his part.

(b) "Self-produced" means the applicant or recipient has produced the in-kind item through his own work for himself and not for others. He has not purchased it.

(c) "Earned income in-kind" as used in this section means the in-kind item is earned by work performed for another person by the applicant such as earning rent from a landlord, etc.

(2) The value of self-produced or supplied items shall be disregarded except when:

(a) Self-produced items are sold for cash. When such a sale is made, fifty percent of the cash sale value shall be considered expenses of earning the income.

(b) The household's requirement for shelter is supplied. When the household's shelter is supplied, the payment level for the household shall be those indicated in WAC 388-29-100(3).

(3) Earned income in-kind items shall be evaluated in terms of their cash equivalent. Allowance shall be made for exempt earned income according to WAC 388-28-570. Remaining net income shall be applied in determining need.

[Statutory Authority: RCW 74.08.090, 83-04-033 (Order 1940), § 388-28-600, filed 1/28/83, effective 3/1/83; 78-10-036 (Order 1338), § 388-28-600, filed 9/18/78; Order 1101, § 388-28-600, filed 2/25/76; Order 786, § 388-28-600, filed 4/12/73; Order 650, § 388-28-600, filed 2/9/72; Order 561, § 388-28-600, filed 5/5/71; Order 521, § 388-28-600, filed 3/2/71; Regulation 8.850, filed 7/12/65; Regulation 8.850, filed 1/24/64.]

WAC 388-28-650 Guardianships and trusts--Indians.

(1) When the superintendent of an Indian agency determines an individual Indian under his or her jurisdiction needs help in managing his or her affairs, the superintendent has the authority, under Title 25, Code of Federal Regulations, Part 104, to control disbursement of the Indian's trust funds. When such authority has been exercised, and the Indian is an applicant for or a recipient of public assistance, the following rules apply:

(a) The superintendent must provide to the department a written statement that he or she is maintaining control of the Indian's trust funds according to the provisions of 25 C.F.R. 104.

(b) The Indian or his or her representative must discuss with the superintendent the availability of trust funds to meet public assistance need, and the superintendent must indicate to the department whether or not funds will be released for this purpose.

(c) Any trust funds disbursed directly to the Indian in excess of exempt resource levels are under his or her control and are available to meet need. See WAC 388-28-440(1).

(d) Funds held in trust by the superintendent and not disbursed are not available to meet need.

(e) Funds disbursed by the superintendent to third parties in payment for goods or services are not under the Indian's control, but may be available to meet need, depending on the nature of the disbursement.

(i) Disbursements to third parties for items duplicating basic requirements, as defined in WAC 388-22-030 (57)(b), are available to meet need.

(ii) Disbursements to third parties for items not duplicating basic requirements are not available to meet need. However, such items must be evaluated with regard to the resource limitations of WAC 388-28-430.

(f) Each periodic redetermination of eligibility shall include a review of disbursements from the individual Indian's trust account.

(2) Real property held in trust for an individual Indian is not an available resource. An Indian applying for or receiving public assistance shall not be required to sell or attempt to sell allotted trust property as a condition of eligibility. Property which has lost its trust status is an available resource.

[Statutory Authority: RCW 74.08.090. 83-21-010 (Order 2031), § 388-28-650, filed 10/6/83; Order 1001, § 388-28-650, filed 1/14/75.]

Chapter 388-29 WAC STANDARDS--ELIGIBILITY

WAC

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- 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

- 388-29-025 Limitations on requirements. [Order 1241, § 388-29-025, filed 9/23/77.] Repealed by 85-07-020 (Order 2215), filed 3/13/85. Statutory Authority: RCW 74.08.090.
- 388-29-030 Assistance unit—Supplemental security income beneficiary excluded. [Order 1241, § 388-29-030, filed 9/23/77.] Repealed by 85-07-020 (Order 2215), filed 3/13/85. Statutory Authority: RCW 74.08.090.
- 388-29-040 Housekeeper. [Order 1241, § 388-29-040, filed 9/23/77.] Repealed by 85-07-020 (Order 2215), filed 3/13/85. Statutory Authority: RCW 74.08.090.
- 388-29-115 Supplemental payments for AFDC recipients. [Statutory Authority: RCW 74.08.090. 81-09-041 (Order 1635), § 388-29-115, filed 4/15/81; 80-05-046 (Order 1500), § 388-29-115, filed 4/16/80.] Repealed by 82-01-009 (Order 1728), filed 12/4/81. Statutory Authority: RCW 74.08.090.
- 388-29-135 Cost standards for requirements—Maternity home care. [Statutory Authority: RCW 74.08.090. 83-17-070 (Order 2008), § 388-29-135, filed 8/19/83; 82-17-066 (Order 1862), § 388-29-135, filed 8/18/82; 81-19-127 (Order 1701), § 388-29-135, filed 9/23/81; 80-11-055 (Order 1532), § 388-29-135, filed 8/20/80; 79-10-083 (Order 1434), § 388-29-135, filed 9/21/79; 78-08-084 (Order 1321), § 388-29-135, filed 7/28/78; Order 1241, § 388-29-135, filed 9/23/77.] Repealed by 85-07-020 (Order 2215), filed 3/13/85. Statutory Authority: RCW 74.08.090.
- 388-29-140 Monthly standards for basic requirements—AFDC—Child living with relative not in need. [Statutory Authority: RCW 74.08.090. 78-04-035 (Order 1281), § 388-29-140, filed 3/20/78; Order 1241, § 388-29-140, filed 9/23/77.] Repealed by 78-06-074 (Order

- 1297), filed 5/31/78, effective 7/1/78. Statutory Authority: RCW 78.08.090 [74.08.090].
- 388-29-145 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.
- 388-29-155 Standards for additional requirements under specified circumstances—Child care expenses for employed persons. [Statutory Authority: RCW 74.08.090. 80-11-055 (Order 1532), § 388-29-155, filed 8/20/80; 79-10-083 (Order 1434), § 388-29-155, filed 9/21/79; 79-06-007 (Order 1393), § 388-29-155, filed 5/8/79; 78-09-047 (Order 1327), § 388-29-155, filed 8/21/78. Statutory Authority: RCW 74.04.510 and 74.08.090. 78-06-086 (Order 1303), § 388-29-155, filed 6/2/78.] Repealed by 82-01-009 (Order 1728), filed 12/4/81. Statutory Authority: RCW 74.08.090.
- 388-29-158 Standards for additional requirements under specified circumstances—Child care expenses for AFDC recipients in approved training plans. [Statutory Authority: RCW 74.08.090. 81-01-017 (Order 1576), § 388-29-158, filed 12/8/80.] Repealed by 81-10-033 (Order 1649), filed 4/29/81. Statutory Authority: RCW 74.08.090.
- 388-29-170 Standards for additional requirements under specified circumstances—Daily restaurant meals. [Statutory Authority: RCW 74.08.090. 80-11-055 (Order 1532), § 388-29-170, filed 8/20/80; 79-10-083 (Order 1434), § 388-29-170, filed 9/21/79; 78-08-084 (Order 1321), § 388-29-170, filed 7/28/78; Order 1241, § 388-29-170, filed 9/23/77.] Repealed by 81-08-018 (Order 1626), filed 3/25/81. Statutory Authority: RCW 74.08.090.
- 388-29-190 Transportation to state of legal residence. [Statutory Authority: RCW 74.08.090. 78-12-001 (Order 1355), § 388-29-190, filed 11/3/78; Order 1241, § 388-29-190, filed 9/23/77.] Repealed by 81-10-010 (Order 1642), filed 4/27/81. Statutory Authority: RCW 74.08.090.
- 388-29-260 Standards of assistance—Persons in boarding homes—General assistance. [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.] Repealed by 90-06-035 (Order 2947), filed 3/1/90, effective 4/1/90. Statutory Authority: RCW 74.08.090.
- 388-29-290 Low-income home energy assistance allowance. [Statutory Authority: RCW 43.20A.550. 85-04-020 (Order 2196), § 388-29-290, filed 1/30/85; 84-02-050 (Order 2058), § 388-29-290, filed 1/4/84. Statutory Authority: RCW 74.08.090. 82-23-061 (Order

1909), § 388-29-290, filed 11/17/82. Statutory Authority: RCW 43.20A.550. 82-01-050 (Order 1736), § 388-29-290, filed 12/16/81. Statutory Authority: RCW 74.08.090. 81-08-045 (Order 1631), § 388-29-290, filed 3/31/81. Statutory Authority: RCW 74.04.510 and 74.08.090. 80-05-044 (Order 1498), § 388-29-290, filed 4/16/80.] Repealed by 85-24-051 (Order 2309), filed 12/2/85. Statutory Authority: RCW 74.08.090.

WAC 388-29-001 Definitions. (1) "Assistance unit" means a person or group of persons required to be included together when determining eligibility for an assistance program.

(2) "Board and room" means a living arrangement in which an individual purchases food, shelter, and household maintenance requirements from one vendor.

(3) "Boarding home" means any place where one or more persons purchase food, shelter, and household maintenance requirements from one 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 lifetime.

(7) "Maximum" means no incremental increase in the payment standard for additional members of an assistance unit beyond a designated size.

(8) "Medical institution" means an institution where professional personnel provide medical, nursing, or convalescent care.

(9) "Need" means the difference between the payment standard and the applicant's or recipient's available income, if any.

(10) "Payment standard" means the amount to which the applicant's or recipient's available income and resources are compared in determining financial eligibility.

(11) "Rateable reduction" means the percentage difference between the need standard and the payment standard.

(12) "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.

(13) "Residing in own home" means a living arrangement not involving boarding and rooming or care in a hospital, nursing home, or another institution.

(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. 90-06-035 (Order 2947), § 388-29-001, filed 3/1/90, effective 4/1/90; 89-11-102 (Order 2801), § 388-29-001, filed 5/24/89; 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 388-29-005 Fair hearing. An applicant or recipient aggrieved by a decision made by the department and based upon the rules in this chapter can request a fair hearing as provided for in chapter 388-08 WAC.

[Statutory Authority: RCW 74.08.090. 85-07-020 (Order 2215), § 388-29-005, filed 3/13/85.]

WAC 388-29-010 Standards of assistance. (See RCW 74.04.770)

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

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

(3) The law requires that the secretary establish consolidated standards of assistance each fiscal year.

(4) State supplements for supplemental security income recipients shall be no less than the levels specified in 42 U.S.C. Section 1618.

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

(6) The amount of the grant which is given is the difference between the dollar value of the monthly payment standard adjusted for the maximum grant limitation when in effect, and the resource value or income which the applicant or recipient possesses, or can obtain.

[Statutory Authority: RCW 74.08.090. 85-07-020 (Order 2215), § 388-29-010, filed 3/13/85; 83-11-010 (Order 1961), § 388-29-010, filed 5/9/83; 81-19-127 (Order 1701), § 388-29-010, filed 9/23/81; 81-10-011 (Order 1643), § 388-29-010, filed 4/27/81; Order 1241, § 388-29-010, filed 9/23/77.]

WAC 388-29-020 Standards of assistance--Grant relationships. (1) The department shall determine which persons to include in an assistance unit.

(2) When creating the assistance unit, the department shall consider:

(a) Household members for whose support the applicant is legally responsible; and

(b) Categorical program requirements.

(3) The department shall not include a person receiving benefits under Title XVI of the Social Security Act in an aid to families with dependent children or family independence program assistance unit.

[Statutory Authority: RCW 74.08.090. 89-11-102 (Order 2801), § 388-29-020, filed 5/24/89; 85-07-020 (Order 2215), § 388-29-020, filed 3/13/85; Order 1241, § 388-29-020, filed 9/23/77.]

WAC 388-29-080 Standards of assistance--Basic requirements. (1) The standards for basic requirements apply to a person in his or her own home.

(2) The standards for additional requirements apply to persons with circumstances specified in this chapter.

(3) Individuals eligible for an AFDC or general assistance grant shall be provided the basic requirements.

(4) The monthly payment standard and maximums thereto, if in effect, are based upon the number of recipients in the assistance unit.

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

(6) When two or more assistance units share a common dwelling, the monthly standard for each is based upon the number of members of that assistance unit.

[Statutory Authority: RCW 74.08.090, 85-07-020 (Order 2215), § 388-29-080, filed 3/13/85; 84-13-049 (Order 2104), § 388-29-080, filed 6/18/84; 83-11-010 (Order 1961), § 388-29-080, filed 5/9/83; 81-10-011 (Order 1643), § 388-29-080, filed 4/27/81; Order 1248, § 388-29-080, filed 10/25/77, effective 12/1/77; Order 1241, § 388-29-080, filed 9/23/77.]

WAC 388-29-100 Standards of assistance--Basic requirements. (1) The statewide monthly need standard for basic requirements shall be:

(a) A household with an obligation to pay shelter costs effective January 1, 1991.

Treat a household 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 a renter if the household member makes a utility payment in lieu of a rental payment.

This need standard includes a recipient owning, purchasing, or renting their home.

Effective April 23, 1990, this need standard includes a homeless family or person:

(i) Lacking a fixed, regular, and adequate nighttime residence;

(ii) Residing in a public or privately operated shelter designed to provide temporary living accommodations; or

(iii) Provided temporary lodging through a public or privately funded emergency shelter program.

| Recipients in Household | Need Standard |
|-------------------------|---------------|
| 1 | \$ 628 |
| 2 | 794 |
| 3 | 983 |
| 4 | 1,157 |
| 5 | 1,333 |
| 6 | 1,512 |
| 7 | 1,747 |
| 8 | 1,933 |
| 9 | 2,123 |
| 10 or more | 2,307 |

(b) A household with shelter provided at no cost effective January 1, 1991, except as described under subsection (1)(a) of this section.

The monthly standard for clients with shelter provided at no cost includes requirements for food, clothing, personal maintenance and necessary incidentals, household maintenance, and transportation.

| Recipients in Household | Need Standard |
|-------------------------|---------------|
| 1 | \$ 383 |
| 2 | 484 |
| 3 | 599 |
| 4 | 705 |
| 5 | 813 |
| 6 | 922 |
| 7 | 1,065 |
| 8 | 1,179 |
| 9 | 1,295 |
| 10 or more | 1,407 |

(2) One hundred eighty-five percent of the statewide monthly need standard for basic requirements is:

(a) A household with shelter costs effective January 1, 1991.

| Recipients in Household | 185% of Need Standard |
|-------------------------|-----------------------|
| 1 | \$ 1,161 |
| 2 | 1,468 |
| 3 | 1,818 |
| 4 | 2,140 |
| 5 | 2,466 |
| 6 | 2,797 |
| 7 | 3,231 |
| 8 | 3,576 |
| 9 | 3,927 |
| 10 or more | 4,267 |

(b) A household with shelter provided at no cost effective January 1, 1991.

| Recipients in Household | 185% of Need Standard |
|-------------------------|-----------------------|
| 1 | \$ 708 |
| 2 | 895 |
| 3 | 1,108 |
| 4 | 1,304 |
| 5 | 1,504 |
| 6 | 1,705 |
| 7 | 1,970 |
| 8 | 2,181 |
| 9 | 2,395 |
| 10 or more | 2,602 |

(3) The statewide monthly payment standard shall be:

(a) Payment standard for a household with an obligation to pay shelter costs effective January 1, 1991.

Treat a household 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 a renter if the household member makes a utility payment in lieu of a rental payment.

This payment standard includes a recipient owning, purchasing, or renting their home.

Effective April 23, 1990, this payment standard includes a homeless family or person:

(i) Lacking a fixed, regular, and adequate nighttime residence;

(ii) Residing in a public or privately operated shelter designed to provide temporary living accommodations; or

(iii) Provided temporary lodging through a public or privately funded emergency shelter program.

| Recipients in Household | Payment Standard |
|-------------------------|------------------|
| 1 | \$ 339 |
| 2 | 428 |
| 3 | 531 |
| 4 | 624 |
| 5 | 719 |
| 6 | 817 |
| 7 | 943 |
| 8 | 1,044 |
| 9 | 1,146 |
| 10 or more | 1,246 |

(b) Payment standard for a household with shelter provided at no cost effective January 1, 1991, except as described under subsection (3)(a) of this section.

The monthly payment standard for clients with shelter provided at no cost includes requirements for food, clothing, personal maintenance and necessary incidentals, transportation, and household maintenance.

| Recipients in Household | Payment Standard |
|-------------------------|------------------|
| 1 | \$ 206 |
| 2 | 261 |
| 3 | 323 |
| 4 | 380 |
| 5 | 438 |
| 6 | 497 |
| 7 | 574 |
| 8 | 635 |
| 9 | 698 |
| 10 or more | 758 |

[Statutory Authority: RCW 74.08.090. 91-02-072 (Order 3122), § 388-29-100, filed 12/28/90, effective 1/28/91; 90-21-031 (Order 3084), § 388-29-100, filed 10/9/90, effective 11/9/90; 90-15-018 (Order 3038), § 388-29-100, filed 7/12/90, effective 8/12/90; 90-06-035 (Order 2947), § 388-29-100, filed 3/1/90, effective 4/1/90; 89-21-065 (Order 2882), § 388-29-100, filed 10/17/89, effective 11/17/89; 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 388-29-110 Standards of assistance--Grant maximum. (1) A grant to a family of eight or more shall not exceed the following maximum. In computing the

grant amount, nonexempt income (and resources; general assistance only) available to meet need shall be deducted from the monthly payment standard specified in this chapter.

(2) Effective January 1, 1991, the maximum is:

| Number in household | Maximum |
|---------------------|----------|
| 8 or more | \$ 1,044 |

[Statutory Authority: RCW 74.08.090. 91-02-072 (Order 3122), § 388-29-110, filed 12/28/90, effective 1/28/91; 90-06-035 (Order 2947), § 388-29-110, filed 3/1/90, effective 4/1/90; 85-24-051 (Order 2309), § 388-29-110, filed 12/2/85; 85-07-020 (Order 2215), § 388-29-110, filed 3/13/85; 84-13-049 (Order 2104), § 388-29-110, filed 6/18/84; 83-17-070 (Order 2008), § 388-29-110, filed 8/19/83; 82-11-001 (Order 1804), § 388-29-110, filed 5/6/82; 81-19-127 (Order 1701), § 388-29-110, filed 9/23/81; 81-10-011 (Order 1643), § 388-29-110, filed 4/27/81; 80-15-002 (Order 1550), § 388-29-110, filed 10/2/80; 79-10-083 (Order 1434), § 388-29-110, filed 9/21/79; 78-08-084 (Order 1321), § 388-29-110, filed 7/28/78; Order 1241, § 388-29-110, filed 9/23/77.]

WAC 388-29-112 Standards of assistance--Consolidated emergency assistance program (CEAP). The statewide standards for the consolidated emergency assistance program shall be paid in the amount necessary to meet allowable emergent needs with the issuance of not more than one hundred percent of the payment standard.

(1) Maximum grant.

| Recipients in Household | Maximum Grant |
|-------------------------|---------------|
| 1 | \$ 339 |
| 2 | 428 |
| 3 | 531 |
| 4 | 624 |
| 5 | 719 |
| 6 | 817 |
| 7 | 943 |
| 8 or more | 1,044 |

(2) Payment maximums for individual emergent need items.

| | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 (or more) |
|------------------|-------|-------|-------|-------|-------|-------|-------|-------------|
| Food | \$205 | \$260 | \$322 | \$380 | \$437 | \$496 | \$566 | \$626 |
| Shelter | 250 | 316 | 392 | 462 | 532 | 603 | 698 | 772 |
| Clothing | 29 | 37 | 46 | 54 | 62 | 71 | 81 | 91 |
| Minor Medical | 174 | 221 | 274 | 322 | 371 | 419 | 486 | 538 |
| Utilities | 84 | 107 | 132 | 155 | 179 | 204 | 236 | 260 |
| Household Maint. | 62 | 79 | 97 | 115 | 132 | 150 | 173 | 191 |

Job-related transportation - as needed not to exceed the grant maximum. Transportation of a child to home - as needed not to exceed the grant maximum. See WAC 388-24-250.

(3) These standards are effective January 1, 1991.

[Statutory Authority: RCW 74.08.090. 91-02-072 (Order 3122), § 388-29-112, filed 12/28/90, effective 1/28/91; 90-06-035 (Order 2947), § 388-29-112, filed 3/1/90, effective 4/1/90; 85-24-051 (Order 2309), § 388-29-112, filed 12/2/85; 85-07-020 (Order 2215), § 388-29-112, filed 3/13/85; 84-13-049 (Order 2104), § 388-29-112,

filed 6/18/84; 83-17-070 (Order 2008), § 388-29-112, filed 8/19/83; 83-11-010 (Order 1961), § 388-29-112, filed 5/9/83; 82-11-001 (Order 1804), § 388-29-112, filed 5/6/82; 81-19-127 (Order 1701), § 388-29-112, filed 9/23/81; 81-10-011 (Order 1643), § 388-29-112, filed 4/27/81.]

WAC 388-29-125 Standards of assistance--Persons in medical institutions. Effective July 1, 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 388-29-150 Standards of assistance--Additional requirements. (1) Additional requirements are provided under the circumstances and limitations specified in this chapter.

(2) The department's standards provide for certain additional requirements when the individual's circumstances are such that the item is essential in accordance with the established criteria. The need of these items must be verified in each case where any are included. When the requirement is ongoing, it is added to the basic requirements of the assistance unit.

(3) The circumstances which give rise to an additional requirement may regularly recur or be nonrecurring depending on the nature of the item. In determining whether an additional requirement exists, the total case situation shall be taken into account, i.e., the changes which have occurred in health or living conditions and, if the problem is not new, how it was met in the past.

(4) A plan for periodically reviewing the necessity for continuing the allowance for an ongoing additional requirement shall be established in each case, taking into account the change in the individual's living arrangements, health, and any other factor which has a bearing on the need for the item.

(5) The need for any ongoing additional requirement must be reestablished as often as the case plan indicates, but at least semiannually, except where it is established there is a continuing need that is likely not subject to change.

[Statutory Authority: RCW 74.08.090. 85-07-020 (Order 2215), § 388-29-150, filed 3/13/85; 78-12-001 (Order 1355), § 388-29-150, filed 11/3/78; Order 1241, § 388-29-150, filed 9/23/77.]

WAC 388-29-160 Additional requirements--Restaurant meals. (1) Restaurant meals shall be an additional requirement only when:

(a) An individual is physically or mentally unable to prepare meals, and

(b) Board, or board and room, is not available or the use of such facilities is not feasible for the individual.

(2) Effective January 1, 1991, the monthly standard for restaurant meals shall be one hundred eighty-one dollars and sixty-four cents.

[Statutory Authority: RCW 74.08.090. 91-02-072 (Order 3122), § 388-29-160, filed 12/28/90, effective 1/28/91; 90-06-035 (Order 2947), § 388-29-160, filed 3/1/90, effective 4/1/90; 85-24-051 (Order 2309), § 388-29-160, filed 12/2/85; 85-07-020 (Order 2215), § 388-29-160, filed 3/13/85; 84-13-049 (Order 2104), § 388-29-160, filed 6/18/84; 83-17-070 (Order 2008), § 388-29-160, filed 8/19/83; 82-17-066 (Order 1862), § 388-29-160, filed 8/18/82; 81-19-127 (Order 1701), § 388-29-160, filed 9/23/81; 80-11-055 (Order 1532), § 388-29-160, filed 8/20/80; 79-10-083 (Order 1434), § 388-29-160, filed 9/21/79; 78-08-084 (Order 1321), § 388-29-160, filed 7/28/78; Order 1241, § 388-29-160, filed 9/23/77.]

WAC 388-29-180 Additional requirements--Home-delivered meals (meals-on-wheels). (1) For some recipients who cannot be expected to prepare all of their own meals, prepared and home-delivered meals may be available.

(2) Criteria used to authorize the service are as follows:

(a) The recipient requires help in preparation of some meals and would benefit nutritionally or otherwise from home-delivered meals,

(b) Such help is not reasonably available without cost to the recipient,

(c) Board (or board and room) is not available, feasible, or is costlier for the recipient.

(3) When a plan for use of this service is approved, the monthly standard shall be established by the department.

[Statutory Authority: RCW 74.08.090. 85-07-020 (Order 2215), § 388-29-180, filed 3/13/85; 81-19-127 (Order 1701), § 388-29-180, filed 9/23/81; 79-10-083 (Order 1434), § 388-29-180, filed 9/21/79; Order 1241, § 388-29-180, filed 9/23/77.]

WAC 388-29-200 Additional requirements--Food for guide dog. (1) The cost of food for a guide dog shall

be an additional requirement when an applicant or recipient has a guide dog assigned to him or her by an accredited guide dog organization.

(2) Effective January 1, 1990, the monthly standard for food for a guide dog shall be thirty-three dollars and sixty-six cents.

[Statutory Authority: RCW 74.08.090. 90-06-035 (Order 2947), § 388-29-200, filed 3/1/90, effective 4/1/90; 85-24-051 (Order 2309), § 388-29-200, filed 12/2/85; 85-07-020 (Order 2215), § 388-29-200, filed 3/13/85; 84-13-049 (Order 2104), § 388-29-200, filed 6/18/84; 83-17-070 (Order 2008), § 388-29-200, filed 8/19/83; 82-17-066 (Order 1862), § 388-29-200, filed 8/18/82; 81-19-127 (Order 1701), § 388-29-200, filed 9/23/81; 80-11-055 (Order 1532), § 388-29-200, filed 8/20/80; 79-10-083 (Order 1434), § 388-29-200, filed 9/21/79; 78-08-084 (Order 1321), § 388-29-200, filed 7/28/78; Order 1241, § 388-29-200, filed 9/23/77.]

WAC 388-29-210 Additional requirements—Telephone. (1) Telephone service is an additional requirement only when the lack of a telephone would endanger life or make a more expensive type of care necessary. Telephone service is not allowed when the function of a telephone can be performed by other means, including the help of neighbors, relatives, or other community service.

(2) The monthly standard for telephone is the minimum residential rate available in the area for the service.

[Statutory Authority: RCW 74.08.090. 85-07-020 (Order 2215), § 388-29-210, filed 3/13/85; Order 1241, § 388-29-210, filed 9/23/77.]

WAC 388-29-220 Additional requirements—Laundry. (1) Laundry is an additional requirement when:

(a) The applicant or recipient (A/R) is physically unable to do laundry, and

(b) There is no one able to perform this service for the A/R.

(2) Effective January 1, 1991, the monthly standard for laundry shall be ten dollars and eighty-one cents.

[Statutory Authority: RCW 74.08.090. 91-02-072 (Order 3122), § 388-29-220, filed 12/28/90, effective 1/28/91; 90-06-035 (Order 2947), § 388-29-220, filed 3/1/90, effective 4/1/90; 85-24-051 (Order 2309), § 388-29-220, filed 12/2/85; 85-07-020 (Order 2215), § 388-29-220, filed 3/13/85; 84-13-049 (Order 2104), § 388-29-220, filed 6/18/84; 83-17-070 (Order 2008), § 388-29-220, filed 8/19/83; 82-17-066 (Order 1862), § 388-29-220, filed 8/18/82; 81-19-127 (Order 1701), § 388-29-220, filed 9/23/81; 80-11-055 (Order 1532), § 388-29-220, filed 8/20/80; 79-10-083 (Order 1434), § 388-29-220, filed 9/21/79; 78-08-084 (Order 1321), § 388-29-220, filed 7/28/78; Order 1241, § 388-29-220, filed 9/23/77.]

WAC 388-29-230 Additional requirements—Winterizing homes—AFDC. (1) Repairs to a home owned or being purchased by an AFDC recipient are an additional requirement under the following circumstances:

(a) The primary purpose of the repairs is to minimize heat loss or otherwise increase the efficiency of the home heating system;

(b) The repairs are necessary to render the home habitable;

(c) Lack of repairs would require the assistance unit to move to rental quarters;

(d) The rental costs expended by the assistance unit over a period of two years would exceed the costs, including repairs, attributable to continued occupancy; and

(e) No expenditures for home repair have been made previously under the policies outlined in subsection (1)(a) through (d) of this section.

(2) All expenditures for repairs shall be paid by vendor payments when there is sufficient recorded evidence that a home repair was performed.

(3) Effective January 1, 1991, the maximum allowance for winterizing a home is five hundred dollars.

[Statutory Authority: RCW 74.08.090. 91-02-072 (Order 3122), § 388-29-230, filed 12/28/90, effective 1/28/91; 90-06-035 (Order 2947), § 388-29-230, filed 3/1/90, effective 4/1/90; 85-07-020 (Order 2215), § 388-29-230, filed 3/13/85; 81-19-127 (Order 1701), § 388-29-230, filed 9/23/81; 79-04-060 (Order 1385), § 388-29-230, filed 3/28/79; Order 1241, § 388-29-230, filed 9/23/77.]

WAC 388-29-270 Additional requirements for emergent situations—AFDC. (1) The department shall allow additional requirements in the following emergent situations in which, for good cause, a recipient does not have adequate funds to:

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

(b) Prevent imminent eviction, where a formal notice of eviction or notice to pay or vacate has been received, and only in an amount needed to prevent the eviction or to secure new housing;

(c) Correct a sudden malfunction resulting in loss of heat, water, electricity, or cooking facilities and the recipient is legally responsible for the repairs and winterization funds are not available; limited to actual costs of repairs or replacement when there is no other alternative;

(d) Obtain new housing when the premises contains a verifiable material defect jeopardizing the occupant's health and safety and the landlord or owner fails or refuses to correct the defect within the time allowed by law.

(e) Prevent an impending utility shutoff when a notice of impending shutoff has been received or it is otherwise verified by the department that the recipient is without necessary fuel for heating or cooking and only in the amount to meet the emergent need;

(f) Obtain new housing for needs caused by an abusive spouse. Payments will be limited to:

(i) Established fees paid to shelters especially for abused spouses, or

(ii) The amount necessary to obtain new housing.

(g) Obtain food, when no other resource is available.

(2) Good cause shall be established when the department determines funds ordinarily available to meet need are no longer available because of:

(a) Stolen proceeds from cashed warrants.

(b) Payment for necessities for:

(i) Medical bills;

(ii) Child care in an emergency;

(iii) Avoiding abuse;

(iv) Dental care for alleviation of pain or to obtain employment;

(v) Needs identified in subsections (1)(a) through (g) of this section; provided the actions of the recipient were reasonable under the circumstances. A recipient shall be presumed to have acted reasonably when the amount expended for necessities does not exceed the amount specified in WAC 388-29-112. Other cases shall be determined on a case-by-case basis. If the amount in WAC 388-29-112 is exceeded, the department shall make a judgment regarding reasonability.

(3) Payments under this section shall not exceed one month's payment standard as set in WAC 388-29-100 for renting, owning, or buying.

[Statutory Authority: RCW 74.08.090. 87-01-071 (Order 2451), § 388-29-270, filed 12/17/86; 85-20-022 (Order 2284), § 388-29-270, filed 9/23/85; 82-19-060 (Order 1877), § 388-29-270, filed 9/17/82; 78-12-001 (Order 1355), § 388-29-270, filed 11/3/78; Order 1241, § 388-29-270, filed 9/23/77.]

WAC 388-29-280 Standards of assistance--Adult family home care. (1) The basic monthly standard for adult family home care shall be four hundred dollars and four 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) Additional service hours are computed at five dollars and thirty-six cents per hour to a maximum of sixty hours.

[Statutory Authority: RCW 74.08.090. 90-06-035 (Order 2947), § 388-29-280, filed 3/1/90, effective 4/1/90; 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, 1991, the standards of SSI assistance paid to an eligible individual and couple are:

| | Standard | Federal SSI Benefit | State Supplement |
|---|----------|---------------------|------------------|
| Area I: King, Pierce, Snohomish, Thurston, and Kitsap Counties | | | |
| Living alone | | | |
| Individual | \$435.00 | \$407.00 | \$ 28.00 |
| Couple | | | |
| Both eligible | 632.00 | 610.00 | 22.00 |
| With essential person | 633.00 | 611.00 | 22.00 |
| With ineligible spouse | 599.00 | 407.00 | 192.00 |
| Area II: All Counties Other Than the Above | | | |
| Living alone | | | |
| Individual | 414.55 | 407.00 | 7.55 |

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| | Standard | Federal SSI Benefit | State Supplement |
|--|----------|---------------------|------------------|
|--|----------|---------------------|------------------|

| | | | |
|---|--------|--------|--------|
| Couple | | | |
| Both eligible | 610.00 | 610.00 | 0 |
| With essential person | 611.00 | 611.00 | 0 |
| With ineligible spouse | 567.15 | 407.00 | 160.15 |
| Areas I and II: Shared living (all counties) | | | |
| Individual | 277.15 | 271.34 | 5.81 |
| Couple | | | |
| Both eligible | 412.97 | 406.67 | 6.30 |
| With essential person | 413.64 | 407.34 | 6.30 |
| With ineligible spouse | 390.97 | 271.34 | 119.63 |

[Statutory Authority: RCW 74.08.090. 91-02-072 (Order 3122), § 388-29-295, filed 12/28/90, effective 1/28/91; 90-06-035 (Order 2947), § 388-29-295, filed 3/1/90, effective 4/1/90; 89-05-030 (Order 2759), § 388-29-295, filed 2/13/89; 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 WTAP benefits.
- 388-31-030 Notification and eligibility periods.
- 388-31-035 WTAP fund.

WAC 388-31-010 Purpose of program. The Washington telephone assistance program (WTAP) is designed to help low-income households afford access to local exchange telephone service.

[Statutory Authority: RCW 80.36.440. 90-18-007 (Order 3063), § 388-31-010, filed 8/23/90, effective 9/23/90. 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 July 1 and ending June 30 of the following calendar year.

[Statutory Authority: RCW 80.36.440. 90-18-007 (Order 3063), § 388-31-015, filed 8/23/90, effective 9/23/90. Statutory Authority: 1987 c 229. 87-19-093 (Order 2541), § 388-31-015, filed 9/17/87.]

WAC 388-31-020 Conditions of eligibility. To receive WTAP benefits, an applicant shall:

- (1) Be a recipient of:
 - (a) Aid to families with dependent children (AFDC);

- (b) Family independence program (FIP);
- (c) Supplemental security income (SSI);
- (d) General assistance (GA-U or GA-S);
- (e) Food stamps;
- (f) Refugee assistance;
- (g) Medical coupons;
- (h) Community options program entry system (COPES); or
- (i) Chore services.

(2) Be an adult. For WTAP eligibility, the term adult may include a person seventeen years of age or younger who is:

- (a) A financially needy payee of a qualifying assistance unit; and
 - (b) The responsible head of household.
- (3) Make application to the local exchange company using the assigned department of social and health services case number; and
- (4) Have local exchange telecommunications service billed in the applicant's name; and
- (5) To be eligible for the monthly rate discount, subscribe to the lowest available local exchange flat rate service. Single party service shall qualify as the lowest available flat rate for a person otherwise eligible who is sixty years of age or older or who receives medical assistance.

[Statutory Authority: RCW 80.36.440. 90-18-007 (Order 3063), § 388-31-020, filed 8/23/90, effective 9/23/90. Statutory Authority: 1987 c 229. 87-19-093 (Order 2541), § 388-31-020, filed 9/17/87.]

WAC 388-31-025 WTAP benefits. (1) Household benefits under WTAP shall be limited to funds available in the WTAP fund.

(2) Households participating in WTAP shall be eligible for a:

(a) Discount on local exchange flat rate services to the extent the local exchange flat rate exceeds the WTAP service rate as established by the Washington utilities and transportation commission. The local exchange flat rate shall include any federal end user access charges and any other charges necessary to obtain local exchange service;

(b) Waiver of deposit requirements on local exchange service; and

(c) Fifty percent discount on service connection fees.

Any connection fee discounts available from other programs shall be added to the WTAP discount, thus paying part or all the remaining fifty percent.

(3) Benefits under WTAP are limited to one residential access per household.

(4) The households's waiver of deposit and the fifty percent discount on service connection fees shall be available once per service year.

[Statutory Authority: RCW 80.36.440. 90-18-007 (Order 3063), § 388-31-025, filed 8/23/90, effective 9/23/90. Statutory Authority: 1987 c 229. 87-19-093 (Order 2541), § 388-31-025, filed 9/17/87.]

(1990 Ed.)

WAC 388-31-030 Notification and eligibility periods. (1) The department shall notify recipients of qualifying assistance programs of their eligibility for WTAP.

(2) Recipient eligibility for WTAP shall continue from July 1 or the date qualifying assistance is approved, whichever is more recent, through the next June 30.

[Statutory Authority: RCW 80.36.440. 90-18-007 (Order 3063), § 388-31-030, filed 8/23/90, effective 9/23/90. Statutory Authority: 1987 c 229. 87-19-093 (Order 2541), § 388-31-030, filed 9/17/87.]

WAC 388-31-035 WTAP fund. (1) Limited to funds available in the WTAP fund, the department shall reimburse local exchange companies for administrative and program expenses associated with the WTAP:

(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 WTAP fund; and

(c) Payments shall be limited to services provided after the household's eligibility for the WTAP is established;

(d) Local exchange companies shall fully document and support in detail all administrative and program expenses billed to the department in the required monthly invoices. Reimbursable administrative expenses are limited to:

(i) Salaries and benefits for documented time required for implementing and maintaining the WTAP, with the exception that time required for the correction of case number errors is not an allowable expense;

(ii) Documented travel expenses incurred for attending hearings, meetings, or training pertaining to the WTAP;

(iii) Documented expenses incurred for supplies and materials required to implement and maintain the WTAP;

(iv) Documented postage and handling for delivery of WTAP material;

(v) Change of service charges from a private line to a party line in order to participate in WTAP, not to exceed the amount tariffed, as necessary to meet the requirements of WAC 480-122-010 (3)(c);

(vi) Administrative charge for change of service orders specified by tariffs; and

(vii) Documented indirect costs associated with implementing and maintaining WTAP.

(2) The department shall recover its administrative costs from the WTAP fund.

(3) Reimbursement from the WTAP fund shall be by such procedure as established by the department.

(4) The department shall not be required to conclude a contract with local exchange companies to reimburse costs incurred after June 30, 1990.

[Statutory Authority: RCW 80.36.440. 90-18-007 (Order 3063), § 388-31-035, filed 8/23/90, effective 9/23/90. Statutory Authority: 1987 c 229. 87-19-093 (Order 2541), § 388-31-035, filed 9/17/87.]

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Chapter 388-33 WAC

**AID TO FAMILIES WITH DEPENDENT
CHILDREN AND CONTINUING GENERAL
ASSISTANCE—GRANT OR VENDOR PAYMENT**

WAC

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| 388-33-030 | Payment limitations—Maximum cost of requirements. [Order 376, § 388-33-030, filed 8/7/69; Regulation 10.14, filed 12/31/65; Regulation 10.14, filed 1/24/64.] Repealed by Order 394, filed 10/15/69. |
| 388-33-105 | Grant authorization, reauthorization, computation—Recording denial, grant authorization and change. [Order 449, § 388-33-105, filed 5/14/70, effective 6/15/70; Regulation 10.24, filed 1/24/64.] Repealed by Order 534, filed 3/31/71, effective 5/1/71. |
| 388-33-143 | Effective date of budgeting earned income. [Order 966, § 388-33-143, filed 8/29/74.] Repealed by Order 1008, filed 2/13/75. |
| 388-33-145 | Effective date of change in eligibility—Dates regular grant payments are actually changed. [Regulation 10.262, filed 1/24/64.] Repealed by Order 534, filed 3/31/71, effective 5/1/71. |
| 388-33-175 | Other effective dates—Certification prior to actual change in circumstances. [Regulation 10.273, filed 1/24/64.] Repealed by Order 534, filed 3/31/71, effective 5/1/71. |
| 388-33-180 | Other effective dates—Recomputation of age change. [Regulation 10.274, filed 3/31/66; Regulation 10.274, filed 1/24/64.] Repealed by Order 534, filed 3/31/71, effective 5/1/71. |
| 388-33-210 | Other changes affecting grants. [Regulation 10.30, filed 1/24/64.] Repealed by Order 534, filed 3/31/71, effective 5/1/71. |
| 388-33-220 | Other changes affecting grants—Address change within county. [Regulation 10.31, filed 1/24/64.] Repealed by Order 534, filed 3/31/71, effective 5/1/71. |
| 388-33-245 | Other changes affecting grants—Inter county transfer of case record and grant—procedure. [Regulation 10.323, filed 1/24/64.] Repealed by Order 534, filed 3/31/71, effective 5/1/71. |
| 388-33-250 | Other changes affecting grants—Transfer—out by present county. [Regulation 10.324, filed 1/24/64.] Repealed by Order 534, filed 3/31/71, effective 5/1/71. |
| 388-33-255 | Other changes affecting grants—Transfer—in by new county. [Regulation 10.325, filed 1/24/64.] Repealed by Order 297, filed 8/26/68. |

- 388-33-260 Other changes affecting grants—Transfer involving institutional medical care. [Regulation 10.326, filed 1/24/64.] Repealed by Order 297, filed 8/26/68.
- 388-33-265 Other changes affecting grants—Transfer of suspended grant case. [Regulation 10.327, filed 1/24/64.] Repealed by Order 297, filed 8/26/68.
- 388-33-270 Other changes affecting grants—Transfer of closed case record. [Regulation 10.328, filed 1/24/64.] Repealed by Order 297, filed 8/26/68.
- 388-33-300 Other changes affecting grants—Out of state change of address. [Regulation 10.33, filed 1/24/64.] Repealed by Order 297, filed 8/26/68.
- 388-33-310 Other changes affecting grants—Case number change. [Regulation 10.34, filed 1/24/64.] Repealed by Order 297, filed 8/26/68.
- 388-33-320 Other changes affecting grants—Name change. [Regulation 10.35, filed 1/24/64.] Repealed by Order 534, filed 3/31/71, effective 5/1/71.
- 388-33-350 Suspension or termination of grants. [Order 369, § 388-33-350, filed 8/14/69; Regulation 10.40, filed 1/24/64.] Repealed by Order 534, filed 3/31/71, effective 5/1/71.
- 388-33-370 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.
- 388-33-373 Continuation of assistance pending appeal—Pretermination or presuspension hearing. [Order 534, § 388-33-373, filed 3/31/71, effective 5/1/71; Order 369, § 388-33-373, filed 8/14/69.] Repealed by Order 570, filed 6/11/71.
- 388-33-374 Grant reduction, termination, suspension—Conferences. [Order 694, § 388-33-374, filed 6/29/72; Order 570, § 388-33-374, filed 6/11/71; Order 534, § 388-33-374, filed 3/31/71, effective 5/1/71; Order 369, § 388-33-374, filed 8/14/69.] Repealed by Order 906, filed 2/14/74.
- 388-33-378 Determination—Notification. [Order 906, § 388-33-378, filed 2/14/74; Order 747, § 388-33-378, filed 12/7/72.] Repealed by 78-08-053 (Order 1320), filed 7/20/78. Statutory Authority: RCW 74.08.090.
- 388-33-380 Notification of suspension or termination or reduction of grant. [Order 906, § 388-33-380, filed 2/14/74; Order 694, § 388-33-380, filed 6/29/72; Order 570, § 388-33-380, filed 6/11/71; Order 534, § 388-33-380, filed 3/31/71, effective 5/1/71; Order 369, § 388-33-380, filed 8/14/69; Order 311, § 388-33-380, filed 10/31/68; Regulation 10.43, filed 1/24/64.] Repealed by 78-08-053 (Order 1320), filed 7/20/78. Statutory Authority: RCW 74.08.090.
- 388-33-410 Payee of grant—Money (cash) payments. [Order 357, § 388-33-410, filed 5/29/69; Order 322, § 388-33-410, filed 11/27/68; Emergency Order 306, filed 9/20/68; Regulation 10.51, filed 1/24/64.] Repealed by Order 534, filed 3/31/71, effective 5/1/71.
- 388-33-435 Payee of grant—Appointment and payment to agent—OAA, AB, DA, GAU. [Order 322, § 388-33-435, filed 11/27/68; Emergency Order 306, filed 9/20/68; Regulation 10.523, filed 1/24/64.] Repealed by Order 357, filed 5/29/69.
- 388-33-452 Protective payments—Fair hearing. [Order 322, § 388-33-452, filed 11/27/68; Emergency Order 306, filed 9/20/68.] Repealed by Order 357, filed 5/29/69.
- 388-33-454 Protective payments—OAA, AB, DA, GAU. [Order 357, § 388-33-454, filed 5/29/69.] Repealed by Order 534, filed 3/31/71, effective 5/1/71.
- 388-33-456 Protective payment—Periodic review. [Order 357, § 388-33-456, filed 5/29/69.] Repealed by Order 534, filed 3/31/71, effective 5/1/71.
- 388-33-470 Disbursement—Assistance grants. [Regulation 10.70, filed 8/10/67; Regulation 10.70, filed 1/24/64.] Repealed by Order 534, filed 3/31/71, effective 5/1/71.
- 388-33-495 Payment dates. [Regulation 10.72, filed 8/10/67; Regulation 10.72, filed 1/24/64.] Repealed by Order 534, filed 3/31/71, effective 5/1/71.
- 388-33-500 Payment dates—Initial grant. [Regulation 10.721, filed 8/10/67; Regulation 10.721, filed 1/24/64.] Repealed by Order 534, filed 3/31/71, effective 5/1/71.
- 388-33-505 Payment dates—Adjusting grant. [Regulation 10.722, filed 8/10/67; Regulation 10.722, filed 1/24/64.] Repealed by Order 534, filed 3/31/71, effective 5/1/71.
- 388-33-515 Payment dates—One-time grant. [Order 399, § 388-33-515, filed 11/5/69; Regulation 10.723, filed 8/10/67; Regulation 10.723, filed 1/24/64.] Repealed by Order 534, filed 3/31/71, effective 5/1/71.
- 388-33-540 Delivery of warrant—Temporary address. [Regulation 10.741, filed 1/24/64.] Repealed by Order 534, filed 3/31/71, effective 5/1/71.
- 388-33-555 Delivery of warrant—Change in address or circumstances reported direct to state office. [Regulation 10.744, filed 1/24/64.] Repealed by Order 534, filed 3/31/71, effective 5/1/71.
- 388-33-575 Issuance of duplicate warrant. [Order 534, § 388-33-575, filed 3/31/71, effective 5/1/71; Order 426, § 388-33-575, filed 1/21/70; Regulation 10.75, filed 1/24/64.] Repealed by Order 661, filed 3/9/72.
- 388-33-577 Loss, theft or destruction of cash proceeds from warrant. [Statutory Authority: RCW 74.08.090. 78-12-001 (Order 1355), § 388-33-577, filed 11/3/78; Order 1164, § 388-33-577, filed 10/27/76; Order 661, § 388-33-577, filed 3/9/72.] Repealed by 82-16-065 (Order 1852), filed 7/30/82, effective 9/1/82. Statutory Authority: RCW 74.08.090.
- 388-33-630 Immediate warrants issued by ESSO. [Statutory Authority: RCW 74.08.090. 78-11-044 (Order 1351), § 388-33-630, filed 10/20/78; Order 1165, § 388-33-630, filed 10/27/76; Order 791, § 388-33-630, filed 4/12/73; Order 534, § 388-33-630, filed 3/31/71, effective 5/1/71; Order 499, § 388-33-630, filed 5/14/70, effective 6/15/70.] Repealed by 81-09-044 (Order 1637), filed 4/15/81. Statutory Authority: RCW 74.08.090.

WAC 388-33-015 Payment of grant—Persons included. Each grant shall encompass only one assistance unit, even though there may be two or more assistance units in the same family group or household. For proper allocation of requirements and income among assistance units see WAC 388-29-080 and 388-28-500.

[Statutory Authority: RCW 74.08.090. 78-10-036 (Order 1338), § 388-33-015, filed 9/18/78; Order 652, § 388-33-015, filed 2/9/72; Order 534, § 388-33-015, filed 3/31/71, effective 5/1/71; Regulation 10.11, filed 8/29/66; Regulation 10.11, filed 1/24/64.]

WAC 388-33-020 Payment of grant—Monthly basis. Continuing grants shall be based upon monthly standards of assistance and payment made accordingly, except as provided in WAC 388-33-382 to comply with the advance notification requirement.

[Statutory Authority: RCW 74.08.090. 81-09-044 (Order 1637), § 388-33-020, filed 4/15/81; Order 906, § 388-33-020, filed 2/14/74; Order 694, § 388-33-020, filed 6/29/72; Order 534, § 388-33-020, filed 3/31/71, effective 5/1/71; Regulation 10.12, filed 1/24/64.]

WAC 388-33-025 Payment of grant—Amount. Each grant shall be paid on the basis of need as defined in WAC 388-22-030 except as modified in WAC 388-33-045 through 388-33-055.

[Order 534, § 388-33-025, filed 3/31/71, effective 5/1/71; Order 394, § 388-33-025, filed 10/15/69; Regulation 10.13, filed 8/29/66; Regulation 10.13, filed 1/24/64.]

WAC 388-33-045 Payment of grant--Deduction of overpayment. When a monthly deduction is made from a grant to repay on overpayment WAC 388-44-145 shall apply.

[Order 534, § 388-33-045, filed 3/31/71, effective 5/1/71; Regulation 10.16, filed 8/29/66; Regulation 10.16, filed 3/31/66, 10/1/65, 1/24/64.]

WAC 388-33-050 Payment of grant--Self-imposed maximum amount. An eligible person may request payment of less than the amount for which he qualifies. If such request is made in writing the grant shall be limited to the amount he stipulates.

[Order 534, § 388-33-050, filed 3/31/71, effective 5/1/71; Regulation 10.17, filed 1/24/64.]

WAC 388-33-051 Payment of grant--Rounding down. Grant payments shall be rounded down to the next whole dollar amount unless the grant is already an even dollar amount.

[Statutory Authority: RCW 74.08.090. 82-24-071 (Order 1918), § 388-33-051, filed 12/1/82.]

WAC 388-33-055 Payment of grant--Minimum amount. Grants shall be in the exact amount determined as payable, and rounded down to the next whole dollar. When a grant is less than ten dollars it shall not be paid except for grants that would have exceeded ten dollars prior to the mandatory deduction for recoupment of an overpayment.

[Statutory Authority: RCW 74.08.090. 82-24-071 (Order 1918), § 388-33-055, filed 12/1/82; 82-09-034 (Order 1792), § 388-33-055, filed 4/14/82; 82-01-009 (Order 1728), § 388-33-055, filed 12/4/81; Order 534, § 388-33-055, filed 3/31/71, effective 5/1/71; Regulation 10.18, filed 1/24/64.]

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

(1) Certification and computation of grant form to authorize;

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

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

(2) One-time payment authorization for one-time grant, child care payments, and vendor payments.

[Statutory Authority: RCW 74.08.090. 85-15-056 (Order 2258), § 388-33-080, filed 7/17/85; 81-09-044 (Order 1637), § 388-33-080, filed 4/15/81; Order 534, § 388-33-080, filed 3/31/71, effective 5/1/71; Order 449, § 388-33-080, filed 5/14/70, effective 6/15/70; Regulation 10.21, filed 1/24/64.]

WAC 388-33-085 Grant authorization, reauthorization, and computation--Local office function. (1) The

terms "financial services technician," "community service office," "local office," or "CSO administrator or his or her designee" are used interchangeably in chapter 388-33 WAC.

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

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

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

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

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

(7) When eligibility factors indicate an applicant will be eligible for not to exceed approximately a thirty-day period, the local office shall authorize on the certification and computation of grant form an opening and closing date and determine the amount of assistance for which the applicant is eligible according to the department's monthly continuing assistance standards prorated for the period for which eligibility is authorized. The local office shall issue the applicant an award letter, including the date of opening, the amount of assistance, and the date of termination. See WAC 388-33-380 regarding additional content of this notice relative to termination.

[Statutory Authority: RCW 74.08.090. 85-15-056 (Order 2258), § 388-33-085, filed 7/17/85; 81-09-044 (Order 1637), § 388-33-085, filed 4/15/81; Order 906, § 388-33-085, filed 2/14/74; Order 534, § 388-33-085, filed 3/31/71, effective 5/1/71; Order 449, § 388-33-085, filed 5/14/70, effective 6/15/70; Regulation 10.22, filed 1/24/64.]

WAC 388-33-090 Grant authorization, reauthorization and computation--State office function. (1) Continuing assistance as authorized by the local office shall be computed by the state office. The amount of a grant (regular and initial or adjusting) shall be computed from

the data on the certification and computation of grant form according to the department's standards of assistance.

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

(3) The state office prepares the regular or supplemental warrant registers and the warrants, and completes the payment process. No change may be made by the state office except as described in WAC 388-33-090 and 388-33-095.

[Statutory Authority: RCW 74.08.090, 81-09-044 (Order 1637), § 388-33-090, filed 4/15/81; Order 906, § 388-33-090, filed 2/14/74; Order 534, § 388-33-090, filed 3/31/71, effective 5/1/71; Order 449, § 388-33-090, filed 5/14/70, effective 6/15/70; Regulation 10.23, filed 1/24/64.]

WAC 388-33-095 Grant authorization, reauthorization and computation--State office reauthorization and recomputation of grant. (1) When the department adopts revised standards for requirements, or amends rules regarding income, resources or eligibility, the state office shall determine whether state office recomputation of grant is feasible. If feasible, the state office shall establish the procedure, notify the local office by memorandum and prepare the certification and computation of grant form showing the grant computation.

(2) The state office reauthorizes and recomputes grants if current data about the recipient's eligibility and need are in the state office. If the state office reauthorizes grants the local office shall be informed of the termination or change in amount of the individual's grant. For this purpose the certification and computation of grant form shall be prepared by the state office for each payee and the form sent to the local office responsible for the case.

[Order 906, § 388-33-095, filed 2/14/74; Order 534, § 388-33-095, filed 3/31/71, effective 5/1/71; Order 449, § 388-33-095, filed 5/14/70, effective 6/15/70; Regulation 10.231, filed 1/24/64.]

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

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

(3) In applying this rule the day application was made is not counted.

[Statutory Authority: RCW 74.08.090, 81-12-045 (Order 1661), § 388-33-115, filed 6/3/81; Order 906, § 388-33-115, filed 2/14/74; Order 534, § 388-33-115, filed 3/31/71, effective 5/1/71; Order 449, § 388-33-115, filed 5/14/70, effective 6/15/70; Regulation 10.25, filed 1/24/64.]

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

The effective date of eligibility of a person receiving continuing assistance and applying for a grant in another program shall be the first regular warrant roll for which he is eligible for payment from the new program and the grant under the old program is terminated.

(2) Special event application - (see WAC 388-38-060 and 388-38-070)

(a) The effective date of a grant to a person (except as provided in subsection (1)) applying prior to the occurrence of an event which will make him eligible, shall be the date upon which the event occurs if eligibility otherwise exists on that date.

(b) When such event occurs on a nonworking day, the authorization shall be completed on the first working day following and dated as of the day the special event occurred. This rule also applies when the effective date of a reinstated grant (see subsection (4)) or the thirtieth day after date of application occurs on a nonworking day.

(3) Regular grant terminated in error

(a) A grant terminated because of local or state office error shall be reauthorized (corrected) as a "reopen" action. The effective date is the first of the month in which payment was erroneously discontinued on the regular warrant roll. Reopening shall be authorized promptly.

(b) If the error is discovered within the month in which no payment was made, the individual is not required to complete an eligibility review form. If the termination in error extends for more than thirty days but less than three months, an eligibility review form and other periodic review procedures as appropriate are used. However, if the termination in error extends for more than three months a new application rather than periodic review is required.

(4) Reinstatement of suspended grant

(a) Upon receipt of a request for reinstatement of grant, the local office shall determine current eligibility and need using the periodic review process. The review includes consideration of all eligibility factors.

(b) The effective date of reinstating a grant suspended according to WAC 388-28-484 shall be the date determined at the time of suspension.

(c) The effective date of reinstating a grant suspended because the monthly refund deduction resulted in a payment of less than ten dollars, shall be the first of the month following the month in which the overpayment is liquidated.

(d) A reinstated grant shall not be authorized before the date the event occurred which restored eligibility for payment.

(e) The individual who requests reinstatement of suspended grant within thirty days after a change in his circumstances need not complete an application form but shall complete an eligibility review form.

(5) Incapacity redetermined after termination of GAU. See WAC 388-37-040(3).

[Statutory Authority: RCW 74.08.090, 82-09-034 (Order 1792), § 388-33-120, filed 4/14/82; 82-01-009 (Order 1728), § 388-33-120, filed 12/4/81; 79-06-028 (Order 1398), § 388-33-120, filed 5/16/79; 78-10-036 (Order 1338), § 388-33-120, filed 9/18/78; Order 906, § 388-33-120, filed 2/14/74; Order 791, § 388-33-120, filed 4/12/73; Order 747, § 388-33-120, filed 12/7/72; Order 534, § 388-33-120,

filed 3/31/71, effective 5/1/71; Order 449, § 388-33-120, filed 5/14/70, effective 6/15/70; Order 394, § 388-33-120, filed 10/15/69; Regulation 10.251, filed 1/24/64.]

WAC 388-33-125 Notification of grant approval. A continuing assistance applicant or recipient shall be notified when the local office authorizes payment of his/her first regular grant or a change in grant.

[Statutory Authority: RCW 74.08.090, 81-09-044 (Order 1637), § 388-33-125, filed 4/15/81; Order 906, § 388-33-125, filed 2/14/74; Order 534, § 388-33-125, filed 3/31/71, effective 5/1/71; Order 449, § 388-33-125, filed 5/14/70, effective 6/15/70; Order 270, § 388-33-125, filed 12/5/67; Regulation 10.252, filed 7/27/67; Regulation 10.252, filed 7/13/65, 1/24/64.]

WAC 388-33-135 Effective date of change in eligibility. (1) A change in circumstances is any change affecting eligibility 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 shall be ineligible effective the first day of the month of receipt. All assistance the recipient receives shall be an overpayment and subject to recovery under chapter 388-44 WAC.

(3) If the change causes ineligibility for one month only, refer to WAC 388-33-355.

(4) Except as provided in subsection (5) of this section, 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 the recipient's ineligibility shall be the first day of the month following the month in which the change occurred. For ineligibility of striking workers, see WAC 388-24-042.

(5) Effective June 7, 1990, when a recipient of AFDC or general assistance based on pregnancy gives birth to her child and relinquishes that child for adoption, the effective date of the recipient's ineligibility shall be six weeks following the date of birth of the child as described under WAC 388-37-030(3).

[Statutory Authority: 1990 c 285, 90-16-085 (Order 3045), § 388-33-135, filed 8/1/90, effective 9/1/90. 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 388-33-140 Effective date of increase or decrease in grant. (1) Increase or reduction in grant:

(a) When a person is added to the grant, the effective date of the change shall be the date the person entered the household or the date the person is determined eligible, whichever is later.

(b) When a person's needs are added to a grant because he or she is being removed from a sanction status, the effective date of the change shall be the date the sanction is removed.

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(c) When a person moves from a supplied shelter to a renting or owning situation, the effective date of the grant increase shall be the date of the change.

(d) When a person moves from an institution or congregate care facility and is otherwise eligible for a grant, the effective date of change is the date the person leaves the facility.

(e) When any other change in circumstances other than income results in an increase or reduction of the assistance grant, the effective date of the change is the first of the month following the month in which the change occurred.

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

(3) Change in grant involving a canceled warrant:

When a warrant is canceled and assistance is to be reissued by an adjusting payment, the effective date of the grant as recomputed by the state office is the first of the month covered by the canceled warrant. If, according to the rule in subsection (1) of this section, any assistance is due the recipient for a month prior to that covered by the canceled warrant, the local office shall authorize a one-time grant.

(4) See WAC 388-28-483 for effective dates when budgeting income.

[Statutory Authority: RCW 74.08.090, 85-23-018 (Order 2303), § 388-33-140, filed 11/13/85; 85-15-056 (Order 2258), § 388-33-140, filed 7/17/85; 83-23-058 (Order 2049), § 388-33-140, filed 11/16/83; 83-17-004 (Order 1994), § 388-33-140, filed 8/5/83; 83-04-033 (Order 1940), § 388-33-140, filed 1/28/83, effective 3/1/83; 82-16-065 (Order 1852), § 388-33-140, filed 7/30/82, effective 9/1/82; Order 1058, § 388-33-140, filed 10/1/75; Order 1008, § 388-33-140, filed 2/13/75; Order 966, § 388-33-140, filed 8/29/74; Order 906, § 388-33-140, filed 2/14/74; Order 791, § 388-33-140, filed 4/12/73; Order 534, § 388-33-140, filed 3/31/71, effective 5/1/71; Order 443, § 388-33-140, filed 4/15/70; Order 337, § 388-33-140, filed 2/3/69; Order 275, § 388-33-140, filed 1/29/68; Regulation 10.261, filed 1/24/64.]

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

(2) When the initial or final hearing decision is favorable to the appellant, or when the local office decides in favor of the appellant prior to the hearing, the local office shall make corrective payments retroactively to the date an incorrect action was taken or such earlier date as is provided under department rules.

[Statutory Authority: RCW 74.08.090, 82-14-047 (Order 1838), § 388-33-165, filed 6/30/82; Order 694, § 388-33-165, filed 6/29/72; Order 534, § 388-33-165, filed 3/31/71, effective 5/1/71; Regulation 10.271, filed 1/24/64.]

WAC 388-33-170 Effective date of grant--Law or rule change involved. When change in eligibility or amount of grant results from change in law or department rules the effective date of eligibility for the change in the grant is specified by the department.

[Order 534, § 388-33-170, filed 3/31/71, effective 5/1/71; Regulation 10.272, filed 1/24/64.]

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

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

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

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

(3) A one-time grant shall be authorized expeditiously to compensate the recipient for an underpayment due to an erroneous monthly deduction. Also see WAC 388-33-595 (2)(c)(vii).

[Statutory Authority: RCW 74.08.090. 81-09-044 (Order 1637), § 388-33-190, filed 4/15/81; Order 906, § 388-33-190, filed 2/14/74; Order 694, § 388-33-190, filed 6/29/72; Order 570, § 388-33-190, filed 6/11/71; Order 534, § 388-33-190, filed 3/31/71, effective 5/1/71; Regulation 10.28, filed 1/24/64.]

WAC 388-33-195 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 388-33-230 Address change to another local office area. The eligibility of a recipient who moves from one LO area to another within the state is affected only insofar as his need may change. A change in residence usually involves a change in living arrangements, requirements and/or income, and reauthorization of grant.

[Order 534, § 388-33-230, filed 3/31/71, effective 5/1/71; Regulation 10.32, filed 1/24/64.]

WAC 388-33-235 Address change to another local office area--Reside permanently. "Reside permanently" shall mean remaining in the new area for more than ninety days. Intent to reside permanently in another area shall be presumed to exist when the recipient is absent from his former residence for more than ninety days. The LO shall establish intent taking into account the plan, wishes and actions of the recipient.

[Order 534, § 388-33-235, filed 3/31/71, effective 5/1/71; Regulation 10.321, filed 1/24/64.]

WAC 388-33-240 Address change to another local office area--Visit. (1) "Visit" shall mean absence of a recipient from his LO area of residence for not more than ninety days. The recipient's declaration of intent to return to his former residence within ninety days after the date he left shall be prima facie evidence that he is on a visit.

(2) The department's office in the area in which the recipient is visiting shall render all service needed to determine whether a change in the recipient's circumstances requires recomputation, suspension, or termination of grant. Any grant action required while the recipient is visiting shall be the sole responsibility of the LO in the area of permanent residence. Ordinarily no change in grant shall be made (other than redirection of warrant) while a recipient is visiting. The regular grant of a visiting recipient shall be increased only when recommended by the LO in the area in which the recipient is visiting.

[Order 534, § 388-33-240, filed 3/31/71, effective 5/1/71; Regulation 10.322, filed 1/24/64.]

WAC 388-33-335 Reduction of grant amount. The grant of a continuing assistance recipient will be adjusted when the local office certifies a change of circumstances which reduces the recipient's need.

[Order 906, § 388-33-335, filed 2/14/74; Order 694, § 388-33-335, filed 6/29/72; Order 570, § 388-33-335, filed 6/11/71; Order 534, § 388-33-335, filed 3/31/71, effective 5/1/71; Order 270, § 388-33-335, filed 12/5/67; Regulation 10.36, filed 6/30/67; Regulation 10.36, filed 1/24/64.]

WAC 388-33-355 Suspension of grant. (1) 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 388-33-365 Termination of grant. (1) Termination of a grant is a direct action of the local office. Direct action means that the local office has determined and certified that the recipient fails to meet one or more of the conditions necessary to maintain continued eligibility.

(2) The grant shall be terminated when the local office determines that the recipient does not meet one or more of the conditions required for continued eligibility.

[Order 906, § 388-33-365, filed 2/14/74; Order 694, § 388-33-365, filed 6/29/72; Order 570, § 388-33-365, filed 6/11/71; Order 534, § 388-33-365, filed 3/31/71, effective 5/1/71; Order 369, § 388-33-365, filed 8/14/69; Regulation 10.42, filed 6/30/67; Regulation 10.42, filed 1/24/64.]

WAC 388-33-375 Termination of suspended grant—Authorization of assistance resulting from change of decision on eligibility and grant. If the local office changes its decision to reduce, terminate or suspend the grant, assistance shall be authorized expeditiously to meet the recipient's need according to the rules.

[Order 906, § 388-33-375, filed 2/14/74; Order 694, § 388-33-375, filed 6/29/72; Order 570, § 388-33-375, filed 6/11/71; Order 534, § 388-33-375, filed 3/31/71, effective 5/1/71.]

WAC 388-33-376 Advance and adequate notice—Suspension—Termination—Reduction of benefits. In cases of planned actions to terminate, suspend, or reduce benefits to recipients of AFDC, FIP, GA, or all medical assistance programs, the department shall give advance and adequate notice, except as provided under WAC 388-33-385, as follows:

(1) "Advance notice" means:

- (a) The department mails the notice at least ten days before the date of action; or
- (b) For actions based on information from computer matches the department conducts with federal agencies, the department mails the notice at least thirty days before the date of action.

(2) "Adequate notice" means a written statement of the:

- (a) Action the department intends to take;
- (b) Facts relating to the decision;
- (c) Policy supporting the action; and

(d) Recipient's right to request a fair hearing, including the circumstances under which assistance is continued if a hearing is requested.

(3) The department shall fully translate advance and adequate notice into the primary language of the limited English proficient recipient/enrollee;

(4) When advance notice of planned action is not required as provided under WAC 388-33-385, the department shall give adequate notice as provided under subsection (2) of this section; and

(5) When changes in either state or federal law require automatic grant adjustments for classes of recipients, the department shall give the recipient notice including the specific change in law.

[Statutory Authority: RCW 74.08.090. 90-09-035 (Order 2966), § 388-33-376, filed 4/11/90, effective 5/12/90; 89-03-051 (Order 2755), § 388-33-376, filed 1/13/89; 86-10-023 (Order 2369), § 388-33-376, filed 5/1/86; 78-08-053 (Order 1320), § 388-33-376, filed 7/20/78.]

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

(2) When a recipient requests a fair hearing within the advance notice period to appeal the department's planned action to reduce, suspend, or terminate assistance, which is not an automatic grant adjustment required by either state or federal law, the determination of whether the issue is one of policy or is an issue of fact or judgment will be determined at the fair hearing by the hearing examiner.

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

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

(3) Assistance shall be reinstated in any case where the notice to reduce, suspend or terminate does not require advance notice, if the recipient requests a fair hearing within ten days of the mailing of the notice of action. Subsections (1) and (2) of this section apply.

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

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

(6) Any assistance received pending a fair hearing or hearing decision is considered to be an overpayment when the fair hearing decision subsequently finds against the client.

[Statutory Authority: RCW 74.08.090, 82-08-037 (Order 1784), § 388-33-377, filed 4/1/82. Statutory Authority: RCW 34.04.020 and 74.08.090, 81-17-069 (Order 1695), § 388-33-377, filed 8/19/81. Statutory Authority: RCW 74.08.090, 81-09-058 (Order 1640), § 388-33-377, filed 4/20/81; 78-08-053 (Order 1320), § 388-33-377, filed 7/20/78; Order 1194, § 388-33-377, filed 3/3/77; Order 906, § 388-33-377, filed 2/14/74; Order 694, § 388-33-377, filed 6/29/72; Order 570, § 388-33-377, filed 6/11/71.]

WAC 388-33-382 Notification of suspension or termination or reduction of grant--Effect on eligibility and grant. Rules for notification, as provided under WAC 388-33-376, do not alter rules for effective dates of eligibility and grant changes resulting from changes in circumstances.

(1) The department shall continue assistance unchanged at least until the end of a required advance notice period, regardless of the effective dates specified in rules for eligibility and grant changes.

(2) The department shall establish an overpayment for assistance continued beyond the effective dates specified in rules for eligibility and grant changes.

[Statutory Authority: RCW 74.08.090, 90-09-035 (Order 2966), § 388-33-382, filed 4/11/90, effective 5/12/90; 82-08-037 (Order 1784), § 388-33-382, filed 4/1/82; Order 906, § 388-33-382, filed 2/14/74; Order 791, § 388-33-382, filed 4/12/73; Order 694, § 388-33-382, filed 6/29/72.]

WAC 388-33-385 Notification of suspension or termination or reduction of grant--Dispensation of advance notice. Advance notice of action to terminate, suspend, or reduce assistance is not required when:

(1) The local office has factual information of the death of the recipient or of the AFDC or refugee assistance payee when there is no other relative available to serve as payee.

(2) A recipient has been admitted or committed to an institution making the recipient ineligible.

(3) A recipient has been placed in skilled nursing or intermediate care or long-term hospitalization.

(4) The recipient's whereabouts are unknown and departmental mail directed to him or her has been returned by the post office indicating no known forwarding address.

(5) A recipient has been accepted for assistance in another state.

(6) An AFDC child is removed from the home as a result of a judicial determination or voluntarily placed in foster care by his or her legal guardian.

(7) Eligibility for assistance or an additional requirement is determined to exist for a specific limited period of time and the recipient has been so advised.

(8) The local office receives a clear statement from the recipient that he or she no longer wishes assistance. The local office shall immediately send adequate notice to confirm the verbal or written request for termination.

(9) The local office receives a clear statement from the recipient giving information requiring termination, suspension, or reduction of assistance. The recipient must indicate in writing that he or she understands the consequence of supplying such information. Adequate notice is required stating the adverse action.

(10) For AFDC, when the local office takes action because of information the recipient reported on the monthly report.

[Statutory Authority: RCW 74.08.090, 86-09-081 (Order 2363), § 388-33-385, filed 4/22/86; 84-09-071 (Order 2093), § 388-33-385, filed 4/18/84; Order 906, § 388-33-385, filed 2/14/74.]

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

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

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

(3) Of the approval or denial of an exception to policy request.

[Statutory Authority: RCW 74.08.090, 82-04-077 (Order 1760), § 388-33-387, filed 2/3/82.]

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

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

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

(4) The CSO administrator shall make a decision on a grievance and send the applicant or recipient written notice of his or her decision within ten days of receipt of the grievance. This notice terminates the grievance procedure.

(5) The exercise of the right to pursue a grievance shall not in any way preclude the exercise of any rights of the applicant or recipient may have under chapter 388-08 WAC.

(6) If administrative or judicial review is pending on the same issue, the department may choose to respond to the grievance by informing the applicant or recipient that the department prefers that the matter be resolved through the administrative or judicial review process.

[Statutory Authority: RCW 74.08.090, 82-04-077 (Order 1760), § 388-33-389, filed 2/3/82.]

WAC 388-33-400 Payee of grant. (1) Cash payments are made directly to all continuing assistance recipients except as modified in 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 388-33-425 Payment of grant to guardian--Continuing general assistance. (1) The local office has no authority to petition the court for appointment of a guardian for an adult.

(2) The local office shall not authorize the use of assistance funds to pay the guardianship costs or services.

(3) Should a guardian die, move away, or decline to serve further, the guardianship should be terminated by court action. If the recipient lacks resources to pay for formal (legal) dissolution of guardianship, a change in payee is authorized, and

(a) If the guardian died, a copy of the death certificate is filed in the case record. If necessary, the cost of the death certificate can be paid from the administrative funds.

(b) If the guardian refuses or is unable to continue to serve, a signed statement from the guardian requesting that the grant no longer be paid to him is filed in the case record.

[Order 917, § 388-33-425, filed 3/14/74; Order 534, § 388-33-425, filed 3/31/71, effective 5/1/71; Order 357, § 388-33-425, filed

5/29/69; Order 322, § 388-33-425, filed 11/27/68; Emergency Order 306, filed 9/20/68; Regulation 10.521, filed 1/24/64.]

WAC 388-33-430 Payment of grant to guardian—Aid to families with dependent children—Special and limited nature. If the LO finds that the relative payee of an AFDC grant is not using the grant adequately for the needs of an AFDC child and that it would be beneficial to have a court-appointed guardian, the LO may ask the chief of the child welfare and family services unit to request the attorney general to file a petition in the superior court for the appointment of a guardian of the child(ren). Such guardianship as provided in RCW 74.12.250 is special and limited solely for the purpose of safeguarding the assistance grants made to dependent children. Such guardianship shall terminate upon termination of such assistance grant or sooner upon order of the court.

[Order 534, § 388-33-430, filed 3/31/71, effective 5/1/71; Order 357, § 388-33-430, filed 5/29/69; Order 322, § 388-33-430, filed 11/27/68; Emergency Order 306, filed 9/20/68; Regulation 10.522, filed 1/24/64.]

WAC 388-33-440 Protective or vendor payment due to mismanagement of AFDC grant. (1) The rules in this section do not apply to WIN protective payments except as specified in WAC 388-33-450 nor to protective payments resulting from a failure to cooperate with the office of support enforcement except as specified in WAC 388-33-453.

(2) Purpose—criteria for use.

(a) Protective or vendor payment is designed for the small number of aid to families with dependent children cases in which the caretaker relative has demonstrated severe difficulty in managing money, but has the capacity to learn, in a relatively short time, with the aid of social services to manage his funds in a manner that will assure the proper care of the children. These payments may be vendor or money payments. Part of the payment may be made to the family and part may be made to the protective payee or vendor. Evidence of mismanagement of funds must be specific and clearly establish the fact that the way in which the funds are used threatens the well-being of the child. Examples are

(i) Continued inability to plan and spread necessary expenditures over the usual payment period,

(ii) Continued evidence that the children are not properly fed and clothed or that expenditures are made in such a way as to threaten their chances for healthy growth and development,

(iii) Persistent and deliberate failure to meet obligations for rent, food and other essentials,

(iv) Repeated evictions or incurrence of debts against current income.

(b) Protective or vendor payment is not used when the basic problem is insufficient funds rather than management of money. It is not intended for recipients whose mental or physical limitations would prevent them from learning how to manage their own affairs. Protective payment is not used when a financial problem is due only to emergency situations, such as short-term illness,

or an unexpected decrease in support payments, or other partial income.

(c) The use of protective or vendor payment is a temporary measure to help improve management and use of money for the best interest of the family. The availability of social services is an essential ingredient to accomplish the educational and constructive purposes of this plan. Chapter 388-16 WAC contains examples of the types of services to the relative in order to assist him or her to avoid the necessity of the protective payment plan or to discontinue its use expeditiously.

(d) The social services supervisor or local office administrator makes the decision to establish a protective or vendor payment plan upon recommendation by the worker. The case record must contain the evidence upon which the worker's recommendation is based. See WAC 388-33-442.

(3) Selection of another individual to be payee of grant

(a) An individual designated to receive all or part of the AFDC payment on behalf of a family must be interested in or concerned with the welfare of the child(ren) and the caretaker relative. To the extent possible, the caretaker relative shall choose the protective payee or participate in the selection of the protective payee. The individual may be

(i) A relative, friend, neighbor, clergyman, or member of a church or community service group,

(ii) An individual who serves with a voluntary social agency, such as family services or settlement centers,

(iii) A home economist with a public or private organization,

(iv) A staff member of homemaker services, house-keeping aide program, practical nurse association, or other agencies,

(v) A staff member of a public agency, such as one administering child welfare, health, rehabilitation, and housing programs,

(vi) An employee of the department when no other suitable person is available. A worker shall not serve as payee for cases in his regular caseload. Department specialists in home and money management are to be given preference over other department staff.

(b) To avoid conflict of interest situations the individual may not be

(i) The local office administrator,

(ii) The local office employee determining the financial eligibility of the family,

(iii) A vendor of goods and services dealing directly with the recipient, such as landlord or grocer,

(iv) Special investigative or resource staff or staff authorizing payments for the recipient,

(v) An employee of the department when the department has legal custody or the responsibility for placement and care of the family's child(ren).

(c) Standards for selecting a protective payee are

(i) Interest and concern in the welfare of the family,

(ii) Ability to help the family make proper use of the assistance payment,

(iii) Accessibility to the family,

(iv) Ability to establish and maintain a positive relationship with the family,

(v) Good character and reliability.

(d) Payee-recipient relationship

The protective payee has the authority and responsibility to make decisions about the expenditures of the assistance payments. The teaching component requires that the recipient participate to the extent of his ability in the decisions.

(e) Payee-department relationship

(i) The payee and the department share in the responsibility for developing plans to improve the recipient's capacity to handle money and to evaluate progress.

(ii) The payee has responsibility for assuring the department that the assistance money has been spent on behalf of the children. This need not be a detailed account.

(iii) The payee's responsibility to the department is defined by the local office in writing with a copy for the recipient, payee, and case record.

(4) Selection of vendor providing goods and services.

(a) In the absence of another individual to act as payee of a protective payment grant, assistance may be paid in whole or in part as vendor payments directly to persons furnishing food, living accommodations or other goods or services to or for the child or relative.

(b) Vendors shall be selected by the recipient or with his participation or consent to the extent possible. Vendors should be easily accessible to the recipient.

[Order 1054, § 388-33-440, filed 9/25/75; Order 700, § 388-33-440, filed 7/27/72; Order 534, § 388-33-440, filed 3/31/71, effective 5/1/71; Order 341, § 388-33-440, filed 3/20/69; Order 322, § 388-33-440, filed 11/27/68; Emergency Order 306, filed 9/20/68.]

WAC 388-33-442 Protective or vendor payment due to mismanagement of AFDC grant--Plan approval--Duration. An approved protective or vendor payment plan shall not exceed an initial period of three months. After review of the situation further periods of three months up to a maximum of twenty-four consecutive months may be authorized. See WAC 388-33-448.

[Order 700, § 388-33-442, filed 7/27/72; Order 534, § 388-33-442, filed 3/31/71, effective 5/1/71; Order 341, § 388-33-442, filed 3/20/69; Order 322, § 388-33-442, filed 11/27/68; Emergency Order 306, filed 9/20/68.]

WAC 388-33-444 Protective or vendor payment due to mismanagement of AFDC grant--Notice to AFDC recipient, protective payee or vendor. (1) When a protective or vendor payment plan is approved the local office shall notify the relative payee in writing that a decision has been made to change the payee, the basis for determination, the name of the new payee, or the use of vendor payment, the effective date of change, and that he has the right to appeal the decision.

[Order 700, § 388-33-444, filed 7/27/72; Order 534, § 388-33-444, filed 3/31/71, effective 5/1/71; Order 341, § 388-33-444, filed 3/20/69; Order 322, § 388-33-444, filed 11/27/68; Emergency Order 306, filed 9/20/68.]

[Title 388 WAC--p 170]

WAC 388-33-446 Protective or vendor payment due to mismanagement of AFDC grant--Discharge of protective payee--Reinstatement of relative payee. (1) The protective payee may be removed upon his (her) request, when a different payee is designated by the local office or when the relative payee is ready to resume the payee function.

(2) Vendor payments are discontinued when another person is located to serve as protective payee or when the relative payee is ready to resume the payee function.

(3) The local office shall notify the principals of the revised plan to certify the change.

(4) If a guardian is appointed for the payee relative the protective payee is discontinued.

[Order 700, § 388-33-446, filed 7/27/72; Order 534, § 388-33-446, filed 3/31/71, effective 5/1/71; Order 341, § 388-33-446, filed 3/20/69; Order 322, § 388-33-446, filed 11/27/68; Emergency Order 306, filed 9/20/68.]

WAC 388-33-447 Protective or vendor payment due to mismanagement of AFDC grant--Fair hearing. (1) The recipient has a right to request a fair hearing regarding the determination:

(a) That a protective or vendor payment should be made,

(b) As to the payee selected,

(c) That foster care will be provided for his child.

(2) This section does not apply to WIN protective payments nor to protective payments resulting from a failure to cooperate with the office of support enforcement.

[Order 1195, § 388-33-447, filed 3/3/77; Order 700, § 388-33-447, filed 7/27/72.]

WAC 388-33-448 Protective or vendor payment due to mismanagement of AFDC grant--Periodic review of plan. The social services supervisor or local office administrator shall review the conditions relating to the protective or vendor payment plan every three months or more often, if indicated. The review includes evaluation whether:

(1) Conditions justify continuation of the plan or its modification,

(2) Protective payee's responsibilities are being carried out appropriately,

(3) The relative payee can be expected to resume the payee function,

(4) A court appointed guardian or foster care is needed because the relative payee cannot learn the payee functions and it appears the plan will continue beyond two years.

[Statutory Authority: RCW 74.08.090. 81-09-044 (Order 1637), § 388-33-448, filed 4/15/81; Order 700, § 388-33-448, filed 7/27/72; Order 534, § 388-33-448, filed 3/31/71, effective 5/1/71; Order 341, § 388-33-448, filed 3/20/69; Order 322, § 388-33-448, filed 11/27/68; Emergency Order 306, filed 9/20/68.]

WAC 388-33-449 Protective or vendor payment due to mismanagement of AFDC grant--Information confidential. Since a protective payment plan requires services, in many instances outside the agency, and the

appointment of a protective payee to work in close relationship with the aid to families with dependent children family, special effort must be made to safeguard information about the family.

Release of information to the protective payee from the public assistance record must be confined to those facts about the family members and their situation that are pertinent to the fulfillment of the payee's responsibility in the home. The need to respect the family's right to confidentiality shall be explained to a prospective protective payee.

[Order 534, § 388-33-449, filed 3/31/71, effective 5/1/71; Order 341, § 388-33-449, filed 3/20/69; Order 322, § 388-33-449, filed 11/27/68; Emergency Order 306, filed 9/20/68.]

WAC 388-33-450 Protective payment--Employment or work incentive program refused without good cause. (1) If an individual certified to the work incentive program (WIN) has been determined to have refused without good cause to participate in the WIN program or to accept a bona fide offer of employment:

(a) Assistance to meet the requirements of other eligible members of the assistance unit will be provided in the form of protective payments under the conditions described in WAC 388-57-061; except

(b) If the department, after making reasonable efforts, is unable to locate an appropriate protective payee, assistance may be paid directly to the sanctioned individual.

(2) The department shall notify the relative payee in writing of the establishment of a protective payment as described in WAC 388-33-444.

(3) Selection of another individual as payee shall follow criteria in WAC 388-33-440 (3)(a)(b)(c).

(4) Payment to the relative payee shall promptly be resumed when notice is received from the department of employment security that the individual no longer refuses to participate in a WIN program or employment or had good cause for refusal to participate.

[Statutory Authority: RCW 74.22.110, 84-22-018 (Order 2166), § 388-33-450, filed 10/31/84; Order 831, § 388-33-450, filed 7/26/73; Order 747, § 388-33-450, filed 12/7/72; Order 534, § 388-33-450, filed 3/31/71, effective 5/1/71; Order 322, § 388-33-450, filed 11/27/68; Emergency Order 306, filed 9/20/68.]

WAC 388-33-453 Protective payment--Failure or refusal to cooperate with support enforcement. (1) If department IV-A staff determine an AFDC applicant or recipient has not cooperated in obtaining support as required in WAC 388-24-108 and 388-24-109, the department IV-A staff shall authorize assistance to the other eligible assistance unit members:

(a) Through protective payments; or
(b) Directly to the sanctioned individual, if the department, after making reasonable efforts, is unable to locate an appropriate protective payee.

(2) Department IV-A staff shall:

(a) Notify the relative payee in writing of the establishment of a protective payment as described in WAC 388-33-444;

(b) Select a protective payee in accordance with WAC 388-33-440 (3)(a), (b), and (c);

(c) Review at least every three months the manner in which the protective payee performs; and

(d) Review the caretaker relative's circumstances as frequently as circumstances require, but at least every six months;

(e) Notify the department IV-D staff of the client's change in cooperation status.

(3) The rules in this section as to the person selected as protective payee and manner of disbursements are not subject to a fair hearing.

[Statutory Authority: RCW 74.08.090, 89-22-133 (Order 2896), § 388-33-453, filed 11/1/89, effective 12/2/89. Statutory Authority: RCW 74.22.110, 84-22-018 (Order 2166), § 388-33-453, filed 10/31/84; Order 1195, § 388-33-453, filed 3/3/77; Order 1054, § 388-33-453, filed 9/25/75.]

WAC 388-33-455 Protective payment--Special needs of SSI beneficiary, 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 388-33-457 Protective payment--Modification or termination of plan. (1) The protective payee may be removed upon his or her request, when a different payee is designated by the LO, or when the recipient is capable of resuming management of his own funds.

(2) When a judicial appointment of a guardian or other legal representative appears to serve the best interests of the individual, such appointment will be sought and the protective payment terminated when the appointment has been made.

(3) The revised plan shall be discussed with the principals and confirmed in writing.

[Order 534, § 388-33-457, filed 3/31/71, effective 5/1/71.]

[Title 388 WAC—p 172]

WAC 388-33-458 Protective payment--Periodic review. The need for protective payments and the way in which a protective payee's responsibilities are carried out shall be reconsidered as frequently as indicated by the individual's circumstances and at least every six months.

[Order 534, § 388-33-458, filed 3/31/71, effective 5/1/71.]

WAC 388-33-459 Protective payment--Fair hearing. A recipient has the right to a fair hearing if dissatisfied with the decision that a protective payment shall be made or continued, and as to the protective payee selected, or that foster care will be provided. Procedures in chapter 388-08 WAC are followed.

[Order 534, § 388-33-459, filed 3/31/71, effective 5/1/71; Order 357, § 388-33-459, filed 5/29/69.]

WAC 388-33-460 Payment to vendor of goods and services. (1) A vendor payment may be used in place of a one-time payment to provide assistance for an individual who is in emergent need only if:

(a) The individual has been served a sheriff's notice of eviction, and

(i) It is verified that the landlord will not forestall eviction until a one-time payment is received, and

(ii) It is verified that the landlord will not evict the individual after receiving the vendor payment; or

(b) The individual has been served a utility shut-off notice, and

(i) It is verified that the vendor will not forestall shut-off until a one-time grant is received, and

(ii) It is verified that the vendor will not shut off the utility after the vendor payment is received; or

(c) The individual is requesting transportation to his/her state of residence and the means of transportation is provided by a vendor who will accept vendor payment.

(d) The individual requests in writing that a vendor payment be made.

(2) Vendor payments listed in item (1) of this section shall:

(a) Be deducted from the initial and/or regular grant, unless they are issued in place of one-time grant as specified in WAC 388-33-595 (2)(c).

(b) Not be authorized to the extent that the individual can meet the emergent need from his/her cash savings.

(3) A vendor payment may be used to provide assistance when a recipient dies before receiving or endorsing a warrant due him and owes for personal and household service, housekeeping service, or board and room. The amount authorized for vendor payment shall equal the portion of the cancelled warrant actually owed to the vendor.

(4) A vendor payment may be used for an AFDC recipient when:

(a) The local office determines that protective payments are necessary due to mismanagement of the grant by the relative payee - see WAC 388-33-440.

(b) A person certified to the WIN program is determined by the state employment service to have refused employment or to participate in the WIN program

without good cause, and vendor payments are the necessary form of payment – see WAC 388-33-450.

(c) A parent or other caretaker relative refuses to assign support rights, to cooperate in identifying and locating absent parents, establishing paternity or obtaining support payments.

(5) A vendor payment may be used to provide assistance for a recipient in a licensed and classified nursing home – see WAC 388-34-035 through 388-34-055, or for a recipient in an intermediate care facility – see WAC 388-34-370 through 388-34-384.

[Statutory Authority: RCW 74.08.090, 81-09-044 (Order 1637), § 388-33-460, filed 4/15/81; Order 1054, § 388-33-460, filed 9/25/75; Order 747, § 388-33-460, filed 12/7/72; Order 534, § 388-33-460, filed 3/31/71, effective 5/1/71; Order 449, § 388-33-460, filed 5/14/70, effective 6/15/70; Order 341, § 388-33-460, filed 3/20/69; Regulation 10.60, filed 1/24/64.]

WAC 388-33-480 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.]

WAC 388-33-525 Warrant endorsement. (1) Assistance warrants are written to show the payee's surname first, followed by given name and initial, e.g., Smith, John K. The endorsement should be written in the usual manner, that is John K. Smith.

(2) Each warrant must bear the personal endorsement of the payee. No other person, unless he has power of attorney is authorized to endorse and cash the recipient's warrants. If the recipient is unable to sign his name the warrant must be endorsed by his mark or thumbprint, witnessed by two persons, giving their name and addresses.

(3) If the warrant is endorsed by payee name only, the department cannot stop payment if some one other than the payee cashes the warrant.

(4) A person having power of attorney may legally endorse a warrant only when:

(a) The payee (recipient) has granted power of attorney on a properly prepared and legally sufficient document,

(b) The document is recorded in the office of the county auditor,

(c) Two copies of the recorded document certified by the county auditor are on file in the department.

[Order 747, § 388-33-525, filed 12/7/72; Order 534, § 388-33-525, filed 3/31/71, effective 5/1/71; Regulation 10.73, filed 1/24/64.]

WAC 388-33-535 Delivery of warrant. (1) After eligibility has been established and a grant authorized the recipient shall receive his warrant promptly without interruption until his grant is suspended or he is no longer eligible and the grant has been terminated except as provided in WAC 388-38-270 and 388-33-382.

(2) The state office shall mail the recipient's warrant directly to his address as certified by the LO except as provided in WAC 388-33-545 through 388-33-550.

[Statutory Authority: RCW 74.08.090, 78-10-036 (Order 1338), § 388-33-535, filed 9/18/78; Order 747, § 388-33-535, filed 12/7/72; Order 534, § 388-33-535, filed 3/31/71, effective 5/1/71; Regulation 10.74, filed 1/24/64.]

WAC 388-33-545 Delivery of warrant—Address unknown. (1) At the time the local office requests the warrant of a recipient whose address is unknown a letter shall be mailed to the recipient at his last known address requesting his current address according to provisions in WAC 388-38-265.

[Statutory Authority: RCW 74.08.090, 78-10-036 (Order 1338), § 388-33-545, filed 9/18/78; Order 747, § 388-33-545, filed 12/7/72; Order 534, § 388-33-545, filed 3/31/71, effective 5/1/71; Regulation 10.742, filed 3/11/65; Regulation 10.742, filed 1/24/64.]

WAC 388-33-550 Delivery in care of local office.

(1) A recipient may request in writing that his warrant be mailed to him in care of the local office; his address is certified accordingly. The warrant will be delivered in an individual sealed envelope.

(2) Delivery of a warrant in care of the local office through local or state office action to redirect shall be as provided in WAC 388-38-270.

[Statutory Authority: RCW 74.08.090, 78-10-036 (Order 1338), § 388-33-550, filed 9/18/78; Order 747, § 388-33-550, filed 12/7/72; Order 534, § 388-33-550, filed 3/31/71, effective 5/1/71; Regulation 10.743, filed 3/11/65; Regulation 10.743, filed 1/24/64.]

WAC 388-33-576 Loss, theft, or destruction of warrant payable to recipient. (1) RCW 43.08.064 and 43.08.066 provide the legal authority for issuing a duplicate warrant.

(2) The recipient shall complete an affidavit or affidavits attesting to the reported facts. The recipient shall file a report for a lost or stolen warrant with the police.

(3) The CSO shall secure all facts surrounding the nonreceipt or loss reported in subsection (2) of this section, determine a course of appropriate action, and inform the recipient. The filing of a police report is not necessary prior to a report of lost or undelivered warrant.

(4) After a "prompt report" of the loss, theft, destruction, or nondelivery of an unendorsed warrant, the CSO shall "promptly replace" the warrant.

(5) "Prompt report" of loss, theft, destruction, or nondelivery of a warrant shall constitute completion and submittal of appropriate written forms within sixty days of the date the warrant was due the recipient.

(6) "Prompt replacement" of a lost, stolen, nondelivered, or destroyed warrant shall be authorization of replacement on or before the tenth of the month in which the warrant was due or within five working days of the prompt report of loss, theft, nondelivery, or destruction, whichever is later.

(7) The CSO may inquire into the circumstances of the loss or nondelivery prior to authorization of a replacement warrant when the loss or nondelivery is reported sixty days or more after the mailing date. In the event such inquiry results in a determination not to replace the reported warrant, the CSO shall notify the recipient in writing. Written notice shall include a statement of the determination, the reason or reasons for the decision, and a statement of the recipient's right to request a fair hearing appealing the decision.

(8) An unendorsed warrant which is lost, stolen, or destroyed shall be replaced in full. Restrictively or specially endorsed warrants shall be deemed to be unendorsed warrants for the purposes of this subsection.

(9) When a recipient reports nondelivery of a public assistance warrant within six months of a prior report of nondelivery, the department shall promptly replace, verify the address, and:

(a) If there has been a change of address to better ensure receipt of public assistance warrants (e.g., a locked mailbox, post office box), the department shall continue to send warrants to the recipient's address;

(b) If there is no change in address or assurance of receipt of public assistance warrants (including the replacement warrant) the CSO shall redirect warrants to the local office. The CSO shall redirect warrants for a period of six months. The redirection may be waived if it is determined there is hardship or other good cause.

(10) The CSO shall promptly replace a warrant when:

(a) A recipient reports loss, theft, or destruction of an unendorsed, public assistance warrant within six months of a prior report of loss, theft, or destruction;

(b) A recipient who has picked up his or her public assistance warrant at the community service office pursuant to the redirect procedure in subsection (9)(b) of this section, then promptly reports such unendorsed warrant as lost, stolen, or destroyed. The CSO shall have the right to inquire into the circumstances and evaluate the ability of the recipient to manage public assistance funds.

(11) The state and community service offices shall take appropriate action to protect the state from loss if the original unendorsed warrant is redeemed by the state treasurer.

[Statutory Authority: RCW 74.08.090, 86-22-038 (Order 2433), § 388-33-576, filed 11/3/86; 84-09-072 (Order 2094), § 388-33-576, filed 4/18/84; 81-09-044 (Order 1637), § 388-33-576, filed 4/15/81; 78-09-062 (Order 1331), § 388-33-576, filed 8/24/78; Order 1164, § 388-33-576, filed 10/27/76; Order 1055, § 388-33-576, filed 9/25/75; Order 1026, § 388-33-576, filed 5/19/75; Order 661, § 388-33-576, filed 3/9/72.]

WAC 388-33-579 Loss, theft or destruction of warrant payable to vendor. (1) When a vendor payee reports to the local office that a warrant was not received or that an unendorsed warrant has been lost, stolen or destroyed, LO shall have the vendor payee complete an affidavit attesting to the reported facts.

(2) The local office shall secure all facts surrounding the nonreceipt or loss reported in subsection (1); assess the reported facts and make a judgment as to the validity of the report; determine a course of action appropriate to the facts of the case.

(3) The local office follows procedures established by the department and allows the time needed to make the necessary determination for processing these claims before a duplicate warrant will be issued.

(4) Replacement of unendorsed warrants shall be made in accordance with the procedures established by the department.

(5) The department will not be responsible for replacing an endorsed warrant or cash proceeds of a warrant lost by a vendor.

[Order 661, § 388-33-579, filed 3/9/72.]

WAC 388-33-585 Cancellation of warrant. (1) A warrant not endorsed by the payee before he died shall not be endorsed by or to another person. A warrant payable to a deceased payee must be returned to the department for cancellation. See WAC 388-33-460 for vendor payment in such situations.

(2) A warrant not endorsed by a payee (with dependents in his assistance unit) who has left his home must

be returned to the SO for cancellation, unless it is feasible to hold the warrant until the payee returns. If there is another eligible payee the warrant is returned for cancellation and the LO simultaneously certifies grant recomputation and name change.

[Order 534, § 388-33-585, filed 3/31/71, effective 5/1/71; Order 426, § 388-33-585, filed 1/21/70; Regulation 10.76, filed 1/24/64.]

WAC 388-33-595 One-time grant--Authorization--Disbursement. (1) See WAC 388-22-030 for definition of "one-time grant."

(2) The department shall authorize a one-time grant for:

(a) An additional requirement allowed under WAC 388-29-150, 388-29-160, 388-29-180, 388-29-200, 388-29-210, 388-29-220, 388-29-230, 388-29-260, and 388-29-270;

(b) Income or assistance budgeted by the department as available to, but not received by, the assistance unit;

(c) Supplemental assistance a recipient needs from the date the recipient leaves an institution to the date the recipient receives the regular, adjusting, or reinstated grant;

(d) Initiating, reinstating, or increasing a grant as required by a fair hearing or court decision;

(e) A recipient or former recipient to be compensated for an underpayment;

(f) An exception to the rule approved by the department under chapter 388-20 WAC;

(g) A recipient who cannot wait for the department to reissue a cancelled warrant by adjusting grant;

(h) A change in the basic requirements which results in an increase in the regular grant;

(i) Assistance which requires a partial month payment in compliance with the ten-day advance notice rules on reduction, suspension, or termination of a grant; and

(j) An individual who is added to the assistance unit.

(3) Except as provided in subsection (2)(d) and (e) of this section, a retroactive one-time grant shall not cover a period of more than sixty days before the date of authorization.

[Statutory Authority: RCW 74.04.050. 89-23-085 (Order 2903), § 388-33-595, filed 11/17/89, effective 12/18/89. Statutory Authority: RCW 74.08.090. 83-17-004 (Order 1994), § 388-33-595, filed 8/5/83; 82-16-065 (Order 1852), § 388-33-595, filed 7/30/82, effective 9/1/82; 82-01-009 (Order 1728), § 388-33-595, filed 12/4/81; 81-09-044 (Order 1637), § 388-33-595, filed 4/15/81; 78-09-073 (Order 1332), § 388-33-595, filed 8/25/78; Order 1176, § 388-33-595, filed 12/23/76; Order 1068, § 388-33-595, filed 11/17/75; Order 933, § 388-33-595, filed 5/15/74; Order 791, § 388-33-595, filed 4/12/73; Order 698, § 388-33-595, filed 7/13/72; Order 534, § 388-33-595, filed 3/31/71, effective 5/1/71; Order 426, § 388-33-595, filed 1/21/70; Order 399, § 388-33-595, filed 11/5/69; Regulation 10.80, filed 6/14/66; Regulation 10.80, filed 1/24/64.]

WAC 388-33-605 One-time grant--Notification to recipient. The LO shall send written notice to the recipient advising him of the approval of a one-time grant, the amount thereof and the requirement(s) for which it is intended.

[Order 534, § 388-33-605, filed 3/31/71, effective 5/1/71; Regulation 10.81, filed 1/24/64.]

Chapter 388-34 WAC

PERSON IN INSTITUTION--ELIGIBILITY--PAYMENT

WAC

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Reviser's note: Administrative Order 535, filed with the code reviser on March 31, 1971, purported to adopt editorial revisions to chapter 388-34 WAC relating to the eligibility and payment of public assistance to persons in institutions. Emergency Order 560, filed April 30, 1971, and Permanent Order 573, filed June 22, 1971, repealed Order 535 before its effective date of May 1, 1971.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 388-34-060 Authorizing initial and continuing eligibility and grant--Procedures. [Regulation 11.132, filed 8/29/66; Regulation 11.132, filed 1/24/64.] Repealed by Order 759, filed 12/28/72.
- 388-34-065 Authorizing initial and continuing eligibility and grant--Reporting procedure between county office and state office. [Regulation 11.133, filed 1/24/64.] Repealed by Order 651, filed 2/9/72.
- 388-34-070 Intermediate care facility--Eligibility. [Order 323, § 388-34-070, filed 11/27/68.] Repealed by Order 651, filed 2/9/72.
- 388-34-072 Intermediate care facility--Determination of need for intermediate care. [Order 395, § 388-34-072, filed 10/15/69; Order 323, § 388-34-072, filed 11/27/68.] Repealed by Order 651, filed 2/9/72.
- 388-34-074 Intermediate care facility--Placement of recipient. [Order 395, § 388-34-074, filed 10/15/69; Order 323, § 388-34-074, filed 11/27/68.] Repealed by Order 651, filed 2/9/72.
- 388-34-076 Intermediate care facility--Services to be provided by operator. [Order 395, § 388-34-076, filed 10/15/69;

- Order 323, § 388-34-076, filed 11/27/68.] Repealed by Order 651, filed 2/9/72.
- 388-34-078 Intermediate care facility—Payment standards—Rates—Procedures. [Order 562, § 388-34-078, filed 5/19/71; Order 553, § 388-34-078, filed 4/1/71; Order 467, § 388-34-078, filed 7/21/70; Order 395, § 388-34-078, filed 10/15/69; Order 377, § 388-34-078, filed 8/7/69; Order 339, § 388-34-078, filed 2/14/69; Order 323, § 388-34-078, filed 11/27/68.] Repealed by Order 651, filed 2/9/72.
- 388-34-080 Intermediate care facility—Payment procedures—Operator's responsibility. [Order 395, § 388-34-080, filed 10/15/69; Order 323, § 388-34-080, filed 11/27/68.] Repealed by Order 651, filed 2/9/72.
- 388-34-082 Intermediate care facility—Periodic review and re-evaluation. [Order 395, § 388-34-082, filed 10/15/69; Order 323, § 388-34-082, filed 11/27/68.] Repealed by Order 651, filed 2/9/72.
- 388-34-084 Intermediate care facility—Application from facility to provide intermediate care. [Order 395, § 388-34-084, filed 10/15/69.] Repealed by Order 651, filed 2/9/72.
- 388-34-130 Patient in psychiatric facility—Commercial home not subject to state licensing. [Regulation 11.50, filed 7/27/67; Regulation 11.50, filed 3/21/67, 8/29/66, 1/24/64.] Repealed by Order 455 (part), filed 5/18/70.

WAC 388-34-010 Institutional living arrangements.

(1) The standards, policies and procedures in this chapter apply to applicants and recipients in or entering public and private nursing homes, hospitals, fraternal or benevolent homes, maternity homes, commercial homes not subject to licensing, and other miscellaneous homes.

(2) The policies and procedures for processing applications, determining initial and continuing eligibility and making payments to persons in such situations are the same as those which apply to persons in their own homes except as modified herein. However, the standards for the requirements and the computation and payment of the financial need of persons in institutions differ in some respects from those for persons in their own homes. Consequently, this chapter deals with the assistance standards and special procedures for payment to and in behalf of the eligible persons in the various types of institutions.

(3) The assistance unit, when a person is in an institution for more than a temporary period, consists of the individual patient only. Legal dependents in the family home constitute a separate assistance unit.

[Regulation 11.00, filed 1/24/64.]

WAC 388-34-015 Definitions. (1) "Medical institution" shall mean an institution which:

(a) Was established and is operated to provide medical care, nursing care and/or convalescent care, and has the necessary professional personnel, equipment and facilities to manage the medical needs of patients on a continuing basis in accordance with accepted standards.

(b) Is staffed by professional medical or professional nursing personnel who have clear and definite responsibility to the institution in the provision of medical services to patients. The term "staffed by" shall not mean that the institution has to have resident medical or nursing staff but staff must be assigned and available to give necessary care. An institution which has a doctor who

calls once a week to "look in on people to see how they are getting along" or in which a matron can call a doctor when a person in the institution gets sick, is not "staffed by" professional personnel in this context.

(2) "Nursing care in commercial home not subject to state licensing" means nursing services in a home operating for profit with nursing care facilities for one or two persons only.

(3) "Nursing home" means a public or private licensed nursing home certified by the department to provide skilled nursing or intermediate care, or both, with which the department has entered into the appropriate agreement or agreements.

(4) "Skilled nursing care" means care provided in a facility which has been appropriately licensed and certified under the terms of the state and federal regulations including the agreement for skilled nursing home care.

(5) Deleted.

(6) "Patient" shall mean an individual who

(a) Is admitted to a medical institution on the recommendation of a physician or dentist because of illness and there is a planned medical treatment directed toward improvement in health, or palliative medical measures are required, though improvement in health or recovery cannot be expected, and

(b) Is receiving professional medical treatment, including nursing care, directed by a licensed practitioner of the healing arts, and

(c) Is free to leave at the conclusion of the treatment or at any time upon his own decision. A patient in a psychiatric hospital (JCAH approved) sixty-five years of age or over or an eligible person under 21 years of age is not affected by this provision. See chapter 388-95 WAC.

(7) "Private institution" shall mean an institution operated by nongovernmental authority and subject to the administrative control of a privately designated governing body or the proprietor(s).

(8) "Public institution" shall mean an institution authorized by law, supported in whole or in part from public funds and under the effective administrative control of a public official or a publicly appointed or elected governing body.

(9) "Psychiatric facility" or "facility" includes the two state mental hospitals, private psychiatric hospitals and general hospitals having psychiatric beds, with which the department has an agreement or contract for the care of persons sixty-five years of age and over and under 21 years of age.

(10) "Intermediate care facility" (ICF) is an institution or a distinct part of an institution which is licensed under state law and has entered into a contract with the department to provide residents thereof, on a regular basis, the range or level of care suitable to eligible recipients who because of their physical or mental condition or both require living accommodations and care which as a practical matter can be made available to them only through institutional facilities but do not have such disability as to require the degree of care which a skilled nursing home provides.

(11) "Intermediate care" means care in an intermediate care facility including institutional services.

(12) "Institutional services" means those items and services furnished by the institution in connection with providing the regular range or level of care and services suitable to the needs of a resident in an intermediate care facility. Institutional services do not include personal maintenance and necessary incidentals and clothing for which the recipient receives a cash grant or medical care provided under the regular medical program for recipients.

[Order 1044, § 388-34-015, filed 8/14/75; Order 323, § 388-34-015, filed 11/27/68; Order 249, § 388-34-015, filed 11/1/67; Regulation 11.01, filed 1/24/64.]

WAC 388-34-020 Eligibility conditions. (1) If otherwise eligible, a person in a nonfederal institution shall be eligible for a public assistance grant when he is a

(a) Patient in a psychiatric hospital (JCAH approved) and is either sixty-five years of age or over or under 21 years of age.

(b) Patient in a medical institution but not because of a diagnosis of psychosis (unless he qualifies under subdivision (1)(a)),

(c) Patient in a tuberculosis hospital and is eligible for continuing general assistance (see WAC 388-34-120),

(d) Resident in an intermediate care facility.

(2) A person is not eligible for a grant if he is

(a) In a federal institution,

(b) An inmate (nonpatient) in a public institution,

(c) In an institution for mental disease or in a tuberculosis hospital other than as specified in subdivisions (1)(a) and (1)(c).

[Order 1044, § 388-34-020, filed 8/14/75; Order 323, § 388-34-020, filed 11/27/68; Order 249, § 388-34-020, filed 11/1/67; Regulation 11.02, filed 1/24/64.]

WAC 388-34-025 Eligibility conditions--Eligibility for AFDC--Child or needy relative temporarily in institution. (1) A child temporarily in a public or private institution and otherwise eligible for aid to families with dependent children as long as he is a member of a family which maintains responsibility for his welfare according to WAC 388-24-125.

(2) The needy relative, who is responsible for the care of a child eligible for aid to families with dependent children, shall not be eligible for aid to families with dependent children when he (she) lives in a public or private institution except temporarily during which time adequate care is provided for the child.

(3) A person in a maternity home is eligible for services according to WAC 388-70-110 through 388-70-118.

[Order 759, § 388-34-025, filed 12/28/72; Order 249, § 388-34-025, filed 11/1/67; Regulation 11.03, filed 1/24/64.]

WAC 388-34-035 Skilled nursing home care. The local office is responsible for determining and authorizing the initial and continuing eligibility of an individual who requires skilled nursing home care.

[Order 759, § 388-34-035, filed 12/28/72; Regulation 11.10, filed 8/29/66; Regulation 11.10, filed 1/24/64.]

WAC 388-34-040 Skilled nursing home care--Application. The rules in chapter 388-38 WAC apply when application is made in anticipation of or after entry into a nursing home.

[Order 759, § 388-34-040, filed 12/28/72; Regulation 11.11, filed 8/29/66; Regulation 11.11, filed 1/24/64.]

WAC 388-34-045 Skilled nursing home care--Cost standards for requirements. (1) The cost of skilled nursing home care shall be the department's rates for the class of care needed as determined by the department's nursing care consultant or the classification of the home in which the care is given, whichever is lower, unless special authorization is given by the department's office of personal health services for a particular home to give a specified patient a class of care more costly than that at which the home is classified.

(2) Deleted.

(3) Deleted.

(4) If an individual needs less than Class II care and it is desirable to keep him in a skilled nursing home, the skilled nursing home will be paid at the intermediate care facility rate. See WAC 388-34-378.

[Order 1017, § 388-34-045, filed 4/14/75; Order 907, § 388-34-045, filed 2/14/74; Order 862, § 388-34-045, filed 10/11/73; Order 842, § 388-34-045, filed 8/9/73; Order 824, § 388-34-045, filed 7/26/73; Order 732, § 388-34-045, filed 10/27/72; Order 675, § 388-34-045, filed 5/10/72; Order 651, § 388-34-045, filed 2/9/72; Order 553, § 388-34-045, filed 4/1/71; Order 377, § 388-34-045, filed 8/7/69; Regulation 11.12, filed 2/23/67, 8/29/66, 3/31/66, 12/31/65, 1/24/64.]

WAC 388-34-055 Skilled nursing home care--Authorization and payment. (1) The assistance unit for purposes of authorizing payment of the requirements of a person in a nursing home is the patient only. The need of dependents shall not be "included in" or computed as part of the patient's need.

(2) The requirements for a person in a skilled nursing home shall be authorized only after the nursing care consultant has determined medical eligibility for a specific class of care and the person is determined by the department to be otherwise eligible.

(3) WAC 388-33-115 and 388-33-120 on effective date of payment apply to new and reopened cases eligible for continuing assistance grants. The effective date of a noncontinuing general assistance grant is the authorization date. See WAC 388-84-005 for effective date for FAMCO.

(4) The cost of skilled nursing home care is paid as a medical service cost by post payment to the provider.

(5) Payment for clothing and personal maintenance and necessary incidentals shall be made to the eligible grant recipient as a prepayment. See WAC 388-83-045 for FAMCO.

(6) Income of the applicant or recipient shall be applied according to WAC 388-28-500.

(7) WAC 388-88-095 through 388-88-115 apply to the placement, transfer or discharge of a nursing home patient.

[Order 759, § 388-34-055, filed 12/28/72; Regulation 11.131, filed 8/29/66; Regulation 11.131, filed 1/24/64.]

WAC 388-34-085 Public nursing home--Definition--Grant requirements. (1) "Public nursing home" means a licensed county (public) nursing home previously called a county infirmary. The need for care in a public nursing home shall be determined and certified by the local office.

(2) The grant requirements for a person in a public nursing home are clothing and personal maintenance and necessary incidentals.

[Order 1017, § 388-34-085, filed 4/14/75; Order 907, § 388-34-085, filed 2/14/74; Order 824, § 388-34-085, filed 7/26/73; Order 651, § 388-34-085, filed 2/9/72; Order 553, § 388-34-085, filed 4/1/71; Order 377, § 388-34-085, filed 8/7/69; Order 249, § 388-34-085, filed 11/1/67; Regulation 11.20, filed 7/24/67; Regulation 11.20, filed 2/23/67, 8/29/66, 1/24/64.]

WAC 388-34-095 Fraternal, religious, or benevolent home. (1) Fraternal, religious or benevolent homes operate under a variety of plans with respect to the individual. Some offer free care for life, sometimes contingent upon earlier group membership. Others offer free care covering maintenance items only without specific provisions for personal items. Some require payment in advance or transfer of all property holdings; others enter into specific individual contracts. Fraternal organizations usually have only general bylaws concerning the conduct of the person in the home rather than the relationships between the home and the individual.

(2) Fraternal, religious or benevolent homes operating as nursing homes shall be subject to department standards and rules governing nursing homes.

(3) An individual in a fraternal, benevolent or charitable home which customarily provides free, partially free or prepaid care for life, shall be eligible only when and to the extent that he can establish need, including the necessity for him to make payments to the home.

(4) Assistance may be granted to an otherwise eligible individual receiving life care under a contract or agreement which specifically excludes items in the standards only to the extent required to purchase such requirements. The individual must provide evidence substantiating need for the item; for example, a copy of an individual contract with the home; specific citations to governing rules of the organization; or official statements or resolutions of the governing authority or board specifically setting forth the limitations of the individual's right to free care. A written statement signed by the proper authorities of the home requesting and confirming the applicant's obligation to make payment, including the citation of a properly adopted statement or resolution of the governing board setting forth the limitations of the home's obligation to provide care without payment also serves as substantiating financial need.

(5) A person who voluntarily cancels a contract for life care shall not be eligible until he produces satisfactory evidence to prove that the value of the care received equaled the value of the consideration paid for the life care contract. The home's average monthly operating cost per guest, exclusive of capital outlay, depreciation,

interest on investments and similar costs as agreed upon by the local office and the home, shall be used to determine whether the care received by the individual equaled the lump sum payment or value of the property he transferred to the home.

(6) See WAC 388-34-045 for costs of requirements to determine financial need of an applicant in a skilled nursing unit of a fraternal or benevolent institution.

(7) See WAC 388-29-260 through 388-29-270 for requirements of a person living in a fraternal or religious home on a board and room basis.

[Statutory Authority: RCW 74.08.090. 78-10-036 (Order 1338), § 388-34-095, filed 9/18/78; Order 651, § 388-34-095, filed 2/9/72; Order 377, § 388-34-095, filed 8/7/69; Order 249, § 388-34-095, filed 11/1/67; Regulation 11.30, filed 8/29/66; Regulation 11.30, filed 1/24/64.]

WAC 388-34-110 General hospital--Grants requirements. (1) The grant requirements in a public or private general hospital shall be clothing, personal maintenance and necessary incidentals.

(2) Deleted.

(3) Other institutional costs are authorized and paid as a vendor medical payment.

[Order 1017, § 388-34-110, filed 4/14/75; Order 917, § 388-34-110, filed 3/14/74, 3/18/74; Order 824, § 388-34-110, filed 7/26/73; Order 651, § 388-34-110, filed 2/9/72; Order 553, § 388-34-110, filed 4/1/71; Order 377, § 388-34-110, filed 8/7/69; Order 249, § 388-34-110, filed 11/1/67; Regulation 11.41, filed 7/27/67; Regulation 11.41, filed 2/23/67, 8/29/66, 1/24/64.]

WAC 388-34-120 Tuberculosis hospital--Grant requirements. (1) General assistance may be granted to a person otherwise eligible living in a tuberculosis hospital.

(2) The grant requirements shall be clothing, personal maintenance and necessary incidentals.

[Order 1017, § 388-34-120, filed 4/14/75; Order 917, § 388-34-120, filed 3/14/74, 3/18/74; Order 824, § 388-34-120, filed 7/26/73; Order 651, § 388-34-120, filed 2/9/72; Order 377, § 388-34-120, filed 8/7/69; Order 553, § 388-34-120, filed 4/1/71; Order 249, § 388-34-120, filed 11/1/67; Regulation 11.42, filed 7/27/67, 2/23/67, 1/4/67, 8/29/66, 1/24/64.]

WAC 388-34-125 Psychiatric hospital (JCAH approved)--Standards for requirements. (1) The grant requirements in a public or private psychiatric hospital shall be clothing, personal maintenance and necessary incidentals.

(2) The monthly cost standard for clothing and personal maintenance and incidentals shall be as stated in WAC 388-29-125 (see WAC 388-95-215(5)).

[Statutory Authority: RCW 74.08.090. 78-10-036 (Order 1338), § 388-34-125, filed 9/18/78; Order 1044, § 388-34-125, filed 8/14/75; Order 824, § 388-34-125, filed 7/26/73; Order 651, § 388-34-125, filed 2/9/72; Order 553, § 388-34-125, filed 4/1/71; Order 377, § 388-34-125, filed 8/7/69; Order 249, § 388-34-125, filed 11/1/67.]

WAC 388-34-140 Maternity services. Maternity services are purchased for an eligible unmarried pregnant woman as provided in WAC 388-70-110 through 388-70-118.

[Order 688, § 388-34-140, filed 6/15/72; Order 434, § 388-34-140, filed 3/31/70; Regulation 11.60, filed 3/31/66; Regulation 11.60, filed 6/24/64, 1/24/64.]

WAC 388-34-150 Other homes. (1) The standards for requirements in WAC 388-29-260 through 388-29-270 shall apply to an applicant or recipient in:

- (a) A nursing home in another state
- (b) A home subject to licensing as a nursing home by the state of Washington but lacking a state department of health license or provisional license
- (c) A private nursing home licensed by the Washington department of health which is not classified by the SDPA for purposes of establishing rates of payment to needy persons.

(2) A licensed but unclassified nursing home does not use the SF 8706 to report the admission and dismissal of recipient patients. The division of medical care periodically furnishes the CO with a list of unclassified homes.

[Statutory Authority: RCW 74.08.090. 78-10-036 (Order 1338), § 388-34-150, filed 9/18/78; Regulation 11.70, filed 8/29/66; Regulation 11.70, filed 1/24/64.]

WAC 388-34-160 Grant change--Admittance to institution other than nursing home. (1) When a recipient enters an institution other than a licensed and classified private nursing home the CSO may use any payment process which the CSO determines to be the most practical under the circumstances. Such payment process may consist of recomputation or suspension of the regular grant, redirection and cancellation of warrants, one-time grant, or any combination of the preceding. Medical costs, in addition to grant need, may also be taken into consideration in determining suspension or termination.

(2) Supplemental assistance for general maintenance or general subsistence if needed from date of admission to effective date of regular grant change shall be authorized and paid to the recipient as a one-time grant. The funds in the recipient's possession from his regular assistance warrant for the month he enters, and/or any unused income, is considered available to meet need. See WAC 388-33-595 (2)(b)(iv).

(3) When an adult recipient (OAA, DA, AB, GAU) enters an institution and there is another adult in the assistance unit, separate grants from the appropriate program shall be established for each adult. Minor children dependent on the adults shall be included in the assistance unit of the adult not in the institution.

When an assistance unit is "split" the effective date of the grant to each assistance unit shall be synchronized to avoid overpayment.

(4) If a recipient in an institution dies before receiving or being able to endorse a warrant already authorized and due him and owes for general maintenance or general subsistence, the previously authorized warrant shall be canceled and the amount due shall be paid as a vendor payment from the category in which the canceled warrant was written. See WAC 388-33-460.

The amount due shall be that portion of the cancelled warrant actually owed by the recipient less any funds the recipient has on deposit with the vendor.

[Statutory Authority: RCW 74.08.090. 83-10-077 (Order 1958), § 388-34-160, filed 5/4/83; 78-10-036 (Order 1338), § 388-34-160, filed 9/18/78; Regulation 11.80, filed 1/24/64.]

WAC 388-34-165 Grant change--Discharge from institution other than licensed nursing home. (1) When a recipient leaves an institution other than a licensed and classified nursing home the CO shall certify on SF 5822-M recomputation of grant, reinstatement of suspended grant, or termination.

(2) If recomputation is certified the effective date for increase or decrease in WAC 388-33-140 applies. If supplemental assistance is needed from date of dismissal to effective date of change in regular grant, the amount shall be authorized and paid as a one-time grant. (See WAC 388-33-595 (2)(b)(v)).

(3) If reinstatement of grant is authorized see WAC 388-33-120(4) for effective date of grant.

[Regulation 11.81, filed 6/14/66; Regulation 11.81, filed 1/24/64.]

WAC 388-34-180 Notification of grant authorization and change in grant. (1) An applicant or recipient in a home or facility subject to chapter 388-34 WAC shall be notified in writing when a grant or change in grant is authorized for payment to him or in his behalf. The written notification shall specify:

- (a) The monthly allowance for his requirements, excluding the cost of care in an institution or home,
- (b) His monthly income and resources available to meet his requirements,
- (c) The amount of the monthly grant,
- (d) The date of eligibility for care and payment of assistance begins,
- (e) The amount he is to pay from his income and resources toward the cost of his care in the institution or home,
- (f) The right to a fair hearing.

(2) WAC 388-33-380 is also applicable when the grant to such person is suspended or terminated.

[Order 312, § 388-34-180, filed 10/31/68; Regulation 11.90, filed 1/24/64.]

WAC 388-34-370 Intermediate care--Eligibility conditions. (1) For definition of "intermediate care facility" (ICF) see WAC 388-34-015(10).

(2) To be eligible for assistance in an intermediate care facility a recipient must:

- (a) Require living accommodations and care which as a practical matter can be available to him only through institutional facilities, and
- (b) Not have such disability as to require the degree of care and treatment which a hospital or skilled nursing home at the Class I or II level of care is designed to provide, and

(c) Be eligible for a federal aid grant, continuing general assistance, or medical assistance.

[Order 701, § 388-34-370, filed 7/27/72; Order 651, § 388-34-370, filed 2/9/72.]

WAC 388-34-372 Intermediate care--Determination of need for intermediate care. (1) The determination of a person's need for intermediate care is based on mutual planning with him and his family, as feasible, and on the service worker's assessment of his needs. Any question of the individual's need for care in a nursing

care facility must be resolved prior to placement in an intermediate care facility by clearance with the medical consultant or the nursing care consultant. All alternate care which might meet his needs shall have consideration (see WAC 388-16-300 through 388-16-330).

(2) On initial placement medical information shall be secured to establish the presence or extent of physical problems. Such information may be contained in reports from state hospitals, or schools for the retarded, or secured from physicians. To help in determining need for care this medical information is essential for persons having health needs which require visits to the physician, special diets, and/or taking of medications.

(3) The service worker shall consult with the nursing care consultant who has primary responsibility for determining if the person needs skilled nursing care rather than intermediate care. The nurse will serve, when indicated, as a consultant regarding the individual's medical needs, medical information, and medical resources in the community.

[Order 701, § 388-34-372, filed 7/27/72; Order 440, § 388-34-372, filed 4/15/70.]

WAC 388-34-374 Intermediate care--Placement of recipient. (1) The service worker has responsibility for case management and social services which includes placement and replacement of the recipient.

(2) The need for intermediate care must be agreed to by the recipient. The selection of the facility is the responsibility of the recipient, his relatives, guardian, or attending physician or Christian Science practitioner, with assistance from the service worker in preplacement planning.

(3) The service worker shall assume responsibility for selecting the home only when the recipient is incapable of making the selection and there is no other responsible person to make the selection in his behalf.

(4) The placement of a recipient in an ICF must have prior approval by the local office. However, in case of the emergency admission of a recipient to a home when the local office is not open, the local office must be notified by the home the morning of the first local office working day following the emergency admission. The fact of the emergency existed must be established to enable the department to pay for the care from the date of admission.

(5) The operator must send immediate written notification to the local office on Form 15PA28F, Notice of action, of the date of admission of any recipient. Payment for the recipient's care will not be authorized until receipt of this written notification.

(6) The operator must report discharge or death of a resident on Form 15PA28F.

(7) Out-of-county placement of a recipient may be made at the request of the recipient or his relatives, or when there is no available intermediate care facility in the county of residence.

[Order 440, § 388-34-374, filed 4/15/70.]

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WAC 388-34-375 Intermediate care--Absence for social reasons. (1) The facility shall notify the local office immediately on the prescribed form when a recipient is to be absent from the facility for more than 24 hours for social reasons.

(2) The facility shall immediately contact the local office for approval of a plan for a recipient to be absent for more than 36 hours for social reasons. Local office approval of an absence of more than 4 days shall be in writing. A state office approved exception to rule shall be secured for absences of more than seven calendar days.

(3) The facility shall not discharge a recipient whose absence for social reasons has been approved by the department. Payment is made for the days of approved absence.

[Order 867, § 388-34-375, filed 10/26/73.]

WAC 388-34-376 Intermediate care--Services to be provided by operator. The operator of the facility shall provide the following protective and personal care services:

(1) Offer understanding, encouragement and emotional support to the recipient toward taking more responsibility for himself; i.e., keeping self neat and clean, wearing appropriate clothing, coming to meals, keeping room clean and orderly, and other minor tasks.

(2) Activities, including social and recreational activities, involving active participation by the recipient and opportunities for community activities as possible and appropriate, including encouragement and help in seeking, obtaining and keeping employment if the resident is not a recipient of OAA.

(3) Assistance with shopping and correspondence as necessary.

(4) Necessary supervision for the recipient whose mental condition is such that his personal safety requires this.

(5) Opportunity to participate in religious activities of the recipient's own choice.

(6) Under direction of the recipient's physician, guidance and assistance for each recipient in carrying out his personal health program.

(7) Arrangements for services of a physician in the event of an emergency when the recipient's own physician cannot be reached;

(8) Whenever a recipient is sick notifying a physician immediately. If the recipient remains in the facility, the facility shall be responsible for providing temporary care. Care during a temporary illness shall be limited to the type of care ordinarily given in a private home and of a duration not to exceed fourteen days.

(9) Maintaining an individual health record for each resident including

(a) Name, address, and telephone number of relative or responsible person, and the name, address, and telephone number of his physician;

(b) The physician's written instructions and recommendations for care of the recipient;

(c) All symptoms and other indications of illness, injury, or changed behavior brought to the attention of the

staff by the recipient, or from other sources, including the date, time, and action taken regarding each.

[Order 440, § 388-34-376, filed 4/15/70.]

WAC 388-34-378 Intermediate care--Grant requirements--Procedures. (1) Intermediate care is paid from medical care program funds as a vendor post-payment in behalf of the recipient. The individual must be eligible for public assistance or meet the eligibility standards of the medical care program.

(2) Deleted.

(3) The grant requirements of a person in an intermediate care facility shall be clothing and personal maintenance and necessary incidentals.

(4) All nonexempt income shall be applied first to the requirements specified in subsection (3). Any remaining income is applied to reduce the vendor payment. See WAC 388-22-030(34) for definitions of income.

(5) Payment for care of eligible persons shall be made only for day(s) of care certified by the authorized local office staff. Payment is made for the day of admission, but will not be made for the day of death, discharge or transfer from the intermediate care facility, provided that for any resident admitted there shall be a minimum one-day payment.

(6) Payment for the care of a private resident who becomes eligible for public assistance while in an intermediate care facility shall begin on the date authorized by the department's local office.

(7) An administrator of an intermediate care facility shall not receive or accept money from or on behalf of a recipient in excess of the amount properly payable for the basic cost of intermediate care.

(8) Violation of subsection (7) of this rule will subject the home to termination of the intermediate care agreement. Evidence that an administrator solicited or accepted payment for intermediate care in excess of the amount payable according to the department's payment standards shall be immediately discussed with the administrator by the appropriate local office staff. If the problem cannot be resolved by the local office, the facts should be sent by memorandum to the state office of personal health services.

[Order 1017, § 388-34-378, filed 4/14/75; Order 907, § 388-34-378, filed 2/14/74; Order 862, § 388-34-378, filed 10/11/73; Order 842, § 388-34-378, filed 8/9/73; Order 824, § 388-34-378, filed 7/26/73; Order 732, § 388-34-378, filed 10/27/72; Order 716, § 388-34-378, filed 9/14/72; Order 675, § 388-34-378, filed 5/10/72; Order 651, § 388-34-378, filed 2/9/72; Order 440, § 388-34-378, filed 4/15/70.]

WAC 388-34-380 Intermediate care--Payment procedures--Operator's responsibility. (1) It is the operator's responsibility to collect from the recipient that portion of the cost of care the recipient is required to pay. The department's local office shall notify the operator of the amount for which the recipient is responsible.

(2) If it is determined that the recipient no longer needs or can use intermediate care, the service worker is responsible for working out a new living arrangement with the recipient.

[Order 440, § 388-34-380, filed 4/15/70.]

(1990 Ed.)

WAC 388-34-384 Intermediate care--Application to provide intermediate care. (1) A facility wishing to provide intermediate care must have a valid license from the department's health division as a boarding home for the aged (and infirm) or as a nursing home.

(2) To apply for approval of payment for intermediate care the facility shall contact the local office and sign Form 10PA23, application for approval for payment--intermediate care facility, in duplicate. The local office service worker will:

(a) Establish a case record for the facility,

(b) Visit the premises,

(c) Discuss the intermediate care facility agreement in detail with the operator,

(d) Explain the use of Form 15PA28F, Notice of action, and Forms 8731 and 8731-A,

(e) Make sure that the operator will have adequate supervisory staff, not from the resident population, on the premises at all times,

(f) Join with the manager, owner or operator in signing Form 10PA22S to testify to the explanation given by the service worker,

(g) If the local office approves the application, have the facility sign two copies of the intermediate care facility agreement and two copies of Form 6PA44, authorization for voucher signature,

(h) Note local office approval on Form 10PA23 and send both copies with both copies of the signed intermediate care facility agreement, Form 6PA44, and Form 10PA22S to the state office adult programs unit,

(i) Placement in the facility may begin when all forms for the approved application have been sent to the state office.

(3) If the local office does not approve the application, the service worker explains the reasons fully to the applicant. If the applicant wishes to sign the intermediate care facility agreement he may do so. If he does, two copies of Form 6PA44 are also signed. The service worker sends all forms as for an approved application to the state office adult programs unit with a memorandum of explanation. The state office notifies the facility of the decision.

If after an explanation of the reasons a local office will not approve an application, the facility withdraws its application to provide intermediate care, no further action is taken by the local office.

(4) The signature of the assistant secretary on the agreement will constitute department approval. A copy of Form 10PA23 and a copy of the agreement are sent to the facility.

(a) An agreement is valid for one year from the date of department signature, except when either the local office or the facility elects a shorter period,

(b) A new agreement must be received in the state office no later than one month after the expiration date of the previous agreement. If not, it will be necessary to hold the vouchers for the facility until the new agreement is received,

(c) A new agreement is required when there is a change in ownership of the facility.

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(5) An agreement is terminated when it is revoked by the department or the facility closes.

(a) Revocation shall be considered only when abuses are flagrant and residents are not receiving services as provided in the agreement.

(b) The local office shall send specific current facts supporting revocation to the state office adult program section for action.

(6) The service worker shall visit the facility at appropriate intervals, but no longer than every six months, with or without the nursing care consultant, to review and when necessary, help upgrade the standards of personal and social care.

[Order 867, § 388-34-384, filed 10/26/73; Order 627, § 388-34-384, filed 10/24/71; Order 440, § 388-34-384, filed 4/15/70.]

Chapter 388-37 WAC

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

WAC

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| DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER | |
| 388-37-034 | Continuing general assistance—Local office review of incapacity. [Order 943, § 388-37-034, filed 6/28/74; Order 904, § 388-37-034, filed 1/31/74.] Repealed by Order 1102, filed 3/2/76. |
| 388-37-036 | Incapacity—Functional, mental, and emotional disorders. [Statutory Authority: RCW 74.08.090. 83-08- |

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|------------|---|
| 388-37-060 | 025 (Order 1955), § 388-37-036, filed 3/30/83; 82-22-021 (Order 1894), § 388-37-036, filed 10/26/82.] Repealed by 85-15-090 (Order 2259), filed 7/24/85. Statutory Authority: RCW 74.08.090. 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. |
| 388-37-210 | Noncontinuing general assistance—Eligible persons. [*Order 1085, § 388-37-210, filed 1/15/76; Emergency Order 1073, § 388-37-210, filed 12/12/75 (Emergency Order 1073 repealed WAC 388-37-210, which was then readopted, as amended, by Order 1085, filed 1/15/76); Order 969, § 388-37-210, filed 9/13/74; Order 939, § 388-37-210, filed 5/23/74; Order 904, § 388-37-210, filed 1/31/74; Order 841, § 388-37-210, filed 8/9/73.] Repealed by 78-10-031 (Order 1337), filed 9/15/78. Statutory Authority: RCW 74.08.090. |
| 388-37-215 | Noncontinuing general assistance—Specific eligibility conditions. [Order 1173, § 388-37-215, filed 11/24/76; Order 973, § 388-37-215, filed 9/26/74; Order 841, § 388-37-215, filed 8/9/73.] Repealed by 78-10-031 (Order 1337), filed 9/15/78. Statutory Authority: RCW 74.08.090. |
| 388-37-220 | Noncontinuing general assistance—Requirements. [Order 1242, § 388-37-220, filed 9/23/77; Order 1145, § 388-37-220, filed 8/26/76; Order 1040, § 388-37-220, filed 8/7/75; Order 904, § 388-37-220, filed 1/31/74; Order 841, § 388-37-220, filed 8/9/73.] Repealed by 78-10-031 (Order 1337), filed 9/15/78. Statutory Authority: RCW 74.08.090. |
| 388-37-230 | Noncontinuing general assistance—Exempt and non-exempt resources and income. [Statutory Authority: RCW 74.08.090. 78-06-022 (Order 1294), § 388-37-230, filed 5/16/78; Order 841, § 388-37-230, filed 8/9/73.] Repealed by 78-10-031 (Order 1337), filed 9/15/78. Statutory Authority: RCW 74.08.090. |
| 388-37-235 | Noncontinuing general assistance—Computing income. [Order 841, § 388-37-235, filed 8/9/73.] Repealed by 78-10-031 (Order 1337), filed 9/15/78. Statutory Authority: RCW 74.08.090. |
| 388-37-240 | Noncontinuing general assistance—Utilization of resources and income. [Order 841, § 388-37-240, filed 8/9/73.] Repealed by 78-10-031 (Order 1337), filed 9/15/78. Statutory Authority: RCW 74.08.090. |
| 388-37-245 | Noncontinuing general assistance—Effective date of eligibility. [Order 841, § 388-37-245, filed 8/9/73.] Repealed by 78-10-031 (Order 1337), filed 9/15/78. Statutory Authority: RCW 74.08.090. |
| 388-37-250 | Noncontinuing general assistance—Grant period. [Order 841, § 388-37-250, filed 8/9/73.] Repealed by 78-10-031 (Order 1337), filed 9/15/78. Statutory Authority: RCW 74.08.090. |
| 388-37-255 | Noncontinuing general assistance—Authorization and reauthorization of grant. [Order 841, § 388-37-255, filed 8/9/73.] Repealed by 78-10-031 (Order 1337), filed 9/15/78. Statutory Authority: RCW 74.08.090. |
| 388-37-260 | Noncontinuing general assistance—Notification to recipient. [Order 841, § 388-37-260, filed 8/9/73.] Repealed by 78-10-031 (Order 1337), filed 9/15/78. Statutory Authority: RCW 74.08.090. |
| 388-37-265 | Noncontinuing general assistance—Payment of grant. [Order 841, § 388-37-265, filed 8/9/73.] Repealed by 78-10-031 (Order 1337), filed 9/15/78. Statutory Authority: RCW 74.08.090. |
| 388-37-270 | Noncontinuing general assistance—Vendor payment. [Order 841, § 388-37-270, filed 8/9/73.] Repealed by 78-10-031 (Order 1337), filed 9/15/78. Statutory Authority: RCW 74.08.090. |

*Reviser's note: The statutory authority for the amendment to WAC 388-37-210 in department of social and health services Order 1126, filed 6/23/76, was declared unconstitutional and void by the Supreme Court in *Flanders v. Morris* 88 Wn.2d 181 (1977). WAC 388-37-210 as filed on 1/15/76 by Order 1085 was outstanding prior to Order 1126. See repealed citation above.

WAC 388-37-010 Continuing general assistance--Exclusions. (1) Continuing general assistance is a state-financed program providing for the needs of some persons not eligible for a federal aid grant who are either pregnant or incapacitated from gainful employment. Continuing general assistance cannot be granted to a person eligible for or receiving AFDC or to a person eligible for or whose needs are being met by Supplemental Security Income, except as provided in WAC 388-37-010 (2) through (5).

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

(3) Effective August 23, 1983, an SSI recipient whose need is not being met by SSI because of separation from a spouse may be eligible to receive GA-U in the amount necessary to supplement his or her need up to the level of the existing GA-U payment standard.

(4) An SSI recipient whose SSI check has been lost, stolen, missent, or otherwise delayed, may be granted GA-U provided the recipient agrees in writing to repay the amount of GA-U assistance issued, and the applicant meets all other GA-U eligibility requirements. When an SSI check is lost in the mail system, issuance of GA-U will be held in abeyance for ten working days from the first of the month in which the check was issued to allow the warrant to be returned or delivered. If the recipient has an emergent need, the ten-day period may be waived by the CSO administrator.

(5) An applicant appearing to be eligible for SSI may receive continuing general assistance payments until the date of receipt of the initial SSI payment provided that:

- (a) The applicant applies;
- (b) The applicant assigns the initial SSI payment to DSHS up to the amount of the GA-U provided to the applicant pending approval of the SSI application;
- (c) The applicant meets all other general assistance eligibility requirements.

(6) When determining the amount of the initial SSI payment, do not include any advance payment or payment based upon presumptive disability or presumptive blindness. These payments are not considered SSI benefit payments for interim assistance purposes. The state cannot be reimbursed for any GA-U authorized during the time period these payments cover.

(7) Any agreement between the department and a Supplemental Security Income applicant providing for the reimbursement of interim assistance to the department shall provide, if the applicant has been represented by an attorney, that twenty-five percent of the reimbursement received shall be withheld by the department and all or such portion thereof as has been approved as a

fee by the United States Department of Health and Human Services shall be released directly to the applicant's attorney. Payment is limited to cases where the reimbursement of interim assistance was received by the department on or after August 23, 1983, and the attorney of the applicant for whom reimbursement is received began representing the applicant on or after August 23, 1983. The secretary may maintain such records as are deemed appropriate to measure the cost and effectiveness of such agreements and may make recommendations concerning the continued use of such agreements to the legislature.

(8) Continuing general assistance cannot be granted to an individual eligible for or receiving AFDC or SSI when he or she:

- (a) Is currently under sanction for failure to comply with AFDC or SSI requirements, or
- (b) Has failed or refused to cooperate in obtaining AFDC or SSI, unless the department has determined there is good cause for failure to cooperate.

(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 388-37-025 Earned income exemption. (1) The first eighty-five dollars plus one-half the remainder of total gross monthly earned income shall be exempt in determining eligibility for and the amount of assistance for incapacitated recipients of continuing general assistance.

(2) Earned income exemptions for pregnant recipients of continuing general assistance shall be determined in accordance with AFDC rules.

[Statutory Authority: RCW 74.08.090. 83-21-012 (Order 2034), § 388-37-025, filed 10/6/83; Order 1251, § 388-37-025, filed 11/10/77.]

[Title 388 WAC—p 184]

WAC 388-37-030 Continuing general assistance—Eligible persons. When other eligibility is established, the department shall grant continuing general assistance to the following:

(1) Incapacitated persons. As used in this section, an incapacitated person shall mean a person physically, emotionally, or mentally unable to work as a result of a condition expected to continue for sixty days or more from date of application, except as provided under WAC 388-37-038 (1) and (2). A person incapacitated by alcoholism or drug addiction is not included in this definition, but an alcoholic or drug addict incapacitated due to other mental or physical conditions may be eligible for general assistance. Incapacity refers to a person's capacity to earn income by employment. A person's incapacity does not refer to the availability or lack of job opportunities.

(a) Eligible persons are:

(i) An incapacitated single person eighteen years of age or older;

(ii) A married couple if both persons are incapacitated; or

(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 under WAC 388-28-500 (1)(a) and (b).

(b) An incapacitated person shall accept and follow through on required available medical treatment, which is reasonably expected to render the person 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 under WAC 388-37-037(5).

(c) An incapacitated person may also receive medical services provided under the state-financed medical care services program as defined under WAC 388-86-120.

(2) Pregnant women who are:

(a) Income and resource eligible for the aid to families with dependent children program; and

(b) In their first or second trimester of pregnancy; or

(c) Members of a two-parent household during a time when the aid to dependent children-employable (AFDC-E) program is in effect, but do not meet categorical eligibility for AFDC-E. These women may receive a continuing general assistance grant for the duration of their pregnancy.

(3) Effective June 7, 1990, women:

(a) Relinquishing a child for adoption; and

(b) Receiving general assistance under WAC 388-37-030(2); or

(c) Losing AFDC or FIP eligibility because an eligible child does not reside in the household; and

(d) Whose assistance granted under subsection (3) of this section is limited to six weeks beginning with the date of birth of the child.

[Statutory Authority: 1990 c 285. 90-16-085 (Order 3045), § 388-37-030, filed 8/1/90, effective 9/1/90. 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 388-37-031 Continuing general assistance—Payment to employable spouse. When it has been verified by a physician that it is medically necessary for an employable spouse to be present in the home to care for the incapacitated spouse payment shall be made to the employable spouse.

[Statutory Authority: RCW 74.08.090. 81-12-045 (Order 1661), § 388-37-031, filed 6/3/81; Order 1102, § 388-37-031, filed 3/2/76.]

WAC 388-37-032 Continuing general assistance—Determination of incapacity. (1) Eligibility due to incapacity shall be determined by the department in accordance with the criteria set forth in this chapter.

(2) The department shall:

(a) Consider medical and other related evidence of the incapacitating condition and make a decision confirming or denying the existence of eligibility due to incapacity within forty-five days of the date of application, except in circumstances beyond the control of the agency such as failure or delay in securing necessary information or documentation on the part of the applicant, the examining physician or other source of documentation.

(b) Request additional information when necessary.

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

(d) Require available medical treatment which can reasonably be expected to render the client able to work. The department shall provide written notification of these treatment requirements at the time of initial approval and at each redetermination.

(e) Recommend available medical services, provided under the state-financed medical care services program as defined in WAC 388-86-120.

(3) Eligibility cannot be established if an applicant fails to cooperate in obtaining information documenting incapacity. Continued failure to so cooperate during the ten-day period following the mailing of a letter to the applicant's last known address specifically citing the required cooperation shall be grounds for denial of the application for assistance.

(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 388-37-100 Progressive evaluation process.

(1) Unless medical documentation requirements are waived by WAC 388-37-038, the department will determine the existence, severity, and duration of incapacity for the general assistance-unemployable (GAU) program using a step-by-step evaluation process. Each step of the process will be applied sequentially, until a decision to approve or deny has been made. This process will be hereinafter referred to as the progressive evaluation process (PEP).

(2) There are seven steps to the progressive evaluation process. Each individual will be evaluated using the same sequence of steps as set forth in WAC 388-37-110

through 388-37-190 and using as many steps as necessary to reach a decision as to whether or not incapacity exists.

(a) Step I involves a review of the medical evidence received to ensure the requirements are met in accordance with WAC 388-37-035.

(b) Step II is used to assign an overall mental severity rating.

(c) Step III is used to assign physical severity ratings.

(d) Step IV assigns one overall severity rating for each individual when a combination of impairments exists.

(e) Step V is used to determine the present mental and/or physical functional capacities of the individual.

(f) Step VI reviews the possibility that the individual can still do some type of relevant past work.

(g) Step VII assesses the ability of the individual to perform other work when the individual is not capable of doing any relevant past work and is less than fifty-five years of age.

[Statutory Authority: RCW 74.08.090. 85-15-090 (Order 2259), § 388-37-100, filed 7/24/85.]

WAC 388-37-110 Determination of severity--General definitions. (1) Severity of a medical impairment is defined as the degree to which an individual is restricted in ability to perform basic work-related activities as measured on a scale from one to five. 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 388-37-115 Progressive evaluation process Step I--Review of medical documentation. The department will review medical documentation prior to making a determination of incapacity in order to insure the following requirements have been met:

(1) The medical report must contain sufficient information on which to determine incapacity per WAC 388-37-035(2). If the information received is not sufficient to determine incapacity, the department can require complete information before any incapacity decision is made.

(2) The medical report must be a written report from an authorized medical professional.

(3) The impairment(s) must be expected to last at least sixty days from the date of application.

(4) The medical report must document the existence of a potentially incapacitating condition.

[Statutory Authority: RCW 74.08.090. 85-15-090 (Order 2259), § 388-37-115, filed 7/24/85.]

WAC 388-37-120 Progressive evaluation process Step II--Severity of mental impairments. If a mental impairment is claimed, the severity rating of the mental or emotional disorder shall be determined on the basis of psychosocial and treatment history, clinical findings, results of special tests, and professionally observed symptomatology which indicate impairment of ability to perform basic work-related activities.

(1) A diagnosis of mental retardation shall be assigned a severity rating as follows:

(a) An IQ of 85 or above will be considered within normal limits and will be rated "01."

(b) An IQ of 70 to 84 will be considered as borderline intellectual functioning and will be rated "03."

(c) An IQ of 69 or below will be rated "05."

(d) When more than one IQ score (e.g., verbal and performance scores) is reported on a standardized IQ test, the severity rating will be based on the lowest of these scores.

(2) Individuals diagnosed as having organic brain damage shall be assigned a rating based on the most severe of the following three areas of impairment:

(a) Marked memory defect for recent events.

(b) Impoverished, slowed, perseverative thinking, with confusion or disorientation.

(c) Labile, shallow, or coarse affect.

(3) The severity of a functional psychotic or nonpsychotic disorder, 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 388-37-150 Progressive evaluation process Step V—Functional capacities—Mental impairments. (1)

Functional capacities of persons with mental impairments with an overall severity rating of "03" or "04" are evaluated in terms of two factors:

(a) Cognitive factors include the ability to understand, remember, and follow instructions; learn new tasks; exercise judgment and make decisions; and perform routine tasks without undue supervision.

(b) Social factors include ability to relate appropriately to coworkers and supervisors, interact appropriately in public contacts, tolerate the pressures of a work setting, care for self and maintain appropriate behavior in a work setting.

(2) If an individual is at least moderately impaired in his/her ability to understand, remember and follow simple instructions and is at least moderately limited in his/her ability to learn new tasks, exercise judgment, and make decisions, and perform routine tasks without undue supervision, the individual is considered eligible for GAU. If no moderate impairment exists in these areas, social factors will be assessed.

(3) If the individual can understand, remember, and follow simple one or two step instructions, but is at least moderately impaired in his/her ability to understand, remember, and follow complex three or more step instructions, and is markedly limited in his/her ability to learn new tasks, exercise judgment and make decisions, and perform routine tasks without undue supervision, the individual is considered eligible for GAU. If no marked limitation exists in these areas, social factors will be assessed.

(4) If there is no impairment or a mild impairment in the ability of the individual to understand, remember and follow both simple and complex instructions, social factors will be assessed.

(5) Responses given by the psychiatrist or mental health professional concerning the applicant's social functional limitations are assessed by the department. If a combination of significant limitations exists in the area of social functioning which preclude gainful employment, the individual is considered eligible for GAU.

(6) Individuals who are not eligible for GAU on the basis of significant impairment of functional capacities, shall have their ability to perform relevant past work evaluated according to WAC 388-37-180.

[Statutory Authority: RCW 74.08.090. 85-15-090 (Order 2259), § 388-37-150, filed 7/24/85.]

WAC 388-37-160 Progressive evaluation process Step V--Functional capacities--Physical impairments. For individuals with a physical impairment with an overall severity rating of "03" or "04," the department shall consider the effect of the physical impairment(s) on the ability to perform work-related activities. Functional capacities will be assessed on the basis of the individual's exertional, exertionally-related and nonexertional physical limitations. For any limitation to be considered, it must be substantiated by the medical evidence and directly related to the diagnosed impairment(s).

(1) Physical impairments which limit exertion are those which result in the restriction of activities such as

standing, walking, lifting, and carrying. As defined in this section, 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 388-37-180 Progressive evaluation process Step VI--Evaluation of capacity to perform past work.

(1) Prior to considering age and educational factors, the ability of an individual to perform relevant past work will be assessed in relation to current functional capacities.

(2) All of the individual's relevant past work shall be evaluated to determine exertional and skill requirements for each job.

(a) If the individual is currently able to perform at the exertional and skill levels of one or more of his/her relevant past jobs, other cognitive, social, and/or nonexertional requirements of the job will be considered.

(b) An individual will be ineligible for GAU if he or she is still capable of performing the necessary physical and/or mental activities required of a relevant past job or other work for which he or she has recently acquired specific skills through successful completion of vocational training.

(c) An individual at least moderately impaired and age fifty-five or older who is unable to meet the physical and/or mental demands of any relevant past work, or has no relevant past work, shall be considered incapacitated and eligible for GAU.

(d) If the individual is currently unable to meet the mental and/or physical demands of any of his/her past jobs and is under age fifty-five, he/she is evaluated for capacity to do other work.

[Statutory Authority: RCW 74.08.090. 85-15-090 (Order 2259), § 388-37-180, filed 7/24/85.]

WAC 388-37-190 Progressive evaluation process Step VII--Assessment of capacity to perform other work.

(1) Individuals with a severity rating of "03" or "04" whose incapacity has not yet been determined by Step VI, shall be assessed for possible referral for an administrative review.

(2) The department shall approve 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

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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

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| 388-38-020 | Inquiry. [Regulation 13.10, filed 1/24/64.] Repealed by Order 537, filed 3/31/71, effective 5/1/71. |
| 388-38-035 | Application registration. [Regulation 13.21, filed 1/24/64.] Repealed by Order 537, filed 3/31/71, effective 5/1/71. |
| 388-38-060 | Application—Prior to specified events. [Order 537, § 388-38-060, filed 3/31/71, effective 5/1/71; Regulation 13.24, filed 1/24/64.] Repealed by Order 973, filed 9/26/74. |
| 388-38-070 | Person being paroled or released from state correctional institution. [Order 943, § 388-38-070, filed 6/28/74; Order 537, § 388-38-070, filed 3/31/71, effective 5/1/71; Regulation 13.25, filed 1/24/64.] Repealed by Order 1195, filed 3/3/77. |
| 388-38-080 | Person in state mental hospital or institution for mentally retarded. [Order 537, § 388-38-080, filed 3/31/71, effective 5/1/71; Regulation 13.26, filed 1/24/64.] Repealed by Order 1165, filed 10/27/76. |
| 388-38-085 | Applicant requiring placement in licensed and classified nursing home or at Oakhurst Infirmary. [Regulation 13.261, filed 1/24/64.] Repealed by Order 537, filed 3/31/71, effective 5/1/71. |
| 388-38-090 | Applicant requiring other type of placement. [Regulation 13.262, filed 1/24/64.] Repealed by Order 537, filed 3/31/71, effective 5/1/71. |
| 388-38-100 | Disposal of application. [This reference only section is being repealed inasmuch as § 388-38-100 was deleted from Order 537, filed 3/31/71, effective 5/1/71.] |
| 388-38-140 | Notification of decision. [Regulation 13.40, filed 1/24/64.] Repealed by Order 313, filed 10/31/68. |
| 388-38-160 | Withdrawn application. [Regulation 13.42, filed 1/24/64.] Repealed by Order 313, filed 10/31/68. |
| 388-38-170 | Denial of application. [Regulation 13.43, filed 1/24/64.] Repealed by Order 313, filed 10/31/68. |
| 388-38-180 | Intercounty transfer of application. [Regulation 13.50, filed 1/24/64.] Repealed by Order 537, filed 3/31/71, effective 5/1/71. |

WAC 388-38-010 Definitions. (1) "Application" means a form designated by the department as a request for financial and/or medical assistance completed and submitted to the department according to WAC 388-38-040.

(2) "Date of application" means the date a completed request form referred to in subsection (1) of this section is received by the department.

(3) "Financial assistance" means a grant payment in the form of a warrant to an eligible recipient.

(4) "Inquiry" means a request for information about the department or its services or about eligibility requirements for assistance.

(5) "Reapplication" means, for the purposes of this chapter, an application is filed by an individual within a thirty-day period after the individual's grant termination.

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(6) "Statements in support of the application" means application forms and any verifying documentation acceptable under department rules which apply to the particular situation.

[Statutory Authority: RCW 74.08.090, 86-11-060 (Order 2380), § 388-38-010, filed 5/21/86; 81-17-028 (Order 1693), § 388-38-010, filed 8/12/81; Order 1101, § 388-38-010, filed 2/25/76; Order 537, § 388-38-010, filed 3/31/71, effective 5/1/71; Regulation 13.01, filed 7/27/67; Regulation 13.01, filed 1/24/64.]

WAC 388-38-030 Application--Department responsibility. (1) An application shall be accepted from anyone wishing to apply and shall be acted upon promptly. An application may be made by:

(a) The person making the request in the person's own behalf or for the person's dependent;

(b) The legal guardian or person otherwise legally eligible to make application on behalf of minors or incompetent persons;

(c) Any other person acting in behalf of the applicant when the individual cannot make application under one of the preceding methods. Such person shall indicate the reason for initiating the application.

(2) Each applicant shall be treated with dignity and courtesy, shall be given sufficient opportunity to make his or her pertinent needs known to the department, and to learn what the department can or cannot do for him or her.

(3) Each applicant shall be fully informed of his or her legal rights and responsibilities in connection with public assistance.

(4) Eligibility or ineligibility shall be determined on a factual and objective basis in accordance with the rules and procedures of the department.

(5) Pertinent facts shall be recorded about each application so that records can be audited to determine whether department policies have been followed, continuity of service can be carried out, case planning can be achieved, and services needed and given can be ascertained.

(6) The decision on applications is definite and conclusive and is made known to the applicant together with the reasons for the decision. (See WAC 388-38-150 and 388-38-172.)

(7) Each applicant shall be given a pamphlet entitled "Fair hearings are for you." Each applicant shall receive a brief explanation of rights and procedures in regard to fair hearings.

(8) Each applicant shall be given a written acknowledgement of receipt of the application by the department at the time of making application.

[Statutory Authority: RCW 74.08.090, 86-11-060 (Order 2380), § 388-38-030, filed 5/21/86; Order 605, § 388-38-030, filed 9/22/71; Order 537, § 388-38-030, filed 3/31/71, effective 5/1/71; Regulation 13.20, filed 1/24/64.]

WAC 388-38-040 Application--Recording and documenting. (1) The applicant's written request for financial and/or medical assistance shall be made on a form designated by the department. Such form shall be as brief as administratively feasible and seek only information ordinarily known to an individual.

(2) In addition to the request form specified in subsection (1) of this section, the applicant's written statement of application for financial assistance shall be made on forms designated by the department. Forms designated for reapplications may be different from those designated for applications.

(3) The department shall assist an applicant in the completion of application forms specified in subsections (1) and (2) of this section when an applicant's need for such assistance is reasonable.

(4) The applicant's written statement of application must include all children under nineteen years of age as specified in WAC 388-24-040 living in the home who are full brothers or full sisters, or half brothers or half sisters, or stepbrothers or stepsisters whether or not financial assistance is being requested for all of the children. Total resources and income available for all such children and their parents or stepparents in the home must be declared by the person applying in behalf of the children.

(5) An application shall contain a written declaration that is made under penalties of perjury and such declaration shall be in lieu of any oath otherwise required, and each applicant shall be so informed at the time of the signing.

(6) Application for a grant must always be made before investigation is undertaken. Application is made in person at the local office but may be taken in the applicant's home when necessary.

(7) The form designated by the department as a request for financial and/or medical assistance as provided in subsection (1) of this section shall be signed by the applicant. All other forms involving an application shall be signed by the applicant and his or her spouse if living together. The foregoing applies irrespective of whether the spouse is included in the application as a dependent.

(8) A signature by mark requires two witnesses. The signatures of witnesses shall appear on the form and be identified as witnesses.

[Statutory Authority: RCW 74.08.090, 86-11-060 (Order 2380), § 388-38-040, filed 5/21/86; Order 943, § 388-38-040, filed 6/28/74; Order 537, § 388-38-040, filed 3/31/71, effective 5/1/71; Regulation 13.22, filed 1/24/64.]

WAC 388-38-045 Applicant responsibility for providing information. (1) Each applicant must complete and submit application forms as provided in WAC 388-38-040, including other statements in support of application as provided in WAC 388-38-200.

(2) The applicant shall be allowed a reasonable time of not less than ten calendar days to provide statements in support of the application. The department shall fully translate written requests for additional information into the primary language of limited English proficient applicants. The department shall extend the time when:

(a) The applicant has provided some, but not all, of the available information. In such cases, the applicant shall be provided written notification of the specified information still required and shall be allowed an additional ten calendar days, or a longer time depending upon the specific circumstances; or

(b) The department, having previously completed the initial interview or requested specific information, subsequently determines the need for different or additional information. In such cases, the applicant shall be provided written notification of the specific additional information required and be allowed an additional ten calendar days, or a longer time depending upon the specific circumstances; or

(c) The applicant, at any time prior to disposal action as provided in WAC 388-38-120, reasonably requests, orally or in writing, additional time to provide statements in support of the application.

(3) When the applicant fails to provide requested statements within the initially specified or extended period, as provided in subsection (2) of this section, the department shall:

(a) Evaluate all available information, and

(b) Determine eligibility for financial assistance according to applicable rules in WAC 388-38-120.

[Statutory Authority: RCW 74.08.090. 89-03-051 (Order 2755), § 388-38-045, filed 1/13/89; 86-11-060 (Order 2380), § 388-38-045, filed 5/21/86.]

WAC 388-38-050 Alteration or addition to forms. A change may be made on a signed application for assistance only when the incorrect entry is stricken and the corrected entry initialed by the applicant and dated. An addition shall be also initialed by the applicant.

[Order 978, § 388-38-050, filed 10/28/74; Repealed by Order 943, filed 6/28/74; Order 537, § 388-38-050, filed 3/31/71, effective 5/1/71; Regulation 13.23, filed 1/24/64.]

WAC 388-38-08501 Trial visit. (1) Persons in state institutions other than adult correctional institutions, are provided an opportunity to visit outside the institution as part of their treatment program. When a person needs public assistance in order to make a trial visit, the rules in this section apply.

(2) An application for assistance shall be completed and eligibility shall be determined before a trial visit is begun.

(3) A trial visit shall be limited to a maximum of 30 days. An extension of time beyond 30 days removes the person from trial visit status.

[Order 873, § 388-38-085 (codified as WAC 388-38-08501), filed 11/16/73.]

WAC 388-38-110 Time limit for disposal. (1) The time limit from the date of application to the date of disposal action as specified in WAC 388-38-120(4) is thirty days for AFDC and forty-five days for GA. In applying this rule, the 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.]

WAC 388-38-120 Disposal actions. An application for financial assistance shall be disposed of by:

(1) Approval, that is, determination that the applicant is eligible for assistance;

(2) Denial, that is, determination that the applicant is ineligible for assistance, or that verifying information sufficient to establish eligibility is lacking: *Provided*, That:

(a) A delay in obtaining medical information which is beyond the control of both the applicant and the department, when said information is essential to a determination of eligibility, shall not be the basis for denial of financial assistance.

(b) When an applicant fails to provide requested statements in support of application within an initially specified or extended period, as provided in WAC 388-38-045, an eligibility determination shall be made as specified in WAC 388-38-200, and according to the following rules:

(i) Denial is appropriate only because eligibility has not been established, and shall not be supported on the grounds that the applicant has failed to provide requested statements in support of application, or to have done so within the reasonable period allowed. Every such denial must include the information specified in WAC

388-38-172, and in the event the applicant requests a fair hearing to contest the denial, the issue in such de novo hearing shall be whether the applicant can in fact establish his or her eligibility.

(ii) When financial assistance is denied according to subsection (2)(b)(i) of this section, the applicant shall be allowed thirty days from the date of the denial notice to provide all specified information that was not provided. If the applicant, within such thirty-day period, provides the specified information and the applicant's circumstances have not changed to the extent additional information is needed to determine eligibility, the department shall determine eligibility based upon the specified information. If eligibility is established, the department shall rescind the denial and approve assistance based upon the denied application.

(iii) For AFDC, subject to the rules in subsection (2)(b)(i) of this section, financial assistance shall not be denied to the entire assistance unit unless information required to establish eligibility of the entire assistance unit is lacking. When information not provided affects only the eligibility of an individual member or members of the assistance unit, financial assistance shall be denied to such members.

(3) Withdrawal, that is,

(a) Applicant voluntarily requests orally or in writing that no further consideration be given to the applicant's application. For all withdrawal requests, a notation shall be made in the case record that the application has been withdrawn at applicant's request, and that a notice has been sent as specified in WAC 388-38-172.

(b) Applicant for medical assistance fails to file a written application on forms prescribed by the department.

(c) Applicant fails to report for a scheduled interview and has not contacted the department to reschedule an interview within thirty days from the date of application;

(d) Death occurred before determination of eligibility was completed.

(4) The date an application shall be considered disposed of is:

(a) For approvals, the date a document authorizing assistance payment is correctly processed; and

(b) For denials and withdrawals, the date written notice of the decision as provided in WAC 388-38-172 is given or mailed to the applicant.

[Statutory Authority: RCW 74.08.090, 86-11-060 (Order 2380), § 388-38-120, filed 5/21/86; 81-12-045 (Order 1661), § 388-38-120, filed 6/3/81; Order 1241, § 388-38-120, filed 9/23/77; Order 1101, § 388-38-120, filed 2/25/76; Order 943, § 388-38-120, filed 6/28/74; Order 537, § 388-38-120, filed 3/31/71, effective 5/1/71; Order 354, § 388-38-120, filed 5/29/69; Order 313, § 388-38-120, filed 10/31/68; Regulation 13.32, filed 1/24/64.]

WAC 388-38-150 Application approved--Notice. An applicant eligible for continuing assistance shall be notified of the decision to authorize a grant according to WAC 388-33-125 when he or she is in his or her own home or boarding and rooming, or WAC 388-34-180 when he or she is living in an institution.

[Statutory Authority: RCW 74.08.090, 86-11-060 (Order 2380), § 388-38-150, filed 5/21/86; Order 537, § 388-38-150, filed 3/31/71,

effective 5/1/71; Order 313, § 388-38-150, filed 10/31/68; Regulation 13.41, filed 1/24/64.]

WAC 388-38-172 Application denied or withdrawn--Notice. The department shall give written notice to an individual whose application for assistance is denied or withdrawn, except for a withdrawal due to an applicant's death. The department shall fully translate the written notice of denial or withdrawal into the primary language of limited English proficient applicants. The notice shall include the following information:

(1) The basis for the decision shall include the reason or reasons for denial and the rules to support such action.

(2) For applications denied according to WAC 388-38-120 (2)(b)(i), the notice must state:

(a) What information was requested and not provided including the date of the request;

(b) That, based upon information provided by the applicant, eligibility for financial assistance has not been established; and

(c) That, if the applicant, within thirty days from the date of the denial notice, provides all specified information requested and not provided and the applicant's circumstances have not changed, the department will redetermine eligibility and, if eligibility is established, rescind the denial and approve assistance.

(3) The date of the decision.

(4) The right to a fair hearing. The letter need not include notice of right to a fair hearing when the applicant gives written notice of withdrawal including a statement to that effect on his or her application.

[Statutory Authority: RCW 74.08.090, 89-03-051 (Order 2755), § 388-38-172, filed 1/13/89; 86-11-060 (Order 2380), § 388-38-172, filed 5/21/86; Order 537, § 388-38-172, filed 3/31/71, effective 5/1/71; Order 313, § 388-38-172, filed 10/31/68.]

WAC 388-38-200 Verifying eligibility and re-eligibility. (1) All facts necessary to determine the eligibility or ineligibility of the applicant or recipient shall be established in accordance with the methods prescribed in this section. The practices described in this section apply to the initial application for financial assistance, to re-application, reinstatement, and redetermination of eligibility.

(2) In taking applications, determining eligibility, and in administering the assistance programs, the rights of individuals under the U.S. Constitution, the Social Security Act, Title VI of the Civil Rights Act of 1964, and all other relevant provisions of federal and state law shall be respected. This includes the avoidance of practices violating the individual's privacy or subjecting him or her to harassment.

(3) Each determination of eligibility shall include at least one face-to-face interview with the applicant, or if direct contact with the applicant is impractical with someone representing the applicant. The department may require a face-to-face interview with the recipient for each redetermination of eligibility.

(4) All factors of eligibility shall be verified unless the department determines eligibility can be accurately determined without verifying one or more of the factors.

(5) Factors not subject to change having been sufficiently verified shall not be reverified at a subsequent reapplication, reinstatement, or redetermination of eligibility. Examples of such factors include, but are not limited to, relationship of family members, birthdate to verify age, and deprivation due to death of a parent.

(6) The applicant's statement of his or her circumstances is the first source of information in determining eligibility.

(7) The applicant shall be fully informed about the corroborating documentation needed to establish eligibility and the applicant's obligation to secure this himself or herself whenever reasonably possible, or to assist the department in obtaining sufficient information to determine eligibility.

(8) The department shall request the applicant to provide verification documents based upon the availability of such documents. Documents that are readily available shall be requested first if it is anticipated that such documents would be sufficient to determine eligibility.

(9) If eligibility is established based upon available verification, the department may request a higher form of verification subsequent to approval and authorization of assistance. Any applicant or recipient aggrieved by such additional request shall have a right to a fair hearing.

(10) An applicant shall not be required to provide a verification document for which a fee is charged unless the department authorizes payment for such fee.

(11) An application shall not be denied or delayed because of an applicant's failure to provide a specific type or form of verification; all alternative verification for an eligibility factor must be accepted and considered in determining eligibility.

(12) When the applicant is unable to provide verification necessary to establish eligibility, the department shall obtain substantiating evidence from other sources, such as statements from persons other than the applicant attested to under penalty of perjury.

(13) When verification for one or more factors is not obtained, the department shall determine eligibility for assistance based upon all available evidence, and if eligibility cannot be reasonably established, assistance shall be denied.

(14) The applicant's signature on the application attests to his or her consent for the department to obtain substantiating evidence from collateral sources.

(15) Each decision that an applicant is eligible for or ineligible for assistance or other services shall be supported by information in the case record showing that each eligibility requirement is met or that one or more is not met. Such information includes, but is not limited to, documents supporting eligibility and statements of the reason or reasons for the decision.

[Statutory Authority: RCW 74.08.090, 86-11-060 (Order 2380), § 388-38-200, filed 5/21/86; 83-13-095 (Order 1971), § 388-38-200, filed 6/20/83; Order 1241, § 388-38-200, filed 9/23/77.]

WAC 388-38-220 Verification of citizenship. (1) Verification of status as a citizen or national of the United States includes

(a) A certified copy of a public record of birth or a religious record of birth or baptism showing birth in the United States, or

(b) A certificate of citizenship, or

(c) A certificate of naturalization, or

(d) A United States passport, or

(e) An identification card for use of resident citizen in the United States.

(2) If evidence described in subsections (1)(a) through (1)(e) is not available, an individual may state the reason and submit other evidence of probative value as to citizenship.

[Order 1241, § 388-38-220, filed 9/23/77.]

WAC 388-38-225 Verification of lawful admission for permanent residence in United States. (1) Verification as to an individual's lawful admission for permanent residence in the United States includes an alien registration receipt card, or a reentry permit.

(2) If evidence described in subsection (1) is not available, the individual may state the reason and submit other evidence of probative value.

[Order 1241, § 388-38-225, filed 9/23/77.]

WAC 388-38-230 Verification of permanent residence in United States under color of law. (1) Verification that an applicant has been residing permanently under color of law in the United States includes these determinations by immigration and naturalization service:

(a) INS Form I-94 (arrival - departure record) endorsed "refugee - conditional entry," pursuant to section 203 (a)(7) of the Immigration and Nationality Act, or

(b) INS Form I-94 endorsed to show bearer has been paroled for an indefinite period pursuant to section 212 (d)(5) of the Immigration and Nationality Act, or

(c) Documentation in the form of correspondence from the immigration and naturalization service stating the individual has been granted indefinite voluntary departure or an indefinite stay of deportation.

(2) If evidence described in subsection (1)(a) through (1)(c) is not available, the individual may state the reason therefor and submit other evidence of probative value.

[Order 1241, § 388-38-230, filed 9/23/77.]

WAC 388-38-250 Responsibility for eligibility maintenance. Maintenance of eligibility for public assistance is a dual responsibility of the recipient and the local office.

[Order 1241, § 388-38-250, filed 9/23/77.]

WAC 388-38-255 Responsibility for eligibility maintenance--Recipient. (1) The recipient has the responsibility to report promptly and accurately in writing all changes in his circumstances which affect his continuing eligibility for assistance.

(2) The recipient's failure to report such changes in circumstances to the local office within twenty days shall be considered prima facie evidence of fraudulent intent. (See WAC 388-44-020(2).)

(3) The recipient shall take any action which is reasonably possible for him to develop resources which will reduce or eliminate his need for public assistance.

[Order 1241, § 388-38-255, filed 9/23/77.]

WAC 388-38-260 Responsibility for eligibility maintenance--Local office. The LO has the responsibility to

(1) Inform recipients of all factors which may affect their continuing eligibility for assistance, and

(2) Act promptly and correctly on all known changes which affect the eligibility of recipients.

(3) Notify recipients when eligibility conditions are changed by law or rule of the department, unless the SO directly assumes this function.

(4) Complete a full periodic review if a sufficient number of factors have changed to make a full review practical.

[Order 1241, § 388-38-260, filed 9/23/77.]

WAC 388-38-265 Recipient's whereabouts unknown or failure to provide eligibility data. A recipient shall be ineligible and his or her grant shall be terminated when:

(1) He or she cannot be located and he or she fails to furnish his or her current address within ten days following the mailing of a letter to his or her last known address asking for information, or

(2) He or she fails to furnish information and/or requested verification about his or her continued eligibility or fails to take a specific action within ten days following the mailing of a letter to his or her last known address specifically citing the required information or action. The letter shall include a statement that failure to provide the information may result in termination or reduction of the grant.

(3) If adequate information or verification is received within the ten-day period and results in reduction, suspension, or termination of the grant, advance and adequate notice of action is required.

(4) If the requested information or verification is not supplied within ten days or is inadequate, the recipient shall be given advance and adequate notice of termination.

(5) If the information or verification is supplied up to the effective date of the adverse action, the department shall accept the information or verification. If advance and adequate notice of termination has already been sent to the recipient:

(a) A written notice acknowledging receipt shall be sent if continuing eligibility is established, or

(b) An additional adequate notice shall be sent to the recipient if:

(i) The response is inadequate or

(ii) The response results in termination, reduction, or suspension of the grant.

(c) Advance notice is not required under subsection (5)(b) of this section.

[Title 388 WAC—p 198]

[Statutory Authority: RCW 74.08.090. 83-24-015 (Order 2051), § 388-38-265, filed 11/30/83; Order 1241, § 388-38-265, filed 9/23/77.]

WAC 388-38-270 Redirection of warrant. (1) A recipient eligible for continuing assistance is entitled to regular and correct payment without undue interruption or delay. The local office may redirect a warrant only when there is evidence as specified in subsection (2) of this section that:

(a) An overpayment will occur, or

(b) The warrant will not be received by the recipient.

(2) Factors which justify redirection of a warrant to the local office within the meaning of subsection (1) of this section shall be limited to these situations:

(a) The address of a recipient is unknown by the local office or the recipient has reported that he or she has changed or will change his or her address prior to scheduled receipt of the warrant.

(b) A change in payee is required for correct receipt of the warrant.

(c) Redirection of the warrant is required to effect a proposed reduction, suspension, or termination of a grant as provided in WAC 388-33-382 (2)(a).

(d) A recipient has entered an institution and the local office has been notified by someone acting on his or her behalf.

(3) The state office may redirect a warrant to the local office when an authorization has been submitted which cannot be processed before delivery date due to error in the authorization. The warrant is redirected so that necessary action can be immediately taken to continue payment in the correct amount.

(4) The local office shall notify the recipient before action is taken to redirect a warrant for any reason other than death, unless the recipient has already been notified that a warrant change will be made. Such notification shall include:

(a) The reason for the redirect action, and

(b) Assurance of corrected payment, when appropriate, at the earliest possible date.

(5) Decision as to the recipient's eligibility or ineligibility for the warrant shall be made at the earliest possible date but not later than thirty days after the date of its issuance.

(a) If ineligibility is determined, the warrant is cancelled. The recipient shall be notified in writing of the reason for cancellation.

(b) If ineligibility is not determined, the warrant shall be released or, if it is not in the correct amount, payment shall be authorized promptly according to WAC 388-33-140 and a one-time grant issued if necessary as provided in WAC 388-33-595 (2)(b).

[Statutory Authority: RCW 74.08.090. 86-07-002 (Order 2345), § 388-38-270, filed 3/6/86; Order 1241, § 388-38-270, filed 9/23/77.]

WAC 388-38-280 Periodic review and redetermination of eligibility. (1) A redetermination of eligibility as used in this section means a complete periodic review of all eligibility and need factors.

(2) Chapters 388-28 and 388-33 WAC contain program eligibility and need factors. WAC 388-38-200 describes eligibility.

(3) AFDC recipients shall have their continued eligibility for such assistance redetermined at least once in every six months of continuous receipt of assistance. At least one redetermination shall be a face-to-face once every twelve months.

(4) The department shall designate the forms to use during the periodic eligibility review. The forms shall:

(a) Be the recipient's statement in support of continuing eligibility, and

(b) Contain the recipient's written declaration that the answers are made under the penalty of perjury.

(5) The recipient shall complete and submit the designated form to the department to continue receiving assistance.

(6) The department shall only require one completed form from a family consisting of two or more assistance units.

[Statutory Authority: RCW 74.08.090, 86-21-051 (Order 2434), § 388-38-280, filed 10/13/86; 86-08-004 (Order 2350), § 388-38-280, filed 3/20/86; Order 1241, § 388-38-280, filed 9/23/77.]

WAC 388-38-285 Content of review. (1) The financial eligibility section shall review each eligibility factor which is subject to change and evaluate any change occurring since eligibility was previously established or reviewed.

(2) The LO shall provide the recipient information regarding

(a) Significant changes in public assistance laws or department rules not previously discussed which may affect the recipient.

(b) His responsibility to keep the LO informed of changes in his circumstances.

[Order 1241, § 388-38-285, filed 9/23/77.]

WAC 388-38-290 Action on review. (1) Action is taken as a result so that all matters pertaining to incorrect past, current or future grants are brought into conformity with the rules of the department.

(2) A written notification must be sent according to WAC 388-33-335 and 388-33-380 to the recipient when the review results in a change in amount of grant, suspension, termination, or an overpayment has occurred.

[Order 1241, § 388-38-290, filed 9/23/77.]

WAC 388-38-295 Changing and terminating grant. When a recipient becomes ineligible for a grant or the grant amount for which he is eligible changes, the appropriate rules in chapter 388-33 WAC shall be followed.

[Order 1241, § 388-38-295, filed 9/23/77.]

(1990 Ed.)

Chapter 388-40 WAC ALCOHOL/DRUG PROGRAMS

WAC

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| 388-40-110 | ADATSA protective payee requirements. |

WAC 388-40-010 Alcoholism and drug detoxification program—Eligible persons. (1) The department shall consider a person eligible for three-day detoxification services for acute alcoholic condition or five-day detoxification services for acute drug addiction if:

(a) The person is a grant, medical, or supplemental security income (SSI) beneficiary; and

(b) Persons whose combined nonexempt income and/or resources do not exceed the aid to families with dependent children (AFDC) payment standards; and

(c) The person has not transferred resources within two years prior to the date of application without having received adequate consideration according to the provisions under WAC 388-28-461.

(2) The department shall exempt the following resources for the alcoholism and drug 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 department shall not exempt the following resources:

(a) Cash;

(b) Marketable securities; and

(c) Any other resource not specifically exempted that can be converted to cash.

(4) The department shall deduct or exempt the following 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 when failure to make such payments will result in garnishment of wages or loss of employment.

(5) The department shall not require the recipient receiving detoxification services to incur a deductible as a

factor of eligibility for the covered period of detoxification.

(6)(a) The department shall determine eligibility for the detoxification program on the basis of information shown on the department's application forms.

(b) The department shall require supplemental forms, verification procedures, and/or face-to-face interviews 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 are met.

(8) The department shall continue the effective period of eligibility from the date detoxification treatment began through the end of the month in which the recipient completed the three-day or five-day treatment.

(9) The department shall pay for detoxification services for medical assistance recipients only under the following conditions:

(a) Such services must be directly related to detoxification; and

(b) Such services are performed only by a certified detoxification center or a general hospital contracted with the department to perform these services.

[Statutory Authority: RCW 74.50.080, 90-21-125 (Order 3089), § 388-40-010, filed 10/23/90, effective 11/23/90. Statutory Authority: 1989 1st ex.s. c 18, 89-18-025 (Order 2851), § 388-40-010, filed 8/29/89, effective 9/29/89. 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 providing 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 treatment, and to provide a program of shelter services for those whose diseases have resulted in incapacitating physiological or cognitive impairments.

[Statutory Authority: 1989 1st ex.s. c 18, 89-18-025 (Order 2851), § 388-40-020, filed 8/29/89, effective 9/29/89. Statutory Authority: 1987 c 406, 87-18-006 (Order 2526), § 388-40-020, filed 8/21/87.]

WAC 388-40-030 ADATSA services. (1) The department shall provide ADATSA services provided for by legislative appropriation and only to the extent each service conforms to all conditions and limitations set by the department.

(2) Persons qualifying for the ADATSA program may be eligible for:

(a) Alcohol/drug treatment services and support described under WAC 388-40-090 and 388-40-095; or

(b) Shelter services described under WAC 388-40-100.

(3) Persons eligible for ADATSA are also eligible for medical care services described under WAC 388-86-120.

[Title 388 WAC—p 200]

[Statutory Authority: 1989 1st ex.s. c 18, 89-18-025 (Order 2851), § 388-40-030, filed 8/29/89, effective 9/29/89. 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 (A/R) of ADATSA shall:

(a) Be eighteen years of age or older,

(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 the applicant's Social Security number. If the applicant cannot furnish a Social Security number because it has not been issued or is not known, the applicant 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 criteria 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 treatment services.

(2) A/Rs 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 inpatient alcoholism/drug treatment program of thirty days or less 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: 1989 1st ex.s. c 18, 89-18-025 (Order 2851), § 388-40-040, filed 8/29/89, effective 9/29/89. 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 Incapacity requirements for ADATSA treatment. (1) The department may grant ADATSA treatment services, within the current appropriation, to an alcoholic or drug addict, if otherwise eligible, whose chemical dependency is severe enough to render the applicant incapable of gainful employment.

(2) In order to qualify for ADATSA treatment services, an applicant shall:

(a) Meet the criteria for *Psychoactive Substance Dependence In the Diagnostic and Statistical Manual of Mental Disorders* (third edition revised), published by the American Psychiatric Association, referred to below

as the DSM III-R, for a psychoactive substance class other than nicotine, either mild, moderate, or severe;

(b) Be incapacitated and unable to work. Incapacity shall exist if the applicant meets one or more of the following:

(i) Currently pregnant or up to two months post partum; or

(ii) Diagnosed as at least moderately psychoactive substance dependent and referred for treatment by child protective services; or

(iii) Diagnosed as severely psychoactive substance dependent and currently an intravenous drug user; or

(iv) Diagnosed as severely psychoactive substance dependent and has a prior diagnosis of severe psychoactive substance dependency by an assessment center or at least one prior admission to a department-approved alcohol/drug treatment or detoxification program; or

(v) Diagnosed as severely psychoactive substance dependent and has had two or more arrests for offenses directly related to the chemical dependency; or

(vi) Determined incapacitated for the purpose of eligibility for ADATSA shelter within the past six months; or

(vii) Lost two or more jobs during the last six months as a direct result of chemical dependency; or

(viii) Admitted to a department-approved outpatient treatment program during the last six months and the outpatient treatment provider certifies the treatment recipient is not benefiting from outpatient treatment and needs more intensive chemical dependency treatment services.

(3) Notwithstanding subsection (2) of this section, an applicant meeting the following criteria shall not be eligible for ADATSA treatment when the applicant:

(a) Is not clearly diagnosed as currently dependent on psychoactive substances other than nicotine; or

(b) Has abstained from alcohol and drug use for at least the last ninety days, excluding days spent while incarcerated; or

(c) Has been gainfully employed in a job in the competitive labor market at any time during the last thirty days. "Gainfully employed" means performing in a regular and predictable manner an activity for pay or profit. Gainful employment shall not include work in a department-approved sheltered workshop or sporadic or part-time work, if the individual, due to functional limitation, is unable to compete with unimpaired workers in the same job.

(4) A current recipient of ADATSA treatment services successfully participating in outpatient treatment shall be considered incapacitated through completion of planned treatment, even if the recipient:

(a) Becomes employed;

(b) Abstains from alcohol or drug use; or

(c) Has full or partial remission of psychoactive substance abuse dependence.

(5) A department designated chemical dependency assessment center shall determine incapacity based on alcoholism or drug addiction. 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. The department shall:

(a) Require a current assessment, in writing, for all ADATSA applicants; and

(b) Pay the costs of assessments needed to determine eligibility.

[Statutory Authority: 1989 1st ex.s. c 18, 89-24-037 (Order 2908), § 388-40-050, filed 12/1/89, effective 1/1/90; 89-18-025 (Order 2851), § 388-40-050, filed 8/29/89, effective 9/29/89. Statutory Authority: 1987 c 406, 87-18-006 (Order 2526), § 388-40-050, filed 8/21/87.]

WAC 388-40-055 Incapacity requirements for ADATSA shelter. (1) If otherwise eligible, the department shall provide ADATSA shelter services, within the current appropriation, to an alcoholic and/or drug addict whose chemical dependency has resulted in an incapacitating physiological or cognitive impairment.

(2) To meet shelter incapacity standards, an applicant shall meet the following conditions:

(a) Be actively addicted, as determined by the assessment center, "active addiction" for shelter purposes means use of alcohol or drugs by a diagnosed alcoholic or drug addict within the sixty-day period immediately preceding the latest assessment center evaluation; and

(b) Have resulting physiological or organic damage, or have resulting cognitive impairment not expected to dissipate with sixty days of sobriety or detoxification.

(i) To qualify on the basis of physical impairment, the physiological or organic damage must have at least a severity rating of "03" defined under WAC 388-37-110.

(ii) To qualify on the basis of cognitive impairment, the applicant must have at least a moderate impairment of ability to understand, remember, and follow complex instructions, plus an overall moderate impairment in ability to learn new tasks, to exercise judgment and make decisions, and to perform routine tasks without undue supervision.

(3) The licensed physician, licensed clinical psychologist or mental health professional (as defined by RCW 71.05.020) shall support the diagnosis and severity of the physiological or cognitive impairment with documented, objective and current medical evidence.

[Statutory Authority: RCW 74.50.080, 90-21-125 (Order 3089), § 388-40-055, filed 10/23/90, effective 11/23/90. Statutory Authority: 1989 1st ex.s. c 18, 89-18-025 (Order 2851), § 388-40-055, filed 8/29/89, effective 9/29/89.]

WAC 388-40-060 Eligibility determination and review--Time frame. The department shall:

(1) Make a decision confirming or denying eligibility for ADATSA shelter 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 shelter at least every six months.

(3) Provide adequate and advance notice of adverse action in accordance with WAC 388-33-376.

[Statutory Authority: 1989 1st ex.s. c 18. 89-18-025 (Order 2851), § 388-40-060, filed 8/29/89, effective 9/29/89. 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 treatment 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 if the applicant is chemically dependent;

(b) Determine if the applicant meets incapacity standards for treatment under WAC 388-40-050; and

(b) Determine whether the incapacitated applicant is willing, able, and eligible to undergo a course of ADATSA treatment.

(3) Once the treatment applicant's financial and medical eligibility is established, the assessment center shall:

(a) Develop an ADATSA treatment plan;

(b) Arrange all placements into ADATSA treatment taking into account the treatment priorities set forth under WAC 388-40-091;

(c) Provide the applicant with written notification of the applicant's right to return to the community service office (CSO) at any time while receiving ADATSA treatment. This includes, but is not limited to, those situations where the ADATSA recipient is discharged from any inpatient, recovery house, or outpatient facility or agency providing services under contract to the department;

(d) Provide the applicant with written notification of the applicant's right to request a fair hearing to challenge any action affecting eligibility for ADATSA treatment;

(e) Provide ongoing case monitoring of treatment services; and

(f) Notify the community services office promptly of all placement or eligibility status changes.

[Statutory Authority: 1989 1st ex.s. c 18. 89-18-025 (Order 2851), § 388-40-080, filed 8/29/89, effective 9/29/89. 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 an eligible A/R incapacitated by alcoholism or drug addiction, subject to:

(a) Availability defined under WAC 388-40-030(1); and

(b) Priority classifications set forth under WAC 388-40-091.

(2) The department shall limit treatment services to a maximum 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 under 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 A/R shall qualify for up to ninety days of direct outpatient treatment services if the assessment center determines residential treatment is not necessary or appropriate. The assessment center shall base this determination on clinical or medical factors indicating the likelihood of an A/R's success 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 A/R. 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) No recipient shall receive more than ninety days of ADATSA outpatient treatment in a twenty-four-month period, if referred:

(a) Directly to outpatient treatment; or

(b) Following a residential placement.

(8) The department shall terminate an ADATSA recipient who withdraws or is discharged from treatment for any reason. The recipient must reapply and be rereferred to the assessment center if further ADATSA treatment services are required.

(a) A recipient dropping out of treatment in the intensive inpatient phase may be required to repeat this phase.

(b) A recipient dropping out of treatment during the recovery house or outpatient phase may be required to return to the modality from which the recipient 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 demonstrating an inability to remain abstinent in outpatient treatment.

(c) A recipient absent from inpatient treatment or other residential services for less than seventy-two hours may, at full discretion of the providing program director, shall reenter that program without being considered as having dropped out and without being required to apply for readmittance through the assessment center.

(9) An ADATSA recipient terminating treatment shall not be eligible for benefits beyond the month in which treatment services end. Regulations regarding advance and adequate notice still apply, but an ADATSA treatment recipient is not eligible for continued assistance pending a fair hearing as provided in WAC 388-33-377.

[Statutory Authority: RCW 74.50.080, 90-21-125 (Order 3089), § 388-40-090, filed 10/23/90, effective 11/23/90. Statutory Authority: 1989 1st ex.s. c 18, 89-18-025 (Order 2851), § 388-40-090, filed 8/29/89, effective 9/29/89. 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 388-40-091 Availability of treatment--Priority groups. (1) The assessment center shall, in assigning residential admissions, give first priority to a pregnant woman and a parent having a child in the home. In addition, the assessment center shall provide priority access to ensure residential treatment admissions for:

(a) A person referred through the children's protective services (CPS) program; and

(b) An intravenous (IV) drug user.

(2) In assigning outpatient admissions, the assessment center shall give first priority to a pregnant woman and a family with a child for whom access to Title XIX outpatient treatment is unavailable. In addition, the assessment center shall provide priority access to ensure outpatient admission for:

(a) A person completing residential treatment; and

(b) A person referred through CPS; and

(c) An intravenous drug user.

(3) The department may deny ADATSA treatment services to a client having access to another source of state approved comparable chemical dependency treatment, when such treatment is not at additional cost to the client.

[Statutory Authority: RCW 74.50.080, 90-21-125 (Order 3089), § 388-40-091, filed 10/23/90, effective 11/23/90. Statutory Authority: 1989 1st ex.s. c 18, 89-18-025 (Order 2851), § 388-40-091, filed 8/29/89, effective 9/29/89.]

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) Subject to provisions under WAC 388-40-0301, the department shall provide shelter services to eligible ADATSA A/Rs meeting the incapacity criteria under WAC 388-40-055.

(2) "Shelter services" or "shelter assistance" means shelter for an ADATSA recipient in a facility under contract with the department to provide room and board in a supervised living arrangement, normally in a group or dormitory setting. The department shall limit ADATSA shelter services to shelter assistance in the contracted facilities unless the recipient resides in a county described under subsection (3) of this section.

(3) A recipient residing in a county where no contracted shelter bed is available may receive shelter assistance in independent housing, subject to the following provisions:

(a) The recipient shall, as a condition of continued eligibility, move to a contracted shelter bed when available. "Availability" means the existence of a vacant shelter bed, rather than whether or not a particular A/R is accepted or rejected from a shelter facility based on disciplinary problems;

(b) The recipient shall receive the monthly shelter assistance payment through an intensive protective payee defined under WAC 388-40-110; and

(c) The department shall provide assistance for independent housing only to a recipient residing in a permanent residential structure. The recipient must also have a deed of purchase, rental agreement, or other verifiable written agreement between the recipient and the person or entity to whom the recipient is obligated for shelter costs or from whom the recipient is 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) The department shall terminate a recipient receiving contracted shelter services when the recipient is discharged from the facility for disciplinary reasons or if the recipient subsequently leaves shelter without notice for more than seventy-two hours.

(6) The department shall continue benefits for a recipient requesting a fair hearing within the advance notice period before termination is to occur under WAC 388-33-377.

[Statutory Authority: RCW 74.50.080, 90-21-125 (Order 3089), § 388-40-100, filed 10/23/90, effective 11/23/90. Statutory Authority: 1989 1st ex.s. c 18, 89-18-025 (Order 2851), § 388-40-100, filed 8/29/89, effective 9/29/89. 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 by protective payee or vendor payment.

(a) The protective payee for an outpatient recipient shall be the same agency providing outpatient treatment.

(b) The protective payee for a shelter recipient in independent housing shall be an agency under contract with the department to provide intensive protective payee services described under subsection (3) of this section; and

(c) The protective payee for a shelter recipient residing in a contracted shelter facility shall be the facility operator. The facility operator shall have the authority to use personal discretion on the method of disbursing the recipient's clothing and personal incidental money each month.

(2) The protective payee for an outpatient recipient shall have the authority and responsibility to make decisions about the expenditure of outpatient treatment stipends. 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 outpatient protective payee may use 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.

(3) The intensive protective payee for a shelter recipient shall provide case management services as well as sufficient control of monthly shelter expenditures as necessary assuring the recipient's basic needs are met

and preventing the diversion of assistance toward purchase of alcohol or drugs. The intensive protective payee shall:

(a) First disburse a payment for shelter and utilities, such as a check directly to the landlord, mortgage company, utility company, etc.;

(b) Pay all vendors directly for goods or services provided to or for the recipient, including personal and incidental expenses; and

(c) Make exceptions only where unusual circumstances prevent direct payment and the recipient is unlikely to divert the money to purchasing alcohol or drugs.

(4) A shelter recipient in independent housing has the right to request a change of intensive protective payees within the county if dissatisfied with the department's selection of a particular intensive protective payee. If the department determines good cause exists for the change, it shall reassign the recipient to another intensive protective payee if available.

(5) 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.

[Statutory Authority: 1989 1st ex.s. c 18, 89-18-025 (Order 2851), § 388-40-110, filed 8/29/89, effective 9/29/89. 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

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| 388-42-020 | Funeral and interment assistance—Definitions. |
| 388-42-025 | Available services. |
| 388-42-030 | General eligibility. |
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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

| | |
|------------|--|
| 388-42-010 | Funerals. [Regulation 15.00, filed 1/24/64.] Repealed by Order 538, filed 3/31/71, effective 5/1/71. |
| 388-42-050 | Funeral expenses—Veterans' burial benefit. [Statutory Authority: RCW 74.08.090, 81-10-011 (Order 1643), § 388-42-050, filed 4/27/81; Order 538, § 388-42-050, filed 3/31/71, effective 5/1/71; Order 242, § 388-42-050, filed 10/20/67; Regulation 15.31, filed 1/24/64.] Repealed by 81-17-026 (Order 1691), filed 8/12/81. Statutory Authority: RCW 74.08.090. |
| 388-42-060 | Funeral expenses—Workmen's compensation. [Order 538, § 388-42-060, filed 3/31/71, effective 5/1/71.] Repealed by 81-17-026 (Order 1691), filed 8/12/81. Statutory Authority: RCW 74.08.090. |
| 388-42-070 | Funeral expenses—Social Security death benefit. [Statutory Authority: RCW 74.08.090, 78-10-036 (Order 1338), § 388-42-070, filed 9/18/78; Order 538, § 388-42-070, filed 3/31/71, effective 5/1/71; Order 242, § 388-42-070, filed 10/20/67; Regulation 15.33, filed 3/31/66; Regulation 15.33, filed 1/24/64.] Repealed by 81-17-026 (Order 1691), filed 8/12/81. Statutory Authority: RCW 74.08.090. |

- 388-42-080 Funeral expenses—Railroad retirement death benefit. [Order 538, § 388-42-080, filed 3/31/71, effective 5/1/71; Order 242, § 388-42-080, filed 10/20/67; Regulation 15.34, filed 1/24/64.] Repealed by 81-17-026 (Order 1691), filed 8/12/81. Statutory Authority: RCW 74.08.090.
- 388-42-090 Funeral expenses—Life insurance. [Statutory Authority: RCW 74.08.090. 78-10-036 (Order 1338), § 388-42-090, filed 9/18/78; Order 538, § 388-42-090, filed 3/31/71, effective 5/1/71; Order 371, § 388-42-090, filed 8/7/69; Order 242, § 388-42-090, filed 10/20/67; Regulation 15.35, filed 1/24/64.] Repealed by 81-17-026 (Order 1691), filed 8/12/81. Statutory Authority: RCW 74.08.090.
- 388-42-160 Agreements with funeral directors, cemetery and crematory operators. [Order 242, § 388-42-160, filed 10/20/67; Regulation 15.70, filed 1/24/64.] Repealed by Order 281, filed 2/14/68.
- 388-42-170 Lien against deceased person's assets exempted for use by spouse and/or minor children. [Regulation 15.80, filed 12/31/65.] Repealed by Order 245, filed 10/20/67.

WAC 388-42-020 Funeral and interment assistance—Definitions. (1) "Funeral" means the proper preparation, transportation within the local service area, care, and disposition of the remains of a deceased person with needed facilities and appropriate memorial services.

(2) "Interment" means disposition of the remains of a deceased person by burial or cremation, and marking of the grave or repository of the cremated remains.

(3) "Local service area" means the state of Washington.

(4) "Mortuary services" means the services provided by the funeral director and the mortuary.

(5) "Funeral/memorial service" means a service facilitated by the funeral director to commemorate the deceased, whether held at the mortuary, in a church, or at the graveside.

(6) "Burial services" means all services related to burial and marking of a grave.

(7) "Cremation services" means all services related to cremating the remains of the deceased, disposing of the remains, and the customary memorial marking of the repository of the cremated remains.

[Statutory Authority: RCW 74.08.090. 84-11-071 (Order 2100), § 388-42-020, filed 5/22/84, effective 7/1/84; 81-17-026 (Order 1691), § 388-42-020, filed 8/12/81; 81-10-011 (Order 1643), § 388-42-020, filed 4/27/81; 78-10-058 (Order 1340), § 388-42-020, filed 9/22/78; Order 612, § 388-42-020, filed 9/27/71; Order 538, § 388-42-020, filed 3/31/71, effective 5/1/71; Order 278, § 388-42-020, filed 2/14/68; Order 242 § 388-42-020, filed 10/20/67; Regulation 15.10, filed 1/24/64.]

WAC 388-42-025 Available services. (1) Mortuary services.

(a) Essential services shall include:

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

(ii) Preparation and care of the remains of the deceased for disposition by cremation or burial;

(iii) Preparation and filing of death certificate and permits;

(iv) A casket or container of sufficient durability to transport the remains to a crematorium or cemetery;

(v) Transportation of the remains to the crematorium or cemetery; and

(vi) Refrigeration or embalming.

(b) Funeral/memorial services shall include:

(i) Use of the funeral director's staff and facilities for a funeral/memorial service; and

(ii) Use of reposing rooms, chapel, casket coach, and one car for family of the deceased.

(2) Burial services. Interment shall be by burial or cremation.

(a) Burial only shall include:

(i) Minimum grave marker;

(ii) Grave liner if required; and

(iii) Interment and recording.

(b) Burial services may include burial plot and endowed care if not previously provided or purchased.

(3) Cremation services.

(a) Cremation only shall include:

(i) Cremation; and

(ii) A container of a substantial material.

(b) Cremation and disposition shall also include:

(i) Space for disposition of the remains in a cemetery or columbarium;

(ii) Disposition of the remains; and

(iii) Minimum marker.

[Statutory Authority: RCW 74.08.090. 84-11-071 (Order 2100), § 388-42-025, filed 5/22/84, effective 7/1/84.]

WAC 388-42-030 General eligibility. (1) Pursuant to RCW 74.08.120, public assistance funds may be used to pay for the funeral expenses of a deceased person to the extent his or her estate and available resources (including resources of surviving spouse and dependent children, contributions from relatives, friends, or other sources) are not wholly sufficient to defray the funeral expenses according to department policies and standards in this chapter.

(2) The department's legal responsibility for a deceased person does not extend beyond the responsibility of providing funds to meet the funeral expenses. In no case does the department authorize the funeral, burial, cremation, or other disposition of a deceased person. Such authority is vested by statute in other individuals, including the county commissioner in the case of an unclaimed body.

(3) Neither funeral, nor cemetery, nor crematorium costs shall be paid by the department when:

(a) Charges for these services exceed the maximum standards in this chapter, or

(b) The funeral, burial, or cremation takes place outside the state of Washington. However, exception to out-of-state payment rule is made for funerals in areas in bordering states which are normal trade areas of a border area of this state.

(4) All assets of the deceased are considered available for funeral expenses, except as provided for in this chapter.

(5) Payment for any funeral or interment services made by relatives, friends, or any third party shall be deducted from the department's standards.

(6) Donated flowers, music, and ministerial services shall not be deducted from department standards. However, if these services are provided by the funeral director, they are considered part of the mortuary services and their cost must be included toward the department standard.

(7) Payment for a funeral/memorial service shall be made only upon request of a relative or friend of the deceased wishing to have a funeral/memorial service and planning to attend. The funeral director and his or her representatives or associates are precluded from applying for a funeral/memorial service.

(8) Persons applying for funeral and interment assistance shall be required, except for a Veterans' Administration or railroad retirement board death benefit, to apply for any death benefits to which the deceased may be entitled from other public or private agencies or organization.

[Statutory Authority: RCW 74.08.090. 84-11-071 (Order 2100), § 388-42-030, filed 5/22/84, effective 7/1/84; 81-17-026 (Order 1691), § 388-42-030, filed 8/12/81; 78-10-058 (Order 1340), § 388-42-030, filed 9/22/78; Order 612, § 388-42-030, filed 9/27/71; Order 538, § 388-42-030, filed 3/31/71, effective 5/1/71; Order 371, § 388-42-030, filed 8/7/69; Order 314, § 388-42-030, filed 10/31/68; Order 242, § 388-42-030, filed 10/20/67; Regulation 15.20, filed 1/24/64.]

WAC 388-42-040 Resources. (1) The resources available for funeral expenses must be taken into consideration in determining eligibility and amount of payment.

(2) Resources available for funeral expenses may include, but are not limited to:

(a) A death benefit from the United States Veterans' Administration;

(b) Washington state workmen's compensation;

(c) A death benefit from the Railroad Retirement Board;

(d) Life or burial insurance proceeds;

(e) Decedent's estate;

(f) Excess resources and income of a surviving spouse or surviving parents of a minor child.

(i) Resources that would be exempt if the survivors were receiving general assistance shall be excluded.

(ii) Income sufficient to meet the survivors' monthly needs according to the department's need standards shall be excluded.

(iii) The status of resources and income shall be determined according to the department's rules for the general assistance-unemployable program.

(3) Third-party death benefits shall be considered available whether paid, directly payable to, or deposited with a funeral director or any other vendor providing mortuary, burial, or cremation services.

(4) Proceeds from a prepaid plan shall be used for the purposes intended.

(5) The department will be responsible for claiming and collecting the death benefit from the Railroad Retirement Board.

(6) The department may pay the cost of funeral expenses when the deceased leaves assets to a surviving

spouse and/or to minor children. The department, when furnishing funeral assistance, shall have a lien against said assets. The lien shall be valid for six years from the date of filing with the county auditor and shall have preference to all other claims except prior secured creditors. If the assets remain exempt or if no probate is commenced, the lien shall automatically terminate without further action six years after filing.

(7) Ineligibility due to transferring property to qualify for assistance with funeral expenses shall be directed by chapter 388-28 WAC.

[Statutory Authority: RCW 74.08.090. 86-11-023 (Order 2376), § 388-42-040, filed 5/14/86; 84-11-071 (Order 2100), § 388-42-040, filed 5/22/84, effective 7/1/84; 81-17-026 (Order 1691), § 388-42-040, filed 8/12/81; Order 538, § 388-42-040, filed 3/31/71, effective 5/1/71; Order 242, § 388-42-040, filed 10/20/67; Regulation 15.30, filed 1/24/64.]

WAC 388-42-100 Decedent's estate. (1) The estate of a deceased person consists of all of his or her real and personal property. Any value in the estate of the deceased which can be readily determined shall be considered a resource available to meet the funeral expenses according to the rules in this chapter.

(2) The department claims reimbursement from any remainder in the estate after funeral expenses are paid for any prior overpayment of public assistance according to chapter 388-44 WAC.

(3) Cash or certificates of ownership found among the effects of the deceased left with a friend, nursing home, or hospital belong to the estate of the deceased and may be disposed of only in the manner provided by law.

(4) When the estate is insufficient to defray wholly the funeral expenses, the department shall:

(a) Determine the amount available from the estate;

(b) Allocate that amount to the vendor or vendors; and

(c) Deduct that amount from the department's standards before authorizing payment of public assistance funds.

[Statutory Authority: RCW 74.08.090. 84-11-071 (Order 2100), § 388-42-100, filed 5/22/84, effective 7/1/84; Order 1176, § 388-42-100, filed 12/23/76; Order 538, § 388-42-100, filed 3/31/71, effective 5/1/71; Order 371, § 388-42-100, filed 8/1/69; Order 242, § 388-42-100, filed 10/20/67; Regulation 15.36, filed 12/31/65; Regulation 15.36, filed 1/24/64.]

WAC 388-42-110 Interment of two or more bodies in one grave. The department pays for burials of two or more bodies in one grave, provided:

(1) This type of burial is accepted practice in a cemetery and is available to the general public, or

(2) The applicant agrees to multiple interment.

[Statutory Authority: RCW 74.08.090. 84-11-071 (Order 2100), § 388-42-110, filed 5/22/84, effective 7/1/84; 81-17-026 (Order 1691), § 388-42-110, filed 8/12/81; Order 612, § 388-42-110, filed 9/27/71; Order 538, § 388-42-110, filed 3/31/71, effective 5/1/71; Order 371, § 388-42-110, filed 8/1/69; Order 278, § 388-42-110, filed 2/14/68; Order 242, § 388-42-110, filed 10/20/67; Regulation 15.40, filed 1/24/64.]

WAC 388-42-115 Application. (1) Application for the payment of funeral expenses may be made by the

funeral director, any relative, friend, or church organization claiming the remains or, if no such person or organization exists, by the board of county commissioners, or its duly appointed representative.

(2) Application for assistance with funeral expenses must be made before the funeral is held, unless for health or religious reasons the remains must be disposed of immediately. In such cases, application must be made the first working day after the funeral.

(3) For the purposes of this section, transporting the remains from the place of death to the mortuary does not constitute a funeral. Application may be made after the deceased has been transported from the place of death.

[Statutory Authority: RCW 74.08.090. 84-11-071 (Order 2100), § 388-42-115, filed 5/22/84, effective 7/1/84; 81-17-026 (Order 1691), § 388-42-115, filed 8/12/81; Order 612, § 388-42-115, filed 9/27/71.]

WAC 388-42-125 Fair hearing. Applicants or recipients aggrieved by a decision made by the department and based on the rules in this chapter can request a fair hearing as provided for in chapter 388-08 WAC.

[Statutory Authority: RCW 74.08.090. 84-11-071 (Order 2100), § 388-42-125, filed 5/22/84, effective 7/1/84; 81-17-026 (Order 1691), § 388-42-125, filed 8/12/81; Order 538, § 388-42-125, filed 3/31/71, effective 5/1/71; Order 242, § 388-42-125, filed 10/20/67; Regulation 15.50, filed 1/24/64.]

WAC 388-42-150 Maximum cost standards.

(1) Mortuary services—Actual costs, but not to exceed:

- (a) Essential services only \$ 278
- (b) Essential services plus funeral/memorial service \$ 638

(2) Burial services—Actual costs, but not to exceed:

- (a) Burial only, no plot included \$ 348
- (b) Burial with plot included, single or multiple interment \$ 402

(3) Cremation services—Actual costs, but not to exceed:

- (a) Cremation only \$ 165
- (b) Cremation and disposition \$ 247

(4) These standards include all applicable taxes.
 (5) These standards shall be effective February 13, 1990.

[Statutory Authority: RCW 74.08.090. 90-10-031 (Order 2973), § 388-42-150, filed 4/25/90, effective 5/26/90; 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
- 388-44-010 Overpayment—Underpayment—Defined.
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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 388-44-025 Overpayments—Effective dates. [Statutory Authority: RCW 74.08.090. 83-05-046 (Order 1947), § 388-44-025, filed 2/16/83.] Repealed by 86-04-014 (Order 2335), filed 1/24/86. Statutory Authority: RCW 74.04.050.
- 388-44-040 Overpayment—Due to need factor. [Order 539, § 388-44-040, filed 3/31/71, effective 5/1/71; Order 396, § 388-44-040, filed 10/15/69; Regulation 16.12, filed 1/24/64.] Repealed by 81-09-045 (Order 1638), filed 4/15/81. Statutory Authority: RCW 74.08.090.
- 388-44-045 Overpayment—During known period of ineligibility. [Regulation 16.13, filed 1/24/64.] Repealed by Order 396, filed 10/15/69.
- 388-44-075 Establishing overpayment. [Order 396, § 388-44-075, filed 10/15/69; Regulation 16.20, filed 1/24/64.] Repealed by Order 539, filed 3/31/71, effective 5/1/71.
- 388-44-085 Establishing overpayment—Person not available for interview. [Order 396, § 388-44-085, filed 10/15/69; Regulation 16.22, filed 1/24/64.] Repealed by Order 539, filed 3/31/71, effective 5/1/71.
- 388-44-095 Establishing overpayment—Substantiation. [Order 396, § 388-44-095, filed 10/15/69; Regulation 16.23, filed 1/24/64.] Repealed by Order 539, filed 3/31/71, effective 5/1/71.
- 388-44-130 Repayment of overpayment from former recipients. [Statutory Authority: 74.08.090. 83-05-046 (Order 1947), § 388-44-130, filed 2/16/83; 82-04-072 (Order 1755), § 388-44-130, filed 2/3/82; Order 965, § 388-44-130, filed 8/29/74; Order 897, § 388-44-130, filed 1/11/74; Order 800, § 388-44-130, filed 5/25/73; Order 539, § 388-44-130, filed 3/31/71, effective 5/1/71; Order 446, § 388-44-130, filed 4/28/70; Regulation 16.31, filed 1/24/64.] Repealed by 86-04-014 (Order 2335), filed 1/24/86. Statutory Authority: RCW 74.04.050.
- 388-44-155 Involuntary repayment—Current or former recipient. [Regulation 16.323, filed 1/24/64.] Repealed by Order 539, filed 3/31/71, effective 5/1/71.
- 388-44-200 Accounts receivable. [Reference section only.] Repealed by Order 539, filed 3/31/71, effective 5/1/71.
- 388-44-205 Accounts receivable—Establishing. [Regulation 16.41, filed 1/24/64.] Repealed by Order 539, filed 3/31/71, effective 5/1/71.
- 388-44-210 Accounts receivable—Closures. [Regulation 16.42, filed 12/21/64, effective 2/1/65; Regulation 16.42,

- filed 1/24/64.] Repealed by Order 539, filed 3/31/71, effective 5/1/71.
- 388-44-215 Accounts receivable—Credit balances. [Regulation 16.43, filed 12/21/64, effective 2/1/65; Regulation 16.43, filed 1/24/64.] Repealed by Order 539, filed 3/31/71, effective 5/1/71.
- 388-44-220 Accounts receivable—Transfer. [Regulation 16.44, filed 12/21/64, effective 2/1/65; Regulation 16.44, filed 1/24/64.] Repealed by Order 539, filed 3/31/71, effective 5/1/71.
- 388-44-240 Cash repayment. [Regulation 16.50, filed 1/24/64.] Repealed by Order 539, filed 3/31/71, effective 5/1/71.
- 388-44-255 Preparation of will. [Regulation 16.61, filed 1/24/64.] Repealed by Order 539, filed 3/31/71, effective 5/1/71.
- 388-44-285 Subrogation—Responsibility. [Regulation 16.71, filed 1/24/64.] Repealed by Order 539, filed 3/31/71, effective 5/1/71.
- 388-44-300 Subrogation—Other procedures for collection. [Regulation 16.74, filed 1/24/64.] Repealed by Order 539, filed 3/31/71, effective 5/1/71.
- 388-44-315 Adjustment of federal aid matching erroneously claimed. [Regulation 16.80, filed 1/24/64.] Repealed by Order 539, filed 3/31/71, effective 5/1/71.
- 388-44-320 Conditions requiring adjustment. [Regulation 16.81, filed 1/24/64.] Repealed by Order 539, filed 3/31/71, effective 5/1/71.
- 388-44-325 Method of reporting. [Regulation 16.82, filed 1/24/64.] Repealed by Order 539, filed 3/31/71, effective 5/1/71.

WAC 388-44-010 Overpayment—Underpayment—Defined. (1) "Overpayment" means any grant or medical assistance payment received by or for an assistance unit for the payment month which exceeds the amount the unit was eligible to receive.

(2) An overpayment includes but is not limited to:

(a) Vendor payments for medical care provided during a period when the individual was not eligible for public assistance,

(b) Payments made pending a fair hearing when the fair hearing decision subsequently finds against the client,

(c) Payments made during the ten-day advance notice period when the client is ineligible for payment, and

(d) Continued payments received by the recipient because the appropriate ten-day advance period extends into the next month.

(3) Funeral expenses paid by the department are an overpayment to the extent the value of the estate is not used as a resource in determining eligibility. However, the department's funeral expense payment is not repayable when the estate consists only of assets (resources) which are exempted in determining eligibility for public assistance for the surviving spouse and/or dependents.

(4) Policies regarding food stamps received in excess of the amount the household was entitled to receive are outlined in chapter 388-54 WAC.

(5) "Underpayment" means a financial assistance payment received by or for an assistance unit for the payment month which is less than the amount for which the assistance unit was eligible, or failure by the state to issue a financial assistance payment for the payment month to an eligible assistance unit if such payment should have been issued.

(6) Policies in this chapter delineating recoupment of overpayments by means of a deduction from the current grant are limited to public assistance money grant overpayments.

(7) For purposes of this chapter, grant payment standard is defined as payment level or the amount payable to a family of the same composition with no other income or nonexempt resources.

[Statutory Authority: RCW 74.04.050, 86-04-014 (Order 2335), § 388-44-010, filed 1/24/86. Statutory Authority: RCW 74.08.090, 83-05-046 (Order 1947), § 388-44-010, filed 2/16/83; 82-04-072 (Order 1755), § 388-44-010, filed 2/3/82; 81-09-045 (Order 1638), § 388-44-010, filed 4/15/81; Order 1058, § 388-44-010, filed 10/1/75; Order 800, § 388-44-010, filed 5/25/73; Order 539, § 388-44-010, filed 3/31/71, effective 5/1/71; Order 396, § 388-44-010, filed 10/15/69; Regulation 16.01, filed 1/24/64.]

WAC 388-44-020 Intentional overpayment—Defined. (1) "Intentional overpayment" means an overpayment occurring when there is willful or knowing intent of the recipient to either receive or retain an overpayment.

(2) It shall be the duty of any recipient of public assistance to notify the department within twenty days of any change in circumstances affecting eligibility or need, including receipt or possession of all income or resources not previously declared to the department. When a local office finds that an applicant or recipient has misstated or failed to reveal any material fact affecting eligibility or need, it shall presume that such act was done intentionally.

(3) It shall be the duty of the department, whenever it finds misstatement or failure to reveal pertinent facts or circumstances, to secure further evidence, whenever possible, which enables it to formulate a firm opinion as to whether or not the act was committed intentionally. In the absence of such further evidence, the presumption is not overcome; however, such presumption is rebuttable.

(4) The department must inform all applicants and recipients of their rights and responsibilities concerning eligibility for and receipt of assistance.

(5) See chapter 388-46 WAC for referral to county prosecutor for possible criminal action.

[Statutory Authority: RCW 74.08.090, 83-05-046 (Order 1947), § 388-44-020, filed 2/16/83; 81-09-045 (Order 1638), § 388-44-020, filed 4/15/81; Order 843, § 388-44-020, filed 8/9/73; Order 800, § 388-44-020, filed 5/25/73; Order 539, § 388-44-020, filed 3/31/71, effective 5/1/71; Regulation 16.02, filed 1/24/64.]

WAC 388-44-035 Overpayment—Amount. (1) The amount of overpayment shall be 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 388-44-046 Overpayment--Support payments not treated as overpayment. Support payments received directly by the parent or other caretaker relative from the absent parent shall be remitted to the office of support enforcement. Such payments shall not be treated as a grant overpayment, but shall be considered as a debt to be collected by the office of support enforcement.

[Order 1054, § 388-44-046, filed 9/25/75.]

WAC 388-44-050 Overpayment--Relationship to underpayment. The assistance unit's over- or underpayment is the net amount or difference between any incorrect payments or computations. Over- or underpayment in one assistance unit shall not be credited to any other assistance unit.

[Statutory Authority: RCW 74.08.090, 82-04-072 (Order 1755), § 388-44-050, filed 2/3/82; Order 539, § 388-44-050, filed 3/31/71, effective 5/1/71; Regulation 16.14, filed 1/24/64.]

WAC 388-44-110 Overpayment--Liability. (1) Overpayments may be recovered from:

- (a) The assistance unit which was overpaid;
- (b) Any assistance unit of which a member of the overpaid assistance unit has subsequently become a member; or
- (c) Any individual members of the overpaid assistance unit whether or not currently a recipient.

(2) The exception to this rule is the individual acting as payee only and deriving no financial benefit from the payment of assistance. In such instance the overpayment account receivable is established in the name of the person who received the financial benefit of the payment of assistance.

(3) There shall be no liability placed upon individuals incurring unintentional overpayments when:

- (a) The individual is not receiving a grant at the time the overpayment is discovered and/or computed, and
- (b) The amount of the overpayment is less than thirty-five dollars.

[Statutory Authority: RCW 74.04.050, 86-04-014 (Order 2335), § 388-44-110, filed 1/24/86. Statutory Authority: RCW 74.08.090, 83-05-046 (Order 1947), § 388-44-110, filed 2/16/83; 82-04-072 (Order 1755), § 388-44-110, filed 2/3/82; 80-14-061 (Order 1547), § 388-44-110, filed 10/1/80; Order 800, § 388-44-110, filed 5/25/73; Order 539, § 388-44-110, filed 3/31/71, effective 5/1/71; Regulation 16.24, filed 1/24/64.]

(1990 Ed.)

WAC 388-44-115 Verification of overpayment. (1) When an apparent overpayment has occurred, the department shall attempt to verify all pertinent information in the case. The department shall attempt to contact the recipient and request an explanation of the circumstances surrounding the apparent overpayment.

(2) If the recipient does not respond or fails to cooperate, the department shall make an independent determination, based on all available information, that an overpayment either has or has not occurred.

(3) When an overpayment has been verified, the department shall take appropriate action to secure repayment as prescribed by WAC 388-44-125 through 388-44-160. Any such action shall be consistent with departmental rules on notification of suspension, termination, or reduction of grant.

(4) A letter shall be sent to any recipient or payee when an overpayment has been established. The letter shall include the following information:

- (a) The amount of the overpayment,
- (b) The circumstances which brought about the overpayment,
- (c) The dates the overpayment occurred,
- (d) An explanation of the method of repayment and the effect of the overpayment on future grant payments,
- (e) A determination that an intentional overpayment is or is not involved,
- (f) A statement that overpayments are debts due the state,
- (g) A computation of the amount due the state,
- (h) A statement that the financial recovery office is responsible for establishing repayment schedules when recoupment is not subject to a mandatory deduction from the current grant,

- (i) A statement of the right to a fair hearing.
- (j) Property of the debtor will be subject to collection action after the debtor terminates from public assistance.
- (k) Property will be subject to lien and foreclosure, distraint and seizure, and sale or order to withhold and deliver.

(l) Net proceeds of subsection (4)(j) and (k) of this section will be applied to satisfy the overpayment debt.

(m) Action to collect the debt as in subsections (4)(j) and (k) of this section is lawful after ninety days from the debtor's termination from public assistance or receipt of the notice of debt, whichever is later.

(6) A person who has incurred an overpayment shall be notified of that debt by:

- (a) Personal service, or
- (b) Certified mail, return receipt requested, addressee only.

(7) Personal service may be made by:

- (a) An employee of DSHS, or
- (b) The sheriff of the county where the recipient of public assistance resides. When service is made by the sheriff, an affidavit of service on the county's form will routinely be furnished by the sheriff.

(c) Any other person eighteen years of age or older who is competent to be a witness in the action.

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(8) Personal service can be made by delivering a copy of the overpayment letter as follows:

(a) If to a minor, to such minor personally, and also to his or her father, mother, guardian, or if there is none within the state, then to any person having the care, custody, or control of such minor or who is the payee of the minor's grant, or with whom he or she resides or in whose service he or she is employed.

(b) If to any person for whom a guardian has been appointed for any cause, then to such guardian.

(c) If to a company or corporation, to the president or other head of the company or corporation, secretary, cashier, or managing agent thereof or the secretary, stenographer, or office assistant of the president or other head of the company or corporation, secretary, cashier, or managing agent.

(d) In all other cases, to the debtor personally or by leaving a copy of the letter at the residence of the debtor's usual abode with some person of suitable age and discretion residing therein.

(e) If joint liability exists, each debtor shall be provided a copy, except only one copy need be sent to spouses living together.

(f) Out-of-state service shall be the same as personal service within the state.

(g) Refusal of such notice by the debtor is proof of notice to the debtor of the debt owed.

(9) Nothing in this section precludes the department from recovering overpayments by deduction from subsequent assistance payments.

[Statutory Authority: RCW 74.04.050, 86-04-014 (Order 2335), § 388-44-115, filed 1/24/86. Statutory Authority: RCW 74.08.090, 83-05-046 (Order 1947), § 388-44-115, filed 2/16/83; 82-04-072 (Order 1755), § 388-44-115, filed 2/3/82; 81-19-029 (Order 1698), § 388-44-115, filed 9/9/81; Order 800, § 388-44-115, filed 5/25/73.]

WAC 388-44-120 Invalid overpayment. When the department finds that it has mistakenly charged an individual with an overpayment which in fact never occurred, the individual shall not be held liable for repayment. In such a case, if an account receivable has been established by the department, such account shall be nullified and the individual so notified in writing. The individual shall be refunded any amount paid into the invalid overpayment account.

[Order 800, § 388-44-120, filed 5/25/73.]

WAC 388-44-125 Repayment of overpayment from current recipients. (1) Repayment of an overpayment shall be made by the individual or the overpaid assistance unit from resources and/or income, and/or by deductions from subsequent grants, and/or as a result of civil or criminal action initiated by the department or the prosecutor, and/or from an estate upon death.

(2) A public assistance money grant may not be reduced to recover overpayments of medical assistance, food coupons, or food commodities.

(3) The recipient is required to pay all overpayments except where recovery is determined to be inequitable under WAC 388-44-127. A mandatory grant deduction will be used to liquidate the overpayment, except that

unintentional overpayments prior to January 1, 1982, are not subject to mandatory collection from a grant.

(4) An additional deduction from subsequent grants can be made if the recipient so requests in writing specifying the amount of the monthly deduction. Voluntary grant deductions may be discontinued or modified at any time upon written request from the recipient.

(5) Overpayments recovered by monthly deductions of less than ten percent of the recipient's total monthly grant payment standard shall be recovered promptly. The department will, by the end of the quarter following the quarter in which the overpayment is first identified:

(a) Recover the overpayment, or

(b) Execute a monthly recovery agreement from a current recipient's grant or income and resources, defined as follows:

(i) The recipient must see the agency-proposed agreement as defined in WAC 388-44-115(4),

(ii) The recipient must understand the options available (mandatory deductions or lump-sum payments), and

(iii) The recipient must be given an opportunity to respond to these payment options.

[Statutory Authority: RCW 74.04.050, 86-04-014 (Order 2335), § 388-44-125, filed 1/24/86. Statutory Authority: RCW 74.08.090, 84-21-079 (Order 2163), § 388-44-125, filed 10/18/84; 83-05-046 (Order 1947), § 388-44-125, filed 2/16/83; 82-04-072 (Order 1755), § 388-44-125, filed 2/3/82; Order 965, § 388-44-125, filed 8/29/74; Order 897, § 388-44-125, filed 1/11/74; Order 800, § 388-44-125, filed 5/25/73; Order 539, § 388-44-125, filed 3/31/71, effective 5/1/71; Regulation 16.30, filed 1/24/64.]

WAC 388-44-127 Repayment of overpayment occurring prior to April 3, 1982, and resulting from department error. (1) Overpayments resulting from department error are debts due the state and are subject to mandatory grant deduction except as specified in WAC 388-44-125(3), or where recovery is determined to be inequitable.

(2) When an overpayment is discovered that resulted from department error and occurred prior to April 3, 1982, liability will not be imposed until it is first determined that recovery would not be inequitable. Recovery shall be deemed inequitable if:

(a) The department admitted or stated to the recipient or to the recipient's authorized representative that the recipient was entitled in whole or in part to the moneys or services overpaid, or acted in a manner which would reasonably lead that recipient to believe that he or she was eligible to receive in whole or in part the moneys or services overpaid; and

(b) The recipient retained or accepted the moneys or services overpaid on the faith of such an admission, statement, act or omission; upon which he or she had a right to rely; and

(c) The recipient would suffer an injury if the department were allowed to repudiate the department's admission, statement, act or omission.

"Injury," as used in this section includes the imposition of liability for repayment of a debt due the state.

(3) If recovery would be inequitable, the recipient shall not be liable for repayment; the overpayment shall

not be a debt due the state, and the recipient shall be so informed.

(4) If recovery would not be inequitable, the recipient shall be notified that he or she is liable for repayment of the debt and the overpayment is subject to a mandatory deduction from the current grant. The recipient shall also be informed as to the specific reasons why recovery would not be inequitable, including a copy of this rule, and as to his or her right to contest such decision.

(5) Department decisions made pursuant to this section shall be subject to fair hearing review in accordance with the procedures set forth in chapter 388-08 WAC and appropriate findings and conclusions shall be made on all of the factors made pertinent in this section.

[Statutory Authority: RCW 74.08.090. 84-21-079 (Order 2163), § 388-44-127, filed 10/18/84; 83-05-046 (Order 1947), § 388-44-127, filed 2/16/83; 82-04-072 (Order 1755), § 388-44-127, filed 2/3/82; 81-05-002 (Order 1596), § 388-44-127, filed 2/5/81; 78-06-082 (Order 1298), § 388-44-127, filed 6/1/78; Order 897, § 388-44-127, filed 1/11/74; Order 800, § 388-44-127, filed 5/25/73; Order 539, § 388-44-127, filed 3/31/71, effective 5/1/71; Order 512, § 388-44-127, filed 1/14/71, effective 2/15/71; Order 396, § 388-44-127, filed 10/15/69.]

WAC 388-44-140 Responsibility for recovery of overpayment. (1) Overpayments are debts due the state and are subject to recovery by the department.

(2) The local office shall be responsible for effecting repayment of overpayments from current recipients when repayments are to be made by grant deduction as specified in WAC 388-44-145.

(3) The office of financial recovery and the attorney general are responsible for the recovery of overpayments from former recipients and for the determination of collectibility.

[Statutory Authority: RCW 74.04.050. 86-04-014 (Order 2335), § 388-44-140, filed 1/24/86. Statutory Authority: RCW 74.08.090. 82-04-072 (Order 1755), § 388-44-140, filed 2/3/82; Order 897, § 388-44-140, filed 1/11/74; Order 800, § 388-44-140, filed 5/25/73; Order 539, § 388-44-140, filed 3/31/71, effective 5/1/71; Regulation 16.32, filed 1/24/64.]

WAC 388-44-145 Involuntary repayment of overpayment--Mandatory grant deduction. (1) An overpayment shall be recouped by mandatory deduction from future continuing assistance grants except as modified by WAC 388-44-125 and 388-44-127.

(2) An intentional overpayment is subject to recovery by a mandatory grant deduction of ten percent of the payment standard unless the recipient has cash, bank accounts, or marketable securities he or she refuses to use in full or partial satisfaction of an overpayment. In such cases, a monthly deduction of up to one hundred percent of future grant or grants shall be established until such time as the amount of the grant or grants the recipient would be otherwise eligible to receive equals the value of the cash, bank accounts, or marketable securities withheld. The amount of income and resources remaining available to the assistance unit shall not be less than ninety percent of the grant payment standard defined in WAC 388-44-010(7).

(3) The department shall limit the amount of the monthly deduction for unintentional overpayments so the

deduction shall not exceed five percent of the recipient's total monthly grant payment standard unless the recipient voluntarily requests a larger deduction in writing.

(a) When a recipient is in a nursing home, intermediate care facility, or hospital, a monthly deduction may be made against the clothing and incidental grant to the recipient. A monthly deduction shall not be made against the vendor payment to the nursing home or intermediate care facility.

(b) The grant shall be suspended when the monthly deduction is equal to or more than the grant which would have been paid had no overpayment occurred.

(4) Prior to the initial grant deduction, the client shall be informed in writing of the amount of the monthly deduction. The notification shall state the amount of the current grant before and after the deduction is made, the date the deduction begins, the total amount of overpayment to be recouped by grant deduction, and the approximate number of months the deduction will be made.

(5) Mandatory deductions from public assistance grants shall recoup no more than one hundred percent of the amount of assistance that the individual was ineligible to receive.

[Statutory Authority: RCW 74.04.050. 86-04-014 (Order 2335), § 388-44-145, filed 1/24/86. Statutory Authority: RCW 74.08.090. 84-21-079 (Order 2163), § 388-44-145, filed 10/18/84; 83-05-046 (Order 1947), § 388-44-145, filed 2/16/83; 82-04-072 (Order 1755), § 388-44-145, filed 2/3/82; 81-09-045 (Order 1638), § 388-44-145, filed 4/15/81; Order 965, § 388-44-145, filed 8/29/74; Order 897, § 388-44-145, filed 1/11/74; Order 800, § 388-44-145, filed 5/25/73; Order 539, § 388-44-145, filed 3/31/71, effective 5/1/71; Order 401, § 388-44-145, filed 11/5/69; Order 324, § 388-44-145, filed 11/27/68; Emergency Order 310, filed 10/18/68; Regulation 16.321, filed 6/30/67; Regulation 16.321, filed 8/29/66, 1/24/64.]

WAC 388-44-150 Recovery of overpayments--Former recipients. When the department determines there is an overpayment, the department may as appropriate:

- (1) File a lien against the property of the debtor;
- (2) Accept voluntary repayment agreements from the debtor;
- (3) Issue an order to withhold and deliver the debtor's wages, earnings, income property, and/or accounts;
- (4) Accept a statutory assignment of wages from the debtor; and/or
- (5) Pursue recovery in civil courts through the attorney general's office.

[Statutory Authority: RCW 74.04.050. 86-04-014 (Order 2335), § 388-44-150, filed 1/24/86. Statutory Authority: RCW 74.08.090. 83-05-046 (Order 1947), § 388-44-150, filed 2/16/83; 82-04-072 (Order 1755), § 388-44-150, filed 2/3/82; Order 800, § 388-44-150, filed 5/25/73; Order 539, § 388-44-150, filed 3/31/71, effective 5/1/71; Regulation 16.322, filed 1/24/64.]

WAC 388-44-160 Repayment from estate. An overpayment of assistance not repaid during the person's lifetime is repayable from his estate.

[Order 539, § 388-44-160, filed 3/31/71, effective 5/1/71; Order 251, § 388-44-160, filed 11/1/67; Regulation 16.324, filed 1/24/64.]

WAC 388-44-250 Gifts, bequests by will, contributions. (1) The department may accept gifts, bequests or

contributions in cash or otherwise from persons, associations, or corporations.

(2) The CSO shall not accept a gift or contribution from a person eligible for public assistance.

(3) A recipient of public assistance or any other person desiring information or assistance regarding the preparation of a will shall be advised to contact an attorney of his or her choice or the local legal aid society.

[Statutory Authority: RCW 74.08.090. 82-04-072 (Order 1755), § 388-44-250, filed 2/3/82; Order 539, § 388-44-250, filed 3/31/71, effective 5/1/71; Regulation 16.60, filed 1/24/64.]

WAC 388-44-280 Subrogation. (1) If any payment of public assistance is made or increased for the benefit of any dependent child because of the failure of the responsible parents to provide adequate support, such parents are liable to the state in the amount of the assistance granted.

(2) The need of the child and of the caretaker relative shall be deemed met by the responsible parents only if support is provided in an amount equal to the lesser of the payment required by court order, or the amount of assistance paid by the department.

[Order 539, § 388-44-280, filed 3/31/71, effective 5/1/71; Regulation 16.70, filed 1/24/64.]

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 388-46 WAC RECIPIENT FRAUD--REFERRAL TO PROSECUTOR

WAC

388-46-010 Fraud--Criminal prosecution.

388-46-100 Fraud--Federal food coupons and commodities.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

388-46-020 State office investigative units. [Regulation 17.20, filed 1/24/64.] Repealed by Order 540, filed 3/31/71, effective 5/1/71.

388-46-030 Methods of handling suspected fraud cases--Investigative unit help not required. [Regulation 17.31, filed 1/24/64.] Repealed by Order 540, filed 3/31/71, effective 5/1/71.

388-46-040 Methods of handling suspected fraud case--Investigative unit help needed. [Regulation 17.32, filed 1/24/64.] Repealed by Order 540, filed 3/31/71, effective 5/1/71.

388-46-050 Fraud--Referral to prosecutor. [Order 540, § 388-46-050, filed 3/31/71, effective 5/1/71; Regulation 17.40, filed 1/24/64.] Repealed by Order 801, filed 5/25/73.

388-46-060 Register of suspected fraud cases. [Regulation 17.50, filed 1/24/64.] Repealed by Order 540, filed 3/31/71, effective 5/1/71.

388-46-070 Complaints. [Regulation 17.60, filed 1/24/64.] Repealed by Order 540, filed 3/31/71, effective 5/1/71.

388-46-080 Case reading by investigative unit administrative assistant. [Regulation 17.70, filed 1/24/64.] Repealed by Order 540, filed 3/31/71, effective 5/1/71.

388-46-090 Fraud--Restitution of overpayment. [Order 540, § 388-46-090, filed 3/31/71, effective 5/1/71; Regulation 17.80, filed 1/24/64.] Repealed by Order 801, filed 5/25/73.

WAC 388-46-010 Fraud--Criminal prosecution. (1) The department has a duty to refer all cases in which it has found substantial evidence supporting a finding of fraud to the county prosecuting attorney for possible criminal action. Prima facie evidence does not in itself provide a substantial basis for criminal prosecution.

(2) See WAC 388-44-020 for the definition of fraud and the department's responsibilities regarding investigations of suspected fraud.

(3) It is the county prosecuting attorney's responsibility to decide which cases he will prosecute. It is the responsibility of the department to establish a working relationship with the prosecutor and to refer to the prosecutor only those cases which are well-prepared and in keeping with the guidelines provided by the prosecutor.

[Order 801, § 388-46-010, filed 5/25/73; Order 540, § 388-46-010, filed 3/31/71, effective 5/1/71; Regulation 17.10, filed 1/24/64.]

WAC 388-46-100 Fraud--Federal food coupons and commodities. Chapter 388-46 WAC shall apply to those cases in which the department has found substantial evidence indicating fraudulent receipt of federal food coupons or commodities.

[Order 801, § 388-46-100, filed 5/25/73; Order 540, § 388-46-100, filed 3/31/71, effective 5/1/71; Regulation 17.90, filed 1/24/64.]

Chapter 388-47 WAC
JOB OPPORTUNITIES AND BASIC SKILLS
TRAINING PROGRAM

WAC

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WAC 388-47-010 Job opportunities and basic skills training program (JOBS)—Authority and purpose. (1) The job opportunities and basic skills training program (JOBS) is established under P.L. 100-485, as amended, 102 Stat. 2343, amending Title IV of the Social Security Act and establishing Title IV-F. The short title is the Family Support Act of 1988. Federal regulations for the JOBS program are described under Part 45, Code of Federal Regulations, Section 250.

(2) The purpose of the JOBS program is to:

(a) Encourage and assist needy children and parents, applying for or receiving assistance under the aid to families with dependent children (AFDC) program, to become economically independent through employment and training; and

(b) Obtain the education, training, and employment needed avoiding long-term welfare dependence.

(3) The department is the Title IV-A and Title IV-F agency, and has sole authority to carry out the JOBS program.

[Statutory Authority: RCW 74.04.050, 91-02-092 (Order 3129), § 388-47-010, filed 12/31/90, effective 1/31/91.]

WAC 388-47-020 JOBS program—Definitions. Except as specified in this chapter, the terms used in chapter 388-47 WAC shall have the same meaning applied to the AFDC program, and as terms defined under chapter 388-22 WAC.

(1) "Basic literacy level" means a minimum literacy level allowing a person to function at a level equivalent to grade 8.9.

(2) "Component" means any of the services or activities available under the JOBS program.

(3) "Contractor" means the employment security department.

(4) "CWEP" means the community work experience program.

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

(6) "Education and training" means an activity below the post secondary level the contractor determines appropriate to a participant's employment goal. Education and training includes, but is not limited to:

(a) High school education or education designed preparing a person to qualify for a high school equivalency certificate;

(b) Basic and remedial education providing a person with a basic literacy level; and

(c) Education in English proficiency enabling a participant to understand, speak, read, or write the English language commensurate with the participant's employment goal.

(7) "Employability plan" means a written plan with any relevant supporting documents the contractor and a JOBS participant enters into and is designed to lead to economic self-sufficiency.

(8) "Intensive job search" means an active, directed, documented effort to secure employment. This activity may be a group or an individual search.

(9) "Job readiness training" means training activities that help prepare participants for work by assuring that participants are familiar with general work place expectations and exhibit work behavior and attitudes necessary to compete successfully in the labor market.

(10) "Job skills training" means vocational training for a JOBS participant in technical job skills for a specific occupational area.

(11) "Satisfactory progress in secondary and post-secondary education." There are two measures of satisfactory progress:

(a) Qualitative which means a grade point average sufficient to graduate; and

(b) Quantitative which means taking sufficient credit hours to be in full-time status as established by the institution, except that it shall be determined that satisfactory progress is being accomplished when the following mitigating circumstances exist:

(i) When school is coupled with another component;

(ii) School is coupled with work study, study hall, internship, or other activity approved in the employability plan;

(iii) Course work is only available for a lesser number of hours; or

(iv) When the course of study is available only at less hours.

(12) "On-the-job training" means job training in partially subsidized employment intended to develop into a full-time unsubsidized job.

(13) "Participant" means an applicant or recipient of AFDC volunteering for or required to engage in, JOBS program activities and is so engaged.

(14) "Post-secondary education" means education and training beyond high school. Post-secondary education must be provided by:

(a) An institution of higher education defined under section 1210(a) or section 481 (a)(b) or (c) of the Higher Education Act of 1965, as amended; or

(b) A vocational school meeting the provisions of section 435 (b) or (c) of the Higher Education Act of 1965, as amended; or

(c) A public institution the state legally authorizes to provide such a program within the state.

(15) "Self-initiated training" means education and training or post-secondary education a potential JOBS participant initiates before participation in a JOBS program.

(16) "Work experience" means a training assignment where a participant is placed in nonsalaried work with a public or private non-profit organization.

(17) "Work supplementation program" means an on-the-job training program subsidized by AFDC grant funds leading to a full-time unsubsidized job.

(18) "Little or no work experience" means, for purposes of defining membership in a target group, having less than either of the following within the last year:

(a) Three consecutive months of full-time paid employment;

(b) Six months of paid employment of at least seventy-five hours per month.

[Statutory Authority: RCW 74.04.050. 91-02-092 (Order 3129), § 388-47-020, filed 12/31/90, effective 1/31/91.]

WAC 388-47-030 Assessment. (1) The assessment is the first step in the process to help the person identify steps needed to achieve self-sufficiency. Assessment is a joint process conducted with the participant which to the maximum extent possible will identify and respond to the person's support service needs, educational, training and occupational skills, aptitudes and preferences.

(2) Assessment will be conducted for all persons within a reasonable time period prior to participation in any JOBS component.

(3) Initial assessment will be conducted by the department and will include appraisal of a person's needs for social services enabling participation in a JOBS component including but not limited to:

(a) Child care;

(b) Transportation requirements;

(c) Physical health;

(d) Legal problems;

(e) Family problems; and

(f) Other factors perceived to require social services intervention prior to participation in a JOBS component.

(4) Employability assessment will be conducted by the contractor and will follow the initial assessment and will include, but is not limited to, appraisal of the person's:

(a) Proficiencies, skills, deficiencies, prior work experience, interests and desires;

(b) Educational and supportive service needs; and

(c) Literacy level and English language proficiency.

(d) Testing services will be available for aptitude, literacy, interest and educational achievement. Testing tools used will be those generally accepted in the academic or employment and training industry.

(5) Completion of the assessment process will provide the information needed on which to base an employability plan.

[Statutory Authority: RCW 74.04.050. 91-02-092 (Order 3129), § 388-47-030, filed 12/31/90, effective 1/31/91.]

WAC 388-47-050 Employability plan. (1) The employability plan will be developed jointly with the participant within a reasonable time period from the date the participant volunteers for JOBS employment and training services. To the maximum extent possible an employability plan will identify and respond to the participant's support service needs, educational, training and occupational skills, aptitudes and preferences. An employability plan shall include, but not be limited to:

(a) An employment goal;

(b) Necessary supportive services to enable JOBS participation;

(c) JOBS activities and components to be undertaken; and

(d) Labor market information related to the identified goal including:

(i) Average wage for the goal occupation.

(ii) Wage needed for economic self sufficiency for the participant.

(2) The plan will identify components necessary to achieve self sufficiency when a goal has been specified.

[Statutory Authority: RCW 74.04.050. 91-02-092 (Order 3129), § 388-47-050, filed 12/31/90, effective 1/31/91.]

WAC 388-47-070 JOBS program--Priority of services. Participation in JOBS activities shall be in accordance with the priorities of service set forth in this section and based on criteria for approval of participation in individual JOBS components.

(1) The contractor shall give first priority for participation to volunteers in the target groups. Target groups include:

(a) An AFDC recipient and applicant who received AFDC assistance for thirty-six or more of the preceding sixty months;

(b) A custodial parent under twenty-four years of age who did not complete high school and is not enrolled in high school, or a high school equivalent, at the time of application;

(c) A custodial parent under twenty-four years of age having little or no work experience in the preceding year; or

(d) A member of a family where the youngest child is within two years of ineligibility for AFDC because of age.

(2) The contractor shall give second priority to other volunteers.

(3) The contractor shall give third priority to nonexempt persons in a target group who do not volunteer.

(4) The contractor shall give fourth priority to other nonexempt persons who do not volunteer.

(5) An AFDC applicant or recipient may volunteer for one or more JOBS components.

[Statutory Authority: RCW 74.04.050, 91-02-092 (Order 3129), § 388-47-070, filed 12/31/90, effective 1/31/91.]

WAC 388-47-100 JOBS program--Participation requirements and exemptions. (1) Applicants for, and recipients of, AFDC shall participate in JOBS activities including orientation, assessment, and employability development planning as a condition of eligibility for receipt of AFDC benefits, provided:

(a) All volunteers statewide for JOBS activities have been served or have been offered substantive JOBS program participation;

(b) There is a JOBS program administered in the community services office in the area the applicant or recipient resides; and

(c) The department guarantees child care and other support services necessary for participation in JOBS activities for approved plans and in accordance with the approved plan.

(2) A person shall be considered exempt and shall not be required to participate in JOBS if the person is:

(a) A child under sixteen years of age or under eighteen years of age attending full time elementary, secondary, vocational, or technical school;

(b) Ill, when the department determines on the basis of medical evidence or other sound basis, the illness or injury is serious enough to temporarily prevent entry into employment or training;

(c) Incapacitated, when the department verifies a physical or mental impairment, a physician or licensed or certified psychologist determines the incapacitation prevents the individual from engaging in employment or training under JOBS. This may include a period of recuperation after childbirth if prescribed by a physician;

(d) Sixty years of age or older;

(e) Residing in a location remote from a JOBS services site:

(i) A location is remote when a person must spend two hours or more round trip by reasonably available public or private transportation, exclusive of time necessary to transport a child to and from a child care facility; however

(ii) When normal round-trip commuting time in the area is two hours or more, the round-trip commuting time shall not exceed the accepted community standards.

(f) Needed in the home to care for another ill or incapacitated household member, as a physician or a licensed or certified psychologist determines, and no other appropriate member of the household is available to provide the needed care;

(g) Working thirty or more hours a week;

(h) In the last six months of pregnancy, as medically verified beginning with the month following the month of required participation;

(i) The parent or other caretaker relative of a child two years of age or younger and personally providing care for the child; or

(j) The parent or other caretaker relative personally providing care for a child five years of age or younger unless the department assures:

(i) Child care is guaranteed; and

(ii) Participation in JOBS is not required for more than twenty hours per week.

(A) Only one parent or other caretaker relative in a case may be exempt under WAC 388-47-100 (2)(i).

(B) When a family is eligible for AFDC by reason of the unemployment of the parent who is the principal earner, only one parent may be exempt under WAC 388-47-100 (2)(i).

(k) A full-time volunteer serving under the Volunteers In Service to America (VISTA), under Title I of the Domestic Volunteer Service Act of 1973.

(3) The department shall:

(a) Reevaluate an exemption when the condition is expected to terminate, but no less frequently than at the redetermination of AFDC eligibility; and

(b) Promptly notify the recipient and appropriate service providers of a change in the recipient's exemption status.

(4) An applicant or recipient, claiming exemption from JOBS participation requirements, shall be considered exempt until the department determines the status.

(5) Indian tribes operating a tribal JOBS program shall determine exemption and participation requirements of their tribal members applying for or receiving AFDC.

(6) An applicant or recipient of AFDC shall not be required to participate in the JOBS program until notified by the department or the tribal entity operating a tribal JOBS program.

(7) When a qualifying parent in an AFDC-E family refuses or fails without good cause to participate in the JOBS program as required, the second parent shall be required to participate.

[Statutory Authority: RCW 74.04.050, 91-02-092 (Order 3129), § 388-47-100, filed 12/31/90, effective 1/31/91.]

WAC 388-47-105 JOBS program--Required notices. (1) The department shall at the time of application or redetermination inform AFDC applicants and recipients, in writing and orally, of the availability of JOBS program activities and supportive services they are eligible for, and agency and participant responsibilities, including:

(a) Education, employment and training;

(b) Supportive services including, but not limited to, informing of available child care options, how to select, obtain and assist in obtaining appropriate child care, child care during participation, transitional child care, transitional health care, transportation and other work-related services;

(c) The rights, responsibilities, and obligations of participants, including but not limited to:

(i) Grounds for exemption from participation;

(ii) Consequences for refusing or failing to participate, including the effect on volunteers; and

(iii) Requirement that the second parent in an AFDC-E family participate in JOBS if the qualifying

parent is required to participate and fails or refuses to do without good cause, and consequences for failure of the second parent to so participate.

(d) The types and locations of child care services reasonably accessible to participants; and

(e) The obligation of the department to provide services to participants under this section.

(2) The department shall provide written notice to applicants and recipients of AFDC of the opportunity to participate in JOBS:

(a) Within one month of the determination of eligibility for AFDC; and

(b) Provide a clear description of how to enter the JOBS program.

[Statutory Authority: RCW 74.04.050. 91-02-092 (Order 3129), § 388-47-105, filed 12/31/90, effective 1/31/91.]

WAC 388-47-107 Notice of employability plan decisions. (1) Participants shall be notified in writing of decisions regarding the denial of employability plan activities including intentions to terminate services to support a plan. Such notification shall include:

(a) Activities denied;

(b) Specific reasons for each denial; and

(c) Amount of funds, level or other services denied.

(2) Participants shall be notified within ten days of the decision of denial.

(3) Participants shall be informed in the written notice of their right to appeal any part of the decision.

[Statutory Authority: RCW 74.04.050. 91-02-092 (Order 3129), § 388-47-107, filed 12/31/90, effective 1/31/91.]

WAC 388-47-110 JOBS program--Education participation. (1) The department will encourage a custodial parent to engage in an educational activity designed to achieve a high school education or qualify for a high school equivalency certificate when the custodial parent is not yet twenty years of age, has not completed a high school education or its equivalent, and is not otherwise exempt from participation.

(a) For purposes of subsection (1) of this section, custodial parent means the parent living with the child, including custodial parents exempt because of the youngest child's age.

(b) The contractor will encourage the custodial parent's full-time participation, as defined by the educational provider, in educational activities directed toward the attainment of a high school diploma or its equivalent. This includes a person who may be exempt because of the youngest child's age.

(c) The contractor may exclude a seventeen years of age or younger custodial parent from this provision providing any of the following exist:

(i) The determination is based upon an individual assessment, and does not rely solely on grade completion; or

(ii) The person is participating in another activity which will lead to self-sufficiency; or

(iii) The school or training institution refuses to admit the participant and alternative resources are not available; or

(iv) Provision is made for the individual to engage in an educational activity, or in skills training combined with education.

(d) The contractor will encourage a custodial parent eighteen or nineteen years of age to participate in training or work activities, subject to the twenty hour limit in WAC 388-47-100 (2)(j)(ii), instead of educational activities required in subsection (1) of this section if one of the following conditions is met:

(i) The parent fails to make good progress in the educational activity; or

(ii) The contractor determines, based on an educational assessment and the employment goal, participation in educational activities is inappropriate for the parent. Such determination must occur before an educational activity assignment and must be based on an employment goal described in the employability plan.

(2) The contractor will encourage full-time participation, as defined by the educational provider, in educational activities directed toward the attainment of a high school diploma or its equivalent for a person twenty years of age or older, not having a high school diploma or the equivalent, and not otherwise exempt from JOBS participation.

(3) The contractor will encourage educational activities as one component in a JOBS participant's employability plan, in accordance with the priorities in WAC 388-47-070.

[Statutory Authority: RCW 74.04.050. 91-02-092 (Order 3129), § 388-47-110, filed 12/31/90, effective 1/31/91.]

WAC 388-47-115 Funding approval of education and JOBS components. (1) For the purpose of plan approval initial approving authority begins with the employment security department. The department of social and health services shall:

(a) Review approved plans within 30 calendar days of initial approval.

(b) Review disapproved plans within ten calendar days of denial.

(c) Review if the plan clearly violates department policy or whether the department has information which clearly indicates a concern with the plan.

(d) Joint agency administrative review will be conducted at the local level of any initial approval with which the department does not concur.

(2) The contractor shall limit plan approval subject to the availability of funds and to a specific component.

(3) Funding approval for child care participants in a tribal JOBS program shall be subject to the provisions of this section.

(4) The contractor shall fund approvable JOBS plan components in accordance with the following priorities:

(a) First priority shall be given to participants in an approved educational, training or employment plan whose OPPORTUNITIES or JOBS plan is in process and is being reauthorized;

(b) Second priority shall be given to volunteers included in the target groups specified under WAC 388-47-070(1);

(c) Third priority shall be given to job ready participants volunteering for intensive job search, on-the-job training or the work supplementation program, if such participation will provide a direct path to employment;

(d) Fourth priority shall be given to all other recipients.

(5) The contractor shall create a local obligational register and a local waiting list for the JOBS program. The waiting list shall be ranked by priority. Ranking within each priority shall be on a first come first served basis using the date of request for participation in JOBS.

(6) If the funds appropriated for JOBS are available, the contractor shall approve the plan for the highest ranked person on the waiting list and obligate sufficient funds from the obligational register to cover the cost of:

(a) Training or education, component costs, child care, and support services necessary to complete the approved plan; or

(b) For participants in a tribal JOBS program, the cost of child care necessary to complete the approved plan.

(7) The contractor shall limit plan approval through the end of the state biennium. In obligating funds, the contractor shall obligate funds through the completion of the plan or the end of the biennium, whichever is earlier. Priority for subsequent years is established in subsection (4) of this section.

(8) The contractor's approval of a plan shall be by specific components. Requests to change to another component shall be subject to the availability of funds and other applicable criteria for component approval. If the contractor does not approve a change in components because of lack of funds, the contractor shall place the person on waiting list.

(9) For self-initiated training that is approvable, the contractor will place the person on the local waiting list and if funds are available provide necessary child care and support services as provided in the approved plan. The contractor shall not pay for tuition, books, or other fees.

(10) A participant may choose to participate in training without child care and support services. For such persons, the contractor shall:

(a) Place the person on the local waiting list;

(b) Approve the plan subject to review of child care and support service needs when partial funds are available; and

(c) At such time as funds are available to fund the remainder of the plan, support services will be offered.

(11) Participants shall utilize other funding sources such as Pell grants before JOBS funds are used. Plan approval shall be pended until grant or aid resources have been determined.

(12) Total JOBS costs shall not exceed the maximum of four thousand five hundred dollars per participant excluding child care.

[Statutory Authority: RCW 74.04.050, 91-02-092 (Order 3129), § 388-47-115, filed 12/31/90, effective 1/31/91.]

WAC 388-47-120 JOBS program--Other education and training. (1) Post secondary education is an appropriate plan for:

(a) Recipients who have completed high school and been tested for literacy; and

(b) Recipients who have demonstrated an aptitude for the education or training proposed; and

(c) Recipients whose long term goal requires substantial additional education and training.

(2) Post secondary education included in the employability plan shall be approved on a first come, first served basis within available funds. Plans denied for lack of funding will be placed on a waiting list.

(3) The contractor may approve post-secondary education included in the employability plan except when an assessment does not support the plan for any of the following reasons:

(a) The contractor is not allowed to approve education or training at a pervasively sectarian institution. A pervasively sectarian institution is defined by any of the following:

(i) Mandates chapel attendance; or

(ii) Requires prayer as a part of class attendance; or

(iii) Hires staff or faculty on the basis of religious affiliation.

(b) Objective indicators such as tests or prior high school completion determine the participant lacks the aptitude, skills, and abilities to complete the training;

(c) The participant possesses skills to support her family or to achieve self-sufficiency in the current local labor market;

(d) The occupational goal would not lead to self-sufficiency;

(e) Comparable training is available at lower cost to the JOBS program from another institution or employer;

(f) The participant does not meet the definition of satisfactory progress; or

(g) The component includes post-graduate education other than a teaching certificate.

(4) Participants may pursue post-secondary education which is not approved by the contractor. Such training may be approved by the JOBS program if sufficient progress toward self-sufficiency can be demonstrated.

(5) The contractor may terminate services in support of an approved activity if the participant does not maintain satisfactory progress as specified in the employability plan or does not participate in the educational or training activity.

(a) If support services are terminated an alternative plan shall be offered; and

(b) Termination of support services requires advance written notice;

(c) Eligibility for child care, transportation, and other support services shall be in accordance with applicable WAC;

(d) Participants shall have the right to appeal decisions made under this subsection through the fair hearings process.

(6) The contractor may approve self-initiated training subject to the same criteria as training developed as part

of the employability plan process. The following conditions apply to the participant's self-initiated training:

(a) If the contractor approves self-initiated training or education, other JOBS activities may not be permitted to interfere with the approved education or training; and

(b) The JOBS program shall not pay the costs of tuition, books and fees for self-initiated training or education.

[Statutory Authority: RCW 74.04.050. 91-02-092 (Order 3129), § 388-47-120, filed 12/31/90, effective 1/31/91.]

WAC 388-47-125 JOBS program--Community work experience program. An AFDC recipient may volunteer for the community work program (CWEP) component. CWEP is offered in the Mount Vernon and Wenatchee community services offices.

(1) CWEP may be an appropriate component for a participant who has:

(a) Achieved basic literacy and high school completion, or who has spent at least six months making an effort to achieve such completion; or

(b) Little or no recent work experience.

(2) Component approval will be based on a determination that:

(a) Component participation will assist the participant in achieving self-sufficiency;

(b) Component content is appropriate in order to access employment available, or projected to be available, in the local labor market;

(c) Participant can be reasonably expected to achieve completion of the component;

(d) Component is reasonable accessible within the local labor market; and

(e) Assignments to CWEP positions take into consideration the participant's prior training, proficiency, experience, skills, basic literacy, interests, and barriers to employment; and

(f) Component participation meets the conditions of funding in WAC 388-47-115.

(3) The contractor shall provide for coordination among CWEP and other JOBS component activities ensuring job placement has priority over participation in CWEP.

(4) A participant's CWEP component shall be limited to projects serving a useful public purpose in public or private nonprofit agencies.

(5) The maximum number of hours in a month a person is scheduled to work in a CWEP position is the number of hours resulting from dividing the family's AFDC monthly grant by the greater of:

(a) Federal minimum wage; or

(b) Applicable state minimum wage;

(c) The rate of pay for individuals employed in the same or similar occupation by the same employer at the same site.

(6) A person should not be assigned to a CWEP position for more than nine months and participation in this component may be for less than nine months.

(7) The maximum number of hours in a month a person may be required to participate in CWEP shall not exceed one hundred twenty-four hours.

(8) That portion of a recipient's aid the state is reimbursed by a child support collection except for the fifty dollars pass-through shall be excluded in determining the maximum number of hours worked.

(9) The contractor shall:

(a) Provide for a reassessment and revision, as appropriate, of the participant's employability plan after each six months of CWEP participation;

(b) Ensure CWEP positions do not fill established, unfilled position vacancies in the work site;

(c) Require appropriate standards of health, safety, and other reasonable conditions applicable to the work performance;

(d) Ensure a participant is not required to perform tasks in a way related to political, electoral, or partisan activities, or which would result in displacement of a person currently employed, or which involve religious or sectarian activities.

(e) Ensure a position has 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 an employee and an employer;

(f) Provide support services enabling a person's participation, according to provisions in chapter 388-51 WAC;

(g) Not require the use of the participant's assistance or income or resources to pay participation costs;

(h) Ensure CWEP assignments shall not require a participant to travel unreasonable distances from home or to remain away from home overnight without the participant's consent; and

(i) Ensure agencies utilizing CWEP participants provide worker's compensation coverage through the department of labor and industries.

[Statutory Authority: RCW 74.04.050. 91-02-092 (Order 3129), § 388-47-125, filed 12/31/90, effective 1/31/91.]

WAC 388-47-127 JOBS program--Work experience. An AFDC recipient may volunteer for participation in the work experience (WEX) component.

(1) WEX may be an appropriate component for a participant who has:

(a) Achieved basic literacy and high school completion, or who has spent at least six months making an effort to achieve such completion; and

(b) Little or no work experience.

(2) Component approval will be based on a determination that:

(a) Component participation will assist the participant in achieving self-sufficiency;

(b) Component content is appropriate in order to access employment available, or projected to be available in the local labor market;

(c) Participant can be reasonably expected to achieve completion of the plan;

(d) Component is reasonable accessible within the local labor market; and

(e) Meets conditions of funding in WAC 388-47-115; and

(f) WEX placements take into consideration the participant's prior training, proficiency, experience, basic literacy, interests, and barriers to employment.

(3) The contractor shall provide coordination among WEX and other JOBS component activities ensuring an AFDC recipient's job placement has priority over participation in WEX.

(4) The contractor shall limit WEX assignment to projects serving a useful public purpose in public and private non-profit organizations.

(5) The contractor shall limit WEX assignments to not more than twenty-six weeks per enrollment.

(6) The contractor shall assure;

(a) An assessment is provided following the completion of each WEX;

(b) Support services will be provided to WEX participants according to chapter 388-51 WAC;

(c) Agencies providing recipients WEX opportunities shall offer Workers' Compensation coverage on the same basis as regular employees;

(d) WEX provides appropriate standards of health, safety, and other reasonable working conditions at the work site;

(e) Participants are not required to perform tasks related to, political or partisan activities;

(f) WEX positions shall not exist as the result of a strike, lockout, or other bona fide labor dispute, and shall not violate any existing labor agreement between an employee and the employer;

(g) WEX positions shall not result in the displacement of a currently employed person;

(h) A participant shall not be required to use income or resources to pay participation costs; and

(i) WEX assignments shall not require a participant to travel unreasonable distances from home or to remain away from home overnight without the participant's consent.

(7) WEX assignments shall not be for more than one hundred twenty-four hours in any month.

[Statutory Authority: RCW 74.04.050. 91-02-092 (Order 3129), § 388-47-127, filed 12/31/90, effective 1/31/91.]

WAC 388-47-130 JOBS program readiness training--Job readiness training--Intensive job search. (1) A person may volunteer to participate in intensive job readiness training or job search. Job readiness training will generally precede intensive job search.

(2) Job readiness training is appropriate for all recipients planning to enter a job search component. Those with a firm job lead, or with good job search skills may want to skip this component, but it will be made available to all recipients entering job search who want it.

(3) Job readiness training may include any of the following:

(a) Self-esteem building;

(b) Job search techniques;

(c) Resume writing skills;

(d) Skills on how to reach the hidden job market;

(e) Employer expectations; and

(f) Labor market information.

(4) Job search is appropriate for those recipients who have achieved basic literacy and high school completion, and who have recent work experience in the field they intend to look for work. Because entry into JOBS components is voluntary, those refusing other forms of education and training should be approved to look for work.

(5) Component approval will be based on a determination that:

(a) Component participation will assist the participant in achieving self-sufficiency;

(b) Component is appropriate in order to access employment available or projected to be available in the local labor market;

(c) Participant can be reasonable expected to achieve employment in the desired fields; and

(d) Meets the conditions of funding in WAC 388-47-115.

(6) For an initial intensive job search period, a person may participate in the program for eight consecutive weeks from the date the person makes a written request for AFDC providing:

(a) No person shall be required to participate in job search;

(b) The department may not delay the processing of a person's application for AFDC due to participation in job search; and

(c) The contractor may terminate job search if the assessment determines another JOBS activity is more appropriate.

(7) The subsequent job search component may not exceed eight weeks participation in any twelve-month period.

(8) The contractor may provide additional job search beyond that under subsections (1) and (2) of this section providing:

(a) Such job search shall be part of an education, training, or employment activity; and

(b) The job search is designed to improve the person's employment prospects; and

(c) The additional job search does not cause the participant to exceed the sixteen weeks of job search allowable in a twelve month period.

[Statutory Authority: RCW 74.04.050. 91-02-092 (Order 3129), § 388-47-130, filed 12/31/90, effective 1/31/91.]

WAC 388-47-135 JOBS program--On-the-job training. (1) This component is generally appropriate for those recipients who have completed high school, achieved basic literacy, and have work experience in the field they have chosen. However, they will generally have a training deficiency such as having worked on outdated equipment, or not having worked in the field in the last year.

(2) Component approval will be based on a determination that:

(a) Component participation will assist the participant in achieving self-sufficiency;

(b) Component content is appropriate in order to access employment available or projected to be available in the local labor market;

(c) Participant can be reasonably expected to complete the component;

(d) Component is reasonably accessible within the local labor market; and

(e) Meets the conditions of funding in WAC 388-47-115.

(3) A person may volunteer for on-the-job training (OJT), and shall be compensated:

(a) At the same rates, including benefits and periodic increases, as similarly situated employees or trainees; and

(b) In accordance with applicable law, but in no event less than the higher of the federal minimum wage or applicable state or local minimum wage law.

(4) Those OJT participants eligible for AFDC will receive support services and child care as approved for this component.

(5) If an OJT participant becomes ineligible for AFDC due to earned income rules or, in the case of a principal earner in an unemployed parent case, the one hundred hour rule, such individual shall:

(a) Remain a JOBS participant for the duration of the OJT; and

(b) Be eligible for support services as described under chapter 388-51 WAC.

(6) The contractor shall ensure the participant's OJT assignments meet the following conditions:

(a) State, or local safety and health standards;

(b) Assignments are not related to political, electoral, religious, or partisan activities;

(c) The employer shall provide industrial insurance coverage as required under Title 51 RCW; and

(d) The employer shall provide a recipient unemployment compensation coverage as required under Title 50 RCW.

(7) No work assignment under this program shall result in:

(a) The displacement of any currently employed worker or position, including partial displacement such as a reduction in the hours of non-overtime work, wages, or employment benefits, or result in the impairment of existing contracts for services or collective bargaining agreements;

(b) The employment or assignment of a participant or the filling of a position when:

(i) Any other individual is on layoff from the same or any equivalent position; or

(ii) The employer has terminated the employment of any regular employee or otherwise reduced its workforce with the effect of filling the vacancy so created with a participant subsidized under the program.

(iii) The assignment is to free an established unfilled position vacancy in the work site.

(c) Any infringement of the promotional opportunities of any currently employed individual.

(8) Funds available to carry out the program may not be used to assist, promote, or deter union organizing.

WAC 388-47-140 JOBS program--Work supplementation program. The contractor may operate the work supplementation program (WSP) for JOBS participants. The contractor's WSP is a voluntary program and participants in WSP are considered employed and will receive support services and child care as appropriate to support the approved component.

(1) An eligible employer shall certify to the contractor that the employee's employment complies with the following conditions:

(a) Work conditions are reasonable and not in violation of applicable federal, state, or local safety and health standards;

(b) Assignments are not related to political, electoral, or partisan activities;

(c) The employer shall provide industrial insurance coverage as required under Title 51 RCW;

(d) The employer shall provide a participant unemployment compensation coverage as required under Title 50 RCW;

(2) No work assignment under this program shall result in:

(a) The displacement of any currently employed worker or position, including partial displacement such as a reduction in the hours of nonovertime work, wages, or employment benefits, or result in the impairment of existing contracts for services or collective bargaining agreements;

(b) The employment or assignment of a participant or the filling of a position when:

(i) Any other individual is on layoff from the same or any equivalent position; or

(ii) The employer has terminated the employment of any regular employee or otherwise reduced its workforce with the effect of filling the vacancy so created with a participant subsidized under the program.

(iii) The assignment is to free an established, unfilled position vacancy in the work site.

(c) Any infringement of the promotional opportunities of any currently employed individual.

(3) Funds available to carry out the program may not be used to assist, promote, or deter union organizing.

(4) When a job does not last six months following the subsidization period, the contractor shall recover state supplement wages from an employer from the beginning of the subsidization period unless the employee:

(a) Voluntarily quits; or

(b) Is discharged for good cause due to misconduct, felony, or gross misdemeanor as determined under chapter 50.20 RCW.

(5) Jobs shall have promotional opportunities or reasonable opportunities for an employee's wage increase.

(6) Employers shall pay fifty percent or more of the employee's total wages.

(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.

[Statutory Authority: RCW 74.04.050. 91-02-092 (Order 3129), § 388-47-135, filed 12/31/90, effective 1/31/91.]

[Statutory Authority: RCW 74.04.050. 91-02-092 (Order 3129), § 388-47-140, filed 12/31/90, effective 1/31/91.]

WAC 388-47-200 JOBS program—Good cause for refusal or failure to participate. (1) The department is responsible for determining whether a person has good cause for refusal or failure to participate in an assigned JOBS component or activity, or to accept or retain employment.

(2) The determination of good cause shall include, but is not limited to the department independently:

(a) Determining if the person intentionally refused or failed to participate in JOBS;

(b) Documenting efforts to resolve the issues prior to conciliation;

(c) Reviewing the case record to determine potential causes for refusal or failure to meet program requirements and if the person may have had good cause for non participation.

(3) Good cause shall include, but is not limited to:

(a) A person is the parent or other needy caretaker of a child five years of age or younger and the activity or employment requires such individual to work more than twenty hours per week. This subsection shall not apply to a person subject to provisions as required under WAC 388-47-110 (1) and (2);

(b) A person's employment results in the family of the participant experiencing a net loss of income. A net loss of income results if the family's gross income, less necessary work-related expenses, is less than the cash assistance the person was receiving before employment. The participant's grant income includes, but is not limited to, earnings, unearned income, and cash assistance;

(c) A person's physical, mental, or emotional inability to perform the required activity;

(d) A person's court-ordered appearance or temporary incarceration;

(e) Exigent personal or family circumstances which would interfere with successful participation;

(f) Breakdown in transportation arrangements, with no readily accessible alternate transportation;

(g) Inclement weather preventing a person, and others similarly situated, from traveling to or participating in the prescribed activity;

(h) Breakdown in child care arrangements, or child care not available enabling participation;

(i) The nature of the required activity is hazardous to the participant;

(j) A person's required activity interrupt a program in process for permanent rehabilitation or self-support or conflicts with an imminent likelihood of reemployment in the person's regular occupation;

(k) Nonreceipt of participation requirements or a notice of appointment with program staff;

(l) Availability of a position because of a labor dispute; or

(m) A person's refusal to accept major medical treatment, for example major surgery, needed for employability;

(n) Supportive services enabling participation are not available;

(o) A person is homeless;

(p) An employer discriminating in terms of age, sex, race, color, religion, national or ethnic origin, physical or mental handicap, political affiliation, or marital status;

(q) Working hours or nature of employment interfere with the participant's religious observances, convictions, or beliefs as a member of a bona fide religious organization;

(r) Work involves conditions in violation of applicable health and safety standards;

(s) The employment, or offer of employment, does not provide for workers' compensation or other benefits afforded to a person similarly situated working for the same employer;

(t) The employment would cause a person to violate the terms of the person's existing union membership;

(u) As a condition of employment, the person is required to join, resign from, or refrain from joining any legitimate labor organization; or

(v) The employment involves unreasonable demands or conditions, such as working without getting paid on schedule, or the employment exceeds the daily or weekly hours customary to the occupation;

(w) 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 or work experience, as participants do not receive a wage;

(x) 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 or work experience, which does not involve wages.

(4) If the department can not determine that good cause exists, it shall notify the person in writing of the opportunity to explain the circumstances, if any, which may constitute good cause for non participation in JOBS. The notice shall:

(a) Provide ten days advance notice of an appointment to discuss potential good cause;

(b) Provide a description of the program requirement the individual failed to meet;

(c) Inform the person of the right to provide an explanation of why they failed to meet the program requirement;

(d) Inform the person that lack of good cause may result in the AFDC grant being reduced;

(e) Inform the person of the right to conciliation;

(f) Inform the person that failure to respond to appointments to determine good cause will result in a good cause determination made from available information.

(5) If good cause is established and/or if the problem causing non compliance has been resolved the person shall be so notified in writing and when appropriate that the person can resume participation without further action.

[Statutory Authority: RCW 74.04.050. 91-02-092 (Order 3129), § 388-47-200, filed 12/31/90, effective 1/31/91.]

WAC 388-47-210 JOBS program--Sanctions for refusal or failure to participate. (1) When an AFDC recipient required to participate in the JOBS program refuses or fails to participate in JOBS without good cause, the following sanctions shall apply during the following periods:

(a) For the first failure to comply, until the failure to comply ceases;

(b) For the second such failure to comply, until the failure to comply ceases or three months, whichever is longer;

(c) For a subsequent failure to comply, until the failure to comply ceases, or six months, whichever is longer.

(2) Failure to participate is a consistent pattern of non-cooperation in JOBS and includes, but is not limited to:

(a) Failure to meet the requirements for orientation, assessment, and employability development planning;

(b) Not appearing for appointments with JOBS staff;

(c) Not appearing for appointments with other than JOBS staff when referred for employment related activity, including social services; or

(d) Not accepting or continuing any required JOBS component activity.

(3) During the sanction period, the department shall not take into account the:

(a) Person's needs in determining the family's need for assistance and the amount of the assistance payment; or

(b) If the individual is the qualifying parent in a family eligible for the AFDC due to an unemployed parent, needs of the second parent in determining the family's need for assistance and the amount of the assistance payment unless the second parent is participating in the JOBS program.

(4) If the person's is the only dependent child, the department shall not take into account the person's needs in determining the family's need for assistance and the amount of the assistance payment.

(5) If a sanction is applied to the only caretaker relative in the family, the department may continue to make payments:

(a) For the remaining members of the assistance unit in the form of protective payments; or

(b) If a protective payee cannot be identified, on behalf of the remaining members of the assistance unit, to the sanctioned caretaker relative.

(6) The department shall notify, in writing, a person whose failure or refusal continues for three months of the person's option to end the sanction. The department's notice shall advise the sanctioned person may terminate:

(a) The first or second sanction by participating in the JOBS program or accepting employment; and

(b) A subsequent sanction after six months have elapsed by participating in the program or accepting employment.

(7) Imposition of sanction shall be preceded by a timely written notice of adverse action pursuant to WAC 388-33-376. Such notice shall contain:

(a) An explanation of the reasons for the proposed action;

(b) The factual reasons for the determination that the person failed to participate in JOBS without good cause;

(c) An explanation of the rights to a fair hearing and continued benefits;

(d) An explanation of how the sanction can be terminated by complying with program requirements;

(e) In the case of a household receiving AFDC due to the unemployment of a parent, an explanation of the sanction and benefit reduction to the second parent and the right of that parent to stop application of the sanction against the second parent by participating in the JOBS program.

(8) No sanction shall be imposed until conciliation has been attempted.

[Statutory Authority: RCW 74.04.050. 91-02-092 (Order 3129), § 388-47-210, filed 12/31/90, effective 1/31/91.]

WAC 388-47-215 JOBS program--Complaints and grievances. (1) The contractor shall, at the time of assignment, inform a person volunteering for or participating in a JOBS activity or component of the person's right to file a complaint or grievance with the department regarding the person's participation.

(a) The department shall pursue the grievance in accordance with standard grievance procedures.

(b) The department shall further inform a person that filing such a complaint or grievance shall not preclude the person's rights to request a fair hearing by the department on the issue.

(2) An individual shall not be relieved of required JOBS activities pending the results of a filed grievance or request for a grievance hearing.

[Statutory Authority: RCW 74.04.050. 91-02-092 (Order 3129), § 388-47-215, filed 12/31/90, effective 1/31/91.]

WAC 388-47-220 JOBS program--Conciliation and fair hearings. (1) When the department has determined that a participant has refused or failed to participate without good cause in the JOBS program, the department shall conduct conciliation prior to the imposition of any sanction. Conciliation includes, but is not limited to:

(a) Identification of the problem;

(b) Review of case record to determine potential causes for refusal or failure to meet program requirements; and

(c) Efforts to resolve the issues.

(2) Prior to commencing conciliation the department must provide written notice containing:

(a) The matter in dispute;

(b) The person's right to a conciliation period not to exceed thirty calendar days from the date of notice;

(c) The scheduling of an interview;

(d) The consequences of failing to resolve the dispute;

(e) The right to a fair hearing if the dispute can not be resolved through conciliation.

(3) Such notice shall be mailed within ten working days of identification of the dispute by the participant or the department.

(4) Conciliation is designed to resolve disagreements or misunderstandings over JOBS participation before they result in a sanction. The department shall:

(a) Accomplish conciliation through a face-to-face meeting with the person;

(b) Arrange a telephone interview with the person if a face-to-face meeting is not possible;

(c) Continue conciliation if the participant is unable to be contacted. Additional attempts will be made and should continue for thirty days from the date of the first attempt is made;

(d) Conciliation should determine if the situation is a result of a misunderstanding or failed communication and can therefore be resolved;

(e) During the conciliation interview, explain the individual's rights and responsibilities under JOBS, including the consequences of continued refusal to participate;

(f) Specify a person aggrieved or disadvantaged by the conciliation process, or a decision resulting from the conciliation process, may appeal through the department's standard grievance or fair hearing process.

(5) If successfully resolved no additional adverse action is taken by the department.

(6) If unsuccessfully concluded, conciliation may be terminated at or before expiration of 30 days from commencement by one of the following methods:

(a) Written request by the person to terminate conciliation; or

(b) Documented reasons by JOBS staff indicating the dispute cannot be resolved by conciliation.

(7) Either the department or the JOBS participant can initiate conciliation. A participant may request conciliation of any dispute orally or in writing by notifying the department that conciliation is desired and specifying the matter to be addressed.

(8) When conciliation ends and a notice of adverse action is issued, the affected person may contest the department's proposed sanction. If the person's adverse action is not contested within ten days of issuance, the department's sanction shall be imposed under WAC 388-47-210.

(9) If a dispute is not resolved through conciliation, the department shall provide the person with an opportunity for a fair hearing. If the affected person requests a fair hearing, assistance may not be suspended, reduced, discontinued, or terminated until the fair hearing is concluded.

[Statutory Authority: RCW 74.04.050, 91-02-092 (Order 3129), § 388-47-220, filed 12/31/90, effective 1/31/91.]

WAC 388-47-300 Indian tribal JOBS programs. (1) A person on AFDC that is a member of an Indian tribe operating a tribal JOBS program, shall be referred to their tribal JOBS program if the person resides in the geographic area served by the tribal JOBS program.

(2) The tribe shall be responsible for determining a person's good cause for nonparticipation.

(3) The department shall remove from the AFDC grant the needs of a person whom the tribe determines has not participated and who did not have good cause for nonparticipation.

(4) Within available funding and on a first-come-first-serve basis, the department shall provide child care, according to chapter 388-51 WAC, necessary for a tribal member to participate in the tribe's JOBS program. Under chapter 388-51 WAC, a participant in the tribal JOBS program shall be eligible for transitional child care.

(5) A participant in the tribal JOBS program shall receive all other supportive services from the tribal JOBS program.

(6) As a condition of eligibility for AFDC, the department may require an applicant and recipient living within the designated service area of a tribal JOBS program to provide the department their membership status in that tribe. The department shall explain to the person the reason for the request is to determine whether the person is to receive JOBS services from the department or the tribe.

[Statutory Authority: RCW 74.04.050, 91-02-092 (Order 3129), § 388-47-300, filed 12/31/90, effective 1/31/91.]

Chapter 388-49 WAC
FOOD ASSISTANCE PROGRAMS
(Formerly chapter 388-54 WAC)

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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

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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 closure 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) The department shall fully translate into the primary language of the limited English proficient applicants and recipients:

(a) Written notices of denial, termination, or reduction of benefits; and

(b) Written requests for additional information.

(9) 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.

(10) 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) Individuals directly connected with the verification of immigration status of aliens applying for food stamp benefits, through the systematic alien verification for entitlements (SAVE) program, to the extent the information is necessary to identify the individual for verification purposes;

(c) Employees of the Comptroller General's Office of the United States for audit examination authorized by any other provision of law; and

(d) 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.

(11) The department shall use information obtained through the systematic alien verification for entitlements (SAVE) program only for the purposes of:

(a) Verifying the validity of documentation of alien status presented by an applicant;

(b) Verifying an individual's eligibility for benefits;

(c) Investigating whether participating households received benefits to which they were not entitled, if an individual was previously certified to receive benefits on the basis of eligible alien status; and

(d) Assisting in or conducting administrative disqualification hearings, or criminal or civil prosecutions based on receipt of food stamp benefits to which participating households were not entitled.

(12) 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.

(13) 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.

(14) The coupon allotment provided any eligible household shall not be considered income or resources for any purpose under any federal, state, or local laws.

(15) 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.

(16) 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. 89-18-058 (Order 2866), § 388-49-015, filed 9/1/89, effective 10/2/89; 89-07-001 (Order 2770), § 388-49-015, filed 3/2/89; 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:

(a) Department action or failure to act when the household properly and accurately reported all the household's circumstances to the department; or

(b) For households determined categorically eligible under WAC 388-49-180(1), department action or failure to act which resulted in the household's improper eligibility for public assistance, provided a claim can be calculated based on a change in net food stamp income and/or household size.

(3) "Administrative law judge" means an employee of the office of administrative hearings empowered to preside over adjudicative proceedings.

(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 residing with the household, except a person described under WAC 388-49-190 (2)(a), (b), (c), or (d), who is a:

(a) Person paying reasonable compensation to the household for lodging and meals; or

(b) Foster child.

(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 seventeen years of age or younger, 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) "Department" means the department of social and health services.

(17) "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.

(18) "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.

(19) "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 or nonservice-connected disability rated or paid as 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;
- (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;
- (f) Receives disability retirement benefits from a federal, state, or local government agency, because of a disability considered permanent under section 221(i) of the Social Security Act;
- (g) Receives an annuity payment as part of the Railroad Retirement Act of 1974 under:
- (i) Section 2 (a)(1)(iv) and is determined eligible to receive Medicare by the Railroad Retirement Board; or
- (ii) Section 2 (a)(1)(v) and is determined disabled based on the criteria under Title XVI of the Social Security Act; or
- (h) Is a recipient of disability-related medical assistance under Title XIX of the Social Security Act.
- (20) "Documentary evidence" means written confirmation of a household's circumstances.
- (21) "Documentation" means the process of recording the source, date, and content of verifying information.
- (22) "Elderly person" means a person sixty years of age or older.
- (23) "Eligible food" means, for a homeless food stamp household, meals prepared for and served by an authorized homeless meal provider.
- (24) "Entitlement" means the food stamp benefit a household received including a disqualified household member.
- (25) "Equity value" means fair market value less encumbrances.
- (26) "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.

(27) "Fair hearing" means an adjudicative proceeding in which the department hears and decides an applicant/recipient's appeal from the department's action or decision.

(28) "Fair market value" means the value at which a prudent person might sell the property if the person was not forced to sell.

(29) "Food coupon" means food stamps and the two terms are interchangeable.

(30) "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.

(31) "Food stamp monthly reporting cycle" means the budget month, the process month, and the payment month.

(32) "Gross income eligibility standards" means one hundred thirty percent of the federal poverty level for the forty-eight contiguous states.

(33) "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.

(34) "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.

(35) "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.

(36) "Homeless individual" means an individual lacking a fixed and regular nighttime residence or an individual whose primary nighttime residence is a:

(a) Supervised shelter designed to provide temporary accommodations;

(b) Halfway house or similar institution that provides temporary residence for individuals needing institutionalization;

(c) Temporary accommodation in the residence of another individual; or

(d) Place not designed for, or ordinarily used as, a regular sleeping accommodation for humans.

(37) "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 food and nutrition service (FNS).

(38) "Household" means the basic client unit in the food stamp program.

(39) "Household disaster" means when food purchased with food stamps are destroyed by a natural disaster, such as flood, fire, etc.

(40) "Identification card" means the document identifying the bearer as eligible to receive and use food stamps.

(41) "Inadvertent household error overissuance" means any overissuance caused by either:

(a) Misunderstanding or unintended error by a household:

(i) Not determined categorically eligible under WAC 388-49-180(1); or

(ii) Determined categorically eligible under WAC 388-49-180(1) if a claim can be calculated based on a change in net food stamp income and/or household size; or

(b) Social Security Administration action or failure to take action which resulted in the household's categorical eligibility, if a claim can be calculated based on a change in net food stamp income and/or household size.

(42) "Ineligible household member" means the member 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;

(e) Status as an ineligible student; or

(f) Failure to sign the application attesting to the member's citizenship or alien status.

(43) "Institution" means any place of residence (private or public) providing maintenance and meals for two or more persons.

(44) "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.

(45) "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.

(46) "Intentional program violation overissuance" means any overissuance caused by an intentional program violation.

(47) "Live-in attendant" means an individual residing with a household to provide medical, housekeeping, child care, or other similar personal services.

(48) "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.

(49) "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.

(50) "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.

(51) "Net income eligibility standard" means the federal income poverty level for the forty-eight contiguous states.

(52) "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.

(53) "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 to employees by employer in order to resist demands of employees, e.g., a lockout.

(54) "Offset" means reduce restored benefits by any overissue (claim) owed by the household to the department.

(55) "Overissuance" means the amount of coupons issued to a household in excess of the amount eligible to receive.

(56) "Overpayment" means the same as "overissuance" and shall be the preferred term used in procedures.

(57) "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.

(58) "Period of intended use" means the period for which an FCA or food coupon is intended to be used.

(59) "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.

(60) "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.

(61) "Project area" means the county or similar political subdivision designated by the state as the administrative unit for program operations.

(62) "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.

(63) "Prospective eligibility" means the determination of eligibility based on prospective budgeting rules and other household circumstances anticipated during the month of issuance.

(64) "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.

(65) "Quality control review period" means the twelve-month period from October 1 of each calendar year through September 30 of the following calendar year.

(66) "Recent work history" means receipt of earned income in one of the two months prior to the payment month.

(67) "Recertification" means approval of continuing benefits based on an application submitted prior to the end of the current certification period.

(68) "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.

(69) "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.

(70) "Retrospective eligibility" means the determination of eligibility based on retrospective budgeting rules and other circumstances existing in the budget month.

(71) "Roomer" means an individual to whom a household furnishes lodging, but not meals, for compensation.

(72) "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.

(73) "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.

(74) "Shelter for battered women and children" means a public or private nonprofit residential facility serving battered women and children.

(75) "Sibling" means a natural, adopted, half brother or stepbrother or natural, adopted, half sister or stepsister.

(76) "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.

(77) "Sponsored alien" means an alien lawfully admitted for permanent residence.

(78) "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.

(79) "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.

(80) "Student" means any person:

(a) At least eighteen but less than sixty years of age,

(b) Physically and mentally fit for employment, and

(c) Enrolled at least half time in an institution of higher education.

(81) "Systematic alien verification for entitlements (SAVE)" means the immigration and naturalization service (INS) program whereby the department may verify the validity of documents provided by aliens applying for food stamp benefits by obtaining information from a central data file.

(82) "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.

(83) "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 AFDC grant as the person's own payee;

(b) Receiving, as the person's own payee, gross income equal to, or exceeding, the AFDC grant payment standard as described under WAC 388-29-100 (3)(b); or

(c) Married.

(84) "Vehicle" means any device for carrying or conveying persons and objects, including travel by land, water, or air.

(85) "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.

(86) "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 74.04.510. 90-12-057 (Order 3015), § 388-49-020, filed 5/31/90, effective 7/1/90; 89-18-035 (Order 2854), § 388-49-020, filed 8/29/89, effective 9/29/89; 89-07-001 (Order 2770), § 388-49-020, filed 3/2/89. 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.

(6) The department shall require the following persons to sign the application attesting to their citizenship or alien status:

- (a) Each adult household member;
- (b) An adult household member for household members under eighteen years of age; and

(c) The applicant, in the absence of an adult household member, for all household members under eighteen years of age.

[Statutory Authority: RCW 74.04.510. 89-07-001 (Order 2770), § 388-49-030, filed 3/2/89. 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 accept one application from a household applying for food stamps and public assistance at the same time.

- (2) When a household files an application requesting public assistance and food stamps, the department shall:
- (a) Conduct a single interview at initial application;
 - (b) Not delay food stamp benefits pending determination of public assistance eligibility; and
 - (c) Not require a new food stamp application filing if the department denies the public assistance request.
- (3) The department shall not require a new food stamp application if the department terminates public assistance eligibility during a certification period.
- (4) The department shall provide food stamps, effective the date of application, to categorically eligible households:
- (a) Not denied food stamps; and
 - (b) Determined categorically eligible within the time limits specified under WAC 388-49-120 and 388-49-150.
- (5) The department shall re-evaluate, within sixty days from the application date, any food stamp application from a household:
- (a) Applying for both food stamps and AFDC or SSI; and
 - (b) Denied food stamps before a positive AFDC or SSI eligibility determination.
- (6) The department shall provide food stamp benefits, effective the AFDC eligibility date, for households:
- (a) Filing joint applications; and
 - (b) Found categorically eligible after being denied nonassistance food stamps.

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[Statutory Authority: RCW 74.04.510. 90-12-056 (Order 3014), § 388-49-070, filed 5/31/90, effective 7/1/90; 89-18-027 (Order 2855), § 388-49-070, filed 8/29/89, effective 9/29/89. 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 a destitute migrant or seasonal farm worker whose liquid resources do not exceed one hundred dollars.
- (2) The department shall provide food stamps to households eligible for expedited service 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 applicant's identity through readily available documentary evidence, or if this is unavailable, through a collateral contact; or
- (b) Verify the identity of the authorized representative who applies on behalf of the household; and
- (c) Make a reasonable effort to complete verification as described in WAC 388-49-110 within the expedited processing standards;
- (d) Require the applicant to register for work unless exempt or the authorized representative is applying for the household;
- (e) Attempt to register other nonexempt household members for work without delaying expedited benefits;
- (f) Issue benefits within five calendar days for expedited service; and
- (g) Assist the household in obtaining necessary verification.

(5) The department shall certify an expedited service household:

- (a) Based on certification periods in WAC 388-49-160 when all necessary verification is provided; or
 - (b) For one month when necessary verification is postponed; or
 - (c) For the month of application and the second month when:
 - (i) Verification is postponed; and
 - (ii) The application is received on or after the sixteenth of the month.
- (6) The department shall, after postponed verification is received for cases certified under subsection (5)(c), issue the second month's benefits:

(a) Within five working days from receipt of the verification; or

(b) The first working day of the second month, whichever is later.

(7) There is no 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.

(8) 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 74.04.510. 90-23-072 (Order 3097), § 388-49-080, filed 11/20/90, effective 12/21/90; 90-12-055 (Order 3013), § 388-49-080, filed 5/31/90, effective 7/1/90. 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.]

(1990 Ed.)

WAC 388-49-110 Verification. (1) The department shall verify household eligibility from the following sources:

(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 and the head of household.

(b) Immigration status of all alien household members;

(c) Residency;

(d) Gross nonexempt income;

(e) [Actual] utility expenses in excess of the standard utility allowance as specified in WAC 388-49-505;

(f) Medical care expenses;

(g) Dependent care expenses;

(h) Disability; and

(i) Resources of an alien's sponsor.

(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(6);

(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 74.04.510. 90-23-073 (Order 3098), § 388-49-110, filed 11/20/90, effective 12/21/90; 89-07-001 (Order 2770), § 388-49-110, filed 3/2/89. Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-110, filed 12/31/87.]

Reviser's note: RCW 34.05.395 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 388-49-120 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.

[Title 388 WAC—p 231]

(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.

[Title 388 WAC—p 232]

(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, except when:

(a) The entire household is:

(i) Institutionalized;

(ii) Disqualified for any reason from receiving food stamps; or

(iii) Terminated due to failure to comply with monthly reporting requirements under WAC 388-49-590.

(b) Any member is disqualified for an intentional program violation; or

(c) The head of the household is disqualified for failure to comply with work registration requirements.

(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.

[Statutory Authority: RCW 74.04.510. 90-12-058 (Order 3016), § 388-49-180, filed 5/31/90, effective 7/1/90. 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 living alone;

(b) A person living with others and purchasing and preparing 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, elderly person unable to prepare meals provided the:

(i) Person's spouse shall be included in the household; and

(ii) Income of other individuals, except the person's spouse, living with the person does not exceed one hundred sixty-five percent of the poverty level.

(e) A person who is the parent of a child seventeen years of age or younger, along with that person's child and spouse, if the person and the person's child are:

(i) Living 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 the person's natural, adoptive, or stepchild, or the child 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 separate from the sibling.

(2) The department shall not grant separate household status to:

(a) A child seventeen years of age or younger, and under parental control of a member of the household;

(b) A parent living with the parent's natural, adoptive, or stepchild, or the child living with the parent unless the child and parent qualify as separate households as described under WAC 388-49-190 (1)(d), (e), (f), or (g);

(c) A spouse of a household member;

(d) Siblings unless they qualify as separate households as described under WAC 388-49-190 (1)(d), (e), (f), or (h);

(e) A boarder.

(3) The department shall consider the following persons living 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 living 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;

(e) Persons who are ineligible students; or

(f) Persons who fail to sign the application attesting to their citizenship or alien status.

[Statutory Authority: RCW 74.04.510. 90-14-064 (Order 3033), § 388-49-190, filed 6/29/90, effective 8/1/90; 89-07-001 (Order 2770), § 388-49-190, filed 3/2/89. 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 388-49-200 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 residing with the household, except a person described under WAC 388-49-190 (2)(a), (b), (c), or (d), who is:

(a) A person paying reasonable compensation to the household for lodging and meals; or

(b) A foster child.

(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 any boarder in the food stamp household, at the household's request.

(5) Residents of a commercial boarding home are not eligible for food stamps.

[Statutory Authority: RCW 74.04.510. 89-05-032 (Order 2762), § 388-49-250, filed 2/13/89. 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.

(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) The department shall require applicants to sign the application attesting to their citizenship or alien status as described under WAC 388-49-030(6).

(2) The department shall consider applicants failing to meet the requirements of subsection (1) of this section as ineligible household members under WAC 388-49-190(4), 388-49-420(5), and 388-49-480(2).

(3) Except for subsection (4) of this section, the department shall require persons participating in the food stamp program to 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 before 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 under 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 under sections 203 (a)(7), 207, and 208 of the Immigration and Nationality Act; or

(e) An alien qualified for conditional entry before March 18, 1980, under former section 203 (a)(7) of the Immigration and Nationality Act; or

(f) An alien granted asylum through an exercise of discretion by the attorney general under section 208 of the Immigration and Nationality Act; or

(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 under 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 withheld deportation, under section 243 of the Immigration and Nationality Act, because the attorney general judges the alien is subject to persecution because of race, religion, or political opinion; or

(i) An alien having temporary resident status as a special agricultural worker under section 210 of the Immigration and Nationality Act.

(4) The department shall consider aliens legalized under section 245A of the Immigration and Nationality Act ineligible for five years after attaining temporary resident status except for aliens who:

(a) Attain permanent resident status; and

(b) Are aged, blind, or disabled as defined under section 1614 (a)(1) of the Social Security Act.

(5) 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.

(6) An applicant shall be ineligible until:

(a) Questionable citizenship is verified; or

(b) Lawful alien status is verified.

(7) 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.

(8) 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 a known deportation order of the Immigration and Nationality Act.

(9) Lawfully admitted aliens who are ineligible include:

- (a) Alien visitors,
- (b) Tourists,
- (c) Diplomats, and
- (d) Students with temporary status.

[Statutory Authority: RCW 74.04.510. 89-16-106 (Order 2836), § 388-49-310, filed 8/2/89, effective 9/2/89; 89-07-001 (Order 2770), § 388-49-310, filed 3/2/89. 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, defined under 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 the Social Security number or numbers (SSN) for each member of the household; 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 an 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 an SSN application has not been completed in a timely manner. The following criteria shall determine good cause:

(a) Good cause shall exist when:

(i) Documentary evidence or collateral information verifies the person has attempted to apply for an SSN; and

(ii) The person has made every effort to supply Social Security Administration with necessary information.

(b) 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 the household member to continue on the food stamp program.

(8) The department shall not delay certification of an eligible household for verification of an SSN.

(9) The department shall determine the whole household to be ineligible if, after being notified an SSN was returned by the Social Security Administration (SSA) as not validated, the household refuses to provide the:

(a) Correct information; or

(b) Information SSA needs to verify the SSN.

[Statutory Authority: RCW 74.04.510. 89-16-063 (Order 2835), § 388-49-320, filed 7/31/89, effective 8/31/89. 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 under WAC 388-49-020, shall meet one of the following criteria to receive food stamps:

(a) Work and receive payment for a minimum of twenty hours per week. A self-employed student's minimum weekly earnings shall at least be equal to the federal minimum hourly wage multiplied by twenty hours;

(b) Receive money from a federal or state work study program during the regular school year;

(c) Be responsible for the care of a dependent household member under [age] six years of age;

(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 department 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 74.04.510. 89-16-107 (Order 2837), § 388-49-330, filed 8/2/89, effective 9/2/89. Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-330, filed 12/31/87.]

Reviser's note: RCW 34.05.395 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 388-49-340 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 (E&T) program services. (1) Unless exempt, the department shall register each individual between eighteen and sixty years of age, for employment at certification and once every twelve months thereafter. The department shall register a child reaching eighteen years of age during a certification period for work during the next recertification process.

(2) The department shall register sixteen and seventeen-year-old heads of households for employment unless the individuals are:

- (a) Attending school; or
 - (b) Enrolled in an E&T program at least half time.
- (3) The department shall exempt from work registration a person:
- (a) Physically or mentally unfit for employment;
 - (b) Responsible 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, apply the exemption until the next recertification;

(c) Applying for or receiving unemployment compensation (UC);

(d) Subject to and participating in any work program under Titles IV-A and IV-C of the Social Security Act, as amended, or other E&T program;

(e) Employed or self-employed thirty hours or more per week, or receiving weekly earnings equal to the federal minimum wage, multiplied by thirty;

(f) Enrolled as a student half time or more in any recognized school, training program, or institution of higher education provided the students enrolled in higher education meet the eligibility conditions under WAC 388-49-020;

(g) Regularly participating in a drug addiction or alcoholic treatment and rehabilitation program;

(h) Complying with work requirements imposed as a participant in any refugee program; or

(i) Under contract or agreement with an employer as a migrant or seasonal farmworker.

(4) The department shall provide work registration forms for each household member required to register. Department receipt of a completed work registration form constitutes registration.

(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 the department determines questionable.

(6) The department shall:

(a) Refer persons required to register for work to E&T program services, unless the person is exempted by subsection (9) of this section; and

(b) Provide E&T program services to assigned applicants or recipients not otherwise exempt, either directly or through a contracted service provider, as specified in the state plan.

(7) Persons subject to E&T services shall participate in an E&T program service for:

(a) A minimum level of participation comparable to spending approximately twelve hours a month for two months during:

(i) An eight-week or two four-week period or periods, each time an applicant/recipient enters into the food stamp program; or

(ii) Each twelve months of continuous participation, whichever occurs sooner.

(b) A maximum level of participation not to exceed one hundred twenty hours. In any month, hours of participation may include a combination of:

(i) An E&T program; and

(ii) Workfare program; and

(iii) Hours worked for compensation.

(8) The department shall require persons subject to E&T to:

(a) Report at a prescheduled time to the department or service provider and participate in an initial assessment interview. The department or service provider shall provide written information regarding:

(i) An E&T 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) Provide supplemental information regarding employment status or availability for work as requested;

(c) Report when referred to an employer, if the potential employment is suitable;

(d) Accept a bona fide offer of suitable employment;

(e) Complete reports as scheduled on the results of individual participation in all E&T services; and

(f) Appear for follow-up interviews.

(9) The department shall exempt from referral for E&T program services applicants or recipients who:

(a) Reside in an exempt county as specified in the state plan;

(b) Reside one hour or more travel distance from the service provider;

(c) Have no mailing address or message telephone; or

(d) Have a temporary incapacity expected to have a sixty-day or more duration.

(10) The department shall reimburse participants for expenses incurred in fulfilling E&T requirements as follows:

(a) An allowance of twenty-five dollars per participant month for transportation or other costs reasonably necessary and directly related to participation in the E&T program; and

(b) Effective July 1, 1989, dependent care costs directly related to participation in the E&T program, up to one hundred sixty dollars per month, per dependent.

(i) A participant who is part of an AFDC household and resides in an area with work programs under Titles IV-A and IV-C of the Social Security Act, as amended, is not eligible for dependent care reimbursement under the E&T program.

(ii) An individual's participation in E&T activities shall be deferred if dependent care costs would exceed one hundred sixty dollars per dependent per month. Deferral shall continue until:

(A) A suitable component is available; or

(B) Circumstances change and monthly dependent care costs no longer exceed the limit.

(iii) Any portion of child care costs reimbursed may not be claimed as an expense and used in calculating the child care deduction.

(11) If a household member fails to comply with work registration or E&T 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 not the head of household. The department shall treat the disqualified member as an ineligible household member.

(12) The department shall determine whether or not good cause existed before initiating sanction for refusal or failure to register for work or participate in E&T program services. The following circumstances shall constitute good cause for failure to register for work or participate in E&T program services. The following circumstances 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 reached six years of age, but are under twelve years of age.

(13) Within ten days of a determination of failure to comply the department shall determine whether good cause exists and, if not, provide notice to the household 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 the individual or household may take to end or avoid the sanction.

(14) The disqualification for noncompliance 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:

(i) As head of the household, the entire new household is ineligible for the remainder of the disqualification and the original household may resume participation; or

(ii) As not the head of household, the department shall consider the noncompliant individual as an ineligible household member for the remainder of the disqualification.

(b) If a new person, who has not committed a violation, joins a sanctioned household as head of the household, the period of ineligibility for the household ends.

(15) The department shall consider 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, the same as under E&T program service requirements if the requirements were comparable. If a comparable E&T program service requirement does not exist, the household member shall lose exemption status as referenced under subsection (3)(d) of this section and shall register for work.

(16) 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.

(17) Persons subject to reporting requirements who lose exemption status due to any change of circumstance shall register for work. Persons shall complete the work registration report form and return the form within ten calendar days of the date the department hands or mails the form to the household member reporting the change. If the person fails to return the form, the department shall issue a notice of adverse action stating:

(a) A participant or, if the individual is the head of the household, the household is terminated and the reason why; but

(b) The termination may be avoided by returning the form.

(18) Persons not subject to reporting requirements who lose exemption status during a certification period shall register for employment at the household's next recertification.

(19) A registrant moving out of the jurisdiction of the department's local office where the registrant is registered shall reregister at the department local office in the new location.

(20) 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.

(21) 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.

(22) DSHS shall administer the program and may contract E&T services through other agencies.

[Statutory Authority: RCW 74.04.510. 89-19-025 (Order 2870), § 388-49-360, filed 9/12/89, effective 10/13/89. Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-360, filed 12/31/87.]

WAC 388-49-370 Unsuitable employment. The department shall consider employment unsuitable when:

(1) The wage offered is less than the federal or state minimum wage, whichever is highest;

(2) The employment offered is on a piece-rate basis and the average hourly yield expected is less than the federal or state minimum wage, whichever is highest;

(3) The employee as a condition of employment is required to join, resign from, or refrain from joining any legitimate labor union;

(4) The work offered is at a site subject to strike or lockout at the time of offer unless:

(a) The strike is enjoined under the Taft-Hartley Act; or

(b) An injunction is issued under section 10 of the Railway Labor Act.

(5) The degree of risk to health and safety is unreasonable;

(6) The member is physically or mentally unfit to perform the employment as documented by medical evidence or reliable information from other sources;

(7) The employment offered within the first thirty days of registration is not in the member's major field of experience;

(8) The distance from the member's home to employment is unreasonable considering the wage, time and cost of commute:

(a) The department shall not consider employment suitable when daily commuting time exceeds two hours per day, not including the transporting of a child to and from a child care facility; and

(b) The department shall not consider employment suitable when the distance to the place of employment prohibits walking and neither public nor private transportation is available to transport the client to the job site.

(9) The working hours or nature of employment interferes with the member's religious observances, convictions, or beliefs.

[Statutory Authority: RCW 74.04.510. 89-19-025 (Order 2870), § 388-49-370, filed 9/12/89, effective 10/13/89.]

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; and

(c) The head of household is required to register for work as provided under WAC 388-49-360.

(2) Good cause for voluntarily quitting employment includes the following:

(a) Circumstances included under WAC 388-49-360(12);

(b) The employment is unsuitable as defined under WAC 388-49-370;

(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 under 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 sixty years of age recognized by the employer as retirement;

(h) Acceptance of a bona fide offer of employment of twenty hours or more 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 twenty hours or less 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) A household where the head of household voluntarily quit the head of household's most recent job shall not be ineligible if the circumstances of the employment involve:

(a) Changes in employment status resulting from reducing hours of employment while working for the same employer;

(b) Termination of a self-employment enterprise; or

(c) Resignation from a job at the demand of an employer.

(4) An employee of the federal government or of a state or local government who participates in a strike against the government and is subsequently dismissed because of participation in the strike, shall be considered to have voluntarily quit a job without good cause.

(5) 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.

(6) 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. If the violator joins a new household and is not the household head, the sanction ends. If a new person who has not committed a violation joins the household as its head, the period of ineligibility ends.

(7) The household shall have primary responsibility for providing verification. If the household and the department are unable to obtain verification, the department shall not deny the household access to the program.

(8) The household may reestablish eligibility during the disqualification, if otherwise eligible, and the person who caused the disqualification:

(a) Secures new employment:

(i) Comparable in monthly salary to the job the person quit; or

(ii) If at a lesser monthly salary, is expected to improve the person's future employment prospects.

(b) Leaves the household;

(c) Becomes exempt from work registration; or

(d) Complies with requirements to correct the disqualification.

[Statutory Authority: RCW 74.04.510. 89-19-025 (Order 2870), § 388-49-380, filed 9/12/89, effective 10/13/89. 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, if questionable, ownership and the value of all resources for households not categorically eligible.

[Statutory Authority: RCW 74.04.510. 90-23-075 (Order 3100), § 388-49-400, filed 11/20/90, effective 12/21/90. 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. Property excluded under this provision because the property is used by a self-employed farmer shall retain its exclusion for one year from the date the household member terminates self-employment from farming;

(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;

(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.

(z) Payments received under the Puyallup Tribe of Indians Settlement Act of 1989, P.L. 101-41, as follows:

(i) Payments from the annuity fund established by P.L. 101-41 made to a Puyallup Tribe member upon reaching twenty-one years of age;

(ii) The investments or purchases made directly with the annuity payment up to the amount from the annuity fund payment; and

(iii) Payments from the trust fund established by P.L. 101-41 made to a Puyallup Tribal member.

(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 74.04.510, 90-11-004 (Order 2976), § 388-49-410, filed 5/3/90, effective 6/3/90; 89-18-030 (Order 2857), § 388-49-410, filed 8/29/89, effective 9/29/89. 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) The department shall 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:

(a) The resource is inaccessible to one of the households, and

(b) Ownership is verified, if questionable.

(5) The department shall consider resources of the following persons as available to the remaining household members:

(a) Ineligible aliens; or

(b) Persons disqualified for failure to meet Social Security number requirements; or

(c) Persons disqualified for intentional program violation; or

(d) Persons who fail to sign the application attesting to their citizenship or alien status.

(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 74.04.510, 90-23-075 (Order 3100), § 388-49-420, filed 11/20/90, effective 12/21/90; 89-07-001 (Order 2770), § 388-49-420, filed 3/2/89. 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. A vehicle excluded under this provision because the vehicle is used by a self-employed farmer shall retain its exclusion for one year from the date the household member terminates self-employment from farming;

(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 (5) 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 74.04.510. 89-18-030 (Order 2857), § 388-49-430, filed 8/29/89, effective 9/29/89. 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; and

(iii) Payments from a boarder except for child foster care payments.

(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 nineteen years of age and older from on-the-job training programs under JTPA;

(g) State and federal work study funds;

(h) Money from the sale of blood or blood plasma; and

(i) 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 74.04.510. 89-11-101 (Order 2800), § 388-49-450, filed 5/24/89; 89-05-032 (Order 2762), § 388-49-450, filed 2/13/89. 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 residing outside the household;

(h) Child support refund payments received by AFDC recipients from office of support enforcement;

- (i) Adult foster care payments;
- (j) Child foster care payments provided the foster child is a food stamp household member;
- (k) 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.
- (l) Payments from government-sponsored programs;
- (m) Cash prizes, awards, lottery winnings, or gifts;
- (n) Dividends, interest, or royalties;
- (o) 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;
- (p) Money withheld from public assistance to recoup an overpayment for intentional failure to comply with the public assistance program requirements;
- (q) Direct money payments, such as interest, dividends, and royalties which are a gain or benefit;
- (r) 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
- (s) 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) 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) Before initial certification;
 - (b) At recertification if amount changes more than twenty-five dollars; and
 - (c) On a monthly basis for households subject to monthly reporting if the income changes.

[Statutory Authority: RCW 74.04.510. 89-24-040 (Order 2911), § 388-49-460, filed 12/1/89, effective 1/1/90; 89-05-032 (Order 2762), § 388-49-460, filed 2/13/89. 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) Income specifically excluded by any 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) Seventeen years of age or under; 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 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, and textbooks.

(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 | \$ 36 |
| 2 | 47 |
| 3 | 56 |
| 4 | 67 |
| 5 | 77 |
| 6 | 87 |
| 7 | 101 |
| 8 or more | 111 |

(q) Support payments specified by the support court order or other legally binding written support or alimony agreement to go directly to a third-party beneficiary rather than to the household;

(r) Support payments not required by the support court order or other legally binding written support or

alimony 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:

(i) Over and above the regular warrant amount;

(ii) Not normally a part of the regular warrant; and

(iii) Paid directly to a third party on behalf of the household.

(u) From Jobs Training Partnership Act programs:

(i) Allowances; and

(ii) Earnings from on-the-job training by household members under parental control and eighteen years of age and younger.

(v) Cash donations based on 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.

(w) Earned income credit; and

(x) Federal census bureau wages earned:

(i) During the 1990 Federal Census Demonstration Project; and

(ii) By a temporary census worker eligible for this exclusion.

(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 department shall exclude:

(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. 90-15-028 (Order 3040), § 388-49-470, filed 7/13/90, effective 8/13/90; 89-24-040 (Order 2911), § 388-49-470, filed 12/1/89, effective 1/1/90; 89-11-101 (Order 2800), § 388-49-470, filed 5/24/89; 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 persons disqualified for intentional program violation as follows:

(a) The entire income of the disqualified persons 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 persons ineligible because of alien status, disqualification for refusal to obtain or provide a Social Security number, or failure to sign the application attesting to their citizenship or alien status as follows:

(a) A pro rata share of the income of the ineligible persons shall be counted as income to the remaining household members;

(b) The twenty percent earned income deduction shall apply to the ineligible persons' 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 members shall be divided evenly among all members of the household, providing the ineligible members have income.

(3) 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.

(4) The department shall exclude ineligible household members 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.

[Statutory Authority: RCW 74.04.510. 89-07-001 (Order 2770), § 388-49-480, filed 3/2/89. 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 sixteen 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);

(c) A dependent care deduction of the actual amount incurred not to exceed one hundred sixty dollars per dependent when 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 an elderly or disabled household member;

(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 eighty-six dollars; and

(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) A household's 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 the:

- (i) Household intends to return to the home;
- (ii) Current occupants, if any, are not claiming shelter costs for food stamp purposes; and
- (iii) Home is not being leased or rented during the household's absence.

(b) Charges for the repair of the home 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 the household:

- (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 provide excess medical or shelter deductions effective with supplemental security income (SSI) eligibility when households:

(a) Become categorically eligible within the time limits specified under WAC 388-49-120 and 388-49-150 after a food stamp application;

(b) Receive food stamps as a nonassistance household until becoming categorically eligible; or

(c) Become categorically eligible after denial of non-assistance food stamps.

(5) The department shall not provide a deduction for that portion of a deductible expense, described under this section, paid by an excluded:

- (a) Reimbursement; or
- (b) Vendor payment, except for Low Income Home Energy Assistance Act (LIHEAA) payments.

(6) The department shall verify:

(a) Dependent care costs including changes, except in prospective budgeting; and

(b) 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.

(7) 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. 90-23-074 (Order 3099), § 388-49-500, filed 11/20/90, effective 12/21/90; 90-12-054 (Order 3012), § 388-49-500, filed 5/31/90, effective 7/1/90; 89-23-083 (Order 2901), § 388-49-500, filed 11/17/89, effective 12/18/89; 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 | 120 |
| 2 | 129 |
| 3 | 136 |
| 4 | 145 |
| 5 | 153 |
| 6 | 158 |
| 7 | 164 |
| 8 | 171 |
| 9 | 180 |
| 10 or more | 188 |

(3) Effective March 1, 1988, the monthly telephone standard is sixteen dollars.

[Statutory Authority: RCW 74.04.510. 89-23-083 (Order 2901), § 388-49-505, filed 11/17/89, effective 12/18/89; 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

| <u>Household Size</u> | <u>Maximum Standard</u> |
|------------------------|-------------------------|
| 1 | \$ 681 |
| 2 | 913 |
| 3 | 1,144 |
| 4 | 1,376 |
| 5 | 1,608 |
| 6 | 1,840 |
| 7 | 2,072 |
| 8 | 2,304 |
| 9 | 2,536 |
| 10 | 2,768 |
| Each additional person | + 232 |

Net Monthly Income Standard

| <u>Household Size</u> | <u>Maximum Standard</u> |
|------------------------|-------------------------|
| 1 | \$524 |
| 2 | 702 |
| 3 | 880 |
| 4 | 1,059 |
| 5 | 1,237 |
| 6 | 1,415 |
| 7 | 1,594 |
| 8 | 1,772 |
| 9 | 1,951 |
| 10 | 2,130 |
| Each additional person | + 179 |

[Statutory Authority: RCW 74.04.510. 90-23-074 (Order 3099), § 388-49-510, filed 11/20/90, effective 12/21/90; 89-23-083 (Order 2901), § 388-49-510, filed 11/17/89, effective 12/18/89; 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;
 - (b) Seasonal farmworker households; and
 - (c) Households in which all adult members have no earned income and are:
 - (i) Elderly; or

- (ii) Disabled.
- (2) The department shall budget the following income prospectively:
 - (a) Monthly student financial aid, except for work study;
 - (b) Public assistance;
 - (c) Supplemental security income (SSI); and
 - (d) Income from a new household member for the first two months of participation when the:
 - (i) Household timely reports the new member; and
 - (ii) 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 74.04.510, 90-17-117 (Order 3051), § 388-49-520, filed 8/21/90, effective 9/21/90. 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 | 105 |
| 2 | 193 |
| 3 | 277 |
| 4 | 352 |
| 5 | 418 |
| 6 | 502 |
| 7 | 555 |
| 8 | 634 |
| 9 | 713 |
| 10 | 792 |
| Each additional member | + 79 |

(3) The department shall issue to households, except for households as specified in subsection (4) of this section, 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 issue a full month allotment to migrant and seasonal farmworker households applying within thirty days after a prior certification ends.

(5) 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.

(6) 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.

(7) The department shall issue an identification card to each certified household.

[Statutory Authority: RCW 74.04.510. 90-23-077 (Order 3102), § 388-49-550, filed 11/20/90, effective 12/21/90; 89-22-132 (Order 2894), § 388-49-550, filed 11/1/89, effective 12/2/89; 89-05-031 (Order 2760), § 388-49-550, filed 2/13/89; 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) Direct coupon mail out system staggered through the tenth of the month.

(2) For FCAs issued after the twentieth 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's benefits valid in the following month.

(3) For eligible households applying on the sixteenth of the month or after, the department shall issue the prorated allotment for the initial month and the allotment for the first full month at the same time, except for:

(a) Households eligible for expedited services for which missing or postponed verification have not been provided; and

(b) Households ineligible for the initial month, or the second month.

(4) The department shall maintain issuance records for a period of three years from the month of origin.

[Statutory Authority: RCW 74.04.050. 90-12-084 (Order 3022), § 388-49-560, filed 6/1/90, effective 7/2/90; 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 in a household disaster;

(b) An FCA or coupons lost in or stolen from the mail;

(c) An FCA stolen after receipt; or

(d) Food purchased with coupons and destroyed in a disaster.

(2) To request a replacement, the household shall:

(a) Report the destruction or theft within ten days of the incident; or

(b) Report the nonreceipt within the period of intended use; and

(c) Sign an affidavit attesting to the destruction, theft, or nonreceipt within ten days of the report.

(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 if the household is eligible for replacement.

(5) The department shall deny a request for replacement when:

(a) Coupons were mailed by certified mail and a signed receipt of delivery is obtained by the post office from any person residing or visiting at the household-provided address;

(b) Coupons or an FCA are lost or misplaced after receipt;

(c) Coupons are stolen after receipt;

(d) The household was issued two countable replacements within the previous five months for FCAs or coupons lost in or stolen from the mail or for FCAs stolen after receipt; or

(e) The household was issued two countable replacements within the previous five months for FCAs or coupons destroyed in a household disaster. This limit is in addition to the limit under subsection (5)(d) of this section.

(6) The department shall not consider a replacement countable under subsection (5)(d) and (e) of this section if:

(a) The original or replacement issuance is returned to the department;

(b) The original or replacement FCA is not transacted; or

(c) The replacement is issued due to department error.

(7) 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.

(8) The department shall use other delivery methods after two requests are received within a six-month period for replacement of:

(a) An original or replacement FCA; or

(b) Coupons lost in the mail.

(9) 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 an issuance unit error regardless of the number of times the household receives replacements within a six-month period.

(10) 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.

(c) The household shall surrender the mutilated or improperly manufactured coupons to the department.

[Statutory Authority: RCW 74.04.510. 89-18-059 (Order 2867), § 388-49-570, filed 9/1/89, effective 10/2/89. 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 with earned income or with a recent work history except a:

(i) Migrant or seasonal farm worker household; or

(ii) Household in which all members are homeless individuals; or

(iii) Household with a recent work history in which all adult members are elderly or disabled.

(b) An AFDC household subject to 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 reporting monthly to verify the factors specified in WAC 388-49-110(5).

(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 before reporting on the monthly report.

[Statutory Authority: RCW 74.04.510. 90-23-073 (Order 3098), § 388-49-590, filed 11/20/90, effective 12/21/90; 90-10-064 (Order 2974), § 388-49-590, filed 5/1/90, effective 6/1/90. 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 before the change;

(b) At least thirty days before the change if the information causing the change is derived from computer matches the department conducts with federal agencies; or

(c) By the date benefits are to be received for a household reporting changes on the monthly report.

(2) The department is not 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 previously notified the household 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's benefits are reduced because a public assistance grant is approved; 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 74.04.510. 90-09-036 (Order 2967), § 388-49-600, filed 4/11/90, effective 5/12/90. 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 chapter 388-08 WAC and this section. If a provision in this section conflicts with a provision in chapter 388-08 WAC, the provision in this section controls.

(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 fifty dollars or more; and

(b) At the time of referral, the individual resides:

(i) In Washington state; or

(ii) 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.

(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) 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 thirty days or more advance notice of the hearing date to the person 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 interested parties may examine the evidence;

(d) A statement that if the person or a representative fails without good cause to appear at the hearing, the administrative law judge and the review judge will make a decision 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 to file a request with the administrative law judge:

(i) 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 one week or more 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 ten days or more prior to the hearing date.

(6) The department shall conduct the hearing without the person or a representative if either person fails to appear at the hearing without good cause.

(a) The administrative law judge and the review judge shall base the decision 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 one week or more 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 and notify the household member of the 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 alleged to have committed the intentional program violation, and

(ii) The person alleged to be liable for the overissuance.

[Statutory Authority: RCW 74.04.510. 89-23-082 (Order 2900), § 388-49-660, filed 11/17/89, effective 1/1/90; 89-12-035 (Order 2804), § 388-49-660, filed 6/1/89; 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 or persons 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 the currently eligible person or persons within forty-five days of the:

(A) Date the disqualification is ordered if the court does not specify a date; or

(B) Date the court finds such person or persons guilty if the court specifies a disqualification 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 the:

(a) Participating person or persons of the disqualification and the effective date of the disqualification, or

(b) Nonparticipating person or 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 74.04.510. 89-12-034 (Order 2803), § 388-49-670, filed 6/1/89. 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 this section and

chapter 388-08 WAC. If a provision in this section conflicts with a provision in chapter 388-08 WAC, the provision in this section shall govern.

(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 before 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 provide advance notice of the hearing to all involved parties at least ten days before 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) 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) Information of legal services available to the client.

(9) The department shall withdraw a fair hearing request when the client so requests in writing.

(10) The administrative law judge or department shall not dismiss or withdraw a fair hearing request because a client fails to attend a prehearing or agency conference.

(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 is normally made.

(12) The department shall carry out the hearing decision to:

(a) Provide lost benefits when:

(i) The household is incorrectly denied benefits, or

(ii) Fewer benefits are issued than are 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 an overissuance if the department action is 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 74.04.510. 89-22-131 (Order 2893), § 388-49-690, filed 11/1/89, effective 12/2/89. 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 is not expired;

(c) The household does not waive 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 is for good cause.

(3) Once continued or reinstated, the department shall not reduce or terminate benefits before receipt of the hearing decision unless:

(a) The certification period expires;

(b) The administrative law judge issues a preliminary determination, in writing, stating:

(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.

(c) The household fails to request a new hearing after receiving a notice of adverse action on a change occurring pending the hearing decision;

(d) A mass change occurs while the hearing decision is pending; or

(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 74.04.510. 89-22-131 (Order 2893), § 388-49-700, filed 11/1/89, effective 12/2/89. Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-700, filed 12/31/87.]

Chapter 388-51 WAC

JOB OPPORTUNITIES AND BASIC SKILLS TRAINING PROGRAM CHILD CARE AND OTHER WORK-RELATED SUPPORTIVE SERVICES AND TRANSITIONAL CHILD CARE

WAC

- 388-51-010 Child care and other work-related supportive services—Authority and purpose.
- 388-51-020 Definitions.
- 388-51-040 Assurances.
- 388-51-100 Child care—Payment.
- 388-51-150 Other supportive services.
- 388-51-200 Transitional supportive services.
- 388-51-300 Transitional child care.

WAC 388-51-010 Child care and other work-related supportive services—Authority and purpose. (1) Child care and other work-related supportive service for a participant in the JOBS program is authorized under P.L. 100-485, as amended, 102 Stat. 2343, amending Title IV of the Social Security Act, and establishing Title IV-F. The short title is the Family Support Act of 1988. Federal regulations for support services are in Part 45, Code of Federal Regulations, Section 255.

(2) The purpose of this program is to provide child care and other support services for a family:

(a) Receiving and, in some cases, applying for aid to families with dependent children (AFDC); and

(b) Participating in the JOBS program according to chapter 388-47 WAC.

[Statutory Authority: RCW 74.04.050. 91-02-086 (Order 3126), § 388-51-010, filed 12/31/90, effective 1/31/91.]

WAC 388-51-020 Definitions. Except as specified in this chapter, terms used under chapter 388-51 WAC shall have the same meaning applied to the AFDC program, and as terms defined under chapter 388-22

WAC, and the JOBS program set forth under chapter 388-47 WAC.

(1) "Applicable standards" means standards and practices related to child care under chapter 388-73 WAC or, in the case of a tribal JOBS program, tribal law.

(2) "Support services" means child care, and other services provided for under federal law, that may be required enabling an AFDC applicant or recipient to pursue employment, education, and training under chapter 388-47 WAC.

[Statutory Authority: RCW 74.04.050. 91-02-086 (Order 3126), § 388-51-020, filed 12/31/90, effective 1/31/91.]

WAC 388-51-040 Assurances. The department shall assure:

(1) Supportive services needed to enable a participant with an approved employability plan to participate in accordance with that approved plan in the JOBS program;

(2) Child care services meet applicable standards of state or tribal law;

(3) An entity providing child care allows parental access;

(4) The child's individual needs are taken into account when the department provides or arranges for child care and other supportive services; and

(5) Child care provided or claimed for payment is related to a person's JOBS program participation or employment hours.

[Statutory Authority: RCW 74.04.050. 91-02-086 (Order 3126), § 388-51-040, filed 12/31/90, effective 1/31/91.]

WAC 388-51-100 Child care—Payment. (1) The department's payment for child care may not exceed the local market rate for child care. The department shall establish the market rate based on representative samples of local child care providers.

(2) For purposes of education and training.

(a) The department's payment for child care for a JOBS participant shall be made to the provider in the case of center care, or family day care.

(b) The department's payment to a JOBS program participant shall be by reimbursement in the case of in-home care.

(3) The department shall consider child care costs for a working AFDC recipient as an income disregard in accordance with WAC 388-28-570.

[Statutory Authority: RCW 74.04.050. 91-02-086 (Order 3126), § 388-51-100, filed 12/31/90, effective 1/31/91.]

WAC 388-51-150 Other supportive services. The contractor may provide other supportive services, payment, or reimbursement for other supportive services enabling a person's participation in a JOBS program. The participant's supportive services shall be subject to maximum limits set by the contractor. Services include, but are not limited to:

(1) Transportation costs;

(2) Tools and equipment;

(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 74.04.510. 89-22-131 (Order 2893), § 388-49-700, filed 11/1/89, effective 12/2/89. Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-700, filed 12/31/87.]

Chapter 388-51 WAC

JOB OPPORTUNITIES AND BASIC SKILLS TRAINING PROGRAM CHILD CARE AND OTHER WORK-RELATED SUPPORTIVE SERVICES AND TRANSITIONAL CHILD CARE

WAC

- 388-51-010 Child care and other work-related supportive services—Authority and purpose.
- 388-51-020 Definitions.
- 388-51-040 Assurances.
- 388-51-100 Child care—Payment.
- 388-51-150 Other supportive services.
- 388-51-200 Transitional supportive services.
- 388-51-300 Transitional child care.

WAC 388-51-010 Child care and other work-related supportive services—Authority and purpose. (1) Child care and other work-related supportive service for a participant in the JOBS program is authorized under P.L. 100-485, as amended, 102 Stat. 2343, amending Title IV of the Social Security Act, and establishing Title IV-F. The short title is the Family Support Act of 1988. Federal regulations for support services are in Part 45, Code of Federal Regulations, Section 255.

(2) The purpose of this program is to provide child care and other support services for a family:

(a) Receiving and, in some cases, applying for aid to families with dependent children (AFDC); and

(b) Participating in the JOBS program according to chapter 388-47 WAC.

[Statutory Authority: RCW 74.04.050. 91-02-086 (Order 3126), § 388-51-010, filed 12/31/90, effective 1/31/91.]

WAC 388-51-020 Definitions. Except as specified in this chapter, terms used under chapter 388-51 WAC shall have the same meaning applied to the AFDC program, and as terms defined under chapter 388-22

WAC, and the JOBS program set forth under chapter 388-47 WAC.

(1) "Applicable standards" means standards and practices related to child care under chapter 388-73 WAC or, in the case of a tribal JOBS program, tribal law.

(2) "Support services" means child care, and other services provided for under federal law, that may be required enabling an AFDC applicant or recipient to pursue employment, education, and training under chapter 388-47 WAC.

[Statutory Authority: RCW 74.04.050. 91-02-086 (Order 3126), § 388-51-020, filed 12/31/90, effective 1/31/91.]

WAC 388-51-040 Assurances. The department shall assure:

(1) Supportive services needed to enable a participant with an approved employability plan to participate in accordance with that approved plan in the JOBS program;

(2) Child care services meet applicable standards of state or tribal law;

(3) An entity providing child care allows parental access;

(4) The child's individual needs are taken into account when the department provides or arranges for child care and other supportive services; and

(5) Child care provided or claimed for payment is related to a person's JOBS program participation or employment hours.

[Statutory Authority: RCW 74.04.050. 91-02-086 (Order 3126), § 388-51-040, filed 12/31/90, effective 1/31/91.]

WAC 388-51-100 Child care—Payment. (1) The department's payment for child care may not exceed the local market rate for child care. The department shall establish the market rate based on representative samples of local child care providers.

(2) For purposes of education and training.

(a) The department's payment for child care for a JOBS participant shall be made to the provider in the case of center care, or family day care.

(b) The department's payment to a JOBS program participant shall be by reimbursement in the case of in-home care.

(3) The department shall consider child care costs for a working AFDC recipient as an income disregard in accordance with WAC 388-28-570.

[Statutory Authority: RCW 74.04.050. 91-02-086 (Order 3126), § 388-51-100, filed 12/31/90, effective 1/31/91.]

WAC 388-51-150 Other supportive services. The contractor may provide other supportive services, payment, or reimbursement for other supportive services enabling a person's participation in a JOBS program. The participant's supportive services shall be subject to maximum limits set by the contractor. Services include, but are not limited to:

(1) Transportation costs;

(2) Tools and equipment;

(3) License fees including union initiation fees and driver licenses required by law, employer, or union; and

(4) One-time work-related expenses necessary for a participant to accept or maintain employment. The participant's expenses shall be:

(a) Required for the type of work;

(b) Provided only when other funds are not available; and

(c) Allowed when the participant has a bona fide job expecting to last thirty days or more.

[Statutory Authority: RCW 74.04.050. 91-02-086 (Order 3126), § 388-51-150, filed 12/31/90, effective 1/31/91.]

WAC 388-51-200 Transitional supportive services. The department may provide transitional supportive services to a JOBS participant entering employment.

(1) Case management and job retention counseling may be provided for ninety days following entry into employment; and

(2) Transportation and other supportive services may be provided for up to thirty days following entry into employment.

[Statutory Authority: RCW 74.04.050. 91-02-086 (Order 3126), § 388-51-200, filed 12/31/90, effective 1/31/91.]

WAC 388-51-300 Transitional child care. (1) The purpose of this program is to guarantee transitional child care to families who become ineligible for AFDC due to increased earnings from, or hours of, employment or the loss of income disregards. The purpose of transitional child care is to permit the families to accept or retain employment.

(2) A family is eligible for transitional child care provided the family meets following conditions:

(a) Is ineligible for AFDC due to increased hours of, or increased income from, employment or the loss of income disregards due to time limitations;

(b) Received AFDC in three or more of the six months immediately preceding the first month of ineligibility; and

(c) Requests transitional child care benefits and provides the information necessary for determining eligibility and fees;

(i) The department shall provide information on transitional child care to families terminating AFDC for reasons described under subsection (2)(a) of this section.

(ii) Information on how to request transitional child care shall be included in the informational material provided to families terminating from AFDC for reasons described under subsection (2)(a) of this section.

(3) A family's eligibility for transitional child care begins with the first month the AFDC family is ineligible for AFDC for reasons described under subsection (2) of this section, and continues for a period of twelve consecutive months. Families may begin receiving child care in any month during the twelve-month eligibility period. Transitional child care is limited to a child:

(a) Twelve years of age or under unless the child is physically or mentally incapable of caring for oneself, as verified by the department, based on a determination by a physician or a licensed or certified psychologist;

(b) Under court supervision who may be a dependent child, if needy; or

(c) Who may be a dependent child unless the child is a recipient of benefits under supplemental security income (SSI) or foster care.

(4) A family's eligibility for transitional child care ceases to exist for a remaining portion of the twelve-month period if the caretaker relative:

(a) Terminates employment without good cause. Good cause for failure to retain employment includes, but is not limited to:

(i) Physical, mental, or emotional inability to perform the required activity;

(ii) Court-ordered appearance or temporary incarceration;

(iii) Family or individual emergency or crisis;

(iv) Breakdown in transportation arrangements, with no readily accessible alternate transportation;

(v) Inclement weather preventing the individual and others similarly situated from traveling to, or participating in, the prescribed employment;

(vi) The nature of the employment is hazardous to the individual;

(vii) The employment wages do not meet minimum wage standards or are not customary for the work in the community;

(viii) The employment was obtained due to a vacancy caused by a labor dispute;

(ix) Refusal to accept major medical treatment needed to continue employment, for example, major surgery;

(x) Refusal to continue employment, the wages, less mandatory payroll deductions and necessary work-related expenses, do not equal or exceed the family's AFDC cash benefit; or

(xi) Illness or incapacity of another household member requiring the caretaker relative's care.

(b) Fails to cooperate with the department in establishing and enforcing child support obligations; or

(c) Fails to pay required co-payment fees as long as back fees are owed or until satisfactory arrangements are made to make full payment.

(5) If the caretaker relative loses a job with good cause and finds another job, the family may qualify for the remaining portion of the twelve-month eligibility period.

(6) The caretaker relative shall contribute to the transitional child care cost based on the family's ability to pay according to a sliding scale based on the benchmark standard described under WAC 388-77-500(4).

(a) Families with gross income, at or below one hundred thirty-five percent of the benchmark standard, shall contribute five dollars per month toward the transitional child care cost.

(b) Families with gross income exceeding one hundred thirty-five percent of the benchmark standard shall contribute toward the transitional child care cost at the rate of twenty-five percent of the income exceeding one hundred thirty-five percent of the benchmark standard, but not less than five dollars per month

(c) Copayments are for the transitional child care total cost without regard to the number of children receiving care.

(7) Individuals failing to cooperate in paying required fees shall lose eligibility for benefits as long as back fees are owed, unless the individual makes satisfactory arrangements for full payment.

(8) The caretaker relatives shall pay directly to the child care provider the caretaker relatives' share of the child care costs.

(9) The department shall inform a participant at the time of applying for the child care program of the right to file a complaint or grievance with the department on any matter concerning participation or required copayments. The department shall pursue the grievance in accordance with standard grievance procedures, as contained under WAC 388-33-389. The department shall inform a participant that filing a complaint or grievance shall not preclude the participant's right to request at any time a department's fair hearing under chapter 388-08 WAC on the issue.

[Statutory Authority: RCW 74.08.090. 90-06-032 (Order 2944), § 388-51-300, filed 3/1/90, effective 4/1/90.]

Chapter 388-52 WAC SERVICES INVOLVING OTHER AGENCIES

| WAC | |
|------------|---|
| 388-52-150 | Vocational rehabilitation services. |
| 388-52-155 | Vocational rehabilitation services—Training expenses. |
| 388-52-160 | Comprehensive employment and training program—Definitions. |
| 388-52-163 | Comprehensive employment and training program—Services provided. |
| 388-52-166 | Comprehensive employment and training program—Participation of recipient. |
| 388-52-169 | Treatment of recipient's income from CETA. |
| 388-52-172 | Release of information to prime sponsors of CETA program. |

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

| | |
|------------|---|
| 388-52-156 | Vocational rehabilitation services for disabled—Time limitation on training. [Order 542, § 388-52-156, filed 3/31/71, effective 5/1/71.] Repealed by Order 854, filed 9/13/73. |
| 388-52-175 | Vocational rehabilitation services for disabled—Division of costs between department and division of vocational rehabilitation. [Order 465, § 388-52-175, filed 6/23/70; Regulation 20.245, filed 1/24/64.] Repealed by Order 542, filed 3/31/71, effective 5/1/71. |
| 388-52-185 | Vocational rehabilitation services for disabled—Time limitation on training. [Order 465, § 388-52-185, filed 6/23/70; Regulation 20.246, filed 1/24/64.] Repealed by Order 542, filed 3/31/71, effective 5/1/71. |
| 388-52-200 | Vocational rehabilitation services for nondisabled. [Regulation 20.25, filed 1/24/64.] Repealed by Order 465, filed 6/23/70. |
| 388-52-225 | Other considerations in joint case planning. [Regulation 20.255, filed 1/24/64.] Repealed by Order 465, filed 6/23/70. |

WAC 388-52-150 Vocational rehabilitation services. (1) The local office shall utilize the resources of

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the vocational rehabilitation division in behalf of incapacitated recipients of continuing general assistance and AFDC who are eligible for and for whom vocational rehabilitation services are feasible.

(2) Vocational rehabilitation services for blind persons are provided by the division.

[Order 975, § 388-52-150, filed 10/11/74; Order 542, § 388-52-150, filed 3/31/71, effective 5/1/71; Order 465, § 388-52-150, filed 6/23/70; Regulation 20.24, filed 1/24/64.]

WAC 388-52-155 Vocational rehabilitation services—Training expenses. (1) The vocational rehabilitation division provides funds for expenses directly attributable to participation in a vocational rehabilitation plan. It does not pay for any item provided for in public assistance standards for requirements except for continuing general assistance recipients who are receiving rehabilitation services from the division.

(2) The division provides full maintenance costs for continuing general assistance recipients while they are receiving rehabilitation services. The local office shall terminate assistance to such recipients effective with the beginning of vocational rehabilitation maintenance payment.

(3) For an AFDC recipients receiving services from the division

(a) The assistance payment shall include all requirements as provided in the monthly standards for basic requirements but shall not include any costs directly attributable to the rehabilitation plan with the exception of necessary child care for a plan approved by the local office.

(b) If it is necessary for a recipient to leave the home to carry out the vocational rehabilitation plan, the grant shall be re-computed; separate assistance units shall be established for the vocational rehabilitation client and for the other members of his family.

[Order 975, § 388-52-155, filed 10/11/74; Order 542, § 388-52-155, filed 3/31/71, effective 5/1/71.]

WAC 388-52-160 Comprehensive employment and training program—Definitions. (1) "Act" as used in WAC 388-52-160 through 388-52-172 means the Comprehensive Employment and Training Act (CETA).

(2) Allowance

(a) "Basic training allowance" – a weekly payment to defray living costs during participation in training.

(b) "Dependent's allowance" – an additional weekly payment of five dollars per week for each dependent over two, up to a maximum of four additional dependents, for a maximum additional allowance of twenty dollars a week for six or more dependents.

(c) "Incentive allowance" – a thirty dollar weekly payment in lieu of the basic allowance to a participant receiving public assistance.

(d) "Additional allowance" – a payment to a participant for training expenses, for subsistence or for emergency needs.

(3) "Consortium" – an agreement among local units of government to develop and sponsor a manpower program.

[Title 388 WAC—p 257]

(4) "Participant" – an individual who qualifies for and receives service or who takes part in the activities of a CETA program.

(5) "Prime sponsor" – a unit of government, or a combination of units of government, or a rural concentrated employment program which has entered into an agreement with the U.S. Department of Labor to provide manpower services under the act.

(6) "Public service employment" is employment by a government agency to provide services within the scope of its normal responsibility and for which wages and salaries are funded by Title II of the act.

[Order 975, § 388-52-160, filed 10/11/74.]

WAC 388-52-163 Comprehensive employment and training program--Services provided. (1) Manpower services under the comprehensive employment and training act are provided by local government units acting as prime sponsors of the program in the local area. Public assistance recipients are priority candidates for services from the program.

(a) Title I of the act provides for basic education and vocational training, employment orientation and counseling, work experience, job placement, and a variety of supportive services.

(b) Title II of the act provides for the establishment and operation of public service employment programs.

(2) Benefits to participants under Title I of the act may consist of basic training allowance; incentive payments to persons receiving public assistance; wages from employment under CETA other than public service employment; payments for transportation and other expenses of participation; and a variety of supportive services such as child care, residential support and family planning.

[Order 975, § 388-52-163, filed 10/11/74.]

WAC 388-52-166 Comprehensive employment and training program--Participation of recipient. (1) If an AFDC participant is certified and assigned to the CETA program by WIN, WIN rules regarding participation requirements are applicable.

(2) He/she is required to participate only if assigned by WIN/E&T.

[Statutory Authority: RCW 74.08.090, 81-10-011 (Order 1643), § 388-52-166, filed 4/27/81; 79-03-013 (Order 1368), § 388-52-166, filed 2/15/79; Order 975, § 388-52-166, filed 10/11/74.]

WAC 388-52-169 Treatment of recipient's income from CETA. (1) An individual receiving a CETA basic training allowance shall not concurrently receive an AFDC or continuing general assistance grant.

(2) For incentive payments and wages under Title I of CETA see WAC 388-28-570 (2)(b) and 388-28-515 (2)(c).

(3) For payments received from CETA for training expenses see WAC 388-28-578(1).

(4) If payments are received from CETA for purposes other than those cited in subsections (1), (2), and (3), WAC 388-28-578 is applicable.

[Title 388 WAC—p 258]

(5) For wages and salaries received for public service employment under CETA see WAC 388-28-570 (2)(b)(i).

[Order 975, § 388-52-169, filed 10/11/74.]

WAC 388-52-172 Release of information to prime sponsors of CETA program. When information in regard to an individual's public assistance status is requested from CETA staff, the policies in WAC 388-48-010, 388-48-030, and 388-48-070 are applicable.

[Order 975, § 388-52-172, filed 10/11/74.]

Chapter 388-53 WAC

DISASTER AND RELIEF PROGRAM-- INDIVIDUAL AND FAMILY GRANT

WAC

388-53-010 Purpose.
388-53-050 Eligibility for grants.

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.
- 388-53-110 State appeal panel. [Order 1104, § 388-53-110, filed 3/11/76.] Repealed by 80-04-039 (Order 1494), filed 3/20/80. Statutory Authority: RCW 38.52.030.
- 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 388-53-050 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.]

Chapter 388-53A WAC

TEMPORARY HOUSING PROGRAM--LIMITED TO GOVERNOR'S REQUEST FOR FEDERAL ASSISTANCE

WAC

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| 388-53A-020 | Definitions. |
| 388-53A-030 | Authorization of program. |
| 388-53A-040 | Administrative procedures. |
| 388-53A-050 | Program eligibility. |
| 388-53A-060 | Program eligibility review. |
| 388-53A-070 | Criteria for continued eligibility. |
| 388-53A-080 | Termination of temporary housing. |
| 388-53A-090 | Allocation of funds. |
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WAC 388-53A-010 Purpose. The purpose of this plan is to set forth the administrative procedures and describe the organization for implementing the temporary housing program. This program may be requested by the governor after the president declares an emergency or major disaster in the state of Washington. The governor of Washington has designated the state department of emergency services as the responsible state coordinating agency. The department of social and health services by agreement will administer the temporary housing program in Washington.

[Statutory Authority: RCW 38.52.030. 79-06-082 (Order 1404), § 388-53A-010, filed 6/1/79.]

WAC 388-53A-020 Definitions. (1) "Secretary" shall mean the secretary of the department of social and health services. "Director" is the director of the department of emergency services.

(2) "Department" shall mean the department of social and health services, or the department of emergency services, whichever applies.

(3) "Act" shall mean chapter 38.52 RCW.

(4) "Necessary expense" means the cost of an item or service essential to an individual or family to mitigate or overcome an adverse condition caused by a major disaster.

(5) "Serious need" means a requirement for an item or service essential to an individual or family to prevent or reduce hardship, injury, or loss caused by a major disaster.

(6) "Family" means a social unit comprised of husband, and wife and dependents, if any, or a head of household, as these terms are defined in the Internal Revenue Code of 1954.

(7) "Individual" means a person who is not a member of a family as defined in subsection (6) of this section.

(8) "Assistance from other means" means assistance including monetary or in-kind contributions from other

governmental programs, insurance, voluntary or charitable organizations, or from any sources other than those of the individual or family.

(9) "Federal coordinating officer" (FCO) means the person appointed by the administrator, FDAA, to coordinate federal assistance in a major disaster.

(10) "State coordinating officer" (SCO) means the individual appointed by the governor to coordinate state and local disaster assistance efforts with those of the federal government.

[Statutory Authority: RCW 38.52.030. 79-06-082 (Order 1404), § 388-53A-020, filed 6/1/79.]

WAC 388-53A-030 Authorization of program. The program is authorized by Public Law 93-288 (the Disaster Relief Act of 1974) and Federal Disaster Assistance Administration Regulations, 24 CFR 2205. Section 404 of Public Law 93-288 provides for temporary housing to individuals and families who, as a result of a presidentially declared emergency or major disaster are without adequate housing. Chapter 38.52 RCW places responsibility for determining eligibility standards for disaster relief programs administered by the state with the department of social and health services.

[Statutory Authority: RCW 38.52.030. 79-06-082 (Order 1404), § 388-53A-030, filed 6/1/79.]

WAC 388-53A-040 Administrative procedures. The state coordinating officer (SCO) will be the governor's authorized representative for the implementation of the temporary housing program. The state department of emergency services has been designated by the governor as the responsible state coordinating agency to administer the provisions of the federal disaster laws.

(1) Public Law 93-288, Section 404, provides for temporary housing to individuals and families who have become homeless and require temporary housing as a result of an emergency or major disaster.

(2) Upon a declaration of an emergency or major disaster by the president, the governor may request temporary housing assistance from the Federal Disaster Assistance Administration (FDAA).

(3) The department of emergency services shall be responsible for preparing the governor's request in accordance with 24 CFR 2205.45.

(4) When agreed to by the governor and regional director of the FDAA, the state shall administer the temporary housing program. The state coordinating officer, department of emergency services, and the bureau of income maintenance, department of social and health services, shall coordinate the necessary actions to place in operation the provisions and administrative policies and procedures for the temporary housing program.

(5) The department of emergency services, acting as the designated responsible state coordinating agency, will arrange for the procurement and make habitable, temporary housing provided by the federal government in conformity with the state/federal agreement and Public Law 93-288.

(6) Chapter 38.52 RCW makes the department of social and health services responsible for establishing eligibility standards for applicants for assistance under the state-administered temporary housing program.

(7) The program will be administered in conformity with provisions of Sections 2205.13, 2205.15, 2205.18 and 2205.45 of the Federal Disaster Assistance Regulations.

(8) Eligibility criteria will conform to Section 2205.45 and such requirements as the department of social and health services may require not inconsistent with the provision in the above listed sections of the federal regulations, and in accordance with chapter 38.52 RCW.

[Statutory Authority: RCW 38.52.030. 79-06-082 (Order 1404), § 388-53A-040, filed 6/1/79.]

WAC 388-53A-050 Program eligibility. (1) In order to qualify for temporary housing under this section, an individual or family representative must certify to one of the following:

(a) Their dwelling has been destroyed as a result of a disaster.

(b) Their dwelling has been damaged or utility service has been interrupted to such an extent as to constitute a health or safety hazard which did not exist prior to the disaster.

(c) Their dwelling has been made inaccessible due to the disruption or destruction of transportation routes or facilities, or due to other impediments to access.

(d) Their dwelling has been made inaccessible by restrictions on travel or movement imposed or recommended by a responsible official.

(e) Their dwelling is no longer available due to eviction or dispossession of the applicant by the owner because of the owner's personal need for that dwelling as a result of a disaster.

(f) They have been evicted from their dwelling by the owner or mortgage holder because of their financial hardship which is a direct result of the disaster; or

(g) Other circumstances resulting from a disaster prevent an individual or family from occupying a dwelling which they occupied immediately prior to the disaster.

(2) Income and resources of applicants for temporary housing shall be exempted from consideration in determining eligibility for a temporary period not to exceed one year or such time as is necessary to restore them to independence as provided by RCW 74.04.005 (11)(g) and 74.04.265. An applicant/recipient shall be considered restored to independence when he/she no longer meets the requirements for continued eligibility as specified in WAC 388-53A-060.

(3) Eligible categories. Assistance may be made available to meet temporary housing needs by providing goods and services for the following:

(a) Mobile homes;

(b) Pad rental;

(c) All utilities and connections;

(d) Blocking, winterization and other installations necessary to ensure compliance with applicable state and local codes;

(e) Maintenance on mobile home agreed to by eligible occupant and owner;

(f) Required state inspections of accommodations.

(4) Ineligible categories. Temporary housing assistance will not be made available under the following conditions:

(a) When insurance coverage provides for the full cost of alternate living arrangements and where such alternate living arrangements are readily available;

(b) When the dwelling from which the applicant/recipient was displaced was used as a vacation or recreational residence.

[Statutory Authority: RCW 38.52.030. 79-06-082 (Order 1404), § 388-53A-050, filed 6/1/79.]

WAC 388-53A-060 Program eligibility review. (1)

A periodic eligibility review for continued occupancy in temporary housing shall be made no less frequently than every ninety days.

(2) Continued occupancy shall be determined on the basis of need as specified in WAC 388-53A-070.

(3) Each occupant shall be notified of his/her eligibility or ineligibility.

[Statutory Authority: RCW 38.52.030. 79-06-082 (Order 1404), § 388-53A-060, filed 6/1/79.]

WAC 388-53A-070 Criteria for continued eligibility. (1) A temporary housing occupant shall endeavor to place himself/herself in alternate housing at the earliest possible time.

(2) A temporary housing occupant shall be eligible for continued assistance when:

(a) Alternate housing is not available to the occupant. Alternate housing is deemed available when it:

(i) Is sufficient in size to accommodate the family;

(ii) Is free of health and safety hazards;

(iii) Is located such that the occupants may commute to their place(s) of employment, schools, and other centers of family activity within usual and customary commutation time periods effective in the area;

(iv) Is within the financial means of the occupant, based on twenty-five percent of adjusted household income. Occupants who qualify for available low-income or other governmental rent subsidies shall be considered able to assume financial responsibility for similar alternate housing. Housing costs shall include utilities costs, and adjusted household income shall be computed using the total gross income of household members (excluding the earnings of persons under eighteen, except where such persons are head of the household or a spouse), with the following exceptions:

(A) Twenty-five dollars per month for each person under eighteen or full-time student over eighteen except when such an individual is a head of household;

(B) Twenty-five dollars per month for each elderly (over sixty-two, or handicapped adult, except where they are head of the household; and

(C) Expenses resulting from unusual financial demands upon a household, as approved by the CSO administrator or his/her designee.

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(v) Does not impose an undue burden upon the occupant in his/her plans to secure permanent housing.

(b) The occupant is in compliance with the terms of the rental contract/agreement including:

(i) Prompt payment of utility, rent, and other appropriate charges;

(ii) Reimbursement to the government where all or a portion of the temporary housing assistance represents a duplication of benefits or for other charges as authorized by the CSO administrator or his/her designee;

(iii) Maintenance of the temporary housing unit in a manner normally expected of a tenant; and

(iv) Utilization of the unit for purposes of a family dwelling, solely for the occupant's household.

[Statutory Authority: RCW 38.52.030. 79-06-082 (Order 1404), § 388-53A-070, filed 6/1/79.]

WAC 388-53A-080 Termination of temporary housing. (1) Temporary housing assistance may be terminated on a thirty-day written notice.

(2) Temporary housing assistance may be terminated for reasons including, but not limited to the following:

(a) A determination has been made through the recertification process that alternate housing is available to the occupant.

(b) Failure on the part of the occupant to utilize or maintain the temporary housing provided in the manner normally expected of a tenant. Normal wear and tear excepted, the occupant shall be liable for all damages to the property.

(c) Determination that the temporary housing assistance was obtained either through misrepresentation or fraud.

(3) No mobile home rent shall be charged during the first twelve months of occupancy.

[Statutory Authority: RCW 38.52.030. 79-06-082 (Order 1404), § 388-53A-080, filed 6/1/79.]

WAC 388-53A-090 Allocation of funds. The amount and type of the federal share of temporary housing assistance shall be in accordance with the federal/state disaster relief agreement.

(1) The federal share of temporary housing may be made by financial assistance or contributions in-kind, depending on the request of the governor.

(2) The federal government may make available mobile homes or other readily fabricated dwellings to the state on the condition that the state or local government provide sites complete with utilities.

(3) The state may make available funds to provide for mobile home or other dwelling site preparation, utilities, rental, maintenance, or other item necessary to ensure habitability.

[Statutory Authority: RCW 38.52.030. 79-06-082 (Order 1404), § 388-53A-090, filed 6/1/79.]

WAC 388-53A-100 Organization and functions. All state agencies charged with responsibilities under this chapter will ensure compliance with Section 2205.13, Nondiscrimination in Disaster Assistance, and Section

2205.15, Duplication of Benefits, of the FDAA regulations.

(1) When deemed necessary, the secretary of the department of social and health services shall publicize the availability of the temporary housing program to potential applicants.

(a) Notifying local governments, welfare related agencies, and civic and church groups; and

(b) Establishing outreach programs.

(2) The secretary of social and health services will be responsible for interviewing applicants, receiving applications, and establishing case files. Applications for temporary housing shall be taken for sixty days following a presidentially declared emergency or major disaster. The interviewer will fully explain the scope and purpose of this program to each applicant.

(3) The secretary of social and health services will be responsible for verification of the need for temporary housing for which assistance has been requested.

[Statutory Authority: RCW 38.52.030. 79-06-082 (Order 1404), § 388-53A-100, filed 6/1/79.]

WAC 388-53A-110 Eligibility determinations. (1) All determinations shall be made in accordance with the eligibility criteria in WAC 388-53A-060 and 388-53A-070.

(2) Eligibility for the temporary housing program shall be determined by an authorized DSHS employee in accordance with criteria set forth in this chapter.

[Statutory Authority: RCW 38.52.030. 79-06-082 (Order 1404), § 388-53A-110, filed 6/1/79.]

WAC 388-53A-120 Notification of approval or disapproval. The department of social and health services will notify every application by letter of the eligibility determination made on the application.

(1) In the case of approval, the letter will state that the application has been approved, and the purpose for which the temporary housing assistance has been made.

(2) In the case of disapproval, the letter will state that the application has been disapproved and the reasons for disapproval.

(3) In both cases, the letter will inform the applicant of the right to request reconsideration within fifteen days from the date the letter was sent.

[Statutory Authority: RCW 38.52.030. 79-06-082 (Order 1404), § 388-53A-120, filed 6/1/79.]

WAC 388-53A-130 Reconsideration process. (1) Each applicant will be provided an opportunity to have a temporary housing assistance determination reviewed and reconsidered by the state upon submission of additional information.

(2) The state reconsideration panel will reconsider an applicant's temporary housing assistance determination and within fifteen calendar days of receipt of the reconsideration request render a decision either approving or denying it.

(3) Each applicant will be notified by letter of the result of his request for reconsideration. The determination letter must be dated and sent to the applicant one day

after the reconsideration decision. The letter must inform the applicant of the right to appeal within twenty days from the date the letter was sent.

[Statutory Authority: RCW 38.52.030. 79-06-082 (Order 1404), § 388-53A-130, filed 6/1/79.]

WAC 388-53A-140 State appeal. Should an applicant not agree with the state reconsideration panel determination of the reconsideration request, an appeal must be filed within twenty days.

The department of social and health services will conduct an appeal hearing and render a decision either approving or denying within fifteen calendar days of receipt by the department of social and health services. Each applicant will be notified by letter of the result of his appeal. The appeal decision letter must be dated and sent to the appellant one day after the appeal decision was made.

[Statutory Authority: RCW 38.52.030. 79-06-082 (Order 1404), § 388-53A-140, filed 6/1/79.]

Chapter 388-55 WAC REFUGEE ASSISTANCE

WAC

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|------------|---|
| 388-55-010 | Common eligibility conditions. |
| 388-55-020 | Work and training eligibility conditions. |
| 388-55-030 | Treatment of income. |
| 388-55-040 | Refugee medical assistance. |

WAC 388-55-010 Common eligibility conditions.

(1) The department shall grant assistance to refugees within the provisions of P.L. 96-212, the Refugee Assistance Program to applicants who provide proof, in the form of documentation issued by Immigration and Naturalization Service (INS), of one of the following statuses:

(a) Admittance from any country having parole status as a refugee asylee or parolee under Section 212 (d)(5) of the INA;

(b) Admittance from any country as a conditional entrant under Section 203 (a)(7) of the INA;

(c) Admittance from any country as a refugee under Section 207 of the Immigration and Naturalization Act (INA);

(d) Granted asylum under Section 208 of the INA;

(e) Admittance with an immigration status that entitled the individual to refugee assistance prior to enactment of the Refugee Act of 1980;

(f) Admittance as an Amerasian immigrant from Vietnam admitted through the orderly departure program, under section 584 of the Foreign Operations Appropriations Act, incorporated in the FY88 Continuing Resolution P.L. 100-202; and

(g) Admitted for permanent residence, provided the individual previously held one of the statuses described in subsection (1)(a), (b), (c), or (d) of this section.

(2) The department shall transfer eligible refugees to the AFDC, FIP, and/or Medicaid programs retroactively effective October 1, 1977, or as of such date as the refugees qualified for refugee assistance, whichever is

later. The department shall regard such refugees as recipients rather than new applicants and shall disregard the recipient's income accordingly.

(3) The department shall determine eligibility for AFDC or Medicaid before determining eligibility for the refugee assistance program for applications from refugees not currently receiving refugee cash assistance and/or medical assistance.

(a) If the applicant is not eligible for AFDC or FIP, then the department shall determine eligibility under the refugee assistance program.

(b) If the applicant is not eligible for Medicaid, then the department shall determine eligibility under the refugee assistance medical program.

(4) The department shall waive requirements of categorical relatedness of federal assistance programs, except for mandatory monthly reporting, for refugee assistance program. Requirements under WAC 388-24-044 apply.

(5) The department shall determine as not eligible for refugee assistance, refugees terminated from the AFDC program because of refusal to comply with eligibility requirements.

(6) Except as specified in subsection (7) of this section, the department shall provide assistance to all refugees, regardless of family composition, at the AFDC monthly standards. The department shall treat income and resources according to AFDC standards. The department shall not consider resources which are unavailable, including property remaining in other countries, in determining eligibility for financial assistance.

(7) Applicants for and recipients of refugee assistance are not eligible for the thirty dollar plus one-third of the remainder exemption from earned income.

(8) The department shall treat the refugee family unit including United States citizen children born in this country, as a single assistance unit under the refugee assistance program under the provisions of WAC 388-24-050.

(9) Beginning October 1, 1988, the department shall consider refugees meeting the criteria in this section as eligible for refugee assistance only during the twelve-month period beginning the first of the month the refugee first entered the United States.

(10) The department shall not consider full-time students in an institution of higher education eligible for refugee assistance, unless participating in a department-approved job or language training program not to exceed twelve months.

(11) The department shall notify the voluntary agency (VOLAG) sponsoring the refugee when the refugee applies for assistance.

(12) Refugees meeting the criteria in this section are eligible for additional requirements for emergent situations under chapter 388-29 WAC.

[Statutory Authority: RCW 43.20A.550, 91-01-122 (Order 3120), § 388-55-010, filed 12/19/90, effective 1/19/91; 89-17-029 (Order 2846), § 388-55-010, filed 8/8/89, effective 9/8/89; 89-03-008 (Order 2752), § 388-55-010, filed 1/6/89; 84-13-028 (Order 2111), § 388-55-010, filed 6/13/84; 83-13-069 (Order 1969), § 388-55-010, filed 6/16/83; 82-10-061 (Order 1800), § 388-55-010, filed 5/5/82; 81-08-061 (Order 1630), § 388-55-010, filed 4/1/81; 79-02-025 (Order 1367), § 388-55-010, filed 1/17/79, effective 3/1/79; 78-04-

037 (Order 1283), § 388-55-010, filed 3/20/78; Order 1188, § 388-55-010, filed 2/18/77; Order 1173, § 388-55-010, filed 11/24/76; Order 1160, § 388-55-010, filed 10/6/76; Order 1079, § 388-55-010, filed 12/24/75; Order 1041, § 388-55-010, filed 8/7/75.]

WAC 388-55-020 Work and training eligibility conditions. (1) The department requires all applicants for and recipients of a financial grant under the refugee assistance program and each member of the family group of which the applicants and recipients are a part to register for employment with the state employment service or other designated employment agency. Exemptions to employment registration are:

(a) A person sixteen through eighteen years of age attending secondary school or an equivalent level of vocational or technical training full time or any person under sixteen, regardless of school attendance; or

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

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

(d) A mother or other caretaker caring for a child five years of age or under; or

(e) A mother or other caretaker of a child, when the nonexempt father or other nonexempt adult relative in the home is registered and has not refused to accept employment without good cause; or

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

(g) A person of any age while enrolled and participating in a CSO-approved employability training program intended to have a definite short-term (less than one year) employment objective.

(2) The department shall not exempt from registration or acceptance of employment a refugee solely because of inability to communicate in English.

(3) For purposes of this section, training shall mean participation in any available and appropriate social service program providing job or language training as approved in the personal employment plan.

(4) Refusal of an employable adult refugee to register with the employment service provider without good cause and/or refusal to accept, continue, or participate in a training or employment opportunity or referral, from any source the department determines appropriate shall also result in the following:

(a) Ineligibility for refugee assistance for thirty days from the date of refusal of work or training opportunity, for an applicant. The dependent family of such an ineligible applicant may apply for and receive assistance if otherwise eligible;

(b) Termination of assistance the first of the following month after the date of original refusal if an employable refugee recipient continues to refuse an offer of employment or training. The department shall allow the refugee at least ten days written notice of the termination of assistance and the reason therefore;

(c) The sanction for persons identified in subsection (4)(a) and (b) is applied in the following manner:

(i) If the assistance unit includes other individuals, the grant is reduced by the amount included on behalf of the

refugee for three months after the first occurrence and six months for the second and each subsequent occurrence;

(ii) If such individual is the only individual in the assistance unit, the department shall terminate the grant for three months after the first occurrence and six months for the second and each subsequent occurrence;

(iii) The department shall notify the recipient's voluntary agency (VOLAG) if action is taken according to subsection (4)(b)(i) or (ii) of this section, provided the provisions for safeguarding information in chapter 388-320 WAC are met; and

(iv) A decision by the refugee to accept employment or training, made at any time before the effective date of termination, shall result in the continuation of assistance without interruption if the refugee continues to meet the eligibility requirements for continued assistance.

[Statutory Authority: RCW 43.20A.550. 89-03-008 (Order 2752), § 388-55-020, filed 1/6/89; 84-13-028 (Order 2111), § 388-55-020, filed 6/13/84; 83-13-069 (Order 1969), § 388-55-020, filed 6/16/83.]

WAC 388-55-030 Treatment of income. (1) With the exception of the thirty dollar and one-third exemption, adult refugee recipients shall be eligible for earned income exemptions as specified in WAC 388-28-570, regardless of assistance unit composition.

(2) The income of a refugee dependent child shall be treated as specified in WAC 388-28-535.

(3) All refugee recipients sixty-five years of age or older, or blind or disabled will be referred immediately to the Social Security Administration for SSI benefits. The SSI applicant will be included in the assistance grant at the AFDC standard until payments are received.

[Statutory Authority: RCW 43.20A.550. 83-13-069 (Order 1969), § 388-55-030, filed 6/16/83.]

WAC 388-55-040 Refugee medical assistance. (1) A refugee receiving a continuing assistance grant is eligible for medical assistance as specified in WAC 388-82-010(1).

(2) The department shall determine the nonrecipient refugee eligibility for medical care as specified in chapter 388-83 WAC. The department shall base eligibility on medical and financial need only; requirements of categorical relatedness are waived.

(3) The department shall apply WAC 388-55-030(1) in determining the amount of participation in medical costs for refugee medical assistance recipients.

(4) The refugee financial assistance recipient who becomes ineligible because of increased income from employment shall remain eligible for medical assistance for four calendar months beginning with the month of ineligibility provided:

(a) In the case of a single individual assistance unit:

(i) The individual received assistance in at least three of the six months immediately preceding the month of ineligibility; and

(ii) He or she continues employment.

(b) In the case of a multiple individual assistance unit:

(i) The family received assistance in at least three of the six months immediately preceding the month of ineligibility; and

(ii) A member of the family continues employment.

(5) Medical need is not an eligibility factor for subsection (4)(a) or (b) of this section.

(6) Refugee recipients shall have continuing eligibility for financial and medical assistance redetermined at least once in every six months of continuous receipt of assistance.

(7) Persons meeting the criteria in this section are eligible for refugee assistance only during the twelve-month period beginning in the first month the person entered the United States.

[Statutory Authority: RCW 43.20A.550. 89-03-008 (Order 2752), § 388-55-040, filed 1/6/89; 83-13-069 (Order 1969), § 388-55-040, filed 6/16/83.]

Chapter 388-59 WAC

SUPPLEMENTAL SECURITY INCOME

WAC

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| 388-59-010 | State supplementary payments—Definitions. |
| 388-59-020 | State supplementary payments—General provisions. |
| 388-59-030 | State supplementary payments—Establishing eligibility. |
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| 388-59-070 | Mandatory state supplementary payments—Determining amount. |
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| 388-59-100 | Representative payee. |

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

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|------------|---|
| 388-59-120 | Representative payee—Immediate hardship. [Order 910, § 388-59-120, filed 3/1/74.] Repealed by Order 940, filed 6/10/74 before publication in WAC. |
| 388-59-130 | Representative payee—Monthly standards for emergency payments. [Order 910, § 388-59-130, filed 3/1/74.] Repealed by Order 940, filed 6/10/74 before publication in WAC. |
| 388-59-140 | Representative payee—Application—Verification—Payment. [Order 910, § 388-59-140, filed 3/1/74.] Repealed by Order 940, filed 6/10/74 before publication in WAC. |

WAC 388-59-010 State supplementary payments—Definitions. (1) "Eligible couple" means an eligible individual and eligible spouse.

(2) "Eligible individual" means an aged, blind, or disabled person as defined in Title XVI of the Social Security Act.

(3) "Eligible spouse" means an aged, blind, or disabled individual who is the husband or wife of an eligible individual.

(4) "Essential person" means an individual whose needs were taken into account in determining the need of an old age assistance (OAA), aid to the blind (AB), or disability assistance (DA) recipient for December 1973, who lives in the home of the recipient, and who is not an eligible individual or eligible spouse.

(5) "Grandfathering" means the process by which OAA, AB, and DA grants for December 1973, were converted to supplemental security income (SSI) and state supplementary payments, effective January 1, 1974.

(6) "Ineligible spouse" means the husband or wife of an eligible individual who is either not aged, blind, or disabled or although aged, blind, or disabled has not applied for SSI.

(7) "Interim assistance" means assistance payments the department provides to SSI applicants to meet basic needs starting with the month the eligible individual applies to SSA and ending with the month the Social Security Administration (SSA) makes the first SSI benefit payment.

(8) "Living alone" means an individual or couple living in their own home or in one of the following alternate care situations:

- (a) Congregate care;
- (b) Adult family home;
- (c) Foster family group home; or
- (d) Developmentally Disabled (DD) group home.

(9) "Living in household of another" means an individual or couple not paying a pro rata share of the household expenses based on fair market value or when both board and room are supplied.

(10) "Mandatory state supplement" means the state money payment for an individual who, before December 1973, was a recipient of a money payment under the department's former programs of old age assistance, aid to the blind, and disability assistance.

(11) "OAA, AB, DA" means the department's programs of old age assistance, aid to the blind and disability assistance under Titles I, X, and XIV of the Social Security Act, and repealed by P.L. 92-603, effective January 1, 1974.

(12) "Optional state supplement" means the elected state money payment to an individual eligible for SSI benefits on or after January 1, 1974.

(13) "SSI benefit payment" means a federal benefit and any state supplementary amount the Social Security Administration determines payable. Advance payment and payment based upon presumptive disability or presumptive blindness are not considered SSI benefit payments for interim assistance purposes.

(14) "Supplemental security income (SSI) program" means the federal program of supplemental security income for the aged, blind, and disabled established by section 301 of the Social Security Amendments of 1972, and subsequent amendments, and administered by the Social Security Administration (SSA).

(15) "Supplementary payment" means a state money payment to an individual receiving benefits under Title

XVI or would but for their income be eligible for benefits, as assistance based on need in SSI supplementation benefits.

[Statutory Authority: RCW 74.08.090. 91-01-046 (Order 3110), § 388-59-010, filed 12/12/90, effective 1/12/91; 82-06-052 (Order 1774), § 388-59-010, filed 3/3/82; 79-04-036 (Order 1379), § 388-59-010, filed 3/22/79; Order 910, § 388-59-010, filed 3/1/74.]

WAC 388-59-020 State supplementary payments-- General provisions. (1) State supplementary payments are administered by the Social Security Administration (SSA) under an agreement with the department.

(2) (SSA) shall make determinations of an individual's eligibility for:

(a) State supplementary payments for an individual residing in the state who receives or will receive, or would but for their income be eligible to receive, basic federal payments; and

(b) Mandatory state supplements.

(3) The SSA shall make state supplementary payments to an eligible individual or couple when the department agrees on the amounts.

(4) The SSA shall provide an individual reasonable notice and opportunity for a hearing with respect to findings of fact and decisions as to the rights of the individual applying for optional state supplementary payments or mandatory state supplementary payments.

(5) The SSA shall impose, as promptly as feasible deductions against supplementary payments or mandatory minimum supplements if validly prescribed by the state, on an eligible individual or eligible spouse for failure to comply with SSA-established reporting requirements.

(6) The SSA shall make determinations of eligibility for Title XIX medical assistance for an eligible individual and eligible spouse as part of the determination of eligibility for SSI and state supplementary payments.

(a) The essential spouse shall remain eligible for Title XIX medical as long as the "grandfathered" essential spouse status does not cease.

(b) The ineligible spouse requesting medical assistance shall make a separate application to the department.

[Statutory Authority: RCW 74.08.090. 91-01-046 (Order 3110), § 388-59-020, filed 12/12/90, effective 1/12/91; 79-04-036 (Order 1379), § 388-59-020, filed 3/22/79; Order 910, § 388-59-020, filed 3/1/74.]

WAC 388-59-030 State supplementary payments-- Establishing eligibility. (1) The Supplemental Security Income application form shall serve as an individual's application for a state supplementary payment.

(2) An individual who is receiving or would be eligible to receive the department's supplementary payments may waive the right by making a written request for waiver to SSA.

(a) When an ineligible spouse and an eligible individual have minor children eligible for Aid to Families with Dependent Children (AFDC), the ineligible spouse may waive the state supplement and receive AFDC as part of the child's assistance unit.

(b) The department shall not pay state-funded general assistance to an individual or the individual's spouse

who waives supplementary payments for oneself or the individual's ineligible spouse in lieu of the supplementary payments.

(c) The ineligible spouse supplement shall not be paid for a parent receiving or who [will receive AFDC with their children.]

(3) An individual having waived supplementary payments may revoke the waiver at any time by requesting, in writing, to SSA.

(4) A "grandfathered" recipient shall retain grandfathered status as long as the recipient continues meeting the eligibility requirements for OAA, AB, and DA in effect for the state programs before January 1, 1974.

[Statutory Authority: RCW 74.08.090, 91-01-046 (Order 3110), § 388-59-030, filed 12/12/90, effective 1/12/91; 79-04-036 (Order 1379), § 388-59-030, filed 3/22/79; Order 910, § 388-59-030, filed 3/1/74.]

Reviser's note: RCW 34.05.395 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 388-59-040 State supplementary payments—Amount. (1) The amounts of state supplementary payments shall be as specified in the department's agreement with SSA.

(2) The payment level of state supplementary payments made to an eligible individual and couple may vary according to geographic location and the following type of living arrangement.

(a) Living alone as an individual, as a couple with eligible individual and eligible spouse or essential person, or as a couple with eligible individual and ineligible spouse.

(b) Living in household of another as an individual, as a couple with eligible individual and eligible spouse or essential person, or as a couple with eligible individual and ineligible spouse.

(3) The SSA shall determine countable income of an eligible individual or eligible couple, according to SSI rules. Countable income affects the amount of state supplementary payments as follows:

(a) SSA shall first deduct countable income from the basic federal benefit amount payable to an eligible individual or eligible couple;

(b) If countable income is equal to or less than the amount of the federal benefit rate, the full amount of the state supplementary payment as specified in the department's agreement with SSA shall be made;

(c) If countable income exceeds the amount of the federal benefit rate, the state supplementary payment shall be reduced by the amount of such excess; and

(d) No state supplementary payment shall be made when countable income equals or exceeds the sum of the federal benefit rate and the state supplementary payment rate.

(4) A state supplementary payment shall be made on a monthly basis and shall be included in the same check as a federal benefit is payable. The state supplementary payment shall be for the same month as the federal benefit.

(5) An optional state supplement shall be paid to:

(a) An individual or couple residing in a public institution;

(b) An individual or couple residing in a Title XIX facility;

(c) Grandfathered cases consisting of an eligible individual and:

(i) More than one essential person; or

(ii) An eligible spouse and one or more essential persons.

[Statutory Authority: RCW 74.08.090, 91-01-046 (Order 3110), § 388-59-040, filed 12/12/90, effective 1/12/91; 79-04-036 (Order 1379), § 388-59-040, filed 3/22/79; Order 910, § 388-59-040, filed 3/1/74.]

WAC 388-59-045 Separation of income and resources. (1) Income and resources are considered available to meet need of both husband and wife except when spouses are separated.

(2) When determining eligibility and benefit amounts, SSA shall consider a married couple to be separated beginning the month after the month they began living apart.

(a) If a married couple is not living together on the date of initial application or request for reinstatement following a period of ineligibility, SSA shall consider each member of the couple as an individual regardless of how recently the separation occurred.

(b) Eligibility for institutionalized couples is described under WAC 388-92-025.

(3) SSA shall consider the income and resources of a parent available to meet the needs of a disabled child seventeen years of age or younger and a disabled student twenty years of age or younger only when the:

(a) Child lives in the same household as the parent; and

(b) Amount of the parent's income available to the disabled child has first been reduced by all allowable earned or unearned income disregards and allocated to meet the needs, as established by SSA, of all ineligible family members residing in the same household.

(4) SSA shall not consider the income and resources of a parent available to meet the needs of a disabled student twenty-one through twenty-two years of age. The disabled student may still be considered a "child" for other SSI purposes only.

[Statutory Authority: RCW 74.08.090, 91-01-046 (Order 3110), § 388-59-045, filed 12/12/90, effective 1/12/91; 79-04-036 (Order 1379), § 388-59-045, filed 3/22/79.]

WAC 388-59-048 Termination of optional state supplement. The department shall terminate the optional state supplement:

(1) Beginning the first month after the month the individual dies;

(2) The first month after the month the individual ceases to meet the categorical eligibility requirements of aged, blind, or disabled;

(3) When the individual ceases to reside in Washington state;

(4) When the individual fails to apply for and, if eligible, obtain benefits or accept vocational services as specified by SSA;

(5) When the individual's disability is based on alcoholism or drug addiction and the recipient is not undergoing treatment required by SSA; or

(6) When the individual has resided throughout a calendar month in a public institution or a Title XIX facility.

[Statutory Authority: RCW 74.08.090. 91-01-046 (Order 3110), § 388-59-048, filed 12/12/90, effective 1/12/91; 79-04-036 (Order 1379), § 388-59-048, filed 3/22/79.]

WAC 388-59-050 State supplementary payments—Additional requirements under specified circumstances—Chore services. (1) The department shall determine need and make payment for additional requirements as provided under chapter 388-29 WAC to the recipient of state supplementary payments.

(2) A recipient of SSI or state supplementary payments shall be eligible for chore services as provided under WAC 388-15-207 through 388-15-217.

[Statutory Authority: RCW 74.08.090. 91-01-046 (Order 3110), § 388-59-050, filed 12/12/90, effective 1/12/91; 79-04-036 (Order 1379), § 388-59-050, filed 3/22/79; Order 910, § 388-59-050, filed 3/1/74.]

WAC 388-59-060 State supplementary payments—Overpayment and underpayment. (1) Upon determination that an overpayment has occurred, SSA shall make adjustments against future state supplementary payments for which the person is entitled.

(2) Recoupment procedures in effect for recovery of a recipient's SSI overpaid benefit shall also apply to the recovery of state supplementary overpaid amounts. The department shall not compensate an SSI beneficiary for reductions of the beneficiary's income caused by recoupment procedures.

(3) On determining an underpayment of state supplementary payments is due and payable, SSA shall pay the underpaid amount to the underpaid claimant.

(4) If the underpaid person dies before receiving the underpaid amount of state supplementary payment, SSA shall pay the underpaid amount to the claimant's eligible spouse. If the deceased claimant has no eligible spouse, no payment of the underpaid amount is made.

[Statutory Authority: RCW 74.08.090. 91-01-046 (Order 3110), § 388-59-060, filed 12/12/90, effective 1/12/91; 79-04-036 (Order 1379), § 388-59-060, filed 3/22/79; Order 910, § 388-59-060, filed 3/1/74.]

WAC 388-59-070 Mandatory state supplementary payments—Determining amount. (1) For an individual receiving OAA, AB, or DA during December 1973, the amount of a state supplementary payment shall be the:

(a) Amount by which an individual or couple's December 1973 income exceeds the amount of SSI benefit, plus other income used in computing assistance payable for the month; or

(b) Optional supplemental payment the department determines if the payment is a greater amount.

(2) "December 1973 income" means an amount equal to the sum of:

(a) Money payments an individual would have received as a recipient of OAA, AB, or DA according to rules effective for June 1973 relating to eligibility for and amount of such payments; and

(b) The amount of the income of such individual other than public assistance money payments received by such individual in December 1973 after applying all appropriate income exclusions.

(3) A reduction shall be made for income not properly reported which would have resulted in a reduction of public assistance.

[Statutory Authority: RCW 74.08.090. 91-01-046 (Order 3110), § 388-59-070, filed 12/12/90, effective 1/12/91; Order 910, § 388-59-070, filed 3/1/74.]

WAC 388-59-080 Mandatory state supplementary payments—Reduction. (1) After December 1973, SSA may reduce an individual's mandatory state supplement amount if a special need or circumstance change occurred after December 1973 which would cause a reduction in benefits, as described under WAC 388-59-070. The SSA's reduction of the individual's mandatory supplement shall take place for the month in question and each month thereafter.

(2) SSA shall not adjust an individual's mandatory state supplementary payment to a higher amount than that computed as payable for January 1974.

[Statutory Authority: RCW 74.08.090. 91-01-046 (Order 3110), § 388-59-080, filed 12/12/90, effective 1/12/91; Order 910, § 388-59-080, filed 3/1/74.]

WAC 388-59-090 Mandatory state supplementary payments—Termination of eligibility. An individual eligible for mandatory state supplementary payments beginning January 1974 shall not be eligible for payments:

(1) Beginning the month after the month in which the individual dies; or

(2) The first month after the month in which SSA determines the individual ceases meeting the definition of aged, blind, or disabled under which the individual received assistance for December 1973; except:

(a) No individual shall be entitled to receive a mandatory supplementary payment for a month in which the individual was ineligible to receive SSI because such individual:

(i) Throughout the month is an inmate of a public institution; or

(ii) Fails within thirty days to take appropriate steps to apply for and, if eligible, obtain benefits as specified by SSA; or

(iii) Is eligible solely because of disability and medically determined a drug addict or an alcoholic unless the individual is undergoing treatment as required by SSA; or

(iv) For a month during which the individual is outside the United States; or

(v) Is sixty-four years of age or younger and refusing without good cause to accept vocational services for which the individual is referred by SSA.

(b) The first month after the month in which the individual ceases residing in Washington state.

[Statutory Authority: RCW 74.08.090, 91-01-046 (Order 3110), § 388-59-090, filed 12/12/90, effective 1/12/91; 79-04-036 (Order 1379), § 388-59-090, filed 3/22/79; Order 910, § 388-59-090, filed 3/1/74.]

WAC 388-59-100 Representative payee. The secretary may act as representative payee for a child eligible for SSI benefits.

[Order 1194, § 388-59-100, filed 3/3/77; Order 910, § 388-59-100, filed 3/1/74.]

Chapter 388-62 WAC

REPATRIATED UNITED STATES CITIZENS--ASSISTANCE

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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

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| 388-62-010 | Assistance for United States citizens returned from foreign countries. [Regulation 26.00, filed 1/24/64.] Repealed by Order 546, filed 3/31/71, effective 5/1/71. |
| 388-62-030 | Administration--General. [Regulation 26.20, filed 1/24/64.] Repealed by Order 546, filed 3/31/71, effective 5/1/71. |
| 388-62-055 | Referral and identification of persons. [Regulation 26.31, filed 1/24/64.] Repealed by Order 546, filed 3/31/71, effective 5/1/71. |
| 388-62-060 | Referral procedure. [Regulation 26.32, filed 1/24/64.] Repealed by Order 546, filed 3/31/71, effective 5/1/71. |
| 388-62-105 | Payments of assistance--Medical care. [Regulation 26.53, filed 1/24/64.] Repealed by Order 546, filed 3/31/71, effective 5/1/71. |
| 388-62-180 | Recording. [Regulation 26.80, filed 1/24/64.] Repealed by Order 546, filed 3/31/71, effective 5/1/71. |
| 388-62-185 | Reporting. [Regulation 26.81, filed 1/24/64.] Repealed by Order 546, filed 3/31/71, effective 5/1/71. |

388-62-205 Form for assignment of claim to United States for assistance received under Section 1113 of the Social Security Act. [Regulation 26.91, filed 1/24/64.] Repealed by Order 546, filed 3/31/71, effective 5/1/71.

WAC 388-62-020 Repatriated United States citizens--Program objectives. The purpose of this program is to help needy U.S. citizens and their dependents returned from foreign countries for the period necessary and to enable them to utilize other resources for maintenance as soon as possible. A person is needy who does not have sufficient resources immediately available to meet his requirements for living. The intent is to provide assistance only for a limited period of time to persons who are without available resources. Recipients of temporary assistance, with some exceptions, are required to repay the cost of such assistance to the United States in accordance with their ability.

[Order 546, § 388-62-020, filed 3/31/71, effective 5/1/71; Regulation 26.10, filed 1/24/64.]

WAC 388-62-035 Repatriated United States citizens--Department responsibilities. (1) Persons returning from foreign countries because of destitution or illness are likely to have urgent needs and hence it is essential that needed services are rendered as quickly as possible.

(2) The local office is responsible for developing a plan with relatives, the person and dependents who return, and with social agencies for reception and resettlement. In carrying out the plan, the local office provides transportation, financial assistance, medical care and hospitalization, and social service for adults and unaccompanied children as needed. It may be necessary to perform the following activities in carrying out this responsibility:

(a) Conduct a social study, before or after return to this country, regarding possibilities of employment, the willingness and ability of relatives to assist the individual, and other resources available for self-support, or if it appears that there may be need for assistance indefinitely the possibility of obtaining assistance in the state of residence or elsewhere.

(b) Meet the returning person and dependents at the port of entry and help them with problems aggravated or induced by illness, and to develop resources available for self-support, or, if it appears they may be in need indefinitely, the possibility of obtaining assistance in the state of residence or elsewhere.

(c) Arrange for transportation from the port of entry to place of residence or other destination, if after social study this is in the best interests of the individual.

(d) Refer persons to available employment, retraining, vocational rehabilitation, and medical services.

(e) Assure safeguards for children not under the immediate care and protection of their parents. Agency responsibility for unaccompanied minor children should not end until adequate legal protection is established.

(f) Inform persons requesting assistance of the provisions governing repayment to the United States of the cost of assistance and make recommendations to USDHEW as to their financial ability to repay.

[Order 969, § 388-62-035, filed 9/13/74; Order 546, § 388-62-035, filed 3/31/71, effective 5/1/71; Regulation 26.21, filed 1/24/64.]

WAC 388-62-050 Persons served. (1) To qualify for help from the program, an individual must be:

(a) A U.S. citizen or a dependent of a U.S. citizen (returned from a foreign country)

(b) Identified by the department of state as returned or brought from a foreign country because of destitution or illness

(c) Without resources immediately accessible to meet his needs.

(2) Within the above-identified coverage are U.S. citizens and their dependents who have returned from Cuba on or after September 1, 1960.

[Regulation 26.30, filed 1/24/64.]

WAC 388-62-070 Repatriated United States citizens—Eligibility. (1) To qualify for help from the program, an individual must be

(a) A U.S. citizen or a dependent of a U.S. citizen returning from a foreign country,

(b) Identified by the department of state as returned or brought from a foreign country because of destitution, or illness other than mental illness,

(c) Without resources immediately accessible to meet his needs.

(2) Within the above identified coverage are U.S. citizens and their dependents who have returned from Cuba on or after September 1, 1960.

(3) Except in the case of U.S. citizens who have returned from Cuba, the need for financial assistance and medical care is the only factor of eligibility to be determined by the ESSO. The fact that an individual may have resources in a foreign country does not make him ineligible if the foreign country prohibits their removal.

(4) Temporary assistance under this program is limited to the first 90 days from the date of arrival of the person in the United States. If a person is handicapped in attaining self-support or self-care due to age, disability, lack of vocational preparation or similar reasons, an extension beyond the above limit may be requested from the Secretary of USDHEW.

[Order 1082, § 388-62-070, filed 12/24/75; Order 546, § 388-62-070, filed 3/31/71, effective 5/1/71; Regulation 26.40, filed 1/24/64.]

WAC 388-62-075 Repatriated United States citizens—Standards of assistance. (1) Temporary assistance as used herein means money payments, medical care, temporary billeting, transportation, and other goods and services necessary for the health or welfare of individuals including guidance, counseling, and other welfare services. Assistance provided to adult repatriates shall be based upon supplemental security income standards, including the state supplement. The department's standards for the aid to families with dependent children or for foster care shall be used in determining the amount of financial assistance needed for families, with such adaptation as may be necessary due to the composition of the family, and without the use of the maximum cost standards for requirements.

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(2) In determining the amount necessary for current and continuing self-support, consideration shall be given to the requirements of dependents, mortgage payments on real property occupied by the recipient as his home, for life insurance premiums, and for payments on obligations including medical bills.

(3) Depending upon the circumstances relating to repatriation, assistance may be granted to individuals and families in their own homes or for their maintenance in congregate facilities, and for board and room in hotels or private homes. Provision may also be made for

(a) Transportation to their place of residence, to their relatives, or to a place where they can be resettled. The least costly and most direct means of transportation should be used unless effective service to the individual calls for providing other accommodations. Transportation also includes travel expenses, such as meals and lodging enroute and assistance with luggage, checking, storage, or transportation of personal effects.

(b) The cost of a special diet recommended by a physician

(c) Purchase of restaurant meals

(d) Housing arrangements to provide adequate accommodations

(e) Essential clothing for an initial supply and for the maintenance and replacement of such supply

(f) Medical and hospital care which a physician considers necessary because of the condition of the individual's health. Ordinarily, medical or hospital care at the port of entry is intended for treatment of acute illness which prevents the individual from traveling to his final destination where he would be able to obtain more complete care — see WAC 388-83-045.

(g) Communication by phone or telegraph to contact relatives, friends, or former employers to obtain access to resources for self-support.

(4) If it appears that a person may need financial assistance for maintenance after he reaches his destination, the local office, in addition to supplying transportation from the port of entry, may also provide sufficient funds for maintenance until he can contact the state-local agency on arrival at his destination. If foster care is required, standards for that program are used.

(5) Within 60 days after arrival in the United States, all persons who are 65 years of age, blind or disabled, shall be referred to the Social Security administration to apply for supplemental security income benefits. Assistance from the repatriate program shall be terminated immediately upon determination of eligibility for supplemental security income benefits.

[Order 969, § 388-62-075, filed 9/13/74; Order 546, § 388-62-075, filed 3/31/71, effective 5/1/71; Regulation 26.41, filed 1/24/64.]

WAC 388-62-080 Repatriated United States citizens—Resources. (1) The resources considered in an emergency shall be only those immediately accessible for use at the time financial assistance is needed. Resources may be considered to be immediately accessible when they are in existence, the value is ascertainable, they are under the control of the individual, and he can draw upon them for maintenance.

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(2) An individual may have resources through the company which employed him prior to repatriation. This company or former employer may assist their employee by financing transportation costs, living expenses, medical care, etc. Eligibility for benefits and assistance under established income maintenance programs should be considered a resource and help in securing such resources should be provided as soon as possible.

[Order 546, § 388-62-080, filed 3/31/71, effective 5/1/71; Regulation 26.42, filed 1/24/64.]

WAC 388-62-095 Repatriated United States citizens--Assistance payments--Types of grants. Assistance is granted in cash or in kind to the recipient or in his behalf. It may be more convenient to grant assistance in kind at the port of entry and for transportation to the place of residence or resettlement. Cash assistance when needed temporarily in the place of residence or resettlement may be more appropriate. If there is no adult to whom a money payment can be made, or when congregate or other group care is purchased, payment can be made to vendors.

[Order 546, § 388-62-095, filed 3/31/71, effective 5/1/71; Regulation 26.51, filed 1/24/64.]

WAC 388-62-100 Payments of assistance--Grants.

(1) Grants for repatriated U.S. nationals shall be authorized and paid by use of procedures specified for general assistance noncontinuing assistance in chapter 388-62 WAC, except when foster care is authorized.

(2) SF 4595-B or SF 4595-B(T) certification of cash noncontinuing assistance, is used to certify a cash grant. SF 2600, disbursing order, is used to authorize a vendor payment.

(3) SF 5822-G, authorization of noncontinuing assistance, shall be used to compute and authorize grants.

(4) If foster care is required, payment is authorized by county office submittal of a voucher (A 19-PA1) to the state office monthly with appropriate codes entered. SF 5822-C is not used.

[Regulation 26.52, filed 1/24/64.]

WAC 388-62-115 Repatriated United States citizens--Duration of assistance. The need for assistance is expected to be temporary since most returning United States citizens will be able to develop sufficient resources for maintenance or will soon be able to manage for themselves without financial help. If necessary, assistance may be continued on a temporary basis after the individual or family arrives at the place of residence or resettlement while the agency in the state of residence or resettlement makes a more complete investigation to determine need for further assistance, the amount of assistance required and the availability of other assistance or benefits. Assistance may be continued to persons without available resources until they become self-supporting or until their eligibility is established for assistance under any other public assistance program. If assistance is needed beyond the period of reception, the local office should review the recipient's situation at frequent intervals to assure that the need for assistance

continues and that no other arrangements for maintenance can be made.

[Order 546, § 388-62-115, filed 3/31/71, effective 5/1/71; Regulation 26.55, filed 1/24/64.]

WAC 388-62-130 Repatriated United States citizens--Welfare services. Welfare services are all services other than financial assistance to help individuals or families adapt to the changes in their circumstances and to become self-sustaining as quickly as possible. These services may include counseling and referral in regard to employment, re-training, care and education of children, and resettlement. Most repatriated persons will have roots somewhere in this country and therefore will want to leave the port of entry as soon as appropriate arrangements for travel can be made.

[Order 546, § 388-62-130, filed 3/31/71, effective 5/1/71; Regulation 26.60, filed 1/24/64.]

WAC 388-62-135 Repatriated United States citizens--Care and protection of children. Services should be provided for the care and protection of children, including care of children in foster homes or institutions. Social services or arrangements for facilities that supplement or substitute for parental care and supervision shall be made available as needed through the child welfare services program. Such services and assistance shall conform to the department's standards for foster home, receiving home, or institutional care. Recognized child welfare practices shall be observed in protecting the welfare of an unaccompanied minor child.

[Order 969, § 388-62-135, filed 9/13/74; Order 546, § 388-62-135, filed 3/31/71, effective 5/1/71; Regulation 26.61, filed 1/24/64.]

WAC 388-62-155 Repatriated United States citizens--Food stamps. Repatriated U.S. citizens may be certified for federal food coupons as noncontinuing assistance recipients, or if they receive no assistance as nonrecipients.

[Order 546, § 388-62-155, filed 3/31/71, effective 5/1/71; Regulation 26.71, filed 1/24/64.]

WAC 388-62-160 Repatriated United States citizens--Work incentive program. Repatriated U.S. citizens shall not be referred to the work incentive program.

[Order 546, § 388-62-160, filed 3/31/71, effective 5/1/71; Regulation 26.72, filed 1/24/64.]

WAC 388-62-165 Repatriated United States citizens--Funeral-burial expenses. An application for funeral or burial expenses for a repatriated U.S. citizen must be cleared with the department's regional administrator before payment is authorized.

[Order 969, § 388-62-165, filed 9/13/74; Order 546, § 388-62-165, filed 3/31/71, effective 5/1/71; Regulation 26.73, filed 1/24/64.]

WAC 388-62-170 Repatriated United States citizens--Related social services. Social services available to public assistance recipients shall be furnished to any U.S. repatriated citizen who requests them, without regard to eligibility for financial assistance.

[Order 546, § 388-62-170, filed 3/31/71, effective 5/1/71; Regulation 26.74, filed 1/24/64.]

WAC 388-62-190 Repatriated United States citizens—Safeguarding information. (1) The use of information obtained about persons who receive temporary assistance under this program must be limited to the purpose for which information was received. This limitation applies to

(a) Information about names and addresses including lists,

(b) Information furnished on applications, reports of investigations, medical reports, correspondence, and other records concerning the condition or circumstances of any person from whom or about whom information is obtained, whether recorded or not recorded,

(2) Local office evaluations of information may be released to another agency from whom the applicant has requested services and whose objective is the protection or advancement of his welfare. The basis for this disclosure is that the request constitutes an actual or implied consent for release of relevant information to such agency and a recognition that the release is to secure services for his benefit.

(3) Disclosure should be made only to representatives of other agencies which can give assurance that

(a) The confidential character of such information will be preserved,

(b) The information will be used only for the purposes for which it is made available, and for the functioning of the inquiring agency, and

(c) The standards of protection of the inquiring agency are equal to those of the department as to staff use of information and protective office equipment and procedures. This does not preclude disclosure upon proper inquiry of information about the presence of an eligible person in a hospital, or about his general condition and progress.

(4) Inspection of lists or rolls of persons furnished assistance under this program and publication of their names is prohibited.

[Order 969, § 388-62-190, filed 9/13/74; Order 546, § 388-62-190, filed 3/31/71, effective 5/1/71; Regulation 26.82, filed 1/24/64.]

WAC 388-62-200 Repatriated United States citizens—Reimbursement and assignment of claims. (1) The local office function with respect to repayment is to

(a) Explain to an applicant that repayment is expected of persons with sufficient financial ability,

(b) Determine his ability to repay,

(c) Develop a plan of repayment when possible, and

(d) Recommend whether repayment is indicated.

(2) The kind and value of resources available to the individual or family and the obligations which must be met from these resources in the future must be explored. When possible, this evaluation should be made at the time assistance is approved for the individual.

(3) The department's rules and procedures for determining eligibility and need for federal aid are to be applied in this exploration, subject to the following:

(a) Ability to repay is considered to exist when resources in excess of continuing needs can be expected to become readily available to an individual within a reasonable period of time after self-support is attained. One year may be used as a reasonable period of time. It is not intended that an individual, in repaying the federal government, deplete himself of resources which he needs to become independent or to maintain his independence. Resources are considered readily available when they are under control of the individual and are sufficient both for this maintenance and for repayment.

(b) Real and personal property may be considered according to the department's rules as to kind and method of determining the value. Resources intended for a future contingency, such as life insurance, ordinarily would not be considered readily available for repayment.

(c) In exploring an individual's resources, any claim he has against any person, trust or estate, partnership, corporation, or government in a foreign country shall be considered. Such claims may be assigned to the United States according to section 1113 of the Social Security act in making repayment of assistance. Assignment of such claim to the United States shall be required if no other resource in excess of that necessary for maintenance is available to an individual for repayment of assistance. Assignments are governed by the law of the state in which the assignment is executed.

(d) Assistance of less than fifty dollars is impracticable for collection. Repayment ordinarily will not be sought for assistance to cover incidental small expenses, such as overnight accommodations and meals in the course of reception, if no other assistance is furnished.

(4) As soon as an individual is found financially able to repay he shall be informed of the determination and the basis for it, and to discuss his plans for repayment.

(5) On termination of assistance, the USDHEW will notify the individual of the amount paid to him or in his behalf from information furnished by the department and will request repayment. Repayment should be made by personal check, cashier's check, or money order, payable (and sent directly) to the USDHEW, Washington, D.C., with sufficient identifying information to credit the payment properly. Checks made payable to the department of social and health services should be endorsed to the USDHEW.

[Order 969, § 388-62-200, filed 9/13/74; Order 546, § 388-62-200, filed 3/31/71, effective 5/1/71; Regulation 26.90, filed 1/24/64.]

Chapter 388-70 WAC

CHILD WELFARE SERVICES—FOSTER CARE— ADOPTION SERVICES—SERVICES TO UNMARRIED PARENTS

WAC

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- 388-70-016 Placement of child in foster care. [Order 1138, § 388-70-016, filed 7/29/76; Order 1123, § 388-70-016, filed 6/7/76; Order 965, § 388-70-016, filed 8/29/74; Order 913, § 388-70-016, filed 3/1/74.] Repealed by 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.
- 388-70-017 Rights of natural parents of child. [Order 1123, § 388-70-017, filed 6/7/76; Order 913, § 388-70-017, filed 3/1/74.] Repealed by 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.
- 388-70-018 Foster care—Duration of service. [Order 623, § 388-70-018, filed 10/27/71.] Repealed by Order 913, filed 3/1/74.
- 388-70-019 Responsibility of foster parents. [Order 913, § 388-70-019, filed 3/1/74.] Repealed by 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.
- 388-70-020 Services offered. [Regulation 70.020, filed 3/22/60.] Repealed by Order 623, filed 10/27/71.
- 388-70-025 Foster care—Eligibility. [Order 623, § 388-70-025, filed 10/27/71.] Repealed by Order 913, filed 3/1/74.
- 388-70-030 Application and requests for child welfare services. [Regulation 70.030, filed 3/22/60.] Repealed by Order 623, filed 10/27/71.
- 388-70-040 Foster care—Request for services. [Order 623, § 388-70-040, filed 10/27/71; Regulation 70.040, filed 3/22/60.] Repealed by Order 913, filed 3/1/74.
- 388-70-043 Foster care—Authorization for placement. [Order 763, § 388-70-043, filed 1/10/73; Order 623, § 388-70-043, filed 10/27/71.] Repealed by Order 913, filed 3/1/74.
- 388-70-046 Foster care—Rights of natural parents of child. [Order 623, § 388-70-046, filed 10/27/71.] Repealed by Order 913, filed 3/1/74.
- 388-70-047 Emergency foster care assistance. [Statutory Authority: RCW 74.08.090. 78-09-098 (Order 1335), § 388-70-047, filed 9/1/78; Order 1052, § 388-70-047, filed 9/10/75.] Repealed by 85-13-062 (Order 2242), filed 6/18/85. Statutory Authority: RCW 74.08.090.
- 388-70-049 Payment standards—Foster care in boarding school. [Order 913, § 388-70-049, filed 3/1/74.] Repealed by 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.
- 388-70-050 Requests from parents. [Regulation 70.050, filed 3/22/60.] Repealed by Order 623, filed 10/27/71.
- 388-70-052 Overpayments of foster care. [Order 913, § 388-70-052, filed 3/1/74.] Repealed by Order 1186, filed 2/3/77.
- 388-70-053 Payment standards—Incentive plan. [Statutory Authority: RCW 74.08.090. 80-12-005 (Order 1534), § 388-70-053, filed 8/22/80.] Repealed by 85-13-062 (Order 2242), filed 6/18/85. Statutory Authority: RCW 74.08.090.
- 388-70-055 Foster care—Responsibility of foster parents. [Order 623, § 388-70-055, filed 10/27/71.] Repealed by Order 913, filed 3/1/74.
- 388-70-056 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.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 388-70-014 Eligibility for foster care—Need. [Order 1123, § 388-70-014, filed 6/7/76; Order 1040, § 388-70-014,

- 388-70-060 Services to the child in his own home. [Regulation 70.060, filed 3/22/60.] Repealed by Order 623, filed 10/27/71.
- 388-70-065 Foster care—Payment. [Order 623, § 388-70-065, filed 10/27/71.] Repealed by Order 825, filed 7/26/73.
- 388-70-070 Referrals to juvenile court. [Regulation 70.070, filed 3/22/60.] Repealed by Order 623, filed 10/27/71.
- 388-70-080 Foster care. [Regulation 70.080, filed 3/22/60.] Repealed by Order 623, filed 10/27/71.
- 388-70-085 Foster care—Determination of parents' financial ability to support child. [Order 623, § 388-70-085, filed 10/27/71.] Repealed by Order 918, filed 3/14/74.
- 388-70-090 Payment for foster care. [Regulation 70.090, filed 3/22/60.] Repealed by Order 623, filed 10/27/71.
- 388-70-100 Adoption services. [Regulation 70.100, filed 3/22/60.] Repealed by Order 1167, filed 10/27/76.
- 388-70-110 Services to unmarried parents. [Order 1020, § 388-70-110, filed 4/29/75; Order 689, § 388-70-110, filed 6/15/72; Regulation 70.110, filed 3/22/60.] Repealed by 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.
- 388-70-111 Services to unmarried parents—Duration of service. [Order 689, § 388-70-111, filed 6/15/72.] Repealed by 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.
- 388-70-112 Services to unmarried parents—Persons eligible. [Order 1020, § 388-70-112, filed 4/29/75; Order 689, § 388-70-112, filed 6/15/72.] Repealed by 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.
- 388-70-114 Services to unmarried parents—Payment. [Order 689, § 388-70-114, filed 6/15/72.] Repealed by 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.
- 388-70-116 Services to unmarried parents—Parents' responsibility. [Order 689, § 388-70-116, filed 6/15/72.] Repealed by 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.
- 388-70-118 Services to unmarried parents—Services available. [Order 689, § 388-70-118, filed 6/15/72.] Repealed by 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.
- 388-70-120 Medical care. [Regulation 70.120, filed 3/22/60.] Repealed by Order 623, filed 10/27/71.
- 388-70-130 Foster homes. [Regulation 70.130, filed 3/22/60.] Repealed by Order 623, filed 10/27/71.
- 388-70-140 Interstate movement of children. [Regulation 70.140, filed 3/22/60.] Repealed by Order 623, filed 10/27/71.
- 388-70-150 Adoption studies for the superior court. [Regulation 70.150, filed 3/22/60.] Repealed by Order 1167, filed 10/27/76.
- 388-70-175 Veterans' benefits—Types of care. [Order 623, § 388-70-175, filed 10/27/71.] Repealed by Order 825, filed 7/26/73.
- 388-70-180 Foster family care—Standards for payment. [Order 825, § 388-70-180, filed 7/26/73; Order 763, § 388-70-180, filed 1/10/73; Order 654, § 388-70-180, filed 2/9/72; Order 623, § 388-70-180, filed 10/27/71; Order 554, § 388-70-180, filed 4/1/71; Order 418, § 388-70-180, filed 12/31/69; Regulation 70.180, filed 7/27/67; Regulation 70.180, filed 2/23/67, 12/28/66, 10/13/66, 3/31/66, 6/24/64, 9/26/63, 6/30/60, 3/22/60.] Repealed by Order 913, filed 3/1/74.
- 388-70-183 Payment standards for regular foster family care. [Order 825, § 388-70-183, filed 7/26/73.] Repealed by Order 913, filed 3/1/74.
- 388-70-185 Payment standards for receiving home care. [Order 825, § 388-70-185, filed 7/26/73.] Repealed by Order 913, filed 3/1/74.
- 388-70-187 Payment standards for specialized foster family care—Child with special needs. [Order 825, § 388-70-187, filed 7/26/73.] Repealed by Order 913, filed 3/1/74.
- 388-70-190 Payment standards for foster care in boarding school. [Order 825, § 388-70-190, filed 7/26/73 and repealed by Order 913, filed 3/1/74; Order 418, § 388-70-190, filed 12/31/69; Regulation 70.190, filed 7/27/67; Regulation 70.190, filed 3/31/66, 6/24/64, 9/26/63, 6/30/60, 3/22/60.] Repealed by Order 623, filed 10/27/71.
- 388-70-200 Payment standards for foster care in boarding school—Payment to foster family receiving public assistance. [Order 623, § 388-70-200, filed 10/27/71; Order 554, § 388-70-200, filed 4/1/71; Order 418, § 388-70-200, filed 12/31/69; Regulation 70.200, filed 9/26/63; Regulation 70.200, filed 3/22/60.] Repealed by Order 913, filed 3/1/74.
- 388-70-201 DSHS—Private child caring agency relationships—Legal basis. [Order 1123, § 388-70-201, filed 6/7/76.] Repealed by 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.
- 388-70-210 Payment standards for foster care in boarding school—Payment to relative. [Order 623, § 388-70-210, filed 10/27/71; Regulation 70.210, filed 9/26/63; Regulation 70.210, filed 3/22/60.] Repealed by Order 913, filed 3/1/74.
- 388-70-211 DSHS—Private child caring agency relationships—General terms. [Order 1123, § 388-70-211, filed 6/7/76.] Repealed by 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.
- 388-70-216 Contractual relationships. [Order 1123, § 388-70-216, filed 6/7/76.] Repealed by Order 1186, filed 2/3/77.
- 388-70-220 Payment standards for foster care in boarding school—Earnings of foster child. [Order 623, § 388-70-220, filed 10/27/71; Regulation 70.220, filed 6/24/64; Regulation 70.220, filed 9/26/63; Regulation 70.220, filed 3/22/60.] Repealed by Order 913, filed 3/1/74.
- 388-70-221 Responsibilities of private child caring agencies and DSHS for placement and care. [Order 1123, § 388-70-221, filed 6/7/76.] Repealed by 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.
- 388-70-222 Payment standards for foster care in boarding school—Out-of-state authorization—Payment. [Order 623, § 388-70-222, filed 10/27/71.] Repealed by Order 913, filed 3/1/74.
- 388-70-225 Retroactive increase in old-age, survivors, and disability insurance and railroad retirement benefits—1965 amendments—Foster care. [Regulation 70.221, filed 10/1/65.] Repealed by Order 623, filed 10/27/71.
- 388-70-230 Child care agency, institution, or maternity home—Setting rates of payment. [Order 1186, § 388-70-230, filed 2/3/77; Order 1116, § 388-70-230, filed 4/28/76; Order 965, § 388-70-230, filed 8/29/74; Regulation 70.230, filed 12/21/64, effective 2/1/65; Regulation 70.230, filed 6/24/64, 9/26/63, 8/28/62, 6/30/60, 3/22/60.] Repealed by 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.
- 388-70-235 Required reports—Content—Penalty for late reporting. [Order 1186, § 388-70-235, filed 2/3/77; Order 965, § 388-70-235, filed 8/29/74; Regulation 70.231, filed 12/24/64, effective 2/1/65.] Repealed by 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.
- 388-70-240 Computation of per capita expenditures. [Regulation 70.232, filed 12/24/64, effective 2/1/65.] Repealed by 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.
- 388-70-245 Nonprofit institution and maternity home—Rate setting—Exclusions. [Order 855, § 388-70-245, filed 9/13/73; Regulation 70.233, filed 12/21/64, effective 2/1/65.] Repealed by 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.

- 388-70-250 Nonprofit agency—Commercial operations. [Regulation 70.234, filed 12/21/64, effective 2/1/65.] Repealed by 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.
- 388-70-255 Voluntary agency licensed foster family care—Rate setting. [Order 1186, § 388-70-255, filed 2/3/77; Order 1123, § 388-70-255, filed 6/7/76; Order 855, § 388-70-255, filed 9/13/73; Regulation 70.235, filed 12/21/64, effective 2/1/65.] Repealed by 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.
- 388-70-260 New agency—Rate negotiated. [Regulation 70.236, filed 12/21/64, effective 2/1/65.] Repealed by 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.
- 388-70-270 Proprietary agency—Rate setting. [Regulation 70.237, filed 12/21/64, effective 2/1/65.] Repealed by 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.
- 388-70-275 Nonsubmission of reports—Late reporting—Penalties. [Regulation 70.238, filed 12/21/64, effective 2/1/65.] Repealed by 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.
- 388-70-280 Vouchering payment. [Order 1132, § 388-70-280, filed 7/8/76; Regulation 70.239, filed 12/21/64, effective 2/1/65.] Repealed by 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.
- 388-70-300 (Appendix A) Informational list of voluntary child care agencies and institutions and agreed rates. [Appendix A, filed 12/21/64, effective 2/1/65.] Repealed by Order 623, filed 10/27/71.
- 388-70-320 Use of resources other than state department of public assistance medical program. [Regulation 70.240, filed 9/26/63.] Repealed by 78-09-098 (Order 1335), filed 9/1/78. Statutory Authority: RCW 74.08.090.

WAC 388-70-010 Foster care--Legal basis. (1) The department is authorized by RCW 74.13.020 to provide foster care.

(2) Foster care payments are vendor payments of public assistance funds. See WAC 388-22-030(72).

(3) Beginning October 1, 1983, the placement goal for the foster care program is to limit the number of children who remain in care in excess of twenty-four months to no more than thirty-five percent of the foster care population.

[Statutory Authority: 1982 c 118, 82-23-006 (Order 1901), § 388-70-010, filed 11/4/82. Statutory Authority: RCW 74.08.090, 78-09-098 (Order 1335), § 388-70-010, filed 9/1/78; Order 965, § 388-70-010, filed 8/29/74; Order 913, § 388-70-010, filed 3/1/74; Order 623, § 388-70-010, filed 10/27/71; Regulation 70.010, filed 3/22/60.]

WAC 388-70-012 Foster care--Definitions. (1) "Foster care" is a 24-hour per day substitute care for the child whose parents cannot or will not provide normal family care for him. Foster care may be provided in either a licensed foster family home or group care facility.

(2) "Foster care" includes

(a) The determination of need for foster care,

(b) Payment for the care of a child in an approved family foster home (see WAC 388-70-022(2)),

(c) The purchase of care from an approved private child placement agency, group home, or maternity home,

(d) The referral of child to a private child caring agency or institution, in order to meet the child's specific needs,

(e) The determination of the needs of the child,

(f) The placement of the child in the type of foster care facility which best meets its needs,

(g) Medical services according to the rules of the department's medical program,

(h) Supervision of the foster care placement. This may be direct supervision through departmental case-work services; or indirect supervision through evaluation of periodic reports as specified in WAC 388-70-235 from private child caring agencies, institutions or maternity homes with whom the department has contractual arrangements.

[Statutory Authority: RCW 74.08.090, 78-09-098 (Order 1335), § 388-70-012, filed 9/1/78; Order 1123, § 388-70-012, filed 6/7/76; Order 913, § 388-70-012, filed 3/1/74.]

WAC 388-70-013 Authorization for foster care placement. A child may be placed in foster care only under the following circumstances:

(1) The child has been placed in temporary residential care after having been taken into custody pursuant to chapter 13.32A RCW, Runaway Youth Act. A child shall in no event remain in temporary residential care for more than seventy-two hours from the time of initial contact with the law enforcement officer, except as otherwise provided in this section.

(2) A petition, by child, parent or parents, or the department requesting alternative residential placement for the child has been filed pursuant to RCW 13.32A.120 or 13.32A.140, or approved pursuant to RCW 13.32A.170, or upon a child having been admitted directly by RCW 13.32A.090.

(3) A child has been placed in shelter care as provided in the following:

(a) The child has been taken into custody and placed in shelter care when there is probable cause to believe, pursuant to RCW 26.44.050, that the child is abused or neglected and the child would be injured or could not be taken into custody as provided in RCW 13.34.050.

(b) A petition has been filed with the juvenile court alleging the child is dependent; that the child's health, safety, and welfare will be seriously endangered if not taken into custody and the juvenile court enters an order placing the child in shelter care. See RCW 13.34.050 and 13.34.060.

(c) No child shall be held longer than seventy-two hours, excluding Sundays and holidays, after such child is taken into custody, unless a court order has been entered for continued shelter care.

(d) No child shall be detained for longer than thirty days without a court order, authorizing continued shelter care.

(4) A juvenile court has determined a child is dependent and the court's order of disposition issued pursuant to RCW 13.34.130 removes the child from his or her home.

(5) A juvenile court has terminated the parent and child relationship pursuant to chapter 13.34 RCW and placed the custody of the child with the department or a licensed child placing agency.

(6) The child and his or her parent or parents agree to the arrangement and/or continuation of alternative residential placement pursuant to RCW 74.13.031, as evidenced by a written consent to placement subject to limitations in subsection (8) of this section.

(7) If a child is to be placed in group care, such placement shall only be made when the department has assessed the child's and family's needs and determined group care is the most appropriate placement option.

(a) The department will only provide financial support for a child's group care placement when the placement is in a licensed group care facility, and

(b) The department has custody of the child and the authority to remove the child in a cooperative manner after at least seventy-two hours notice to the child care provider; such notice may be waived in emergency situations.

(8) The child's parent or parents or legal guardian or guardians has voluntarily requested, on forms prescribed by the department, the placement of the child by the department or a licensed child placement agency into foster care and the department concurs such placement is currently necessary.

(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 388-70-022 Payment of foster care. (1) Payment is made for foster care upon:

(a) Documentation of the need for the type and level foster care as determined by the department and

(b) Documentation of authority for the placement of a child in foster care as required by WAC 388-70-013 and

(c) Receipt of a request for payment of the care to be provided.

(2) All persons and agencies to whom the department makes payment must be appropriately licensed and approved, or, if not subject to licensing, be certified or otherwise approved as meeting licensing or other appropriate requirements of the department.

(3) Payment is made for out-of-state foster care placements only after approval from the two state offices involved.

(4) Authorization of payment is the responsibility of social services. The determination of the amount of parental support, except when stated in a superior court order, is the responsibility of the office of support enforcement.

(5) Foster care payments may be made to persons granted guardianship according to section 51, chapter 155, Laws of 1979.

[Statutory Authority: RCW 74.08.090 and 1979 c 155. 79-10-026 (Order 1431), § 388-70-022, filed 9/10/79. Statutory Authority: RCW 74.08.090. 79-04-062 (Order 1384), § 388-70-022, filed 3/28/79; 78-09-098 (Order 1335), § 388-70-022, filed 9/1/78; Order 1260, § 388-70-022, filed 12/29/77, effective 2/1/78; Order 1123, § 388-70-022, filed 6/7/76; Order 913, § 388-70-022, filed 3/1/74.]

WAC 388-70-024 Payment of foster care--Effective date. (1) A foster care payment is effective the date a child is placed in care if an application for foster care payment is received within seven working days of placement. If an application is not received within seven working days of placement, the effective date of care is the date the application is received.

(2) The effective date of termination of family foster care payments for children in family foster care is the date:

(a) The child no longer needs foster care.

(b) The child reaches the age of eighteen. If the child is attending but has not finished high school or equivalent at the age of eighteen and has a need for continued family foster care services, payments may be continued until the date the high school program or equivalent is completed. Such payments shall not be extended beyond age twenty-one.

(3) Payment for group foster care is limited to children who are at least six years of age but under the age of eighteen. The effective date of termination of foster care payments for children in group foster care is the date:

(a) The child no longer needs group foster care.

(b) The child has been in group care eighteen consecutive months.

(c) The child reaches the age of eighteen. If the child is attending but has not finished high school or equivalent at the age of eighteen and has a need for continued group care services, payments may be continued until the date the high school program or equivalent is completed or the child has spent eighteen consecutive months in group care, whichever comes first.

[Statutory Authority: RCW 74.12.340. 82-16-064 (Order 1849), § 388-70-024, filed 7/30/82. Statutory Authority: RCW 74.08.090. 82-04-070 (Order 1753), § 388-70-024, filed 2/3/82; 78-09-098 (Order

1335), § 388-70-024, filed 9/1/78; Order 1123, § 388-70-024, filed 6/7/76; Order 1040, § 388-70-024, filed 8/7/75; Order 1020, § 388-70-024, filed 4/29/75; Order 913, § 388-70-024, filed 3/1/74.]

WAC 388-70-041 Payment standards--Foster family care. (1) The standards of payment in WAC 388-70-042 through 388-70-048 for foster family care for children eligible for departmental support apply equally to foster family homes under the direct supervision of the department and those under the supervision of voluntary child care agencies.

(2) The payment plan for all types of foster family care shall be determined through the study of the needs and resources of each child. The plan must, in all cases, be discussed with the foster parent so that he knows the basis for payment and the amount included for each item. The case record must also contain an explicit statement of the financial arrangement.

[Order 913, § 388-70-041, filed 3/1/74.]

WAC 388-70-042 Payment standards--Regular foster family care. Foster care payment standards shall be as follows. Effective May 1, 1985, exceptions to the standards may be approved by a DCFS administrator or designee.

(1) The board payment for foster care of a child in a family foster home is one hundred thirty-four dollars and thirty-five cents per month for a child less than six years of age, one hundred seventy-four dollars and fifty-three cents per month for children six through eleven years of age, and two hundred nine dollars and sixty-eight cents per month for a child twelve and over. For the purposes of determining the payment for board, the child's birthdate is considered to be the first of the month in which his or her birthday occurs.

(2) Foster parents shall be provided twenty-eight dollars and sixty-five cents per month for personal incidentals including school supplies for children less than age six; thirty-one dollars and seventeen cents for children age six through eleven years; and thirty-three dollars and forty-five cents for a child twelve and over. A monthly clothing allowance of twenty-one dollars is paid for children under twelve years, while twenty-four dollars and ninety-five cents is paid for children twelve years and older.

(3) An initial clothing allowance for children placed in foster care is provided to supplement a child's clothing supply, where necessary, at the time a child is placed in foster care. This allowance may not exceed one hundred dollars unless otherwise authorized by a DCFS administrator.

(4) Additional individual child-specific amounts may be authorized by a DCFS administrator or his or her designee.

[Statutory Authority: RCW 74.08.090, 86-04-030 (Order 2337), § 388-70-042, filed 1/29/86; 85-13-062 (Order 2242), § 388-70-042, filed 6/18/85; 81-09-042 (Order 1634), § 388-70-042, filed 4/15/81; 79-11-085 (Order 1445), § 388-70-042, filed 10/24/79; Order 1260, § 388-70-042, filed 12/29/77, effective 2/1/78; Order 1149, § 388-70-042, filed 8/26/76; Order 1052, § 388-70-042, filed 9/10/75; Order 963, § 388-70-042, filed 8/19/74; Order 913, § 388-70-042, filed 3/1/74.]

(1990 Ed.)

WAC 388-70-044 Payment standards--Receiving home care--Standards for using. (1) The purpose and/or use of a receiving home is to allow the department or private agency to care for a child in a foster family home on a temporary, emergent, or interim basis in order that there be sufficient time for the development of a plan including the involvement of the child whenever possible.

(2) There are two types of receiving homes:

(a) Regular receiving homes for children age zero through seventeen, and

(b) Specialized receiving homes for children age twelve through seventeen who are runaways or in conflict with their parents.

(3) Receiving homes supported by the department shall be limited to the number the DCFS administrator determines necessary in his or her geographical area. The criteria to be followed are:

(a) Each DCFS office or private agency shall document need for a receiving home and present the request in writing, giving the specifics, to the DCFS administrator.

(b) All receiving homes shall be licensed as foster family homes.

(c) The need for a receiving home or homes must carry a direct relationship to the department's or private agency's type of program and service responsibilities.

(d) The intent of the service is to allow the department or private agency to develop and carry out a suitable plan for the child.

(4) Length of stay guidelines for receiving homes are as follows:

(a) Regular receiving homes provide care up to thirty days;

(b) Specialized receiving homes provide care up to fifteen days.

(5) Every six months the DCFS administrator shall receive a written report on each receiving home, resubstantiating continued use and need.

(6) Foster family homes regularly providing care for children on a temporary, emergent, or interim basis and are available for placement twenty-four hours per day shall be designated as regular or specialized receiving homes.

(a) Regular receiving homes shall be paid thirty-three dollars and thirty-two cents per month for each bed available for the emergency placement of children. In addition, the daily rate for receiving home care shall be twelve dollars and twenty cents per day per child.

(b) Specialized receiving homes shall be paid sixty-seven dollars and seventeen cents per month for each bed available for the emergency placement of children. In addition, the daily rate for specialized receiving home care shall be sixteen dollars and sixty-six cents per day per child.

(7) Other foster homes occasionally providing temporary, emergent, or interim care shall not be designated as receiving homes nor receive the retainer fee, but shall be reimbursed for such care at the receiving home rate of twelve dollars and twenty cents per day per child.

[Title 388 WAC--p 277]

(c) Payments in excess of the standards in subsection (6)(a) and (b) of this section may be authorized by the DCFS administrator or his or her designee for individual, child-specific situations.

(8) Temporary or emergency care for a child shall not exceed thirty days. After thirty days, the rate for children remaining in care in a receiving home shall be that for regular full-time foster care except as authorized by the DCFS administrator. Clothing and personal incidentals are purchased for the child in receiving home care as needed.

(9) Private group care facilities may, at the discretion of the DCFS administrator, be utilized to provide interim care for children and youths requiring care in a group setting. Unless an alternate agreement is made, contracted group care facilities shall be paid for providing interim care at their established daily rate.

[Statutory Authority: RCW 74.08.090. 86-04-030 (Order 2337), § 388-70-044, filed 1/29/86; 85-13-062 (Order 2242), § 388-70-044, filed 6/18/85; 81-09-042 (Order 1634), § 388-70-044, filed 4/15/81; 79-11-085 (Order 1445), § 388-70-044, filed 10/24/79; 78-09-098 (Order 1335), § 388-70-044, filed 9/1/78; Order 1260, § 388-70-044, filed 12/29/77, effective 2/1/78; Order 1208, § 388-70-044, filed 4/29/77; Order 1149, § 388-70-044, filed 8/26/76; Order 1052, § 388-70-044, filed 9/10/75; Order 965, § 388-70-044, filed 8/29/74; Order 963, § 388-70-044, filed 8/19/74; Order 913, § 388-70-044, filed 3/1/74.]

WAC 388-70-048 Payment standards--Specialized rate foster family care--Child with special needs. In addition to the basic rate for regular foster family home care specified in this chapter, an additional amount may be paid for the specialized care of a child with special needs as determined by the department. The additional amounts are:

| | |
|--|------------------------|
| (1) Children with behavioral/emotional problems | \$ 140.63 per month |
| (2) Intellectually/physically handicapped children | \$ 140.63 per month |

[Statutory Authority: RCW 74.08.090. 86-04-030 (Order 2337), § 388-70-048, filed 1/29/86; 85-13-062 (Order 2242), § 388-70-048, filed 6/18/85; 81-09-042 (Order 1634), § 388-70-048, filed 4/15/81; 79-11-085 (Order 1445), § 388-70-048, filed 10/24/79; 78-09-098 (Order 1335), § 388-70-048, filed 9/1/78; Order 1149, § 388-70-048, filed 8/26/76; Order 1052, § 388-70-048, filed 9/10/75; Order 963, § 388-70-048, filed 8/19/74; Order 913, § 388-70-048, filed 3/1/74.]

WAC 388-70-051 Education related foster care. (1) Licensed foster care will be provided for a handicapped child away from his home when requested by a school district and in concurrence with the wishes of the parents.

(2) Payment will be made by the school district when the only need for foster care arises from the need for an education. The department may pay the cost of foster care if the primary reason for placement in foster care is not educational.

[Statutory Authority: RCW 74.08.090. 78-09-098 (Order 1335), § 388-70-051, filed 9/1/78; Order 924, § 388-70-051, filed 4/15/74.]

WAC 388-70-054 Temporary absence of child from foster care. (1) When a child is temporarily absent from

a foster care facility, the actual number of days absent will be paid by the department, provided:

(a) The number of consecutive days of absence does not exceed fifteen within a thirty-day period;

(b) Written notification is provided to the responsible center or DCFS office three days in advance of planned visits exceeding seventy-two hours;

(c) The planned visits of less than seventy-two hours are reported to the responsible center or DCFS office in the child's quarterly progress report prepared by the private agency;

(d) The responsible center or DCFS office is notified on the next working day following the child's unplanned absence (notification may be made by a telephone call to the center or DCFS office followed by written notification within five working days from the facility);

(e) A licensed vacant bed is held for the child;

(f) The child will be accepted back by the facility; and

(g) The center or DCFS office is notified of the date of child's return.

(2) Written verification to the absent child's responsible center or DCFS office will contain the following information:

(a) Planned visits;

(i) Child's name,

(ii) Where the child will visit,

(iii) Beginning and ending dates of the absence, and

(iv) A statement as to whether or not the child's unoccupied bed is being held for the child's return to the facility.

(b) Unplanned absences;

(i) Child's name, age, and home address;

(ii) Time and date the child left the premises;

(iii) A statement as to whether the child is acceptable back by the facility; and

(iv) A statement as to whether or not the child's unoccupied bed will be held for the child's return to the facility.

(3) In respect to absences from foster homes supervised by voluntary child-placing agencies, the preceding procedures will apply.

(4) When there is a planned temporary absence from a child foster family home supervised by a center or DCFS office, the service worker will be involved in the plan. In the case of an unplanned absence, the foster parents will notify the service worker orally, as soon as is practical, of the child's name, time, and date the child left the premises and whether or not the child's unoccupied bed will be held.

(5) In addition to the preceding requirements, the following limitations are placed on the payments for temporary absences of children from a children's group foster care facility and/or a child foster family home:

(a) A child's cumulative total of forty-five days absence within a six-month period is the maximum allowable for payment.

(b) With adequate justification of unusual circumstances, an exception may be submitted for consideration of extension of the consecutive fifteen days and the accumulative forty-five days limitation.

[Statutory Authority: RCW 74.08.090. 85-13-062 (Order 2242), § 388-70-054, filed 6/18/85; 79-11-105 (Order 1449), § 388-70-054, filed 10/31/79; Order 1123, § 388-70-054, filed 6/7/76; Order 965, § 388-70-054, filed 8/29/74; Order 913, § 388-70-054, filed 3/1/74.]

WAC 388-70-058 Reimbursement for damage or loss caused by child in foster family care. (1) Within the limits of the amount allotted for this purpose, the department may reimburse foster family providers caring for children in DCFS-approved placements, for some damages or losses incurred by the provider and caused by children in their care. Unless an exception is granted by the DCFS administrator, claims shall be limited to three hundred dollars per item or one thousand dollars aggregate per occurrence no matter what type of coverable loss is incurred. Claims must be submitted to the department within thirty days of their occurrence. Determination of the payability of claims will be made by the department's DCFS administrator. Exceptions to the limit may be made by the DCFS administrator. Reimbursement will be based upon documentation of the cost of replacement and of the cause of the loss.

(2) The sole recourse for an appeal of an award, or failure to make an award, shall be to request a rereview by the DCFS administrator.

[Statutory Authority: RCW 74.08.090. 85-13-062 (Order 2242), § 388-70-058, filed 6/18/85; 80-04-055 (Order 1495), § 388-70-058, filed 3/21/80.]

WAC 388-70-062 Payment for foster care to family receiving public assistance. When a child is placed in foster care with a family receiving public assistance, the payments to the foster family for the child's board, clothing, and personal incidentals shall not be considered a resource to the family.

[Order 913, § 388-70-062, filed 3/1/74.]

WAC 388-70-064 Payment for foster care to relative. (1) State foster care funds shall not be expended for a child living with a relative eligible to receive AFDC on behalf of the child unless the relative has been appointed guardian for a child pursuant to RCW 13.34.231 and the relative was receiving AFDC-FC (IV-E) on behalf of the child prior to the establishment of the guardianship.

(2) Natural parents, adoptive parents, and stepparents are not eligible to receive foster care payments.

(3) Relatives providing care to children potentially eligible for both AFDC and AFDC-FC (IV-E) must be given the choice of applying for either program.

(4) Homes of relatives eligible to receive AFDC grants need not be licensed; those paid from foster care funds must be licensed or certified as meeting licensing requirements per WAC 388-73-020.

(5) Other than a child's parents, persons not subject to licensing are grandparents, brothers, sisters, stepbrothers, stepsisters, uncles, aunts and first cousins.

[Statutory Authority: RCW 74.08.090. 82-24-068 (Order 1915), § 388-70-064, filed 12/1/82; 80-06-069 (Order 1504), § 388-70-064, filed 5/22/80; Order 913, § 388-70-064, filed 3/1/74.]

WAC 388-70-066 Foster care out-of-state--Authorization--Payment. (1) With the consent of the interstate compact program manager, foster parents may be permitted to remove from the state a child in a permanent foster home. If the child is subject to court order, permission from the court must also be obtained. When the foster family moves to another state, arrangements with another social agency for supervision of the foster home placement are required. Such arrangements for supervision are not required when the family leaves the state during a vacation. Payments are continued at the department's current rates.

(2) When a child, legally a resident of the state of Washington, is placed in foster care in another state by the welfare department of that state, foster care payments are made at the rate requested by the state, providing payment does not exceed the department's current rates.

(3) State office approval of out-of-state placement is required before payment is made.

[Statutory Authority: RCW 74.08.090. 85-13-062 (Order 2242), § 388-70-066, filed 6/18/85; 78-09-098 (Order 1335), § 388-70-066, filed 9/1/78; Order 913, § 388-70-066, filed 3/1/74.]

WAC 388-70-068 Earnings of foster child. An older child in foster care may be wholly or partially able to meet the cost of his maintenance. Exempt earned income standards which apply to AFDC also apply in foster care. See WAC 388-28-535(3).

[Statutory Authority: RCW 74.08.090. 83-04-061 (Order 1943), § 388-70-068, filed 2/2/83; Order 913, § 388-70-068, filed 3/1/74.]

WAC 388-70-069 Resources and unearned income of foster child. (1) If a child in foster care is entitled to financial benefits the income received shall be used on behalf of the child to help pay for the cost of the foster care received, except for resources held in trust for an American Indian child according to provisions in WAC 388-28-650.

(a) Income includes SSI, RSDI, veteran's benefits, railroad retirement benefits, inheritances, or any other payments for which the child is eligible, unless specifically exempted by the terms and conditions of the receipt of the income.

(b) Receipt of other income as described above shall not relieve the child's responsible parent(s) of the liability for payment of child support in accordance with WAC 388-70-075 through 388-70-084.

(2) Any person, agency, or court which receives any payments on behalf of a child in foster care shall remit such payments to the office of support enforcement, in accordance with WAC 388-70-082.

(3) Resources in the control of a child in foster care shall be treated in accordance with WAC 388-28-400 through 388-28-455.

[Statutory Authority: RCW 74.08.090. 83-04-061 (Order 1943), § 388-70-069, filed 2/2/83; Order 1123, § 388-70-069, filed 6/7/76.]

WAC 388-70-075 Parents' obligation to support child in foster care. (1) Parents of children in foster care paid by the department satisfy their legal obligation to

support their children when there is a superior court order for support by paying the amounts specified in the order or in the absence of a superior court order, by paying the amount determined under RCW 74.20A.055 and regulations promulgated in chapter 388-11 WAC.

(2) The provision for a written agreement between the department and the responsible parent(s) for payment of support for a child placed in foster care provided for in RCW 74.20A.030 shall not be utilized. In lieu thereof, in the absence of a superior court order requiring support from a parent of a child receiving foster care, the regulations promulgated in chapter 388-11 WAC shall provide the exclusive constitutional remedies to assert debts claimed under RCW 74.20.292, 74.20A.030 and/or 74.20A.250 and/or 26.16.205.

(3) The office of support enforcement is responsible on behalf of the department of social and health services to take action under the provisions of chapter 74.20A RCW and chapter 388-11 WAC to enforce support obligations as to children in foster care paid for by the department.

[Order 1123, § 388-70-075, filed 6/7/76; Order 918, § 388-70-075, filed 3/14/74; Order 623, § 388-70-075, filed 10/27/71.]

WAC 388-70-078 Standards for parental participation in cost of foster care—Minimum scale recommended to court. Recommendations to the superior court, specifically including the juvenile court, to establish, raise, lower, release or forgive support payments for a child placed in foster care may be made only by staff of the office of support enforcement and will be made only in accordance with the provisions of WAC 388-11-190. No department or private child care staff other than the staff of the office of support enforcement may make statements to or agreements with parent(s) or their representatives as to support enforcement matters affecting an amount of support debt.

[Order 1123, § 388-70-078, filed 6/7/76; Order 918, § 388-70-078, filed 3/14/74.]

WAC 388-70-080 Referral of child in foster care to department's office of support enforcement. A referral by the CSO to the respective district office of support enforcement serving that region is to be made for every foster care placement in which the department participates in payment for care, except for classes of cases, if any, in which the office of support enforcement has determined it would not be cost effective to pursue collection, or classes of cases exempt by law from collection action.

[Statutory Authority: RCW 74.08.090. 83-17-003 (Order 1992), § 388-70-080, filed 8/5/83; Order 1123, § 388-70-080, filed 6/7/76; Order 1048, § 388-70-080, filed 8/29/75; Order 1016, § 388-70-080, filed 4/1/75; Order 918, § 388-70-080, filed 3/14/74.]

WAC 388-70-082 Parents' foster care payments to be remitted to department. All payments for the benefit and/or costs of care of children receiving foster care paid for by the department shall be paid to the department's office of support enforcement, unless there is a court order directing payment through a clerk of the

court. Payments, pursuant to a court order, paid through a clerk of the court shall be sent to the office of support enforcement pursuant to RCW 74.20.101.

[Order 1123, § 388-70-082, filed 6/7/76; Order 918, § 388-70-082, filed 3/14/74.]

WAC 388-70-084 Assignment of child support judgment and limited power of attorney. When there is a superior court order providing for payment of support from a parent to the person or agency having custody, the department shall advise the person or agency having custody that such judgment representing support for the child in, or to be placed in, foster care is, by law (RCW 74.20A.030 and 74.20A.250), deemed in favor of the department as long as the child receives assistance. The person or agency having custody shall acknowledge this subrogated right to the department by execution of an assignment of judgment and limited power of attorney, which shall remain in effect as long as such child receives foster care assistance.

[Order 1123, § 388-70-084, filed 6/7/76; Order 918, § 388-70-084, filed 3/14/74.]

WAC 388-70-091 Foster care planning for Indian children—Definitions. For the purposes of these rules, the term "Indian" includes the following groups:

(1) An enrolled Indian:

(a) Any person who is enrolled or eligible for enrollment in a recognized tribe.

(b) Any person determined, or eligible to be found, to be an Indian by the Secretary of the Interior.

(c) An Eskimo, Aleut or other Alaskan native.

(2) A Canadian Indian: Any person who is a member of a treaty tribe, Metis community or nonstatus Indian community from Canada.

(3) An unenrolled Indian: A person considered to be an Indian by a federally or nonfederally recognized Indian tribe or urban Indian/Alaskan native community organization.

[Order 1167, § 388-70-091, filed 10/27/76.]

WAC 388-70-092 Foster care for Indian children—Tribal sovereignty. Neither the licensing of Indian foster homes nor the placement and supervision of Indian children within the exterior boundaries of an Indian reservation, shall in any way abridge the sovereignty of an Indian nation or tribe nor shall compliance with these rules and regulations be deemed a relinquishment of sovereign authority by an Indian nation or tribe or by the state of Washington.

[Order 1167, § 388-70-092, filed 10/27/76.]

WAC 388-70-093 Foster care for Indian children—Services. Documented efforts shall be made to avoid separating the Indian child from his parents, relatives, tribe or cultural heritage. Consequently:

(1) In the case of Indian children being placed in foster care by the department or for whom the department has supervisory responsibility, the local Indian child welfare advisory committee, predesignated by a tribal council, or appropriate urban Indian organization shall

be contacted. Members of that committee will serve as resource persons for the purposes of cooperative planning and aid in placement.

(2) The resources of the tribal government, department and the Indian community shall be used to locate the child's parents and relatives to assist in locating possible placement resources, and to assist in the development of a plan to overcome the problem that brought the child to the attention of the authorities and/or the department.

(3) In planning foster care placements for Indian children, demonstrable consideration shall be given to tribal membership, tribal culture and Indian religions. The case record shall document the reasons and circumstances of casework decisions and consideration in those regards.

(4) The following resources for foster home placement of Indian children will be explored and followed in the following order: Relatives' homes, homes of other Indian families of same tribe, other Indian foster parents and non-Indian foster homes specifically recruited and trained in cooperation with the local Indian child welfare advisory committee to meet the special needs of Indian foster children and in the geographic proximity that will insure continuation of the parent-child relationship. The training of non-Indian foster parents shall be designed and delivered in cooperation with the above committee and/or persons designated by the committee.

(5) For each Indian child who will be in care for more than 30 days, including those for whom adoption is planned, the ESSO shall make documented effort to complete two copies of the "family ancestry chart" (except in those cases where parents specifically indicate in writing they do not want the child enrolled). One copy will be retained in the child's file; the other will be forwarded to the bureau of Indian affairs office or the department of Indian affairs agency in Canada serving that child's tribe or band. The BIA of the department of Indian affairs agency will review the chart for possible enrollment eligibility in conjunction with the enrollment committee of the appropriate tribe or urban Indian community.

(6) The ESSO shall develop its social resources and staff training programs designed to meet the special needs of Indian children through coordination with tribal, Indian health service, bureau of Indian affairs social service staff, appropriate urban Indian and Alaskan native consultants, national, state and local Indian welfare organizations and ESSO child welfare advisory committees.

(7) The ESSO shall make diligent and demonstrable efforts to recruit facilities and/or homes particularly capable of meeting the special needs of Indian children with the assistance of the local Indian child welfare advisory committees.

[Order 1167, § 388-70-093, filed 10/27/76.]

WAC 388-70-095 Foster care for Indian children-- Serious injury, death, abandonment, child abuse, neglect, incarceration. When an Indian child in foster care dies,

is seriously injured, abandoned or incarcerated, in addition to other appropriate notifications, the department shall promptly advise the ESSO Indian child welfare advisory committee and appropriate tribal council. WAC 388-15-131(4) provides for notification about child abuse/neglect incidents.

[Order 1255, § 388-70-095, filed 12/1/77; Order 1167, § 388-70-095, filed 10/27/76.]

WAC 388-70-160 Guardianship of estate of child.

(1) The department accepts guardianship of the estate of a child when:

(a) The child has been separated from his family and the person who would normally act as his guardian is unable to do so,

(b) The child subject to court order and custody or supervision is placed with the local office,

(c) The estate is insufficient to maintain the child during his minority,

(d) The estate is in the form of cash or negotiable bonds.

(2) The secretary of the department acts as payee of RSI benefits on behalf of the child. When the secretary or his designee signs a certificate of guardianship, the department agrees with the bureau of RSI:

(a) To apply all benefits received for the child to his use and benefit

(b) That the child's insurance benefit will not be claimed:

(i) For any period in which the earnings of the child or individual, upon whose earnings the child's benefit is based, are in excess of the legal limitations established by the Social Security Act, or

(ii) If the child dies, or

(iii) If the child is adopted by a person other than the child's stepparent, grandparent, uncle, or aunt, or

(iv) If the child marries, or

(v) After the child attains age 18.

(c) To notify the bureau of RSI promptly when any of the above events occur.

(3) The local office acting as agent of the secretary shall give the same supervision and services as those available to other children under its care.

[Statutory Authority: RCW 74.08.090. 78-09-098 (Order 1335), § 388-70-160, filed 9/1/78; Order 965, § 388-70-160, filed 8/29/74; Order 913, § 388-70-160, filed 3/1/74; Regulation 70.160, filed 3/22/60.]

WAC 388-70-170 Veterans' benefits. By agreement with the regional office of the veterans' administration, the secretary of the department may receive benefits on behalf of children who have been placed by court order under the supervision or custody of the local office.

[Order 913, § 388-70-170, filed 3/1/74; Regulation 70.170, filed 3/22/60.]

WAC 388-70-410 Adoption services for children-- Legal basis--Purpose. (1) RCW 74.13.020 defines "child welfare services" as "public social services including adoption services which strengthen, supplement or substitute for parental care and supervision."

(2) The purpose of the department's adoption program is to meet the needs of children who are in the department's care and custody.

[Order 1167, § 388-70-410, filed 10/27/76.]

WAC 388-70-420 Definitions. (1) Adoption: Adoption is a legal and social process provided for by law to establish the legal relationship of child and parent when they were not so related by birth.

(2) Department placements: Families applying for placements through the adoption exchanges in which the department participates.

(3) Independent placements: Families anticipating placement by a doctor or attorney and applying for pre-placement or next friend reports.

(4) Intercountry placements: The child for adoptive placement is not a resident and/or citizen of the United States.

(5) Department: Means the department of social and health services including any division, office or unit thereof.

[Order 1167, § 388-70-420, filed 10/27/76.]

WAC 388-70-430 Eligibility for adoption service.

(1) Children: Adoption services may be provided any child supervised by the department in foster care or at the request of their parents prior to foster care placement.

(2) Families: Families applying for the adoption services provided by the department are resources for children and not subject to service eligibility requirements.

[Order 1167, § 388-70-430, filed 10/27/76.]

WAC 388-70-440 Adoption services for children.

(1) Adoption services for children include:

(a) Casework with parents focused on a permanent home for their child/ren;

(b) Casework with children;

(c) Petitioning the court for termination of parental rights;

(d) Determination of children's medical and social needs;

(i) Psychiatric and psychological evaluations as well as any needed medical evaluations are provided;

(e) Adoptive family home studies (preplacement reports);

(f) Evaluation of adoption resources;

(g) Adoption placements which best meet the child/ren's needs;

(h) Counseling and/or referral of families and children after placement;

(i) Next friend reports for the court.

(2) The social planning for a child in the department's permanent custody shall be continuously reviewed by its economic and social service, regional and state offices to assure that the child is moved as rapidly as possible into adoptive status.

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(3) The planning for children continuing in foster care under the department's supervision shall be reviewed every six months to determine their need for adoption services.

(4) Exploration of adoptive resources for a child will be relatives, current foster parents, and registered approved families.

[Order 1167, § 388-70-440, filed 10/27/76.]

WAC 388-70-450 Adoptive planning for Indian children by department staff. (1) Definitions: For the purposes of these rules the term "Indian" includes the following groups:

(a) Enrolled Indian

(i) Any person who is enrolled or eligible for enrollment in a recognized tribe.

(ii) Any person determined, or eligible to be found, to be an Indian by the secretary of the interior.

(iii) An Eskimo, Aleut or other Alaskan native.

(b) Canadian Indian: A person who is a member of a treaty tribe, Metis community or nonstatus Indian community from Canada.

(c) Unenrolled Indian: A person considered to be an Indian by a federally or nonfederally recognized tribe or urban Indian/Alaskan native community organization.

(2) An adoptive family shall be considered Indian if one or both parents are Indian by the above definitions.

(3) In adoptive planning for Indian children, the unique tribal, cultural and religious sovereignty of Indian nations, tribes and communities shall be recognized. When consistent with the wishes of the biological parents and/or the child, the adoption of Indian children by Indian families is the primary goal.

(4) Standards implementing the policy are:

(a) Adoption exchange. In the referrals for an Indian child, adoptive homes having the following characteristics shall be given preference in the following order, each category being allowed 30 days before proceeding to the next.

(i) An Indian family of the same tribe as the child.

(ii) A Washington Indian family considering tribal cultural differences.

(iii) An Indian family from elsewhere in the United States or Canada through the adoption resource exchange of North America. Attention shall be given to matching the child's tribal culture to that of the adoptive family.

(iv) Any other family which can provide a suitable home to an Indian child, as well as instill pride and understanding in the child's tribal and cultural heritage.

(b) Foster parent adoptions: As a part of the total evaluation for approving a foster parent adoption of an Indian child, ESSO service staff shall document the foster family's past performance and future commitment in exposing the child to its Indian tribal and cultural heritage. The child's wish to be involved in his Indian culture shall be considered.

(c) When an Indian child, in the custody of an out of state agency, is referred for potential adoptive parents residing in Washington, documentation shall be obtained

that assures the department's standards for planning for Indian children have been complied with.

(5) Local staff shall consult with an Indian child welfare committee in planning for placement of Indian children.

[Order 1167, § 388-70-450, filed 10/27/76.]

WAC 388-70-460 Adoption services for families.

(1) Department placements:

(a) Applications are accepted from families residing in the state of Washington based upon the anticipated children needing placement;

(b) Upon acceptance of an application, a home study shall be initiated by the ESSO staff and one of the following decisions reached;

(i) Application to adopt is withdrawn by family;

(ii) Application to adopt is denied;

(iii) Family is approved for adoptive placement and registered at the central office exchange.

(c) A family shall be removed from the central office exchange registry for any of the following reasons:

(i) A child has been placed with the family;

(ii) The family decides to receive adoption services from any other agency or through an independent placement;

(iii) The wife is pregnant;

(iv) The family and/or caseworker decide that adoption is no longer an appropriate plan;

(v) The family physically leaves the state.

(d) A family removed from the central office exchange registry may reapply for adoption services; their situation at the time of reapplication shall be evaluated;

(e) Families will be informed in writing of action taken according to the rules of this section and of their right to have a fair hearing only on action taken on their application for services or removal from the central registry.

(2) Independent placements

(a) ESSO staff may respond to Washington families' requests for preplacement studies and next friend reports depending on staff time and other community resources available.

(b) An office not providing service on independent placements shall inform the superior court in its area of the available community resource that is available for preplacement and next friend reports.

(c) When an ESSO employee is appointed next friend and the required preplacement report has not been filed in accordance with RCW 26.32.200 through 26.32.270, the situation shall be brought to the attention of the attorney general.

(3) Intercountry placements:

(a) Families will apply to the international child placing agency of their choice.

(b) Upon the written request to the central office by the family's chosen agency, the department may provide the cooperative services. The child's agency must agree to continue its financial and social responsibility for the anticipated child until the decree of adoption is final.

(c) A request for preplacement study for an independent inter-country adoptive placement shall be denied.

[Order 1167, § 388-70-460, filed 10/27/76.]

WAC 388-70-470 Interstate procedures. (1) The state of Washington is a member of the Interstate Compact on the Placement of Children (chapter 26.34 RCW).

(2) No child for whom the department has responsibility for adoptive planning shall be sent from the state without prior approval of the compact administrators of the state of Washington and the receiving state.

(3) ESSO staff shall not provide supervisory services on an interstate adoptive placement unless the interstate compact forms or their equivalent have been signed by the compact administrators of the two states.

[Order 1167, § 388-70-470, filed 10/27/76.]

WAC 388-70-480 Record confidentiality. (1) All records and information obtained by the department in providing adoption services are confidential as specified in RCW 26.36.010, 26.36.020, 26.36.030, and 26.36.050.

(2) Upon the issuance of the decree of adoption, a child's record is sent to the central office for archiving.

(3) Information from an archived record required for the medical and/or emotional treatment of an adopted child may be obtained from the central office adoption specialist, under the authority of RCW 26.36.050. The request for information will be made by the professional treating the child and include the adoptive parents' written authorization to release the information.

[Order 1167, § 388-70-480, filed 10/27/76.]

WAC 388-70-510 Adoption support for children--Legal basis--Purpose. (1) The legal basis for the adoption support program is RCW 74.13.100 through 74.13.145 and P.L. 96-272.

(2) The purpose of the program is to encourage the adoption of hard-to-place children, that is, the child who would have to live out his or her childhood without the security and stability of a permanent adoptive home if support payments were not made. The program includes children cared for by both public and voluntary child care agencies. Interpretation of the statute and the philosophy of the adoption support program shall emphasize a flexible approach to subsidized adoption, focusing on the welfare of the child; rules shall not be adversely applied to the child's welfare.

[Statutory Authority: RCW 43.20A.550. 82-02-023 (Order 1744), § 388-70-510, filed 12/30/81; Order 1037, § 388-70-510, filed 7/29/75.]

WAC 388-70-520 Adoption support for children--Definitions. As used in these rules:

(1) "Adoption" means the granting of the adoption decree consistent with chapter 26.33 RCW.

(2) "Adoption support payment" means the financial remuneration resulting from an agreement whereby the department continues financial responsibility beyond the legal consummation of the adoption.

(3) "Agreement" means a contract between the prospective adoptive parent and the department providing

adoption support payments following the granting of a decree of adoption.

(4) "Corrective-rehabilitative services" shall include, but not be limited to:

- (a) Medical care;
- (b) Psychological services;
- (c) Physical therapy;
- (d) Prosthesis;
- (e) Speech and hearing therapy;
- (f) Cosmetic surgery; or
- (g) Orthodontia.

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

(6) "Family" means any prospective parent having the character, judgment, sense of responsibility and disposition making the prospective parent suitable as an adoptive parent of a child, but lacking the necessary resources to care for a hard-to-place for adoption child.

(7) "Hard-to-place for adoption child" means a child registered for three months with the Washington adoption resource exchange (WARE) or the Northwest adoption exchange (NWAE) without identifying a non-subsidized adoptive family resource. The child's registration with the exchanges shall not be necessary when:

(a) A foster parent desires to adopt a child having been in the foster parent's home for six months or more before a child is legally free for adoption;

(b) The child has close emotional ties to the current foster family which, if severed, may cause emotional damage to the child; and

(c) The foster family is identified as the adoptive family of choice by the agency staff having responsibility for the child.

(8) "Secretary" means the secretary of department or the secretary's designee.

(9) "Special needs" is the designation given to a child by the department when the child presents a specific factor or condition the department reasonably concludes may prevent the child's placement with an adoptive parent without providing adoption support. The child's special need factors or conditions may include but are not limited to:

- (a) Ethnic background;
- (b) Age;
- (c) Inclusion in a sibling group;
- (d) Medical diagnosis; or
- (e) Physical, mental, or emotional handicap.

(10) "The act" means the statutes authorizing adoption support codified as RCW 74.13.100 through 74.13.145.

[Statutory Authority: RCW 43.20A.550 and HB 2602. 90-23-076 (Order 3101), § 388-70-520, filed 11/20/90, effective 12/21/90; Order 1037, § 388-70-520, filed 7/29/75.]

WAC 388-70-530 Adoption support for children-- Eligible child. (1) A child the department considers for adoption support shall be registered with the office given administrative authority for the program.

(2) A child meeting the department's eligibility criteria for ongoing adoption support is a child:

(a) Who was or is residing in a foster home or a child caring institution or who, in the judgment of the department, is both eligible for, and likely to be placed in, a foster home or a child caring institution;

(b) Who is legally free for adoption;

(c) Who is seventeen years of age or younger at the time the contract is signed;

(d) For whom adoption is the most appropriate plan;

(e) Who has a "special needs" factor or condition; and

(f) Who is hard-to-place for adoption.

(3) The department may, within limited funds, register a child with the office given administrative authority for the program for a limited adoption support reconsideration program if the child met the criteria for ongoing adoption support in Washington state at the time of the adoption based on documented evidence available at the time of the adoption. The child and the child's family shall be current residents of the state of Washington.

[Statutory Authority: RCW 43.20A.550 and HB 2602. 90-23-076 (Order 3101), § 388-70-530, filed 11/20/90, effective 12/21/90. Statutory Authority: RCW 43.20A.550. 82-02-023 (Order 1744), § 388-70-530, filed 12/30/81; Order 1037, § 388-70-530, filed 7/29/75.]

WAC 388-70-540 Adoption support for children-- Application. (1) The prospective adoptive family shall apply to the department for adoption support for the child.

(2) The application for ongoing adoption support shall be jointly completed by the prospective adoptive parents and the adoptive parents' referring agency or the department's local office. The family and the social worker shall mutually determine the type and amount of support payment according to the criteria under WAC 388-70-560.

(3) Those families seeking adoption support reconsideration shall complete the application for adoption support reconsideration. The adoptive family shall provide the department:

(a) A cost estimate of the child's proposed corrective-rehabilitative services;

(b) A current medical evaluation of the child's preadoptive special needs, and the current need for medical and counseling services; and

(c) Permission to request and review preadoptive information from the adoption agency facilitating the child's adoption.

(4) The adoptive family shall provide the department a copy of the family's most recent federal income tax return which must accompany the application for adoption support. If the family is not required to file a federal income tax return, the adoptive family shall submit to the department a financial statement as required.

[Statutory Authority: RCW 43.20A.550 and HB 2602. 90-23-076 (Order 3101), § 388-70-540, filed 11/20/90, effective 12/21/90; Order 1037, § 388-70-540, filed 7/29/75.]

WAC 388-70-550 Adoption support for children-- Types and amounts of payments. (1) The two types of support payments are monthly maintenance, medical (corrective-rehabilitative) service, or a combination of these.

(2) The department payment for monthly maintenance shall not exceed the monthly cost for established foster care and specialized foster care as required under WAC 388-70-042 and 388-70-048.

(3) The medical needs of a child in the adoption support program shall be met from the department's medical services program.

(a) The department's payment of the costs of the child's medical services shall be made directly to the physician or provider of the services according to the department's established procedures.

(b) Before entering an agreement for medical services, the department's office of personal health services shall review and approve the medical needs of a particular child. Following the department's review and approval, all medical services requested by the adopting parents shall be:

(i) Coordinated through the adoption support program; and

(ii) Furnished according to the department's medical programs when there is no other resource available during the effective period of the family's agreement with the department.

(c) The adoptive family's requests for orthodontics, psychiatric care, physical therapy, and appliances shall require special procedures. The adoptive family's requests shall be submitted to the department and the department's approval obtained before the service is rendered to the adoptive child.

(4) The family's ongoing adoption support eligibility may continue if the child:

(a) Has not reached eighteen years of age, or twenty-one years of age if the child has not yet completed high school or high school equivalent and is a full-time high school student;

(b) If not eighteen years of age, continues to be the adoptive family's legal responsibility; and

(c) Continues receiving financial support from the adoptive family.

(5) The department's adoption support reconsideration agreement with the family shall specify the length of time the adoption agreement is in effect.

[Statutory Authority: RCW 43.20A.550 and HB 2602. 90-23-076 (Order 3101), § 388-70-550, filed 11/20/90, effective 12/21/90. Statutory Authority: RCW 43.20A.550. 82-02-023 (Order 1744), § 388-70-550, filed 12/30/81. Statutory Authority: RCW 74.13.109. 80-08-028 (Order 1516), § 388-70-550, filed 6/25/80; Order 1037, § 388-70-550, filed 7/29/75.]

WAC 388-70-560 Adoption support for children--Criteria governing amount of payment. (1) The factors considered by the department in setting the amount of any payment(s) shall include the size of the family including the adoptive child, the usual living expenses of the family, the special needs of any family member including his educational needs, the family income, the family resources and plan for savings, the medical care and hospitalization needed by the family and the family's means of purchasing or otherwise obtaining the care, and any other expense likely to be needed by the child to be adopted.

(1990 Ed.)

(2) The specific amount of support to be requested in the application shall be based on an individual social determination arrived at between the family and their caseworker. The decision as to the amount of a monthly support payment shall be based on a realistic evaluation of the child's need to live in the particular family and the cost of the living expenses of the individual family. Due to changes in the family's economic circumstances or the needs of the child, support payments may be modified or discontinued and later resumed. The monthly maintenance may increase as a child reaches different foster care age payment categories, but this must be requested by the adoptive family.

[Order 1037, § 388-70-560, filed 7/29/75.]

WAC 388-70-570 Adoption support for children--Agreement for adoption support. An agreement shall constitute a binding contract between the department and the prospective adoptive family to provide adoption support for a child after adoption. The agreement shall be completed in accordance with RCW 74.13.124, and P.L. 96-272 Sec. 475(2), and shall, at minimum, include the following:

(1) The amount of adoption support payments and any additional assistance which is to be provided as a part of the agreement including, where appropriate, indication of eligibility for Title XIX and Title XX services.

(2) A stipulation that the agreement shall remain in effect regardless of the state of residence of the adoptive family:

(a) In case of a move outside of the state of Washington, for eligible children, Title XIX services shall remain the responsibility of the state of Washington.

(b) In case of a move outside of the state of Washington, for eligible children, Title XX services shall become the responsibility of the new state of residence.

(3) A stipulation that the agreement must be renewed each year, with termination from the program resulting from the adoptive parents' failure to renew.

[Statutory Authority: RCW 43.20A.550. 82-02-023 (Order 1744), § 388-70-570, filed 12/30/81; Order 1037, § 388-70-570, filed 7/29/75.]

WAC 388-70-580 Adoption support for children--Review of support payment. (1) Each agreement under the act and these regulations shall be reviewed annually when any parent(s) receives more than one lump sum payment. At the time of such annual review and at other times during the year when changed conditions (including variations in medical opinions, prognosis and costs) are deemed by the secretary to warrant such action, appropriate adjustments in the payments shall be made based upon changes in the needs of the child or in the adoptive parent's income, resources or expenses. Any modification in the support payment shall result in a new agreement signed by the parents, the program coordinator and secretary of the department.

(2) Any parent who is a party to an agreement may request in writing at any time, a review of the amount of

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any payment or level of continuing payments as provided in RCW 74.13.118. The review shall be initiated not later than thirty days from the receipt of the request.

(3) Any adjustment in payment may be retroactive to the date the request was received by the secretary. If the request is not acted on within thirty days after receipt by the secretary, the parent may invoke the right to a fair hearing.

(4) The annual review shall be conducted according to RCW 74.13.118 and 74.13.121.

[Order 1037, § 388-70-580, filed 7/29/75.]

WAC 388-70-590 Adoption support for children—Appeal from secretary's decision—Hearing. (1) Adoptive parents have the right to a fair hearing to contest:

(a) A decision by the secretary to increase or decrease the level of payment or payments for the support of an adoptive child without the mutual acceptance of the adoptive parents. Notification of proposed changes in the level of a payment or payments for the support of an adoptive child shall be made to the adoptive parents in writing personal service or other means showing proof of receipt. The notice shall state the grounds upon which the secretary proposes such action;

(b) The decision of the secretary made pursuant to a written request by the adoptive parent or parents to adjust the amount of any payment or the level of continuing payments; such hearing may be requested thirty days following the date of receipt of the request by the secretary if the secretary has failed to take action upon such request;

(c) The decision of the secretary as to whether any standard or part of a standard adopted by the secretary after the date of an initial agreement, which standard or part is used by the secretary making any review and adjustment, is more generous than the standard in effect as of the date of the initial determination with respect to such agreement.

(2) A hearing must be requested within thirty days of the receipt of written notice by the adoptive parents of the decision of the secretary sought to be reviewed. A request for a hearing shall be made by personal service or other means showing proof of receipt.

(3) A hearing held pursuant to this section shall be conducted in accordance with chapter 388-08 WAC and RCW 74.08.080 except as specifically provided in the act and this section. A hearing and the results thereof shall be confidential and shall not be revealed to any other person, institution or agency, public or private.

(4) Denial of an initial request for support payments and social decisions based on the appropriateness of the individual(s) to adopt a child shall not be subject to any review or hearing.

[Statutory Authority: RCW 34.05.220 (1)(a) and 74.13.109. 90-04-072 (Order 2995), § 388-70-590, filed 2/5/90, effective 3/1/90; Order 1037, § 388-70-590, filed 7/29/75.]

WAC 388-70-595 Reimbursement for nonrecurring adoption finalization costs. (1) The department shall agree to reimburse an adoptive parent for the adoptive

parent's nonrecurring expense payment of the child's legal adoption process when the department determines the child:

(a) Has special needs;
(b) Cannot or should not be returned to the home of the child's parents; and

(c) Cannot be adopted without adoption assistance.
(2) The adoptive parent's nonrecurring adoption costs necessary to complete the adoption process shall include:

(a) Reasonable and necessary adoption fees;
(b) Court costs;
(c) Attorney fees; and
(d) Costs associated with the:
(i) Adoption study;
(ii) Health and psychological examination;
(iii) Supervision of the placement before adoption; and

(iv) Cost of transportation, lodging, and food incurred for the child or adoptive parent while completing pre-placement visits.

(3) Before the final decree of adoption, the department and adoptive parent shall sign an agreement specifying the nature and amount of the nonrecurring expenses the department pays. The department and adoptive family agreements for retroactive payment of nonrecurring adoption costs may be signed for otherwise qualifying adoption occurring after January 1, 1987, and before October 1, 1990.

[Statutory Authority: RCW 43.20A.550 and HB 2602. 90-23-076 (Order 3101), § 388-70-595, filed 11/20/90, effective 12/21/90.]

WAC 388-70-600 Local Indian child welfare advisory committee—Purpose. The intent of WAC 388-70-096, 388-70-450, and 388-70-600 through 388-70-640 is to ensure protection of the Indian identity of Indian children, their rights as Indian children, and the maximum utilization of available Indian resources for Indian children. To ensure the realization of this intent, information about each current and future case involving Indian children for whom the department of social and health services has a responsibility shall be referred to a local Indian child welfare advisory committee on an ongoing basis according to procedures which recognize the privacy rights of the families.

The purposes of local Indian child welfare advisory committees are:

(1) To promote relevant social service planning for Indian children.

(2) To encourage the preservation of the Indian family, tribe, heritage, and identity of each Indian child served by the department of social and health services.

(3) To assist in obtaining participation by representatives of tribal governments and Indian organizations in departmental planning for Indian children for whom the department has a responsibility.

[Order 1167, § 388-70-600, filed 10/27/76.]

WAC 388-70-610 Local Indian child welfare advisory committee—Membership. Local Indian child welfare committees shall be established within each region. The number and locations of the local committees shall

be mutually determined by the Indian tribal governments and urban Indian organizations served by that region and the DSHS regional administrator.

(1) The committee shall consist of representatives designated by tribal government and urban Indian organizations. The regional administrator shall appoint committee members from among those individuals designated by Indian authorities. These members should be familiar with and knowledgeable about the needs of children in general as well as the particular needs of Indian children residing in the service area.

(2) The committee may also include bureau of Indian affairs and/or Indian health service staff if approved by participating tribal councils and urban Indian organizations.

(3) The DSHS regional administrator and/or the ESSO administrator shall appoint a member of his child welfare supervisory staff as a liaison member of the committee.

(4) The local Indian child welfare advisory committee is an ad hoc advisory committee not specifically authorized by statute. As such its members are not entitled to per diem and travel expenses for the performance of advisory committee functions. This rule shall not be construed, however, to prohibit expense payments to members who are otherwise qualified for and perform services compensable under other programs such as the volunteer programs.

[Order 1167, § 388-70-610, filed 10/27/76.]

WAC 388-70-615 Local Indian child welfare advisory committee--Subcommittees. Each committee may appoint a subcommittee of permanent members to participate in reviewing the situation of an individual child or children for the purpose of recommending future planning actions.

[Order 1167, § 388-70-615, filed 10/27/76.]

WAC 388-70-620 Local Indian child welfare advisory committee--Functions. (1) The functions of the local Indian child welfare advisory committee are:

(a) Assistance to DSHS staff in cooperative planning for Indian children.

(b) Consultation to DSHS staff regarding the provision of adoption, foster care and child protective services on behalf of Indian children.

(c) Reviewing the situations of Indian children.

(d) Assisting in the implementation of recommended plans.

(e) Assisting in the recruitment of and making recommendations regarding the licensing of foster and adoptive homes for Indian children and providing culturally relevant services to Indian children.

(f) Requests the ESSO administrator to initiate reviews of casework decisions that the committee believes to be detrimental to the best interests of Indian children.

(g) Acts in an advisory capacity to the regional administrator and ESSO administrator regarding the department's implementation and monitoring of the rules related to foster care, child protection, and adoption services to Indian children and their families.

[Order 1167, § 388-70-620, filed 10/27/76.]

WAC 388-70-630 Local Indian child welfare advisory committee--Meetings. Each committee and the regional administrator and/or ESSO administrator will mutually agree as to time, place and frequency and conduct of official committee meetings.

[Order 1167, § 388-70-630, filed 10/27/76.]

WAC 388-70-640 Local Indian child welfare advisory committee--Confidentiality. The members of the local child welfare advisory committee shall agree to abide by RCW 74.04.060 and the rules of confidentiality binding the DSHS staff.

[Statutory Authority: RCW 74.15.030. 89-05-063 (Order 2743), § 388-70-640, filed 2/15/89; Order 1167, § 388-70-640, filed 10/27/76.]

WAC 388-70-700 Juvenile records. (1) Except as otherwise provided by law the department shall comply with the requirements of RCW 13.04.270 through 13.04.276 as amended by chapter 155, Laws of 1979 regarding the confidentiality, sealing, accuracy, release to public, inquiry and challenge, transfer and destruction of juvenile custody and child care records. This section applies to entries in records or records created after July 1, 1978 in which a juvenile court action other than a juvenile offender has been initiated.

(2) A juvenile, his or her parents or attorney, may upon written request, inquire to the department as to the existence and content of custody or care records. The inquiry shall provide the name of the juvenile, the approximate date the juvenile was in contact with the department, the nature of the contact, the location of the contact, and the purpose of the request.

(3) The department will make written response to the inquiry within twenty-one calendar days after receipt. The department will give priority to, and expedite processing, inquiries which involve pending litigation. The department shall provide to the juvenile, his or her parents or attorney making the inquiry, information regarding the location, nature and content of any records in the department's possession except:

(a) If it is determined by the agency that release of this information is likely to cause severe psychological or physical harm to the juvenile or his or her parents the agency may withhold the information subject to the order of the court: *Provided*, That if the court determines that limited release of the information is appropriate the court may specify terms and conditions for release of the information; or

(b) If the information or record has been by a juvenile justice or care agency in connection with the provision of counseling, psychological, psychiatric or medical services for the juvenile and the juvenile has a legal right to receive these services without the consent of any person or agency then the information or record may not be disclosed to the juvenile's parents without the informed consent of the juvenile.

(4) A juvenile, his or her parents or attorney, who wishes to challenge the information contained in the department records shall notify the department in writing. The notification shall provide:

- (a) The name of the juvenile;
- (b) If the records are alleged to be inaccurate; a statement of those portions alleged to be inaccurate; and
- (c) If the continued possession of the record is being challenged, a statement as to the reason why the record should be destroyed.

(5) The department will review the notification of challenge to the record and make a written response within thirty calendar days. The response shall indicate the corrections which have been or will be made and indicate the basis for denial of any requested corrections. If appropriate, the department's response will also include a statement indicating whether the records have been destroyed or transferred to another juvenile justice or child care agency.

[Statutory Authority: RCW 74.08.090 and 1979 c 155. 79-10-026 (Order 1431), § 388-70-700, filed 9/10/79. Statutory Authority: RCW 74.08.090. 78-09-098 (Order 1335), § 388-70-700, filed 9/1/78.]

Chapter 388-71 WAC

INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN

WAC

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WAC 388-71-005 Duty to provide. Under chapter 26.34 RCW it is the responsibility of the state of Washington to cooperate with the other states party to the Interstate Compact on the placement of children to the end that:

(1) Each child requiring placement shall receive the maximum opportunity to be placed in a suitable environment and with persons or institutions having appropriate qualifications and facilities to provide a necessary and desirable degree and type of care.

(2) The appropriate authorities in a state where a child is to be placed may have full opportunity to ascertain the circumstances of the proposed placement, thereby promoting full compliance with applicable requirements for the protection of the child.

(3) The proper authorities of the state from which the placement is made may obtain the most complete information on the basis of which to evaluate a projected placement before it is made.

(4) Appropriate jurisdictional arrangements for the care of children will be promoted.

[Order 1081, § 388-71-005, filed 12/24/75.]

WAC 388-71-010 Definitions. As used in this compact:

(1) "Child" means a person who, by reason of minority, is legally subject to parental, guardianship or similar control.

(2) "Sending agency" means a party state, officer or employee thereof; a subdivision of a party state, or officer or employee thereof; a court of a party state; a person, corporation, association, charitable agency or other entity which sends, brings or causes to be sent or brought any child to another party state.

(3) "Receiving state" means the state to which a child is sent, brought or caused to be sent or brought, whether by public authorities or private persons or agencies, and whether for placement with state or local public authorities or for placement with private agencies or persons.

(4) "Placement" means the arrangement for the care of a child in a family free or boarding home of in a child-caring agency or institution but does not include any institution caring for the mentally ill, mentally defective or epileptic or any institution primarily educational in character, and any hospital or other medical facility.

[Order 1081, § 388-71-010, filed 12/24/75.]

WAC 388-71-015 Conditions for placement. (1) No sending agency shall send, bring, or cause to be sent or brought into any other party state any child for placement in foster care or as a preliminary to a possible adoption unless the sending agency shall comply with each and every requirement set forth in this article and with the applicable laws of the receiving state governing the placement of children therein. All state laws, rules and regulations regarding placement of American Indian Children shall be complied with by the sending agency and receiving state.

(2) Prior to sending, bringing or causing any child to be sent or brought into a receiving state for placement in foster care or as a preliminary to a possible adoption, the sending agency shall furnish the appropriate public authorities in the receiving state written notice of the intention to send, bring, or place the child in the receiving state. The notice shall contain:

- (a) The name, date and place of birth of the child;
- (b) The identity and address or addresses of the parents or legal guardian;

(c) The name and address of the person, agency or institution to or with which the sending agency proposes to send, bring, or place the child;

(d) A full statement of the reasons for such proposed action and evidence of the authority pursuant to which the placement is proposed to be made.

(3) Any public officer or agency in a receiving state which is in receipt of a notice pursuant to subsection (2) may request of the sending agency, or any other appropriate officer or agency of or in the sending agency's state, and shall be entitled to receive therefrom, such supporting or additional information as it may deem

necessary under the circumstances to carry out the purpose and policy of this compact.

(4) The child shall not be sent, brought, or caused to be sent or brought into the receiving state until the appropriate public authorities in the receiving state shall notify the sending agency, in writing, to the effect that the proposed placement does not appear to be contrary to the interests of the child.

[Order 1081, § 388-71-015, filed 12/24/75.]

WAC 388-71-020 Condition under which compact applies. The compact is applied under the following conditions:

(1) When a sending agency in a member state wishes to place a specific child for whom it holds legal custody or placement responsibility in: a specific boarding or foster family home in another compact state; a specific relative home in another compact state; a specific child-caring institution in another compact state; or equivalent facilities for the child are not available in the sending agency's jurisdiction, and institutional care in the other jurisdiction is in the best interest of the child and will not produce undue hardship.

(2) When a sending agency in a member state has placed a child for adoption or foster care in a home within the state and intends to continue the placement if the family plans to move to another compact state prior to the consummation of the adoption or during the continuance of the foster care status.

(3) When a "person" in a compact state (included in the legal definition of "sending agency"[]) wishes to place a child who is in his or her custody in: A specific boarding or foster family home in another compact state; or a specific preadoptive family home (independent adoption) in another compact state; or a specific relative home in another compact state except as excluded under WAC 388-71-025; or a specific child-caring institution in another compact state.

[Order 1081, § 388-71-020, filed 12/24/75.]

WAC 388-71-025 Exemptions. The interstate compact legislation does not apply in the following circumstances:

(1) When a potential boarding or adoptive family makes a routine inquiry or application to a compact state where they do not reside and this state wishes to have the home studied as a possible resource for any one of a number of children needing placement. The family should be directed to apply in the state in which they reside.

(2) The sending or bringing of a child into a receiving state by his parent, stepparent, grandparent, adult brother or sister, adult uncle or aunt, or his guardian and leaving the child with any such relative or nonagency guardian in the receiving state.

(3) Any placement, sending or bringing of a child into a receiving state pursuant to any other interstate compact to which both the state from which the child is sent or brought and the receiving state are party, or to any other agreement between said states which has the force of law.

(1990 Ed.)

[Order 1081, § 388-71-025, filed 12/24/75.]

WAC 388-71-030 Child leaving Washington state. For a child leaving the state of Washington:

(1) The ESSO, voluntary agency or court in Washington completes sections I, II and III of the request to place child (Form ICPC-100A), five copies of which are forwarded to the office of social service, attention: Deputy compact administrator. Summary's regarding the child and in the case of foster family care or an adoptive placement, the prospective foster or adoptive family are to accompany the request for placement.

(2) The Washington deputy compact administrator will forward copies of the referral request and summaries to the compact administrator of the receiving state, who will forward them to their local agency requesting a recommendation within 30 days of the suitability of the plan.

(3) Upon receipt from the receiving state of their approval or disapproval of the plan for the child, the Washington deputy compact administrator will inform the local agency by forwarding copies of the returned forms and other information.

(4) Local agencies (the sending agency and the agency in the receiving state responsible for supervision) are responsible for ongoing planning during the continuance of placement.

[Order 1081, § 388-71-030, filed 12/24/75.]

WAC 388-71-035 Child entering Washington state. For a child entering Washington:

(1) The compact administrator of the sending state will forward request to place child forms to the Washington deputy compact administrator, together with summaries for the child and in the case of foster family care or an adoptive placement, the prospective foster or adoptive family. The compact administrator will forward the request to the appropriate local Washington agency.

(2) The local Washington agency will:

(a) Provide the requested service;

(b) Make a determination regarding the suitability of the plan; and

(c) Forward such study and recommendation to the Washington compact administrator within 30 days.

(3) The Washington compact administrator will notify the compact administrator in the sending state as to approval or disapproval of the proposed placement. The completed form shall be forwarded with the additional information considered necessary.

(4) Local agencies (the sending agency and the agency in the receiving state responsible for supervision) are responsible for ongoing planning during the continuance of placement.

[Order 1081, § 388-71-035, filed 12/24/75.]

WAC 388-71-040 Procedures for change in placement status. When there is a change in the placement status of the child, such as placement terminated by

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adoption or by a change in plans for the child, the supervising agency (the receiving state) shall initiate interstate compact report on placement status of child, notifying the state compact administrator. The compact administrator of the receiving state is responsible for forwarding copies of the report to the sending state administrator.

[Order 1081, § 388-71-040, filed 12/24/75.]

WAC 388-71-045 Retention of jurisdiction. The sending agency shall retain jurisdiction over the child sufficient to determine all matters in relation to the custody, supervision, care, treatment and disposition of the child which it would have had if the child had remained in the sending agency's state, until the child is adopted, reaches majority, becomes self-supporting or is discharged with the concurrence of the appropriate authority in the receiving state. Such jurisdiction shall also include the power to effect or cause the return of the child or its transfer to another location and custody pursuant to law. Nothing contained herein shall defeat a claim of jurisdiction by a receiving state sufficient to deal with an act of delinquency or crime committed therein.

[Order 1081, § 388-71-045, filed 12/24/75.]

WAC 388-71-050 Financial responsibility. (1) The amount of financial responsibility for a child is determined by the sending state.

(2) In the event of financial default, the provisions of RCW 26.16.205 and 26.20.030 shall apply.

(3) Any agreement which contains a financial commitment or imposes a financial obligation on this state or subdivision or agency thereof shall not be binding unless it has the approval in writing of the director of the office of program planning and fiscal management in the case of the state and of the treasurer in the case of a subdivision of the state.

[Order 1081, § 388-71-050, filed 12/24/75.]

WAC 388-71-055 Penalty for illegal placement. (1) The sending, bringing, or causing to be sent of a child in violation of the terms of this compact shall constitute a violation of the laws respecting the placement of children. Any such violation shall constitute full and sufficient grounds for the suspension or revocation of any license, permit, or other legal authorization held by the sending agency which empowers or allows it to place or care for children. (See RCW 26.34.010 Article IV.)

(2) Further, according to RCW 26.34.080, any person, firm, corporation, association or agency which places a child in the state of Washington without meeting the requirements set forth herein, or any person, firm, corporation, association or agency which receives a child in the state of Washington, where there has been no compliance with the requirements set forth herein, shall be guilty of a misdemeanor. Each day of violation shall constitute a separate offense.

[Order 1081, § 388-71-055, filed 12/24/75.]

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Chapter 388-73 WAC

CHILD CARE AGENCIES--ADULT FAMILY HOMES MINIMUM LICENSING/CERTIFICATION REQUIREMENTS

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WAC 388-73-010 Authority. The following rules are adopted pursuant to chapter 74.15 RCW, RCW 74.08.044 and chapter 155, Laws of 1979. Unless otherwise provided these rules shall apply to all categories of agencies.

[Statutory Authority: RCW 74.08.090 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-010, filed 9/10/79. Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-010, filed 9/8/78.]

WAC 388-73-012 Definitions. (1) Those terms defined in chapter 74.15 RCW shall have the same meanings when used in this chapter except as otherwise provided herein.

(2) "A developmentally disabled person" is an individual suffering from a mental deficiency rendering him or her incapable of assuming those responsibilities expected of the socially adequate person, such as self-direction, self-support, and social participation.

(3) "Premises" means the buildings wherein the facility is located and the adjoining grounds over which the operator of the facility has direct control.

(4) "Full-time care provider" or "full-time care facility" means a foster family home for children or expectant mothers, group care facility, maternity home, crisis residential center, and juvenile detention facility.

(5) "School-age child" means a child six years of age or older or otherwise eligible for admission to the first grade of a public school.

(6) "Capacity" means the maximum number of persons under care at a given moment in time.

(7) "Infant" means a child under one year of age.

(8) "Drop-in care" means unscheduled day care on a one-time only or irregular basis.

(9) "Child," "youth," and "juvenile" means any individual under the chronological age of eighteen years.

(10) "Semisecure facility" means any facility, including but not limited to crisis residential centers or specialized foster homes, operated in a manner to reasonably assure youth placed there will not run away: *Provided*, That such facility shall not be a secure institution or facility as defined by the federal Juvenile Justice and Prevention Act of 1974 and regulations and clarifying instructions promulgated thereunder. A child shall not be locked in the facility nor any part thereof nor otherwise controlled by the use of physical restraints except as provided in WAC 388-73-048.

(11) "Secure detention facility" and "juvenile detention facility" means a facility, primarily for the care of juvenile offenders, operated so as to ensure all entrances and exits from the facility are locked, barred, or otherwise controlled so as to prevent escapes.

(12) "A severely and multiply-handicapped child" is a child diagnosed as primarily dependent for most bodily and social functions, except for cardiorespiratory functions. These children shall not include children requiring skilled nursing care as described in WAC 388-88-081.

[Statutory Authority: RCW 74.15.030. 86-24-059 (Order 2445), § 388-73-012, filed 12/2/86; 84-06-030 (Order 2081), § 388-73-012, filed 2/29/84. Statutory Authority: RCW 74.08.090 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-012, filed 9/10/79. Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-012, filed 9/8/78.]

WAC 388-73-014 Persons and organizations subject to licensing. Persons and organizations operating the following types of facilities are subject to licensing under chapter 74.15 RCW and RCW 74.08.044:

(1) "Group care facility" means an agency maintained and operated for the care of a group of children on a twenty-four-hour basis.

(2) "Child-placing agency" means an agency placing children for temporary care, continued care, or for adoption.

(3) "Maternity service" means an agency providing or arranging for care or services to expectant mothers regardless of age, before or during confinement, or providing care as needed to mothers and their infants after confinement. See WAC 388-73-702.

(4) "Day care facility" means an agency regularly providing care for a group of children for periods of less than twenty-four hours. Separate requirements are adopted for the following subcategories of day care facilities:

(a) A day care center provides for the care of thirteen or more children. No such center shall be located in a private family residence unless the portion of the residence where the children have access is used exclusively for the children during the hours the center is in operation or is separate from the usual living quarters of the family.

(b) A "mini-day care program" means:

(i) A day care facility for the care of twelve or fewer children in a facility other than the family abode of the person or persons under whose direct care and supervision the children are placed; or

(ii) A day care facility for the care of from seven through twelve children in the family abode of the person or persons under whose care and supervision the children are placed.

(c) A family day care home means a day care facility for the care of ten or fewer children in the family abode of the person or persons under whose direct care and supervision the children are placed.

(d) A day treatment program means an agency providing care, supervision, and appropriate therapeutic and educational services during part of the twenty-four-hour day for a group of persons under the age of eighteen years and the persons unable to adjust to full-time regular or special school programs or full-time family living because of disruptive behavior, family stress, learning disabilities, or other serious emotional or social handicaps.

(5) "Foster family home" means a person or persons regularly providing care on a twenty-four-hour basis to one or more, but not more than four, children, expectant mothers, or developmentally disabled persons in the family abode of the person or persons under whose direct care and supervision the child, expectant mother, or developmentally disabled person is placed.

(6) "Large foster family home" means a foster family home with at least two adults providing care on a twenty-four-hour basis to five to six children.

(7) "Crisis residential center" means an agency operating under contract with the department to provide temporary, protective care to children in a semisecured residential facility in the performance of duties specified and in the manner provided in RCW 13.32A.010 through 13.32A.200 and 74.13.032 through 74.13.036. Separate requirements are adopted for the following subcategories of crisis residential centers:

(a) A regional crisis residential center is a structured group care facility whose primary and exclusive functions are those of a crisis residential center.

(b) A group care facility, a portion of which functions as a crisis residential center.

(c) A foster family home functioning either partially or exclusively as a crisis residential center and has been designated as a crisis residential center by the department.

(8) A "facility for severely and multiply-handicapped children" means a group care facility providing residential care to a group of nonambulatory children whose severe, disabling, multiple physical, and/or mental handicaps will require intensive personal care, and may require nursing care, physical therapy, or other forms of therapy.

[Statutory Authority: RCW 74.15.030. 89-11-005 (Order 2796), § 388-73-014, filed 5/4/89; 86-24-059 (Order 2445), § 388-73-014, filed 12/2/86; 84-06-030 (Order 2081), § 388-73-014, filed 2/29/84; 83-02-060 (Order 1933), § 388-73-014, filed 1/5/83. Statutory Authority: RCW 74.08.090 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-014, filed 9/10/79. Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-014, filed 9/8/78.]

WAC 388-73-016 Exceptions to rules. (1) In individual cases the department, at its discretion for reasonable cause, may waive specific requirements and may approve alternative methods of achieving the intent of specific requirements.

(2) The waiver and approval under subsection (1) of this section may not jeopardize the safety or welfare of the persons in care.

(3) The department may limit or restrict licenses issued under the provisions of this section.

(4) Waivers shall be in writing and a copy of the waiver maintained by the licensee.

[Statutory Authority: RCW 74.15.030. 89-11-005 (Order 2796), § 388-73-016, filed 5/4/89; 78-10-006 (Order 1336), § 388-73-016, filed 9/8/78.]

WAC 388-73-018 Persons and organizations not subject to licensing. In addition to those persons and organizations which are exempt from the requirements of

this chapter as provided in chapter 74.15 RCW, the following persons and organizations are not required to be licensed:

(1) Persons caring for a child in the child's own home whether related to the child or not.

(2) Persons who have a child in their home for purposes of adoption, provided such child was placed in such home by a licensed child-placing agency or authorized public agency, or a preplacement report is on file and has been approved by the court.

(3) An agency operated by any unit of local, state or federal government or by a tribal council operating an agency on a federally recognized Indian reservation.

(4) An agency located on a federal military reservation, except upon the invitation of the military authorities.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-018, filed 9/8/78.]

WAC 388-73-019 Effect of local ordinances. Licenses are issued or denied on the basis of applicants' compliance with the department's minimum licensing requirements. The enforcement of local ordinances such as zoning regulations and local building codes is the responsibility of appropriate local officials.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-019, filed 9/8/78.]

WAC 388-73-01950 Fire standards. All group care facilities, day care centers, mini-day care centers, and maternity centers shall conform to the rules and regulations adopted by the Washington state fire marshal's office establishing minimum standards for the prevention of fire and for the protection of life and property against fire. The Washington state fire marshal's standards are found in chapter 212-55 WAC.

[Statutory Authority: RCW 74.15.030. 83-02-060 (Order 1933), § 388-73-01950, filed 1/5/83.]

WAC 388-73-020 Certification of juvenile detention facility and exempt agency. (1) An agency legally exempt from licensing may not be licensed. However, at the agency's request, such agency may be certified by the department as meeting licensing and other pertinent requirements, if investigation proves such to be the case, to enable the agency to be eligible for the receipt of funds or for other legitimate purposes. In such cases, unless otherwise clearly evident from the text, requirements and procedures for licensing apply equally to certification.

(2) Juvenile detention facilities operated by juvenile courts, shall be certified in accord with the provision of RCW 74.13.034, and requirements promulgated pursuant thereto. Except as otherwise indicated by the text, the requirements for licensing group care facilities also apply to the certification of juvenile detention facilities.

[Statutory Authority: RCW 74.15.030. 83-02-060 (Order 1933), § 388-73-020, filed 1/5/83. Statutory Authority: RCW 74.08.090 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-020, filed 9/10/79. Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-020, filed 9/8/78.]

WAC 388-73-022 Application or reapplication for license or certification--Investigation. (1) A person or organization applying for a license or for certification under this chapter shall:

(a) Submit the application on forms prescribed by the department;

(b) Comply with department procedures;

(c) Initiate the application in the name of the person or legal entity responsible for the operation of the agency; and

(d) Include with the application:

(i) Employment and educational history of the person charged with the active management of the agency;

(ii) Completed forms enabling the department to:

(A) Perform a criminal history check;

(B) Check the central registry of child abuse for each staff or volunteer of the agency having unmonitored access to the child, expectant mother, or developmentally disabled person; and

(C) Share this information with the applicant or licensee.

(2) The department may:

(a) Require additional information from the applicant, licensee, their staff, and a member of their household as the department deems necessary including, but not limited to:

(i) Sexual deviancy evaluations;

(ii) Substance and alcohol abuse evaluations;

(iii) Psychiatric evaluations;

(iv) Psychological evaluations; and

(v) Medical evaluations.

(b) Perform corollary investigations of the applicant, licensee, their staff, and member of their households as the department deems necessary, including accessing of criminal histories and law enforcement files.

[Statutory Authority: RCW 74.15.030. 90-20-076 (Order 3069), § 388-73-022, filed 9/28/90, effective 10/29/90; 86-24-059 (Order 2445), § 388-73-022, filed 12/2/86. Statutory Authority: RCW 74.08.090 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-022, filed 9/10/79. Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-022, filed 9/8/78.]

WAC 388-73-024 Licenses for homes supervised by licensed agency. Foster family homes certified by a licensed child-placing agency as meeting licensing requirements for foster family homes shall accept children only from the certifying child-placing agency or from the department when the child is in the legal custody and/or supervision of the department and each placement by the department is approved in writing by the child-placing agency responsible for supervision of the home. Licenses issued under this section are valid only as long as the homes remain under the supervision of the certifying licensed agency and operate in accordance with licensing requirements. This section does not apply to agencies which are certified (rather than licensed) in accordance with WAC 388-73-020.

[Statutory Authority: RCW 74.15.030. 83-02-060 (Order 1933), § 388-73-024, filed 1/5/83. Statutory Authority: RCW 74.08.090 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-024, filed 9/10/79. Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-024, filed 9/8/78.]

WAC 388-73-026 Licensing of employees. The following persons are prohibited from obtaining a license under this chapter:

(1) Staff of the department or a member of his or her household, and staff of a child-placing agency or a member of his or her household, if such staff are involved directly or in an administrative or supervisory capacity in the licensing or certification process or in the placement of persons in a licensed or certified facility or in authorizing payment for such persons.

(2) These restrictions do not preclude the employment and licensing of a person whose exclusive duties for the employer are those of a foster parent.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-026, filed 9/8/78.]

WAC 388-73-028 Limitations on licenses. Licenses shall not be issued to an applicant for both day care and for full-time care nor for both children and adults in the same facility, except that expectant mothers and their children may receive care in the same facility. Exceptions may be made only if it is clearly evident that care of one category of client does not interfere with the quality of care to be provided to the other categories of clients. In such circumstances, the total number of clients in all categories shall not exceed the number permitted by the most stringent capacity limitation of the categories concerned.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-028, filed 9/8/78.]

WAC 388-73-030 General qualifications of licensee, persons on the premises. (1) The licensee, staff, and other person on the premises shall be a person of good character.

(2) The licensee shall demonstrate that the licensee, child care staff, volunteer, and other person having access to a person under care have the understanding, ability, physical health, emotional stability, and personality suited to meet the physical, mental, emotional, and social needs of the person under care.

(3) The licensee, staff, and other person on the premises shall not:

(a) Have been convicted of or have a charge pending of child abuse and/or any crime involving physical harm to another person; nor

(b) Have been found to be a perpetrator of substantiated child abuse.

(4) The department may, at any time, require the licensee or person on the premises to provide additional information so the department can determine whether the licensee, child care staff, volunteer, and other person having access to children in care meet the qualifications in subsections (1), (2), and (3) of this section. This information may include, but is not limited to:

- (a) Sexual deviancy evaluations;
- (b) Substance and alcohol abuse evaluations;
- (c) Psychiatric evaluations;
- (d) Psychological evaluations; and
- (e) Medical evaluations.

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[Statutory Authority: RCW 74.15.030. 90-20-076 (Order 3069), § 388-73-030, filed 9/28/90, effective 10/29/90; 78-10-006 (Order 1336), § 388-73-030, filed 9/8/78.]

WAC 388-73-032 Age of licensee. Applicants for a license under this chapter shall be a least eighteen years of age.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-032, filed 9/8/78.]

WAC 388-73-034 Posting of license. All licensees, except for foster family homes for children, expectant mothers, developmentally disabled adults and adults in need of protection, shall post the license issued under this chapter in a conspicuous place.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-034, filed 9/8/78.]

WAC 388-73-036 Licensure—Denial, suspension, or revocation. (1) Before granting a license and as a condition for continuance of a license, the department shall consider the ability of each applicant, licensee, and chief executive officer, if any, to operate the agency under the law and this chapter. Such persons shall be considered separately and jointly as applicants or licensees and if any one be deemed disqualified by the department in accordance with chapter 74.15 RCW or this chapter, the department may deny, suspend, revoke, or not renew the license.

(a) The department shall disqualify any individual engaging in illegal use of drugs or excessive use of alcohol.

(b) The department shall disqualify any individual convicted of a felony or released from a prison within seven years of the date of application for the license because of the conviction, if:

(i) The conviction is reasonably related to the competency of the person to exercise responsibilities for ownership, operation, or administration of an agency; and

(ii) The department determines, after investigation, the person has not been sufficiently rehabilitated to warrant public trust.

(c) The department shall not grant a license to an applicant who, in this state or elsewhere:

(i) Has been denied a license to operate an agency for the care of children, expectant mothers, or developmentally disabled adults; or

(ii) Had a license to operate such an agency suspended or revoked.

(d) An applicant may establish by clear, cogent, and convincing evidence the ability to operate an agency under this chapter. The department may waive the provision in subsection (1)(c) of this section and license the applicant.

(2) The department may deny, suspend, revoke, or not renew a license for failure to comply with the provisions of chapter 74.15 RCW, and rules contained in this chapter. The department shall deny, suspend, revoke, or not renew for any of the following reasons:

(a) Obtaining or attempting to obtain a license by fraudulent means or misrepresentation including:

(i) Making materially false statements on the application; or

(ii) Material omissions which would influence appraisal of the applicant's suitability.

(b) Permitting, aiding, or abetting the commission of any illegal act on the premises;

(c) Permitting, aiding, or abetting the abuse, neglect, exploitation, or cruel or indifferent care to a person under care;

(d) Repeatedly:

(i) Providing insufficient personnel relative to the number and types of persons under care; or

(ii) Allowing a person unqualified by training, experience, or temperament to care for or be in contact with the person under care.

(e) Misappropriation of the property of a person under care;

(f) Failure or inability to exercise fiscal responsibility and accountability in respect to operation of the agency;

(g) Failure to provide adequate supervision to a person under care;

(h) Refusal to admit authorized representatives of the department or state fire marshal to inspect the premises;

(i) Refusal to permit authorized representatives of the department to have access to the records necessary for the operation of the agency or to permit the department representatives to interview agency staff and clients;

(j) Knowingly having an employee or volunteer on the premises who has made misrepresentation or significant omissions on the application for employment or volunteer service; and

(k) Refusal or failure to supply necessary additional department-requested information.

(3) A license may be denied, suspended, revoked, or not renewed for violation of any condition or limitation upon licensure including, but not limited to, providing care for:

(a) More children than the number for which the agency is licensed; or

(b) Children of ages different from the ages for which the agency is licensed.

(4) The department's notice of a denial, revocation, suspension, or modification of a license is governed by RCW 43.20A.205. The provider's right to an adjudicative proceeding is in the same law.

(a) A provider contesting a department licensing decision shall within twenty-eight days of receipt of the decision:

(i) File a written application for an adjudicative proceeding by a method showing proof of receipt with the office of appeals; and

(ii) Include in or with the application:

(A) A specific statement of the issue or issues and law involved;

(B) The grounds for contesting the department decision; and

(C) A copy of the department decision being contested.

(b) The proceeding shall be governed by the Administrative Procedure Act (chapter 34.05 RCW), RCW 43.20A.205, this chapter, and chapter 388-08 WAC. If

any provision of this chapter conflicts with chapter 388-08 WAC, the provision in this chapter governs.

(4) The department may deny, suspend, revoke, or not renew a license when the agency fails to comply with the federal Indian Child Welfare Act, P.L. 95-608, chapters 13.04 and 13.34 RCW, WAC 388-73-044, Special Requirements Regarding American Indians, or WAC 388-70-600 through 388-70-640, relating to local Indian child welfare advisory committees.

[Statutory Authority: RCW 74.15.030. 90-20-076 (Order 3069), § 388-73-036, filed 9/28/90, effective 10/29/90. Statutory Authority: RCW 34.05.220 (1)(a) and 74.15.030. 90-04-072 (Order 2995), § 388-73-036, filed 2/5/90, effective 3/1/90. Statutory Authority: RCW 74.15.030. 89-11-005 (Order 2796), § 388-73-036, filed 5/4/89; 86-24-059 (Order 2445), § 388-73-036, filed 12/2/86; 78-10-006 (Order 1336), § 388-73-036, filed 9/8/78.]

WAC 388-73-038 Licensed capacity. The number of persons for whom a facility will be licensed is dependent upon the evaluation of the physical accommodations of the facility, the numbers and skills of the licensee, staff, family members and volunteers, and the ages and characteristics of the persons to be served. No facility shall be licensed for the care of more persons than permitted by the rules regarding the category of care for which the license is sought.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-038, filed 9/8/78.]

WAC 388-73-040 Discrimination prohibited. The licensee shall comply with federal and state statutory and regulatory requirements regarding nondiscrimination in employment practices and client services.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-040, filed 9/8/78.]

WAC 388-73-042 Religious activities. The rights of persons in care to observe the tenets of the person's faith shall be respected and facilitated consistent with state and federal law. Persons shall not be punished for exercising these rights. A written description of any religious policies and practices will be submitted to the department and shall be provided to the child and, if possible, to the family upon admission.

[Statutory Authority: RCW 74.15.030. 83-02-060 (Order 1933), § 388-73-042, filed 1/5/83; 78-10-006 (Order 1336), § 388-73-042, filed 9/8/78.]

WAC 388-73-044 Special requirements regarding American Indians. (1) Implementation of the licensing statute will recognize the unique tribal, cultural and religious sovereignty of Indian nations, tribes and communities. The licensing of a child care agency on sovereign Indian soil shall in no way abridge the sovereignty of an Indian nation nor shall compliance with these rules and regulations be deemed to be a relinquishment of sovereign authority.

(2) For the purposes of these rules, the term "Indian" includes the following groups:

(a) An enrolled Indian:

(i) Any person who is enrolled or eligible for enrollment in a recognized tribe.

(ii) Any person determined, or eligible to be found, to be an Indian by the secretary of the interior.

(iii) An Eskimo, Aleut or other Alaskan native.

(b) A Canadian Indian: Any person who is a member of a treaty tribe, Metis community or nonstatus Indian community from Canada.

(c) An unenrolled Indian: A person considered to be an Indian by a federally or nonfederally recognized Indian tribe or urban Indian/Alaskan native community organization.

(3) Prior to planning, development, and delivery of social services to Indian children and families, agencies shall obtain a written statement from the parent or Indian custodian regarding the preference of child placement.

(4) When an agency has an Indian child in its caseload, the agency shall develop social service resources and staff training programs designed to meet the special needs of such children through coordination with tribal, Indian Health Service and Bureau of Indian Affairs social service staff and appropriate urban Indian and Alaskan native consultants.

(5) In addition to reports required by WAC 388-73-056, an agency shall report to a child's tribal council the serious injury or death or abandonment of an enrolled Indian child or an Indian child eligible for enrollment.

(6) In planning foster care and adoptive placements for Indian children, agencies shall give consideration in the following order:

(a) Relatives;

(b) An Indian family of the same tribe as the child;

(c) An Indian family of a Washington Indian tribe of a similar culture to that tribe;

(d) Any other family which can provide a suitable home for an Indian child, such suitability to be determined through consultation with a local Indian child welfare advisory committee.

(7) When foster care or adoptive placement of a non-enrolled Indian child is planned, agencies shall compile the Portland area office of the bureau of Indian affairs' form "family ancestry chart," or appropriate equivalent. Agencies shall take appropriate steps to enroll eligible children in their respective tribes.

(8) Agencies serving Indian children shall make efforts to recruit facilities and/or homes particularly capable of meeting the special needs of such children. Indian children shall be placed preferentially in Indian foster homes. Indian children can be placed in non-Indian foster homes specifically recruited and trained to meet the special needs of Indian foster children only with the consent of the LICWAC or the child's tribe for a four-month period in a particular non-Indian home. Each such placement shall only be extended by the consent of the LICWAC or the child's tribe on a month-by-month basis.

(9) When an agency has an Indian child in its caseload, the agency shall have a written policy and procedures statement on legal practices which shall reflect the rights of Indian children and families based upon their unique social-legal status guaranteed by treaty and federal law.

(10) If not contrary to the wishes of a child and/or his parent(s), in the adoptive placement of Indian children adoptive homes having the following characteristics agencies shall give preference in the following order:

(a) An Indian family of the same tribe as the child within thirty days from the time the child is determined to be legally and otherwise ready for adoptive planning.

(b) Within an additional thirty days, a Washington Indian family; considering first a family of similar cultural background, for example, eastern or western Washington.

(c) Within an additional thirty days, an Indian family from elsewhere in the United States or Canada, through the Adoption Resource Exchange of North America, or other recognized adoption agency outside of Washington state. Attention shall be given to matching the child to an Indian family whose culture is similar to that of his natural parents, such as, Coastal, Plateau, Plains, Southwest, Woodland.

(d) Any other family who can provide a suitable home to an Indian child, as well as instill pride and understanding in the child's tribal and cultural heritage. Such placements shall only be made with the consent of the LICWAC or the child's tribe. Each such placement shall be reviewed by the LICWAC or the child's tribe at the end of one year to assess the suitability of the non-Indian home. No other reviews shall take place after this.

(11) All agencies shall:

(a) Consult with the LICWAC on case planning, development and service delivery;

(b) Utilize the LICWAC to assist in the recruitment of appropriate tribal and urban Indian foster care and adoptive homes for Indian children;

(c) Utilize the LICWAC in the development and provision of staff training;

(d) Complete a "Verification of American Indian status" form for each family applying for foster care or adoptive care of Indian children. The verification form shall be complete and on file, with review and approval by the LICWAC, prior to placement. When Indian homes are not available, agencies shall place Indian children with the consent of LICWAC or the child's tribe and for a four-month period in a particular non-Indian home specifically recruited and trained to meet the special needs of Indian children. Each such placement shall only be extended by the consent of LICWAC or the child's tribe on a month-by-month basis; and

(e) Comply with all requirements of the Federal Indian Child Welfare Act, 25USC1901, et. seq, and all requirements of state laws pertaining to foster care, guardianship, termination, or adoption proceedings involving Indian children.

[Statutory Authority: RCW 74.15.030, 89-05-063 (Order 2743), § 388-73-044, filed 2/15/89; 81-20-011 (Order 1703), § 388-73-044, filed 9/25/81; 78-10-006 (Order 1336), § 388-73-044, filed 9/8/78.]

WAC 388-73-046 Discipline. (1) Disciplinary practices shall be stated in writing. Discipline shall be a responsibility of the licensee or staff, and shall not be

prescribed or administered by persons under care. Discipline shall be based on an understanding of the individual's needs and stage of development and shall be designed to help the individual develop inner control, acceptable behavior and respect for the rights of others.

(2) Discipline shall be fair, reasonable, consistent and related to the individual's behavior. Cruel and unusual discipline, discipline hazardous to health, and frightening or humiliating discipline shall not be administered.

[Statutory Authority: RCW 74.15.030, 78-10-006 (Order 1336), § 388-73-046, filed 9/8/78.]

WAC 388-73-048 Corporal punishment. (1) Corporal punishment is prohibited.

(2) The use of such amounts of physical restraint as may be reasonable and necessary to:

(a) Protect persons on the premises from physical injury,

(b) Obtain possession of a weapon or other dangerous object,

(c) Protect property from serious damage, shall not be construed to constitute corporal punishment.

(3) Mechanical restraints may not be used. These include but are not limited to: Handcuffs, belt restraints, and locked time-out rooms.

(4) Physical restraints which could be injurious are not to be used. These include but are not limited to: A large adult sitting on or straddling a small child, sleeper holds, arm twisting, hair holds, and throwing children and youths against walls, furniture, or other large immobile objects.

(5) The restrictions listed in subsections (3) and (4) of this section immediately preceding do not apply to juvenile detention facilities.

(6) Staff employed in group care facilities where it may be necessary to restrain children shall be trained in the use of appropriate restraining techniques.

[Statutory Authority: RCW 74.15.030, 86-24-059 (Order 2445), § 388-73-048, filed 12/2/86; 78-10-006 (Order 1336), § 388-73-048, filed 9/8/78.]

WAC 388-73-050 Abuse, neglect, exploitation. Licensees shall protect persons, while in the licensee's care, from child abuse or neglect as defined in RCW 26.44.020(12).

[Statutory Authority: RCW 74.15.030, 83-02-060 (Order 1933), § 388-73-050, filed 1/5/83; 78-10-006 (Order 1336), § 388-73-050, filed 9/8/78.]

WAC 388-73-052 Interstate placement of children. All interstate placement of children shall be in accordance with chapter 26.34 RCW, except that for children who are in the care of a crisis residential center and who have legal residence outside the state of Washington and who refuse to return home, provisions of chapter 13.24 RCW (interstate compact on juveniles) shall apply.

[Statutory Authority: RCW 74.08.090 and 1979 c 155, 79-10-026 (Order 1431), § 388-73-052, filed 9/10/79. Statutory Authority: RCW 74.15.030, 78-10-006 (Order 1336), § 388-73-052, filed 9/8/78.]

WAC 388-73-054 Client records and information-- All agencies. (1) Records and information concerning persons in care shall be maintained in such a manner as to preserve their confidentiality. For American Indian children, see WAC 388-73-044. Records giving the following information on each person under care shall be maintained at the licensed facility. Records shall contain, at a minimum, the following information:

(a) Identifying information, including name, birthdate, and, for full-time care providers, dates of admission, absences, and discharge; for day care providers, daily attendance.

(b) Names, addresses, and telephone numbers, if any (home and business), of parents and/or other persons to be contacted in case of emergency.

(c) Dates and kinds of illnesses and accidents, medication and treatments prescribed, and time given and by whom, and, except for crisis residential centers and certified juvenile detention facilities, dates and types of immunization, and other pertinent information relating to the person's health.

(d) Written parental consent (or court order) for providing medical care and emergency surgery, except as such care is otherwise authorized by law.

(e) Names, addresses, and telephone numbers of persons authorized to take the person under care out of the facility.

(f) Authorization for acceptance of the person under care. Juvenile detention facilities and crisis residential centers shall record the time and date a placement is made, the names of the person and organization making the placement, and the reasons for the placement.

(g) In addition, for day care facilities completed application signed by the parent, guardian, or responsible relative.

(h) For day care facilities written consent signed by the parent or parents for all transportation provided by the caregiver, trips, and swimming if the child will be participating in these activities.

(i) A copy of the report sent to the department licensor of all accidents, injuries, and illnesses requiring inpatient hospitalization occurring to the child while he or she is present at the facility.

(j) Immunization records as per WAC 388-73-140 (4) and (5).

(2) Records of children severely and multiply handicapped shall also contain:

(a) Information obtained upon admission including identifying and social data, an inventory of personal belongings, medical history, and a report of a physical examination and diagnosis by a physician.

(b) Information about the child's daily care including all plans, treatments, medications, observations, teaching, examinations, physicians' orders, allergic responses, consent authorizations, releases, diagnostic reports, and revisions of assessments.

(c) A summary upon discharge including diagnoses, treatments, and prognosis by the person responsible for the total plan of care; instructions given to the person providing continuing care, and a record of any referrals directed toward continuity of care.

(d) Appropriate information if the child has died including the time and date of death, apparent cause of death, appropriate notification of the physician and relevant others (including the coroner if necessary), and the disposition of the body and personal effects.

[Statutory Authority: RCW 74.15.030. 86-24-059 (Order 2445), § 388-73-054, filed 12/2/86; 84-06-030 (Order 2081), § 388-73-054, filed 2/29/84. Statutory Authority: RCW 74.08.090 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-054, filed 9/10/79. Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-054, filed 9/8/78.]

WAC 388-73-056 Reporting of illness, death, injury, epidemic, child abuse, or unauthorized absence—All facilities. The licensee shall report to the persons indicated the following events as soon as practical after occurrence:

(1) To the licensor, responsible relative, and child's placement worker (if any), death, or serious injuries which include, but are not limited to:

- (a) An injury requiring stitches,
- (b) Casting, or
- (c) Hospitalization of a child in care.

(2) To the department of social and health services' child protective services or law enforcement any instance where there is reasonable cause to believe that child abuse, neglect, or exploitation may have occurred. See chapter 26.44 RCW and WAC 388-73-044 and 388-73-050.

(3) To the local public health department any occurrence of food poisoning or communicable disease as required by the state board of health.

(4) To the placement agency (if any) or responsible relative the unauthorized absence of a child.

[Statutory Authority: RCW 74.15.030. 89-11-005 (Order 2796), § 388-73-056, filed 5/4/89; 86-24-059 (Order 2445), § 388-73-056, filed 12/2/86. Statutory Authority: RCW 74.08.090 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-056, filed 9/10/79. Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-056, filed 9/8/78.]

WAC 388-73-057 Reporting of circumstantial changes. Agencies shall report to the department changes in circumstances which might constitute grounds for reclassification of agency as to category of license or continued eligibility for license and major changes in staff or program, including the following:

(1) Changes in agency's address or location and phone number (license is valid only for address indicated on the license).

(2) Changes in the maximum number, age ranges, and sex of persons licensee wishes to serve as compared to specifications in the license.

(3) Changes in number and qualifications of agency's staffing pattern, change of agency's chief executive, and the death, retirement, or incapacity of a licensee. (A license is valid only for the person or organization named on the license.)

(4) Occurrence of a fire on licensed premises, major structural changes, or damage to premises from any causes and plans for major remodeling of facility.

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(5) Change in name of a licensed corporation, or name by which a facility is commonly known, and changes in agency's articles of incorporation and bylaws.

(6) Marriage or divorce of a foster parent or other change in household composition affecting eligibility for license or number of persons that may be served.

(7) The hiring of any new staff person who might have contact with the children in care or the addition of any new volunteer who might have contact with the children in care.

[Statutory Authority: RCW 74.15.030. 85-13-064 (Order 2244), § 388-73-057, filed 6/18/85; 78-10-006 (Order 1336), § 388-73-057, filed 9/8/78.]

WAC 388-73-058 Earnings, allowances, personal belongings. Except for crisis residential centers, juvenile detention facilities, and foster family homes, full-time child care providers shall give each child a regular allowance based on his or her age, needs, and ability to handle money. Group care facilities shall account for allowances given and for children's earnings, if any, in a ledger or other appropriate record maintained for this purpose. When a person is discharged, he or she shall be permitted to take his or her personal belongings and all of his or her money, or be fully informed about the transfer of his or her money to another facility.

[Statutory Authority: RCW 74.15.030. 84-06-030 (Order 2081), § 388-73-058, filed 2/29/84; 83-02-060 (Order 1933), § 388-73-058, filed 1/5/83. Statutory Authority: RCW 74.08.090 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-058, filed 9/10/79. Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-058, filed 9/8/78.]

WAC 388-73-060 Work assignments. Persons under care shall not be used to carry the responsibility for basic maintenance of the facility and equipment. However, household tasks may be performed insofar as appropriate to the program and as part of a planned learning experience. Work assignments shall be appropriate to the age and physical condition of the person under care. Work assignments other than household tasks which are part of the treatment plan may be performed insofar as appropriate to the age and physical condition of the person under care and adequate monetary compensation shall be provided.

[Statutory Authority: RCW 74.15.030. 83-02-060 (Order 1933), § 388-73-060, filed 1/5/83; 78-10-006 (Order 1336), § 388-73-060, filed 9/8/78.]

WAC 388-73-062 Transportation. When a licensee provides transportation for persons under care:

(1) The vehicle shall be in safe operating condition. The driver shall have a current driver's license.

(2) There shall be at least one adult supervisor other than the driver in a vehicle when there are more than six preschool-aged children in the vehicle.

(3) Licensee or driver shall carry liability and medical insurance.

(4) Seat belts or other appropriate safety devices shall be provided for all passengers. The number of passengers

shall not exceed the vehicle's seating capacity. Buses approved by the state patrol shall not be required to be equipped with seat belts.

(5) Day care facilities transporting children shall have written parental permission.

[Statutory Authority: RCW 74.15.030. 86-24-059 (Order 2445), § 388-73-062, filed 12/2/86; 83-02-060 (Order 1933), § 388-73-062, filed 1/5/83; 78-10-006 (Order 1336), § 388-73-062, filed 9/8/78.]

WAC 388-73-064 Clothing. Full-time care providers are responsible to provide or arrange for clothing for the persons under care. Clothing shall be neat, seasonable and of such quality and design as to foster self-respect.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-064, filed 9/8/78.]

WAC 388-73-066 Personal hygiene. Licensees are responsible to provide or arrange for items needed for good grooming and personal hygiene for persons under care.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-066, filed 9/8/78.]

WAC 388-73-068 Personnel policies. (1) Each employee or volunteer having unmonitored access to children, expectant mothers, or developmentally disabled persons shall have completed an application for employment on a form prescribed by the department and forms enabling the department to complete a criminal history check and check of the central registry of child abuse and to share this information with the licensee. Misrepresentation by the prospective employee or volunteer shall be grounds for termination or denial of employment or volunteer service, as the case may be.

(2) All agencies employing five or more persons shall have written policies covering qualifications and duties of staff and volunteers.

[Statutory Authority: RCW 74.15.030. 86-24-059 (Order 2445), § 388-73-068, filed 12/2/86; 83-02-060 (Order 1933), § 388-73-068, filed 1/5/83; 78-10-006 (Order 1336), § 388-73-068, filed 9/8/78.]

WAC 388-73-069 Consumption of alcoholic beverages. Except for family homes, foster and day care, licensees and staff may not consume or have in their possession or on their person alcoholic beverages on the premises while children are in care. Persons providing direct care to children in family day care homes may not consume alcoholic beverages while providing care.

[Statutory Authority: RCW 74.15.030. 86-24-059 (Order 2445), § 388-73-069, filed 12/2/86.]

WAC 388-73-070 Training. Staff shall be made aware of the licensee's policies and procedures and the rules contained in this chapter. All agencies employing five or more persons shall have an in-service training program for developing and upgrading staff skills. The agency shall provide or arrange for training in practice

skills for its staff responsible for delivering the specific services it offers. Facilities required to provide staff training shall record the delivery and the nature of the training either in each employee's file or in a separate training file.

[Statutory Authority: RCW 74.15.030. 86-24-059 (Order 2445), § 388-73-070, filed 12/2/86; 78-10-006 (Order 1336), § 388-73-070, filed 9/8/78.]

WAC 388-73-072 Education and vocational instruction. (1) Each group care facility, other than a crisis residential center, facility for severely and multiply-handicapped children, or juvenile detention facility, and each maternity service, day treatment program, and child-placing agency shall:

(a) Provide or arrange for the provision of a suitable educational plan for each person in care not completing high school. Group care agencies shall provide suitable study areas. If instruction is given on the agency's premises, appropriate classrooms separate from the living area shall be provided.

(b) Provide the department with a written description of its educational program.

(c) Where an academic program is not appropriate for a particular person in care, the agency shall provide or arrange for a vocational training program either within or outside the agency. Such training shall be geared to helping the person to attain self-sufficiency. If a person has job skills, a training program may not be needed, but assistance in obtaining suitable employment shall be provided when necessary.

(2) Each group care facility serving severely and multiply-handicapped children shall provide or arrange for the provision of an individualized education plan suited to the unique needs of each child in care.

[Statutory Authority: RCW 74.15.030. 84-06-030 (Order 2081), § 388-73-072, filed 2/29/84. Statutory Authority: RCW 74.08.090 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-072, filed 9/10/79. Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-072, filed 9/8/78.]

WAC 388-73-074 Social service staff. (1) Each child-placing agency, day treatment program, maternity service, and group care facility, except for juvenile detention facilities, shall provide or arrange for social services by persons at least one of whom has a master's degree in social work or closely allied field.

(2) Social service staff not having a master's degree in social work shall have a bachelor's degree in social work or closely allied field and shall receive face-to-face supervision by a person having a master's degree in social work or closely allied field for a minimum of one hour for each twenty hours of paid employment.

(3) When social services are provided by an agency other than the licensee, there shall be a written agreement detailing the scope of service to be provided. Any such agreement must meet the requirements of this section.

(4) The following minimum ratios of full-time social service staff providing direct services to persons under care shall be provided:

| | |
|--|---------|
| Day treatment program | 1 to 15 |
| Group care facilities | 1 to 25 |
| Child-placing agency | 1 to 25 |
| Maternity services | 1 to 25 |
| Regional and other group care crisis residential centers | 1 to 5 |

[Statutory Authority: RCW 74.15.030. 86-24-059 (Order 2445), § 388-73-074, filed 12/2/86. Statutory Authority: RCW 74.08.090 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-074, filed 9/10/79. Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-074, filed 9/8/78.]

WAC 388-73-076 Social study--Treatment plans. Except for juvenile detention facilities, the social service staff of each child-placing agency, day treatment program, maternity service, and group care facility shall:

(1) Develop or assemble from appropriate sources a written diagnostic social study on each child and expectant mother accepted for care. Except in the case of persons accepted for emergency care, the study shall serve as the basis of the person's admission to care. In such case, the study shall be completed within thirty days after admission if the person remains in care. The study shall contain in addition to the minimum information recorded as required by WAC 388-73-054 the following information:

(a) Child's school records, when possible. Where children attend school away from the facility, records mean grade placement, reports, and correspondence with schools. Where the facility has a school on the grounds, records shall mean transcripts and other records normally kept by a school.

(b) Copies of psychological or psychiatric evaluations, if any, of the child or expectant mother.

(c) A narrative description of the background of the child and his or her family, the child's interrelationships and the problems and behaviors necessitating care away from own home, previous placement history, if any, and an evaluation as to need for the particular services and type of care the licensee will provide. For American Indian children, see WAC 388-73-044.

(2) Develop and implement a written treatment plan for each person accepted for care. Such plan shall outline the agency's treatment goals and methods of work with the individual and his or her family. The plan shall be updated at least quarterly to show progress toward achievement of goals and shall identify impediments to the return of the child to his or her own home, the home of relatives, or placement for adoption and steps taken or to be taken to overcome those impediments. No person shall be admitted to nor retained in an agency's program where the person cannot be served effectively by the program or where the person can be served more appropriately by another available program.

(3) Whenever the treatment plan indicates the child may return to his or her own home, the agency shall provide or arrange for services to child's parents. Where geographical or other conditions prevent the licensee

from working directly with child's parents or another agency is already providing appropriate services, the licensee shall enter into an agreement with the agency for joint planning and exchange of reports toward the end of reuniting the family, or shall make arrangements with another appropriate agency toward that end.

(4) Whenever the treatment plan indicates the child will not be able to return to his or her own home, the agency shall move expeditiously to develop a plan for permanence for the child. The permanent placement for the child shall be made in a family able to meet the child's physical, emotional, and cultural needs.

(5) Agency records shall include a running account of the treatment received by the child and others involved in the treatment plan including but not limited to group treatment, individual counseling, etc., whether delivered by the agency or a contracted source. The file shall be updated no less frequently than once per thirty days.

[Statutory Authority: RCW 74.15.030. 86-24-059 (Order 2445), § 388-73-076, filed 12/2/86; 83-02-060 (Order 1933), § 388-73-076, filed 1/5/83. Statutory Authority: RCW 74.08.090 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-076, filed 9/10/79. Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-076, filed 9/8/78.]

WAC 388-73-077 Multidisciplinary care plan for severely and multiply-handicapped children. For each severely and multiply-handicapped child, there shall be a multidisciplinary plan of care addressing the social service, medical, nutritional, rehabilitative, and educational needs of each child. The plan shall indicate care to be given and goals to be accomplished and which professional service is responsible for each element of care. The care plan shall be reviewed, evaluated, and updated as necessary by all professional personnel involved in the care of the child. Professional personnel shall meet at least annually to reevaluate each child's current condition, progress, prognosis, and need for ongoing care and additional services. Quarterly progress reports shall be recorded in the child's record.

[Statutory Authority: RCW 74.15.030. 84-06-030 (Order 2081), § 388-73-077, filed 2/29/84.]

WAC 388-73-078 Clerical, accounting and administrative services. Except for foster family homes for children or expectant mothers, family homes for adults and family day care homes, each agency shall provide or arrange for sufficient clerical, accounting and administrative staff or services as are required to maintain proper records and carry out the agency's program.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-078, filed 9/8/78.]

WAC 388-73-080 Support and maintenance staff. Except for foster family homes for children or expectant mothers, family homes for adults and family day care homes, each licensee shall provide or arrange for sufficient support and maintenance staff or services as are required for the maintenance and repair of the facility and preparation and serving of meals.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-080, filed 9/8/78.]

WAC 388-73-100 Site and telephone. The facility shall be located on a well-drained site free from hazardous conditions and accessible to other facilities necessary to carry out its program. There shall be at least one telephone on the premises which shall be accessible for emergency use at all times.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-100, filed 9/8/78.]

WAC 388-73-102 Equipment, safety, and maintenance. (1) The physical plant, premises, and equipment shall be maintained in a clean and sanitary condition, free of hazards, and in good repair. Steps shall be provided with handrails as determined necessary by the department. Emergency lighting devices, such as flashlights, in operational condition shall be available. All flaking or deteriorating lead-based paint on exterior and interior surfaces and equipment and toys accessible to preschool-age children shall be refinished with lead-free paint or other nontoxic material.

(2) Except in family day care and foster family homes, toilet rooms, kitchens, and other rooms subject to moisture shall have washable, moisture impervious floors except that in kitchens, washable short-pile carpeting that is kept clean and sanitary may be approved by the department.

(3) Except in family day care and foster family homes, facilities caring for preschool children shall have electrical outlets of a safety type, covered with blank plates, or otherwise made inaccessible to such children.

(4) There shall be provision for staff members to gain rapid access to any bedroom, toilet room, shower room, bathroom, or other room occupied by children should emergency need arise.

[Statutory Authority: RCW 74.15.030. 86-24-059 (Order 2445), § 388-73-102, filed 12/2/86; 83-02-060 (Order 1933), § 388-73-102, filed 1/5/83; 78-10-006 (Order 1336), § 388-73-102, filed 9/8/78.]

WAC 388-73-103 Water safety. (1) Except for foster family homes, when a swimming pool is used at a child care agency, the swimming pool shall meet the requirements of chapter 248-98 WAC as applicable to public and semipublic pools.

(2) Pools shall be fenced with a locked gate to make the pool inaccessible to children when not in use.

(3) Except for foster family homes, a certified lifeguard shall be in attendance at all times when children are using a swimming pool or swimming area.

(4) Portable wading pools shall be permitted if the portable wading pools are emptied and cleaned daily. Children shall be supervised at all times when wading.

(5) Hot tubs, spas, etc., shall be inaccessible when not in use and shall not be used by children without adult supervision.

[Statutory Authority: RCW 74.15.030. 83-02-060 (Order 1933), § 388-73-103, filed 1/5/83.]

WAC 388-73-104 Firearms. Firearms, if any, shall be used only under competent adult supervision and when not in use shall be kept in locked storage accessible only to authorized persons.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-104, filed 9/8/78.]

WAC 388-73-106 Storage. (1) Suitable space shall be provided and used for the storage of clothing and personal possessions of person in care, play and teaching equipment and supplies, records and files, cots, mats and bedding.

(2) Cleaning supplies, toxic substances, poisons, aerosols, and items bearing warning labels shall be stored so as to be inaccessible to preschool children and other persons with limited mental capacity. All containers filled from a stock supply shall bear a label correctly identifying the contents.

[Statutory Authority: RCW 74.15.030. 86-24-059 (Order 2445), § 388-73-106, filed 12/2/86; 78-10-006 (Order 1336), § 388-73-106, filed 9/8/78.]

WAC 388-73-108 Bedrooms. In full-time care facilities:

(1) Hallways, kitchens, living rooms, dining rooms, and unfinished basements shall not be used as bedrooms. Every bedroom shall be an outside room permitting entrance of natural light. Separate sleeping quarters shall be furnished for each sex for children over six years of age.

Multiple occupancy bedrooms shall provide not less than fifty square feet per occupant of floor area exclusive of closets. There shall be not less than thirty inches laterally between beds. In group-care facilities and maternity homes, single occupancy bedrooms shall provide at least eighty square feet of floor space. Each person in care shall have a bed of his or her own. There shall be no more than four persons to a bedroom except in facilities licensed for more prior to the adoption of these rules.

For facilities licensed after December 31, 1986, sleeping rooms shall have a minimum ceiling height of 7.5 feet and shall have a window area, permitting the direct entrance of natural light, of not less than one-tenth of the required floor space.

(2) For each person in care, there shall be a bed at least thirty inches wide with a clean, firm mattress, pillow, sheets, blankets, and pillowcases. Pillows shall be covered with waterproof material or be of a washable type. Waterproof mattress covers shall be provided for incontinent persons.

(3) The upper bunk of doubledeck beds are prohibited for use by preschool-age children, expectant mothers, and handicapped persons. When mother and infant sleep in the same room, the room shall contain at least eighty square feet of usable floor space. A crib or bassinet with a clean, firm mattress covered with a waterproof material shall be provided for the infant. No more than one mother and her newborn infant or infants may occupy a bedroom.

(4) Bedding shall be clean; sheets and pillowcases shall be laundered weekly.

(5) No child over the age of one year shall share a bedroom with foster parents or agency staff. An adult

must be on the same floor or within easy hearing distance and accessibility to where children under six years of age are sleeping.

(6) See WAC 388-73-146(7) for requirements for cribs for infants.

(7) Only rooms having unrestricted direct access to hallways, corridors, living rooms, day rooms, or such common use area shall be used as bedrooms.

[Statutory Authority: RCW 74.15.030. 86-24-059 (Order 2445), § 388-73-108, filed 12/2/86; 84-06-030 (Order 2081), § 388-73-108, filed 2/29/84; 83-02-060 (Order 1933), § 388-73-108, filed 1/5/83. Statutory Authority: RCW 74.08.090 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-108, filed 9/10/79. Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-108, filed 9/8/78.]

WAC 388-73-110 Special care room. Except for child-placing agencies, foster family homes for children, expectant mothers or adults and family day care homes, each agency shall provide a separate room or segregated area which is designated for the care of a person under care who needs to be separated from the group due to injury, illness or the need for additional rest. This room or area must be located so that the child can be supervised. Toilet and lavatory facilities shall be readily accessible. If the person under care is suspected of having a communicable disease, all equipment used by the child must be adequately sanitized after use. This room or area may be used for other purposes when not needed for the separation and care of a person in care.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-110, filed 9/8/78.]

WAC 388-73-112 Kitchen facilities. (1) Facilities for the proper storage, preparation, and service of food shall be provided to meet the needs of the program.

(2) All food service facilities and practices in day care centers, day treatment programs, group care facilities, and maternity homes shall be in compliance with chapter 248-84 WAC, rules and regulations of the state board of health governing food service sanitation, except home canned high-acid foods with a pH of less than 4.6 (such as canned fruits, jams, jellies, and pickles) may be used. Kitchen equipment and food preparation procedures shall be approved by the department.

(3) Children may participate in food preparation provided it is part of an agency's supervised program. Pre-school-age children shall be supervised when in the kitchen.

(4) In day care centers and mini-day care centers not in the provider's abode, the kitchen shall be inaccessible to children except for planned and supervised activities.

[Statutory Authority: RCW 74.15.030. 86-24-059 (Order 2445), § 388-73-112, filed 12/2/86; 78-10-006 (Order 1336), § 388-73-112, filed 9/8/78.]

WAC 388-73-114 Housekeeping sink. All facilities shall have and use a method of drawing clean mop water and have and use an appropriate method of waste water disposal.

[Statutory Authority: RCW 74.15.030. 86-24-059 (Order 2445), § 388-73-114, filed 12/2/86; 78-10-006 (Order 1336), § 388-73-114, filed 9/8/78.]

WAC 388-73-116 Laundry. (1) Adequate facilities shall be provided for separate storage of soiled linen and clean linen. Adequate laundry and drying equipment shall be provided unless other suitable arrangements are made.

(2) Except in family day care and foster homes, laundry equipment shall be located in an area separate from the kitchen and child care areas. Water temperature for laundry shall be maintained at a minimum of 140°F for laundry contaminated with urine, feces, infectious material, lice, or scabies. A lower wash temperature may be used for other laundry.

[Statutory Authority: RCW 74.15.030. 86-24-059 (Order 2445), § 388-73-116, filed 12/2/86; 78-10-006 (Order 1336), § 388-73-116, filed 9/8/78.]

WAC 388-73-118 Toilets, handwashing sinks, and bathing facilities. (1) There shall be at least one indoor flush-type toilet and one nearby handwashing sink with hot and cold or tempered running water. The following ratios of persons normally on the premises to facilities shall apply:

| | Toilets | Handwashing Sinks | Bathing Facilities |
|--|---------------------------------------|--------------------------------------|-------------------------------------|
| Day Care Centers Day Treatment Programs | *2 minimum and 1:15 or major fraction | 2 minimum and 1:15 or major fraction | None Required |
| Mini-Day Care Programs | 1 minimum | 1 minimum | None Required |
| Group Care Facilities Maternity Homes | 2 minimum and 1:8 or major fraction | 2 minimum and 1:8 or major fraction | 1 minimum and 1:8 or major fraction |
| Family Home for Adults Foster Family Home Family Day Care Home | 1 minimum | 1 minimum | 1 minimum |

*A minimum of one is acceptable provided no more than fifteen persons capable of using a flush-type toilet are on the premises.

(2) Toilet and bathing facilities shall provide for privacy for persons of the opposite sex six years of age or older.

(3) Toilet, urinals, and handwashing sinks shall be of appropriate height for the children served or be provided with a safe and easily cleanable platform impervious to moisture.

(4) Except in family day care and foster family homes, handwashing and bathing facilities shall be provided with hot and cold or tempered running water not exceeding one hundred ten degrees Fahrenheit for pre-school or developmentally disabled children and one hundred twenty degrees Fahrenheit for all others.

(5) All bathing facilities shall have a conveniently located grab bar unless other safety measures, such as

nonskid pads, are approved by the department (see subsection (8) of this section). Preschool children and severely and multiply-handicapped children shall not be left unattended in a bathtub.

(6) Equipment for toileting and toilet training of toddlers shall be provided and maintained in a sanitary condition at all times. Children less than eighteen months of age and/or using toilet training equipment need not be included when determining the number of flush-type toilets required.

(7) Whenever urinals are provided, the number of urinals shall not replace more than one-third of the total required toilets.

(8) In maternity homes, bathing facilities shall have adequate grab bars in convenient places. All sleeping areas shall have at least one toilet and handwashing sink on the same floor.

(9) Soap and individual towels or disposable towels or approved other hand drying devices shall be provided.

[Statutory Authority: RCW 74.15.030. 86-24-059 (Order 2445), § 388-73-118, filed 12/2/86; 84-06-030 (Order 2081), § 388-73-118, filed 2/29/84; 83-02-060 (Order 1933), § 388-73-118, filed 1/5/83; 78-10-006 (Order 1336), § 388-73-118, filed 9/8/78.]

WAC 388-73-120 Lighting. Light fixtures shall be selected and located to provide for the comfort and safety of the persons under care. Lighting intensities shall be at least fifteen foot-candles for all rooms and areas used for care, except for classrooms, study areas, and food service areas, which shall be thirty foot-candles. Except for family homes, foster and day care, light bulbs and tubes shall be adequately shielded from breakage in areas used by children.

[Statutory Authority: RCW 74.15.030. 86-24-059 (Order 2445), § 388-73-120, filed 12/2/86; 78-10-006 (Order 1336), § 388-73-120, filed 9/8/78.]

WAC 388-73-122 Pest control. The premises shall be kept free from rodents, flies, cockroaches, and other insects.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-122, filed 9/8/78.]

WAC 388-73-124 Sewage and liquid wastes. Sewage and liquid wastes shall be discharged into a public sewer system or into an independent sewage system approved by the local health authority or department.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-124, filed 9/8/78.]

WAC 388-73-126 Water supply. A private water supply must be approved by the local health authority or department. Disposable paper cups, individual drinking cups or glasses or inclined jet type drinking fountains shall be provided. Bubblers type fountains and common drinking cups are prohibited.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-126, filed 9/8/78.]

WAC 388-73-128 Temperature. Temperature within the facility shall be maintained at not less than

68°F during waking hours, and at not less than 60°F during sleeping hours.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-128, filed 9/8/78.]

WAC 388-73-130 Ventilation. The facility shall be ventilated to assure health and comfort of the persons under care. Toilets, bathrooms and areas which contain housekeeping sinks which do not have windows opening to out of doors shall be vented by mechanical exhaust to the out of doors.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-130, filed 9/8/78.]

WAC 388-73-132 Health care plan. (1) All facilities providing direct care shall maintain current written medical policies and procedures including handwashing (i.e., for staff and children), communicable disease reporting and management, medication management, first aid, care of minor illnesses, action to be taken in event of medical emergencies, infant care procedures when infants are under care, and general health practices. The policies and procedures shall be written for staff orientation and readily available for implementation. For day care facilities, parents or guardians shall be informed of said policy.

(2) Agencies licensed for the care of thirteen or more persons and all group homes shall arrange for the services of an advisory physician, physician's assistant, or registered nurse to assist in the development and periodic review of the agency's health policies, procedures, and practices. Emergency phone numbers shall be posted next to the phone.

[Statutory Authority: RCW 74.15.030. 86-24-059 (Order 2445), § 388-73-132, filed 12/2/86; 83-02-060 (Order 1933), § 388-73-132, filed 1/5/83; 78-10-006 (Order 1336), § 388-73-132, filed 9/8/78.]

WAC 388-73-134 First aid. (1) A person having completed a basic Red Cross first-aid course or a first-aid course approved by the department and training in cardiopulmonary resuscitation (CPR) shall be present at all times persons are under care except for foster family homes, the "at all times" provision is not applicable. All said training shall be current. The requirement for CPR training may be waived for persons when such training is contraindicated for medical reasons. The CPR course shall include administration for the age group in care.

(2) For foster family care, the primary caregiver shall meet these requirements; except when a child for whom it is medically indicated is in care, a person meeting these requirements shall be present at all times.

(3) Documentation of persons having completed the training shall be maintained in the facility.

(4) First-aid supplies as needed to conform with first-aid policies and procedures shall be readily available. First-aid supplies shall include syrup of ipecac to be administered only on the advice of a physician or poison control center.

[Statutory Authority: RCW 74.15.030. 86-24-059 (Order 2445), § 388-73-134, filed 12/2/86; 83-02-060 (Order 1933), § 388-73-134, filed 1/5/83. Statutory Authority: RCW 74.08.090 and 1979 c 155.]

79-10-026 (Order 1431), § 388-73-134, filed 9/10/79. Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-134, filed 9/8/78.]

WAC 388-73-136 Medications controlled by licensee. The licensee or responsible designee:

(1) Shall disburse or have access to medications except for self-administered medications as provided under WAC 388-73-138;

(2) Shall disburse medications, prescription and non-prescription, only on the written approval of a parent, person, or agency having authority by court order to approve medical care;

(3) Shall disburse prescription medications:

(a) Only as specified on the prescription label; or

(b) As otherwise authorized by a physician or other person legally authorized to prescribe medication.

(4) May disburse the following classifications of non-prescription medications, with parent authorization, only at the dose, duration, and method of administration, specified on the manufacturer's label for the age and/or weight of the child needing the medication:

(a) Antihistamines;

(b) Nonaspirin antipyretics/analgesics, fever reducers/pain relievers;

(c) Nonnarcotic cough suppressants;

(d) Decongestants;

(e) Anti-itching ointments or lotions, intended specifically to relieve itching;

(f) Diaper ointments and powders, intended specifically for use in the diaper area of children; and

(g) Sun screen.

(5) Shall disburse other nonprescription medications not included in the categories listed in subsection (4) of this section or that are to be taken differently than indicated on the manufacturer's label or for which the label does not provide instruction, only as authorized in writing by a physician or as based on established medical policy approved, in writing, by a physician or other person legally authorized to prescribe medication.

(6) Shall accept from the child's parent, guardian, or responsible relative only medicine in the original container, labeled with:

(a) The child's first and last names;

(b) The date the prescription was filled; or

(c) The medication's expiration date; and

(d) With legible instructions for administration, i.e., manufacturer's instructions or prescription label[.]

(7) Shall keep all medications, refrigerated or non-refrigerated, in an orderly fashion, inaccessible to children;

(8) Shall store external medications separately, in separate compartments, from internal medications;

(9) Except for foster family homes, shall keep a record of all medications disbursed; and

(10) Shall return to the parent or other responsible party medications no longer being taken.

[Statutory Authority: RCW 74.15.030. 89-07-097 (Order 2778), § 388-73-136, filed 3/22/89; 86-24-059 (Order 2445), § 388-73-136, filed 12/2/86; 83-02-060 (Order 1933), § 388-73-136, filed 1/5/83; 78-10-006 (Order 1336), § 388-73-136, filed 9/8/78.]

Reviser's note: RCW 34.05.395 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 388-73-138 Self-administration of medications. Self-administration of medications by a person in care shall be in accordance with the following:

(1) The person shall be physically and mentally capable of properly taking his or her own medication. The licensee shall make a written statement of the person's capacities and include such statement in the person's file.

(2) Medications and other medical supplies shall be kept so they are not available to unauthorized persons.

[Statutory Authority: RCW 74.15.030. 86-24-059 (Order 2445), § 388-73-138, filed 12/2/86; 78-10-006 (Order 1336), § 388-73-138, filed 9/8/78.]

WAC 388-73-140 Health history, physical examinations, immunizations. This section is not applicable to crisis residential centers and juvenile detention facilities.

(1) A health history for each person under care shall be obtained when the person is accepted for care, if possible. The health history shall include the date of the person's last physical examination, allergies, any special health problems, and for children, an immunization history.

(2) If a child has not been under regular medical supervision or has not had a physical examination by a physician, physician's assistant, or certified registered nurse (nurse practitioner) within one year prior to admission, arrangements shall be made for an examination within thirty days. Each severely and multiply-handicapped child shall be under regular medical supervision of a physician. Each child shall be seen by a physician regularly, according to the physician's plan of care as required in WAC 388-73-077.

(3) Yearly physical examinations are required for each child not under regular medical supervision.

(4) Before or on the child's first day of attendance, each child shall present proof of full immunization for diphtheria, tetanus, pertussis (whooping cough), poliomyelitis, measles (rubeola), rubella (German measles), and mumps as set forth in WAC 248-100-164(2). (Note: Appropriate forms and information may be obtained at the local health department. For the requirements applying to day care centers, see WAC 248-100-164.)

(5) Children not having received all immunizations as set forth in WAC 248-100-164(2) may be accepted on a conditional basis if immunizations are initiated before or on admission and are completed as rapidly as is medically indicated. Exceptions to the immunization requirement shall be made in the case of a parent or guardian expressing religious, philosophical, or personal objections by signing a statement to this effect; or there is a physician's statement that a valid medical reason exists to contraindicate immunization.

[Statutory Authority: RCW 74.15.030. 85-18-063 (Order 2277), § 388-73-140, filed 9/4/85; 84-06-030 (Order 2081), § 388-73-140,

filed 2/29/84; 83-02-060 (Order 1933), § 388-73-140, filed 1/5/83; 80-13-019 (Order 1540), § 388-73-140, filed 9/9/80. Statutory Authority: RCW 74.08.090 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-140, filed 9/10/79. Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-140, filed 9/8/78.]

WAC 388-73-142 Infection control, communicable disease. (1) Each licensee, employee, adult volunteer, and other adult persons having regular contact with persons in care shall have a tuberculin skin test, by the Mantoux method, upon employment or licensing unless medically contraindicated.

(a) Persons whose TB skin test is positive (ten millimeters or more induration) shall have a chest x-ray within ninety days following the skin test.

(b) Routine periodic retesting or x-ray (biennial or otherwise) after the entry testing is not required.

(c) An entry test shall not be required of persons whose TB skin test has been documented as negative (less than ten millimeters) within the last two years nor shall routine periodic retesting or x-ray (biennial or otherwise) be required of such persons.

(2) A record of skin test results, x-rays, or exemptions to such will be kept in the facility.

(3) Persons with a communicable disease in an infectious stage shall not be on duty.

(4) Providers whose minor children will be on the premises of the agency shall present, for each child, proof of full immunization under WAC 248-100-166 for:

- (a) Diphtheria;
- (b) Tetanus;
- (c) Pertussis, whooping cough;
- (d) Poliomyelitis;
- (e) Measles, Rubeola;
- (f) Rubella, German measles; and
- (g) Mumps.

Appropriate forms and information may be obtained at the local health department. If a provider's child has not received all immunizations, the department may give conditional approval if immunizations have been initiated and are completed as rapidly as medically indicated.

(5) Each facility caring for severely and multiply-handicapped children shall have an infection control program supervised by a registered nurse.

(6) Except for foster family homes, each facility shall have written policies and procedures regarding the control of infections in the facility. This shall include, but is not limited to, the following areas: Isolation, aseptic procedures, reporting of communicable diseases, hand-washing and hygiene, toileting and diapering, and laundering.

[Statutory Authority: RCW 74.15.030. 89-11-005 (Order 2796), § 388-73-142, filed 5/4/89; 86-24-059 (Order 2445), § 388-73-142, filed 12/2/86; 84-06-030 (Order 2081), § 388-73-142, filed 2/29/84; 83-02-060 (Order 1933), § 388-73-142, filed 1/5/83; 80-13-019 (Order 1540), § 388-73-142, filed 9/9/80; 78-10-006 (Order 1336), § 388-73-142, filed 9/8/78.]

WAC 388-73-143 HIV/AIDS education and training. Licensed child care agencies shall:

(1) Provide or arrange for appropriate education and training of employees on the prevention, transmission, and treatment of HIV and AIDS as prescribed by the department of social and health services. Such education and training shall consider infection control standards and materials available from appropriate professional associations and professional prepared publications. For foster family homes, family day care homes, and mini-day care centers, the primary caregiver shall complete this education and training; and

(2) Use infection control standards and educational material consistent with the approved curriculum manual KNOW - HIV/AIDS PREVENTION EDUCATION FOR HEALTH CARE FACILITY EMPLOYEES, May 31, 1989, published by the department of health, office on HIV/AIDS.

[Statutory Authority: RCW 74.15.030. 89-22-134 (Order 2897), § 388-73-143, filed 11/1/89, effective 12/2/89.]

WAC 388-73-144 Nutrition. (1) Food served shall be planned to meet the needs of the persons under care, taking into consideration the persons' ages, developmental levels, individual metabolic differences, cultural backgrounds, any handicapping conditions, and hours of care in the facility. To promote an educational and socializing environment during mealtimes, whenever possible staff shall sit with the persons and eat the same foods.

(2) The use of raw milk is prohibited. Skim milk and reconstituted nonfat dry milk and one and two percent butterfat milks shall not be used for drinking purposes by any child less than eighteen months of age, except with the written permission of a physician. Dry milk and milk products may be reconstituted in the facility for drinking purposes for children over eighteen months of age, provided the preparation, service, and storage of said milk is in accordance with the requirements of chapter 248-84 WAC relating to potentially hazardous foods.

(3) Except for family day care and foster homes, facilities shall record all food served.

(a) Daily menus, including all snacks required to be served, shall be prepared at least one week in advance and dated. A schedule of mealtimes shall be established and posted.

(b) A menu shall specify a variety of foods to enable a person to consume adequate nutrients. Cycle menus, including snacks, shall provide at least two weeks of variety before repeating. Any substitutions shall be of comparable nutrient value and recorded.

(c) The menus shall be kept on file for a minimum of six months for review by the department.

(d) For facilities caring for severely and multiply-handicapped children, a general meal pattern including types of food and kinds of meal service shall be posted. A system for recording food and fluid intake of each child shall be approved by a physician and a dietitian (see subsection (8) of this section). Records of food and fluid intake of each child shall be kept in the child's file for at least one month and in the facility for at least six months.

(4) Nutrient concentrates, supplements, and modified diets (therapeutic and allergy diets) shall not be served except with the written instructions of a physician.

(a) The licensee shall obtain from the parent, responsible guardian, responsible relative, or physician a written diet listing foods the person cannot have. Dietary restrictions with persons' names must be posted for staff to follow.

(b) For facilities caring for severely and multiply-handicapped children, all modified diets shall be planned, reviewed, and approved by a dietitian (see subsection (8) of this section).

(5) Day care and day treatment - Children in care for five to ten hours shall be served food providing at least one-third of the 1980 recommended dietary allowances set by the national research council. Children in care for more than ten hours, except children in evening care, shall be offered an additional snack. Children bringing sack meals from home shall be provided additional foods to meet the requirements. Licensees shall consult with parents as to what additional foods should be provided. Menus shall be posted where parents can view them.

(a) All children arriving before 7:00 a.m. not having received breakfast shall be offered a breakfast providing at least one-fourth of the recommended dietary allowances.

(b) All children present shall be offered midmorning and midafternoon snacks. If breakfast was served to all children, then a midmorning snack is not required. Children arriving after school shall be offered a snack.

(c) Between-meal snacks shall be provided contributing toward the daily food needs. Snacks shall consist of two or more of the following items, served in age-appropriate serving sizes:

- (i) Milk or milk products;
- (ii) Fruit and/or vegetables;
- (iii) Fruit and/or vegetable juices that are at least fifty percent real juice;
- (iv) Whole grain or enriched breads and/or cereal products;
- (v) Protein foods (animal or vegetable).

(d) The occasional serving of party foods not meeting the requirements is not prohibited.

(6) Full-time care providers - Food shall be served in accordance with the 1980 recommended dietary allowances of the food and nutrition board, national research council, adjusted for age, sex, physical abilities, and activity of each person.

A minimum of three meals in each twenty-four-hour period shall be provided. Deviation may be made from this minimum when a written request has been made to and approved in writing by the department. The time interval between the evening meal and breakfast shall be not more than fourteen hours. For facilities caring for severely multiply-handicapped children, if a child is incapable of consuming foods in the amounts and variety required to meet the recommended dietary allowances, nutritional supplements ordered by a physician must be provided to meet the 1980 recommended dietary allowances adjusted for age, weight, and height unless medically contraindicated.

(7) In facilities caring for severely and multiply-handicapped children, each child shall be weighed at least monthly and measured in length at least quarterly. Records of these measurements shall be maintained in the child's record.

(8) Facilities caring for severely and multiply-handicapped children shall use the services of a dietitian meeting the 1980 registration requirements of the American dietetic association to comply with WAC 388-73-077, 388-73-144 (3) and (4), and 388-73-146(6).

[Statutory Authority: RCW 74.15.030. 86-24-059 (Order 2445), § 388-73-144, filed 12/2/86; 84-06-030 (Order 2081), § 388-73-144, filed 2/29/84; 83-02-060 (Order 1933), § 388-73-144, filed 1/5/83; 80-13-019 (Order 1540), § 388-73-144, filed 9/9/80; 78-10-006 (Order 1336), § 388-73-144, filed 9/8/78.]

WAC 388-73-146 Care of younger or severely and multiply-handicapped children. This section is applicable only to day care centers, mini-day care programs, family day care homes, group care facilities, and facilities for severely and multiply-handicapped children.

(1) A child under one month of age shall not be accepted for day care.

(2) Separate, safe play areas for children under one year of age or children not walking are required for facilities licensed to care for thirteen or more children. Children under one year of age shall be cared for in rooms or areas separate from older children, as approved by the department with not more than eight such children to a room or area and with handwashing facilities in each such room or area or convenient thereto.

(3) Diaper changing. The provider shall assure:

(a) Diaper-changing places shall be sanitized between use for different children or protected by a disposable covering discarded after each use;

(b) Disposable towels or clean reusable towels having been laundered between children shall be used for cleaning children;

(c) Personnel shall wash hands before and after diapering each child;

(d) Diaper-changing areas shall be separate from food preparation areas and shall be adjacent to a handwashing sink; and

(e) The designated changing area shall be impervious to moisture and washable.

(4) Except for foster family homes and family day care homes, the provider shall use disposable diapers, a commercial diaper service, or reusable diapers supplied by the child's family. Soiled diapers shall be placed without rinsing into separate, cleanable, covered containers provided with waterproof liners prior to transport to laundry, parent, or acceptable disposal. Soiled diapers shall be removed from the facility at least daily. Diaper-changing procedures shall be posted at the changing areas.

(5) Toilet training shall be initiated when readiness is indicated by the child and in consultation with the child's parents or placement agency. Potty chairs, when in use, shall be located on washable, impervious surfaces.

(6) Formula feeding of infants (under one year of age) shall be on a schedule agreed upon by the child's

parent or parents, guardian, the placement agency, and the licensee. Formula feeding of severely and multiply-handicapped children shall be on a schedule agreed upon by the child's physician and the facility's dietitian (see WAC 388-73-144(8)).

(a) Feedings prepared on the premises of the facility.

(i) Any formula provided by the parent or parents, guardian, placement agency, or licensee shall be in a ready-to-feed strength or require no preparation other than dilution with water at the day care facility.

(ii) If the container in which the feeding was purchased does not include a sanitized bottle and nipple, then transfer of ready-to-feed formula from the bulk container to the bottle and nipple feeding unit must be done in a sanitary manner in an area separate from diapering areas.

(iii) Filled bottles shall be refrigerated if not used immediately and the contents shall be discarded if not used within twelve hours.

(iv) If bottles and nipples are to be reused by the facility, the bottles and nipples must be sanitized.

(v) When more than one bottle-fed child is in care, bottles shall be labeled with the child's name and date prepared. Milk for children requiring bottles but no longer on formula shall be poured from the original container into sanitized, labeled bottles. Sanitized nipples only shall be used on the bottles.

(b) Feedings brought to the child care facility.

(i) Bottles brought into the facility shall have a label showing the child's name.

(ii) Bottles shall be refrigerated immediately upon arrival at the facility and contents discarded if not used within twelve hours.

(c) Bottles shall not be propped. Semisolid foods shall be provided for infants at between four and five months of age, upon consultation with the parent or placement agency, and/or with a physician when indicated. Infants too young or unable to sit in high chairs shall be held by the care giver in a semisitting position for all feedings unless medically contraindicated. Infants six months of age or over showing a preference for holding their own bottles may do so provided an adult remains in the room and within observation range. Bottles shall be taken from the child when he or she finishes feeding or when the bottle is empty. See also WAC 388-73-144.

(7) Cribs.

(a)(i) Providers shall furnish cribs made of wood, metal, or approved plastic with secure latching devices. Such cribs shall also have no more than two and three-eighths inches space between vertical slats when used for infants under six months of age.

(ii) Providers may use cribs not meeting the spacing requirement provided crib bumpers or other effective methods are used to prevent the infant's body from slipping between the slats.

(b) Crib mattresses shall be:

(i) Snug fitting to prevent the infant or severely and multiply-handicapped child being caught between the mattress and crib side rails; and

(ii) Waterproof and easily sanitized.

(8) Children's activities.

(a) The facility shall provide infants and severely and multiply-handicapped children opportunities for:

(i) Exercise;

(ii) Large and small muscle development;

(iii) Crawling and exploring;

(iv) Sensory stimulation;

(v) Social interaction; and

(vi) Development of communication and self-help skills.

(b) The facility shall provide safe and suitable toys and equipment for the care of infants and severely and multiply-handicapped children.

(9) Nursing consultation.

(a) Except for facilities caring for severely and multiply-handicapped children requiring a registered nurse on staff or under contract, day care facilities licensed for the care of five or more infants shall arrange for regular consultation to include at least one monthly on-site visit by a registered nurse trained or experienced in the care of young children.

(b) In collaboration with the agency's administrative staff, the nurse shall advise the agency on the:

(i) Operation of the infant care program; and

(ii) Implementation of the child health program.

(c) A written agreement with the registered nurse shall be available in the facility.

(d) Nurse's on-site visits shall be documented.

(e) The nurse's name and telephone number shall be posted or otherwise available in the agency.

[Statutory Authority: RCW 74.15.030. 89-11-005 (Order 2796), § 388-73-146, filed 5/4/89; 86-24-059 (Order 2445), § 388-73-146, filed 12/2/86; 84-06-030 (Order 2081), § 388-73-146, filed 2/29/84; 83-02-060 (Order 1933), § 388-73-146, filed 1/5/83; 78-10-006 (Order 1336), § 388-73-146, filed 9/8/78.]

WAC 388-73-200 Child-placing agency. The rules in WAC 388-73-200 through 388-73-250 apply exclusively to licensing of a child-placing agency.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-200, filed 9/8/78.]

WAC 388-73-202 Required personnel. (1) A director shall be employed who is at least twenty-one years of age and who is a mature person especially equipped by training, experience, and personal qualities to ensure an effective program, staff development, and efficient administration. That person must possess an understanding of the program to be administered and have demonstrated such leadership and supervisory ability as will ensure harmonious relationships and effective performance of agency personnel.

(2) Specialists in mental health, education, religion, and law shall also be available as needed for work with agency staff, children, and parents. Specialists used by the agency shall meet the full requirements of professional competence in their respective fields.

(3) There shall be on staff a casework supervisor who has a master's degree from a recognized school of social work or equivalent academic training. Such person shall have experience and demonstrated skills in each service area where supervision is provided and ability to teach

and transmit knowledge which will ensure staff development and efficient administration of the casework program. See also WAC 388-73-074.

[Statutory Authority: RCW 74.15.030. 86-24-059 (Order 2445), § 388-73-202, filed 12/2/86; 78-10-006 (Order 1336), § 388-73-202, filed 9/8/78.]

WAC 388-73-204 Office space. The agency shall be housed in offices adequately equipped to carry out its program and which provide privacy for interviews with parents and children.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-204, filed 9/8/78.]

WAC 388-73-206 Out-of-country, out-of-state agencies. Child-placing agencies whose principal offices are not located in the state of Washington and who do not maintain offices in the state of Washington licensed in accord with these rules may arrange for the placement of children in the state of Washington under the following conditions:

(1) Such agency must be licensed, certified or otherwise appropriately approved for child-placing functions in its home state or country;

(2) Such agency shall comply with the provisions of the interstate compact on the placement of children and shall enter into written agreements with licensed or otherwise legally operating child-placing agencies in the state of Washington which shall be responsible for conducting a study of the home in which the child is placed, related casework and for the proper supervision of the placement until the child is legally adopted or attains the age of majority; and

(3) Such agency shall furnish the department copies of its agreements with Washington state agencies, evidence that it is a duly authorized child-placing agency in its home state or country, evidence that it has legal authority to place the child, and certify that it will assume financial responsibility for any child placed in the state of Washington until the child is adopted or otherwise is financially independent.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-206, filed 9/8/78.]

WAC 388-73-208 Medical care. It shall be the responsibility of the child-placing agency to provide to foster and adoptive parents a health history as complete as possible for each child upon placement. This history shall include an immunization history, allergies, previous illnesses, and conditions of the child which may adversely affect his or her health. For adoptive children, it shall also include a developmental and psychological history. Adoptive parents shall also receive all available medical information on the birth parents of their adopted child. The child-placing agency has responsibility to arrange for medical examinations, immunizations, and health care as required by WAC 388-73-140.

[Statutory Authority: RCW 74.15.030. 86-24-059 (Order 2445), § 388-73-208, filed 12/2/86; 78-10-006 (Order 1336), § 388-73-208, filed 9/8/78.]

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WAC 388-73-210 Foster care licensees. As a minimum child-placing agencies shall utilize application and home study forms and procedures prescribed by the department. See also WAC 388-73-024 and 388-73-302.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-210, filed 9/8/78.]

WAC 388-73-212 Foster care placements. (1) The agency shall, in planning for children, give due consideration to:

(a) A child's basic right to his or her own home and family;

(b) The importance of skillful professional service to parents to help them meet the child's needs in his or her own home whenever possible;

(c) The child's individual needs, his or her ethnic background, religious background, his or her family situation and the wishes and participation of his or her parent; and

(d) The recruitment and selection of a foster home that will provide for maximum development of the child's capacities and meet the child's individual needs. Placements which involve the likelihood of community concern shall first be submitted to the department for review and written approval. See WAC 388-73-044 for recruitment involving placement of American Indian children.

(2) A written social study of each child and expectant mother shall serve as the basis for acceptance for foster care and related services.

(3) Every acceptance for care shall be based on well-planned, individual preparation of the child and his or her family and the expectant mother other than in emergent situations.

(4) Except in an emergency, a child shall be placed in foster care only with the written consent of his or her parents or under order of a court of competent jurisdiction. Such consent or order shall include authorization for medical care or emergency surgery.

(5) All foster homes and group care facilities used by child-placing agencies shall be licensed prior to placing any children therein.

(6) Sufficient information about the child (especially behavioral and emotional problems) and his or her family will be given to foster parents to enable them to make an informed decision regarding whether or not to accept a child in their home. Foster parents must be informed that this information is confidential and may not be shared. The provision of this information is to be documented in the child's file at the time of placement.

(7) The frequency of the caseworker's contacts with an expectant mother or child and his or her family shall be determined by a casework plan reflecting their needs. Each active foster home shall be visited not less than once every ninety days.

(8) The preparation for discharge from placement shall follow the same basic steps as preparation for placement, but a child shall be released only to parents, adoptive parents, guardians or other persons or agencies holding legal custody, or to a court of competent jurisdiction.

[Statutory Authority: RCW 74.15.030. 86-24-059 (Order 2445), § 388-73-212, filed 12/2/86. Statutory Authority: RCW 74.08.090 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-212, filed 9/10/79. Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-212, filed 9/8/78.]

WAC 388-73-214 Adoption procedures. (1) All agencies providing adoption services shall have supervisory staff having experience and demonstrated skills in adoption services and an in-service training program to train service staff in adoption services.

(2) All agencies providing adoption services shall, as a minimum, provide to adoptive applicants the following services:

(a) Information about the adoption process, agency policy and practices, legal procedures, types of children available, implications for parenting different types of children, fees, and the availability of subsidy.

(b) An adoptive home study in which agency staff and applicant or applicants collaboratively assess the applicant or applicants appropriateness to be an adoptive parent, and the type of child or children for which the applicant or applicants are best suited.

(c) Acceptance or denial of the application with an explanation, when the application is denied, of the reason for denial.

(d) Preparation for placement of a specific child, with preparation including review and interpretation of all available social, medical, and psychological records of the child, and a discussion of the likely implications of the child's background for his or her adjustment in the adoptive family.

(e) Reevaluation of the applicant or applicants appropriateness for adoption upon each request for an additional adoptive placement.

(3) All agencies providing specialized adoption services, such as intercountry adoption, interstate adoption, and special needs adoptions, shall have supervisor staff having specialized training in the particular area and an in-service training program to train service staff in adoption for special needs children.

(4) All agencies accepting for adoptive placement children having a special need (racial minority, developmental disability, emotional disability, etc.) shall have a plan for active recruitment of families of the same race or ethnic category as the children, or able to meet the child's other special needs.

[Statutory Authority: RCW 74.15.030. 86-24-059 (Order 2445), § 388-73-214, filed 12/2/86; 78-10-006 (Order 1336), § 388-73-214, filed 9/8/78.]

WAC 388-73-216 Adoptive placements. (1) The agency shall protect the child from unnecessary separation from his or her natural parents when the natural parents are capable of successfully fulfilling their parental role or can be helped to do so. Adoptive placement shall be made only when the child is freed for adoption by action of a court of competent jurisdiction giving the agency authority to place such child for adoption and to consent to his or her adoption as provided by chapter 26.33 RCW.

(2) The agency shall evaluate potential adoptive parents for a child in relation to their capacity and readiness for parenthood, their emotional and physical health and ability to meet the physical, social, emotional, educational, and cultural needs of the child. An agency placing a child for whom it feels that continued contact with the child's birth family is in the child's best interest shall evaluate the adoptive family's willingness to have the child maintain contact with members of his or her birth family. Preplacement reports shall be filed with the court as required by RCW 26.33.180 through 26.33.230.

(3) Except for inter-country adoptions, the agency shall place all minority race children whose case plan is adoption into families of the same racial background as the child: *Provided*, That if both the agency's own recruitment effort and registration with the Washington adoption resource exchange fail to identify a suitable family within ninety days, placement with a family of a different racial background may be considered: *And provided further*, That if a child was placed into a foster family of a different racial background before adoption was considered for the child, and if a strong attachment has developed between the foster parents and the child, and if the family can describe specific actions it will take to ensure the child's racial identification is maintained and enhanced, then adoption by the foster family may be considered: *And provided further*, That if the child's birth parent or parents make a specific written request the child be placed in a family of a racial background different from that of the child, this request may be considered. See WAC 388-73-044 for placement involving an American Indian child.

(4) The agency shall transmit to the adoptive parent or parents at time of placement a report containing all reasonably known medical, social, and psychological information about the child and his or her birth parents. The report shall contain no information which might identify the birth parents. The adoptive parent or parents shall sign one copy of the report, signifying receipt of the information. This signed copy shall be retained in the child's permanent record.

(5) The agency shall provide supervision of all adoptive placements at least once per month until the adoption is finalized. Upon filing of the petition for adoption, the agency shall make recommendation to the court on the advisability of finalizing the adoption.

(6) The agency shall be available for consultation and support of the adoptive family after finalization of the adoption.

(7) The agency shall maintain a permanent sealed record of each person for whom it has accepted permanent custody. This record shall contain all available identifying legal, medical, and social information. Access to the identifying information shall not be given without a court order if the person has been adopted. In the event the agency closes, the agency shall make arrangements for the permanent retention of these records.

[Statutory Authority: RCW 74.15.030. 86-24-059 (Order 2445), § 388-73-216, filed 12/2/86. Statutory Authority: RCW 74.08.090 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-216, filed 9/10/79. Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-216, filed 9/8/78.]

WAC 388-73-300 Foster family homes. The rules in WAC 388-73-300 through 388-73-350 apply exclusively to licensing foster family homes for children, expectant mothers, and developmentally disabled persons.

[Statutory Authority: RCW 74.15.030, 86-24-059 (Order 2445), § 388-73-300, filed 12/2/86; 78-10-006 (Order 1336), § 388-73-300, filed 9/8/78.]

WAC 388-73-302 Orientation and training. Applicants and foster family home licensees other than those certified for licensing by a licensed child placing agency shall attend orientation and training programs provided, arranged or approved by the department.

[Statutory Authority: RCW 74.15.030, 78-10-006 (Order 1336), § 388-73-302, filed 9/8/78.]

WAC 388-73-304 Capacity. (1) No family home for developmentally disabled persons shall be licensed for more than four persons.

(2) No foster family home for children shall be licensed for more than four foster children, nor more than a total of six children to include the foster parents' own or adopted minor children residing in the home; except that "a large foster home" where there are at least two adults providing care may be licensed for five or six foster children, such number to be reduced by the number of the foster parents' own or adopted children residing in the home.

(a) No home designated by the department as a "receiving home" shall be licensed for more than six foster children, such number to be reduced by the number of the foster parents' own or adopted minor children residing in the home;

(b) No home otherwise meeting the standards shall be denied a license for the care of at least one child or single family of children.

(3) No foster family home for expectant mothers will be licensed for more than three expectant mothers.

(4) No foster family home for children shall be licensed for more than two children under two years of age, such number to be reduced by the number of licensee's own children of such age.

(5) No family home shall be licensed for the care of more than two persons suffering mental or physical handicaps of such severity as to require nursing care, and then only if the licensee is qualified by training and/or experience to provide proper care and the person's treatment is under the supervision of a physician.

(6) No foster family shall be licensed for the care of more than two nonambulatory persons whether that condition is due to age or physical or mental impairment.

(7) No foster family home functioning as a crisis residential center shall be licensed for the care of more than four children, including the foster parents' own minor children residing on the premises. No more than two children requiring crisis care may be in care at the same time. All such homes shall be two-parent homes and one or the other of the foster parents shall not be employed outside the home.

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(8) A foster family home may, for purposes of respite care, exceed the foster family home licensed capacity by receiving foster children from another licensed foster home.

(a) This section does not authorize care in excess of subsection (4) or (6) of this section relating to the care of infants or nonambulatory children.

(b) Exceeding capacity under authority of this section will only be possible so long as the requirements of WAC 388-73-310 (Fire safety), 388-73-108 (Bedrooms), and 388-73-054 (Client records and information—All agencies) are complied with for the larger number of children in care.

(c) Such an excess shall be permitted not more than three times in any calendar year and for not more than seventy-two hours.

(d) No foster home providing such care pursuant to this subsection shall exceed its licensing capacity by more than twice the number of persons for which the foster family has been licensed.

(e) Prior approval shall be obtained from the placing agency, if any, and if not, the person's or persons' parents or guardian or responsible relative.

[Statutory Authority: RCW 74.15.030, 86-24-059 (Order 2445), § 388-73-304, filed 12/2/86; 83-02-060 (Order 1933), § 388-73-304, filed 1/5/83. Statutory Authority: RCW 74.08.090 and 1979 c 155, 79-10-026 (Order 1431), § 388-73-304, filed 9/10/79. Statutory Authority: RCW 74.15.030, 78-10-006 (Order 1336), § 388-73-304, filed 9/8/78.]

WAC 388-73-306 Foster parents/sponsors—Employment. If both foster parents/sponsors in a two-parent home, or the single foster parent/sponsor in a one-parent home, are or is employed outside the home, the placing agency or department must give written approval. Such approval will be based on the needs of the persons under care. The foster family/sponsor(s) shall have sufficient regular income to maintain their own family without the board payments made for the persons in care.

This section is not applicable to foster family homes licensed as crisis residential centers.

[Statutory Authority: RCW 74.08.090 and 1979 c 155, 79-10-026 (Order 1431), § 388-73-306, filed 9/10/79. Statutory Authority: RCW 74.15.030, 78-10-006 (Order 1336), § 388-73-306, filed 9/8/78.]

WAC 388-73-308 Absence from home. (1) Foster parents/sponsors shall not place a person in another home temporarily or otherwise without the consent of the placing agency, if any, or of his/her parents or guardian or responsible relative.

(2) If it is necessary for the foster parents/sponsors to be absent overnight, the placing agency, if any, if not, the person(s) parents or guardian or responsible relative shall be notified and suitable arrangements made for care. Permission for persons under care to travel on extended trips with foster parents/sponsors shall be obtained from the placing agency, if any, or from parents or guardians or responsible relative.

[Statutory Authority: RCW 74.15.030, 78-10-006 (Order 1336), § 388-73-308, filed 9/8/78.]

WAC 388-73-310 Fire safety. (1) Every room used by persons under care shall have:

- (a) Two separate doors; or
- (b) One door leading directly to the outside; or
- (c) A window of sufficient size and free of obstructions to be readily available for emergency escape or rescue.

(2) Every occupied area shall have access to at least one exit not passing through rooms or spaces subject to being locked or blocked from the opposite side.

(3) No space shall be used for residential purposes accessible only by ladder, folding stairs, or a trap door.

(4) Every bathroom door lock shall be designed to permit the opening of the locked door from the outside in an emergency.

(5) Every closet door latch shall be such that the door can be opened from the inside.

(6) No stove or heater shall be so located as to block escape in case of malfunctioning and ensuing fire.

(7) Flammable, combustible, or poisonous material shall be stored away from exits and in areas not accessible to persons under care.

(8) Open-flame devices, heating and cooking appliances, and other similar products capable of igniting clothing shall not be left unattended or used in such a manner which could result in accidental ignition of clothing.

(9) Caregivers shall instruct all persons under care in emergency evacuation procedures and conduct drills at regular intervals to test and practice the procedure.

(10) There shall be readily available an approved 2A-rated fire extinguisher. Except for facilities licensed prior to June 3, 1983, an approved five pound or larger all purpose (A.B.C.) fire extinguisher will be acceptable. (Where local fire authorities require installation of a different type or size of fire extinguisher, the requirement of the local authority shall apply.)

(11) A smoke detector in working condition shall be located in proximity to the area or areas where persons under care sleep.

(12) If question arises concerning fire danger, the local fire protection authority shall be consulted.

(13) In family day care facilities licensed for the care of eight or more children, spaces above the second floor shall not be occupied by children in care. An exception is the use of toilet facilities while under the supervision of a caregiver.

[Statutory Authority: RCW 74.15.030. 89-11-005 (Order 2796), § 388-73-310, filed 5/4/89; 86-24-059 (Order 2445), § 388-73-310, filed 12/2/86; 83-02-060 (Order 1933), § 388-73-310, filed 1/5/83; 78-10-006 (Order 1336), § 388-73-310, filed 9/8/78.]

WAC 388-73-312 Family foster homes--Services to person under care. (1) Foster parents/sponsors shall provide or arrange for such care and supervision as age and condition of the persons under care require.

(2) Opportunities for recreation shall be provided within the family group and persons in care shall be encouraged to participate in community activities in accord with the person's capacity for such experience.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-312, filed 9/8/78.]

WAC 388-73-400 Day care providers. The rules in WAC 388-73-400 through 388-73-490 apply exclusively to licensing of family day care homes, mini-day care programs and day care centers.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-400, filed 9/8/78.]

WAC 388-73-402 Maximum hours--Rest periods.

(1) Children shall normally not remain in care in excess of ten hours per day except as is necessitated by the parent's working hours and travel time to and from the day care facility.

(2) Supervised rest periods shall be provided for all children under five years of age remaining in care in excess of six hours and for other children showing a need for rest. Children under two and one-half years of age shall be allowed to follow their own sleep schedules.

[Statutory Authority: RCW 74.15.030. 86-24-059 (Order 2445), § 388-73-402, filed 12/2/86; 78-10-006 (Order 1336), § 388-73-402, filed 9/8/78.]

WAC 388-73-403 Operating hours--Staff on premises. (1) Operating hours of the center shall be specified on the application for licensing and shall be posted in a prominent place at the facility.

(2) A listing of staff and volunteers on duty shall be posted at a prominent place within the facility. During the operating hours set forth in the application, no person who is not a director, employee, or volunteer, other than a parent or custodian of a child under care (who may have unmonitored access to his or her own child or children), an employee of the department, or a law enforcement person shall have unmonitored access to the children placed within the care of the agency.

[Statutory Authority: RCW 74.15.030. 86-24-059 (Order 2445), § 388-73-403, filed 12/2/86.]

WAC 388-73-404 Ill children. Each child shall be observed for signs of illness each day. Children who are ill, tired or upset shall be given a chance to rest in a quiet area under frequent observation. Ill children need not be discharged home as a routine policy. They may be cared for during minor illness at the joint discretion of the parent and licensee. In the case of more severe illness, the child shall be separated from the other children and properly attended until arrangements are made for return to his home.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-404, filed 9/8/78.]

WAC 388-73-406 Nap and sleep equipment. (1) A separate firm, clean bed, crib, play pen, cot, mat or mattress of sufficient size separated by at least thirty inches laterally and clean bedding shall be provided for each child under five years of age remaining in care for more than six hours, and for any other child requiring a nap or rest period. Sleep equipment and bedding shall be cleaned as necessary and between uses by different children. Infants shall be provided with cribs until at the

discretion of the licensee and parent they can safely use a cot or mat. Cribs (infant beds or bassinets) shall not be placed over one another when in use. See also WAC 388-73-146(7) (cribs).

(2) Mats should be at least six inches longer than the child's height, twice as wide as the child's width at the shoulders, and thick enough to provide adequate comfort for the child to nap. Mats or moisture impervious mat covers must be able to be adequately cleaned between use by different children. For children five years of age and older, a sleeping bag meeting the definition of a mat may be used.

(3) Cot surface may be of plastic or canvas or other material which can be cleaned with a detergent solution and allowed to air dry.

(4) Bedding shall consist of an easily laundered sheet or blanket to cover the sleeping surface and a suitable washable covering for the child. In lieu of bedding, for children five years of age and older, a clean, washable, sleeping bag may be used. Each child's bedding shall be stored separate from bedding used by other children.

(5) The upper bunk of double deck beds are prohibited for use by preschool-age children and handicapped persons.

[Statutory Authority: RCW 74.15.030. 86-24-059 (Order 2445), § 388-73-406, filed 12/2/86; 78-10-006 (Order 1336), § 388-73-406, filed 9/8/78.]

WAC 388-73-408 Evening and nighttime care. (1) A day care provider offering care during evening and nighttime hours shall adapt the program and equipment and plan for staffing to meet the physical and emotional needs of children away from their families at night.

(2) The child care staff to child ratio shall remain the same as during daytime care. During sleeping hours, all children shall be within visual range or listening distance of a staff member.

(3) Grouping of children shall be arranged so the sleeping children are not disturbed by the arrival or pickup of other children.

(4) Children in evening care shall be served a dinner that meets one-third of the 1980 recommended dietary allowances as set by the National Research Council, if not fed the dinner meal at home prior to arrival. All children present shall be offered a bedtime snack that shall consist of two or more of the following items, allowed in age appropriate serving sizes: (refer to WAC 388-73-144 (5)(c)(i), (ii), (iii), (iv), and (v)). Children in nighttime care shall be served a breakfast that meets one-fourth of the recommended dietary allowances if they remain in care after the usual breakfast hour. See WAC 388-73-144 (nutrition).

[Statutory Authority: RCW 74.15.030. 80-13-019 (Order 1540), § 388-73-408, filed 9/9/80; 78-10-006 (Order 1336), § 388-73-408, filed 9/8/78.]

WAC 388-73-409 Off-grounds trips. Except in the event of a medical emergency, no child shall be removed from the premises of a day care center or mini-day care center by either the licensee or an employee or volunteer

of the agency without the express written consent of the child's parent or custodian.

[Statutory Authority: RCW 74.15.030. 86-24-059 (Order 2445), § 388-73-409, filed 12/2/86.]

WAC 388-73-410 Information to parents--Day care facilities. The parent shall be supplied with the following information in written form: A typical daily schedule of activities; admission requirements and enrollment procedures; hours of operation; meals and snacks served; fees and payment plan; regulations concerning sick children; transportation arrangements and arrangements for trips, disciplinary policies, religious activities, (if any), action that will be taken in the event of a medical emergency; policies regarding the administration of medication; schools served and transportation available to the schools, nondiscrimination; and, if licensed for young children, policy on diapers and the labeling of foods. Parents shall have free access to all areas of day care facilities used by their children.

[Statutory Authority: RCW 74.15.030. 86-24-059 (Order 2445), § 388-73-410, filed 12/2/86; 78-10-006 (Order 1336), § 388-73-410, filed 9/8/78.]

WAC 388-73-412 Toddlers and preschool children. The program for children who are walking but not yet in the first grade shall be planned to promote large muscle development, intellectual and social-emotional development and good health habits.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-412, filed 9/8/78.]

WAC 388-73-414 Attendance--Day care centers and mini-day care centers. The parent, or other person authorized by the parent to take the child to or from the facility, shall sign the child in on arrival and out when leaving. When children leave the facility to attend school as authorized by the parents, a staff person shall sign them out when they leave and in when they return.

[Statutory Authority: RCW 74.15.030. 86-24-059 (Order 2445), § 388-73-414, filed 12/2/86.]

WAC 388-73-420 Orientation and training--Family day care home. Applicants and family day care licensees shall attend orientation and training programs provided, arranged or approved by the department.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-420, filed 9/8/78.]

WAC 388-73-422 Capacity--Family day care home. (1) A family day care home may be licensed to care for up to ten children, including the licensee's own children and all other children residing in the home eleven years of age and under.

(2) The maximum number of children eleven years of age and under allowed on the premises at any one time shall not exceed ten, even with a qualified assistant present. Additional restrictions are noted in the table below:

| Ages of Children | Maximum Number of Children | Number of Caretakers | Restrictions |
|-------------------|----------------------------|----------------------|--|
| one month-11 yrs. | 6 | 1 | No more than two children under two years of age shall be in care. |
| one month-11 yrs. | 10 | 2 | No more than two children under two years of age shall be in care. |
| 2-11 yrs. | 8 | 1 | |
| 2-11 yrs. | 10 | 2 | |
| 5-11 yrs. | 10 | 1 | |

(3) At no time shall the number of children on the premises under two years of age exceed two including the provider's own children under two years of age.

(4) "Qualified assistant" as used in this section means a competent person who:

- (a) Is at least fourteen years of age;
- (b) Has had a TB test under WAC 388-73-142(1);
- (c) Has had CPR and first aid training under WAC 388-73-134;
- (d) Is of good character under WAC 388-73-030; and
- (e) Is competent to make judgments regarding safety issues.

An assistant less than eighteen years of age shall never be given sole responsibility to supervise children.

(5) A family abode may be licensed as a mini-day care center (expanded family day care home) for the care of up to twelve children, including four children under two years of age by meeting mini-center requirements.

[Statutory Authority: RCW 74.15.030. 89-11-005 (Order 2796), § 388-73-422, filed 5/4/89; 78-10-006 (Order 1336), § 388-73-422, filed 9/8/78.]

WAC 388-73-423 Staffing--Family day care. (1) Except for brief or nonroutine absences, the licensee shall provide the direct care and supervision of the children in care.

(2) Whenever there is only one caregiver present, there shall be a plan for readily obtaining the help of another qualified person in case of emergency.

(3) Children shall be under the close supervision and within easy hearing distance of an adult at all times. If the absence of the licensee is necessary, children shall be left in the charge of a competent individual who is eighteen years of age or older.

(4) With written parental permission, school-age children may visit neighborhood friends and participate in community activities.

[Statutory Authority: RCW 74.15.030. 89-11-005 (Order 2796), § 388-73-423, filed 5/4/89.]

WAC 388-73-424 Family day care--Program and equipment. (1) A variety of play equipment suitable to the ages of the child and suitable for such activities as climbing, pulling, pushing, and riding shall be provided. Equipment shall be constructed and maintained to minimize chances of accidents. Toys or other items which

might be ingested by infants or which are otherwise hazardous to young children shall be removed from areas in which they are playing.

There shall be a variety of suitable indoor play equipment including, but not limited to, art materials, musical materials, and toys suitable for table-top play.

(2) Children shall be under close supervision of an adult and within easy hearing distance at all times. If the absence of the day care parent is necessary, the child must be left in charge of a competent adult. With written parental permission, school-age children may visit neighborhood friends and participate in community activities.

(3) The day care parent shall develop a planned program of both group and individualized activities with the day care parent playing an active role, as well as periods of free play, designed to promote the physical, mental, and social skills of the children under care.

(4) Adequate play space shall be available both indoors and outdoors. There shall be a minimum of thirty-five square feet per child of indoor play area available. The outdoor play area shall be fenced if conditions require. If a fence is required, it shall be at least four feet in height. An alternate height may be allowed if a four-foot fence is not permitted by local ordinances.

[Statutory Authority: RCW 74.15.030. 89-11-005 (Order 2796), § 388-73-424, filed 5/4/89; 86-24-059 (Order 2445), § 388-73-424, filed 12/2/86; 78-10-006 (Order 1336), § 388-73-424, filed 9/8/78.]

WAC 388-73-426 Family day care--Fire safety. Each family day care home shall comply with the fire safety requirements specified in WAC 388-73-310.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-426, filed 9/8/78.]

WAC 388-73-428 Family day care--Health inspection. If a question arises concerning safety or sanitation issues, the local health department may be consulted.

[Statutory Authority: RCW 74.15.030. 89-11-005 (Order 2796), § 388-73-428, filed 5/4/89.]

WAC 388-73-430 Capacity--Limitations on ages and numbers--Mini-day care centers. No mini-day care program shall be licensed for more than twelve children.

(1) During evening and nighttime hours and during the summer months or other extended school vacation period, such number shall be reduced by the number of licensee's own children and foster children under twelve years of age regularly on the premises.

(2) During the school year, such number shall be reduced by the number of licensee's own children and foster children of preschool age regularly on the premises.

(3) No mini-day care program shall care for more than four children under two years of age, including the licensee's and staff's own and foster children under two years of age on the premises.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-430, filed 9/8/78.]

WAC 388-73-432 Staffing--Mini-day care program. (1) At least two staff shall be present:

(a) Whenever more than two infants are under care; or

(b) Whenever more than six children, any of whom are under two years of age, are on the premises; or

(c) Whenever more than eight children, any of whom are under three years of age, are on the premises; or

(d) Whenever more than ten children are on the premises.

(2) Whenever there is only one staff member present, there shall be a second staff member readily available in case of an emergency.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-432, filed 9/8/78.]

WAC 388-73-434 Qualifications of licensee--Mini-day care. To obtain a license for a mini-day care program the applicant shall have completed at least two years of satisfactory service as a licensed family day care home, or have an equivalent amount of training in group care of preschool aged children, or have an equivalent combination of training and experience; and have completed or have a plan to complete within a reasonable time a course in early childhood development/education.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-434, filed 9/8/78.]

WAC 388-73-436 Qualifications of child care staff--Mini-day care. All child care staff shall be at least sixteen years of age, but in no case shall a person under eighteen be assigned sole responsibility for a group of children.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-436, filed 9/8/78.]

WAC 388-73-438 Program and equipment--Mini-day care. (1) Separate play areas shall be available for children who are under one year of age or not walking, and older children.

(2) A variety of suitable outdoor play equipment shall be available for such activities as climbing, pulling, pushing and riding. Equipment shall be constructed and maintained to minimize chances of accidents.

(3) There shall be a variety of suitable indoor play equipment including but not limited to art materials, musical materials and toys suitable for table-top play. Toys which might be ingested by infants or are otherwise hazardous to younger children shall be removed from areas in which they are playing.

(4) Children shall be under close supervision of an adult and within easy hearing distance at all times. If the absence of any staff member is necessary, the children must be left in the charge of a competent adult.

(5) With written parental permission, school-age children may visit neighborhood friends and participate in community activities.

(6) The applicant/licensee shall develop a planned program of both group and individualized activities with the providers of care playing an active role, as well as periods of free play, designed to promote the physical, mental and social skills of the children under care.

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[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-438, filed 9/8/78.]

WAC 388-73-440 Play areas--Mini-day care. (1) Except for facilities providing strictly drop-in care, the facility shall have an appropriately equipped, safe outdoor play area directly adjoining the indoor facilities or which can be reached by a safe route and method approved by the department. The playground shall contain a minimum of seventy-five square feet per child. If programming is such that only a portion of the group uses the playground at one time, the size may be reduced correspondingly. The outdoor play area shall be fenced. The fence shall be at least four feet in height.

(2) Adequate indoor play space shall be available. Play, dining, and napping may be carried on in the same room (exclusive of bathrooms, kitchens, hallways, and closets), provided the room is of sufficient size, and programming is such that usage of the room for one purpose does not interfere with the usage for the room's other purposes. If cots and mats are removed when not in use, a minimum of thirty-five square feet per child is required. For children requiring cribs, the area used for play and napping shall contain a minimum of fifty square feet per child.

[Statutory Authority: RCW 74.15.030. 86-24-059 (Order 2445), § 388-73-440, filed 12/2/86; 78-10-006 (Order 1336), § 388-73-440, filed 9/8/78.]

WAC 388-73-450 Required personnel--Day care centers. Each day care center shall have the following minimum staff:

(1) A director responsible for the overall management of the day care center's facility and its operation, and a program supervisor responsible for the planning and supervision of the child care and children's activities program. The director and program supervisor may be one and the same person if he or she is qualified for both positions. One or the other shall normally be on the premises while children are in care and another competent person left in charge during their temporary absence.

(a) The director shall be at least twenty-one years of age and shall have the management and supervisory skills necessary for the proper administration of the day care center, including the maintenance of necessary records, the management of the agency's finances, and the maintenance of positive relationships with staff, parents, and the community as evidenced by appropriate references and on-the-job performance.

(b) The program supervisor shall be at least twenty-one years of age, and shall have a knowledge of child growth and development and techniques of guiding children's behavior and the ability to plan programs to meet the needs of the children served as evidenced by appropriate references and on-the-job performance. He or she shall have had at least two years successful experience working with children of the same age level as those served by the center and shall have completed forty-five college quarter credit hours in early childhood education/development or an equivalent educational background; or be a certified child development associate.

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For centers serving school-age children only, courses in education, recreation, or physical education may be substituted for the required training.

(c) The director and program supervisor may also serve as child care staff to the extent such role does not interfere with their management and supervisory responsibilities.

(2) Child care staff. Persons responsible for the direct care and supervision of the children and free of other duties while serving in such role, whether paid staff or volunteers, shall be provided for each group of children as follows:

(a) Number of child care staff:

| Age of Children | Ratio of Staff to Children | Maximum Size of Group |
|-----------------------------|----------------------------|-----------------------|
| 1 month through 11 months | 1:4 | 8 |
| 12 months through 29 months | 1:7 | 14 |
| 30 months through 5 years | 1:10 | 20 |
| 6 years and older | 1:15 | 30 |

The above child care staff-to-child ratio shall be maintained both indoors and outdoors and on field trips. Children shall be grouped according to their ages as indicated above. Individual children may be included in different age groups based on their developmental levels. The department may approve reasonable variations related to the groupings and activities of the children as long as the children are adequately supervised and the total required number of staff is maintained; the staff-to-child ratio maintained is that ratio designated for the youngest child in such a mixed group. Such mixed groups shall be permitted for short portions of the day. During the children's rest periods the ratio shall be maintained, but child care staff may be involved in other activities so long as they remain on the premises and each child is within visual and auditory range of a staff member. During the children's waking hours, child care staff are to be physically present in the room where the children are and no child or group of children are to be left at any time unattended. Children shall be in visual and auditory range of staff at all times except where a toilet trained child is using the toilet.

(b) Minimum staff on duty. At least two staff (at least one of whom is a child care staff) shall be present:

(i) Whenever more than six children, any of whom are under two years of age, are on the premises; or

(ii) Whenever more than eight children, any of whom are under three years of age, are on the premises; or

(iii) Whenever more than ten children are on the premises.

Whenever there is only one staff member present, there shall be a second staff member readily available in case of an emergency.

(c) Qualifications of child care staff. All child care staff shall be at least sixteen years of age, but in no case shall a person under eighteen be assigned sole responsibility for a group of children.

[Statutory Authority: RCW 74.15.030. 86-24-059 (Order 2445), § 388-73-450, filed 12/2/86; 78-10-006 (Order 1336), § 388-73-450, filed 9/8/78.]

WAC 388-73-452 Program--Day care centers. The agency shall implement a program designed to meet the developmental needs of the various age groups served and in consideration of the cultural and other particular needs of individual children or groups of children. The program shall provide for a balance between free play and organized activities, between individual play and the sharing of experiences among children; and shall promote individual contact between staff and child. There shall be a reasonable regularity of activities from day to day, but allowance shall be made for a variety of special events. Children of all ages shall spend a portion of the day outdoors, weather permitting. Each day care facility shall have a program plan evidenced by a written daily schedule and periodic staff meetings for planning purposes.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-452, filed 9/8/78.]

WAC 388-73-454 Toddlers and preschool children--Day care centers. Ambulatory children between one year and two and one-half years of age may be grouped with older children during their waking hours provided that the total number of children to a group does not exceed ten and two staff members are assigned to the group.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-454, filed 9/8/78.]

WAC 388-73-458 Furnishings and equipment--Day care centers. (1) Furniture shall be safe, durable, easily cleaned, and child-sized or appropriately adapted for ages of children served. Equipment shall be sturdy, well-constructed, in good condition, safe and free of sharp, loose or pointed parts. Furniture and equipment shall not block exits.

(2) The center shall provide equipment of sufficient quantity and variety to carry out the required program and to provide every child with the opportunity for physical and intellectual development. The selection of equipment shall provide opportunities for play alone or in groups and there shall be an appropriate number of materials from each of the following categories: Art supplies, blocks and accessories, books, housekeeping furniture and props, manipulative toys, musical instruments, science materials, water play supplies, props for dramatic play, and large muscle equipment.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-458, filed 9/8/78.]

WAC 388-73-460 Play areas--Day care centers. The requirements for play areas specified for mini-day care centers in WAC 388-73-440 also apply to day care centers.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-460, filed 9/8/78.]

WAC 388-73-500 Day treatment center. The rules in WAC 388-73-500 through 388-73-550 apply exclusively to licensing day treatment centers.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-500, filed 9/8/78.]

WAC 388-73-502 Function of day treatment program. A day treatment program is an integrated educational and therapeutic group experience provided during part of the twenty-four hour day, usually throughout the five day week, for the emotionally disturbed child who does not require twenty-four hour residential care but who is unable to adjust to school programs because of disruptive behavior, family stress, learning disability or other serious emotional handicaps and/or who for similar reasons is unable to profit substantially from "outpatient" child guidance clinic services and related programs.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-502, filed 9/8/78.]

WAC 388-73-504 Personnel. A day treatment program shall have the following staff:

(1) A director responsible for the overall management of the agency's facilities and operation, and a program supervisor responsible for the implementation and supervision of the agency's child care and treatment program. The director and the program supervisor may be one and the same person if he or she is qualified for both positions. One or the other shall normally be on the premises while the children are in care and another competent person left in charge during the director's and/or program supervisor's temporary absence.

(a) The director shall be at least twenty-one years of age and shall have the management and supervisory skills necessary for the proper administration of the agency, including the maintenance of necessary records, the management of the agency's finances and the maintenance of positive relationship with staff, parents, and the community as evidenced by appropriate references and on-the-job performance.

(b) The program supervisor shall be at least twenty-one years of age and shall have a knowledge of child growth and development, the origin and treatment of deviant behavior, techniques of guiding children's behavior and the ability, in conjunction with the director, board, and other staff, to implement programs to meet the needs of the children served. He or she shall have at least a masters degree in social work, clinical psychology or closely related field.

(2) Psychiatrist - The agency shall receive regular consultation from a child psychiatrist.

(3) Psychologist - The agency shall provide or arrange for the services of a psychologist for the administration of psychological testing and related services if these services are not provided by the accredited school where the child is regularly enrolled.

(4) Teaching staff - The agency shall provide or arrange for teaching by certified teachers qualified by training or experience in remedial education.

(5) Group counselors - Group counselors shall be persons qualified by training or by experience in the care of disturbed children.

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[Statutory Authority: RCW 74.15.030. 83-02-060 (Order 1933), § 388-73-504, filed 1/5/83; 78-10-006 (Order 1336), § 388-73-504, filed 9/8/78.]

WAC 388-73-506 Ratio of counselor and teaching staff to children. There shall be sufficient group counselors and teachers that the children are normally in groups of no more than six under the supervision of one or the other of such staff.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-506, filed 9/8/78.]

WAC 388-73-508 Program. The agency shall submit a detailed written program description for departmental approval outlining the educational, recreational, and therapeutic services to be provided to the child and his family and a sample of the schedule of daily activities for persons in care.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-508, filed 9/8/78.]

WAC 388-73-510 Ill children. The requirements for care of ill children specified for day care providers in WAC 388-73-404 also apply to day treatment programs.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-510, filed 9/8/78.]

WAC 388-73-512 Play areas. The requirements for play areas specified for mini-day care programs and day care centers in WAC 388-73-440 also apply to day treatment programs.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-512, filed 9/8/78.]

WAC 388-73-600 Group care facilities. The rules in WAC 388-73-600 through 388-73-650 apply exclusively to licensing of group care facilities.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-600, filed 9/8/78.]

WAC 388-73-602 Function of group care facility. A group care facility normally serves children six years of age and older who:

(1) Need foster care but cannot ordinarily adjust to the close, personal relationships normally required by a foster family home;

(2) Need emergency placement pending more permanent planning or during temporary disruption of a current placement;

(3) Are emotionally disturbed or physically or mentally handicapped, or whose behavior is unacceptable to most foster family home parents: *Provided*, That the agency, through its own program or by the marshalling of appropriate community resources, can provide the necessary specialized services required by the group which the facility serves (except children cared for in facilities for severely and multiply-handicapped children will most frequently be younger than six years of age).

[Statutory Authority: RCW 74.15.030. 84-06-030 (Order 2081), § 388-73-602, filed 2/29/84; 78-10-006 (Order 1336), § 388-73-602, filed 9/8/78.]

WAC 388-73-604 Daily activity program. Except for juvenile detention facilities the agency shall submit a detailed written program description for departmental approval outlining the recreational and therapeutic services to be provided to the child and his or her family, and a schedule of typical daily activities for persons in care.

[Statutory Authority: RCW 74.15.030. 83-02-060 (Order 1933), § 388-73-604, filed 1/5/83. Statutory Authority: RCW 74.08.090 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-604, filed 9/10/79. Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-604, filed 9/8/78.]

WAC 388-73-606 Required positions. An agency shall provide staff in accordance with the following requirements:

(1) A director responsible for the general management and administration of the agency's program. This person shall be at least twenty-one years of age and possess ability to understand the role of the agency in meeting the needs of children and to work with representatives of appropriate agencies. This person shall have had a bachelor's degree in a social science or closely allied field or shall have had a minimum of two years' experience working in a group care facility or as a foster parent with a letter of recommendation from the licensing agency and/or supervising agency.

(2) Child care staff whose primary duties are the care, supervision, and guidance of children. Such staff shall be at least eighteen years of age. Staff under twenty-one years of age shall be under the immediate supervision of staff at least twenty-one years of age.

In addition, in crisis residential centers, no less than fifty percent of the child care staff shall have completed at least two years of college and one year of working with children in a group setting. Experience may be substituted for education on a year-for-year basis. A bachelor of arts degree in behavioral or social science may be substituted for experience. The remaining child care staff shall have at least a high school diploma (or equivalent) and one year of successful experience as a foster family parent for three or more children or working with children in a group setting. Two years of college may be substituted for the required experience.

(a) Except for crisis residential centers, facilities for severely and multiply-handicapped children, and juvenile detention facilities, during the waking hours of the children there shall be at least one child care staff member on duty for every eight children or major fraction (five or more) of such number of children on the premises.

For facilities serving severely and multiply-handicapped children, there shall be a minimum of one child care staff for every four and one-half children determined on a twenty-four hour basis.

For juvenile detention facilities, there shall be a minimum of one child care staff on duty for every ten children in care during the waking hours of the children.

For regional crisis residential centers, there shall be a minimum of one child care staff on duty for every two children in care during the waking hours of the children,

and a minimum of three such staff for every eight children during the sleeping hours.

For other group crisis residential centers, during the waking hours, there shall be a minimum of one child care staff for every three children in temporary protective care without duties related to the children in full-time care. During the sleeping hours, there shall be one such staff member for every five such children. If the two classes of children are combined into one group, the staff ratio applicable to the children in temporary care shall prevail.

For both types of crisis residential centers, on duty staff does not include staff sleeping on the premises.

The director and support and maintenance staff may serve as child care staff when not involved in other duties, provided the required number of child care staff is maintained.

(b) Except for crisis residential centers, whenever more than eight children are on the premises at least two adults (including at least one child care staff) shall be on duty. During nighttime hours, "on duty" staff may include staff sleeping in the group care facility and available to the children. During sleeping hours, there shall be at least one adult in proximity to the children.

(c) Agencies caring for very young children or for children presenting emotional disturbance, physical handicaps, or mental retardation shall provide such additional child care staff and professional services for the children as the department requires.

(d) Whenever only one child care staff is on duty, there shall be a second person on call.

(e) Facilities caring for severely and multiply-handicapped children shall have a registered nurse in employment or under contract in charge of nursing care. Sufficient licensed nursing staff shall be provided to meet the nursing care needs of the children.

(3) Relief staff to enable all staff to have the equivalent of two days off a week.

[Statutory Authority: RCW 74.15.030. 84-06-030 (Order 2081), § 388-73-606, filed 2/29/84. Statutory Authority: RCW 74.08.090 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-606, filed 9/10/79. Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-606, filed 9/8/78.]

WAC 388-73-608 Nursing service. Group care facilities having as their major purpose the care of chronically ill or severely handicapped children shall make arrangements for regular nursing consultation, including at least one weekly on-site visit, by a registered nurse currently licensed by the state of Washington. His/her name, address, and telephone number shall be readily available. The nurse shall assist the agency in implementing a program which provides for periodic health supervision of all children and for follow-up care of special health needs as identified by the child's physician or noted by agency personnel. The nurse shall advise and assist nonmedical personnel in maintaining medical records, meeting daily health needs and caring for children with minor illnesses and injuries.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-608, filed 9/8/78.]

WAC 388-73-610 Required rooms, areas, and equipment--Group care facilities. There shall be rooms and areas of sufficient size and properly equipped to accommodate the number of children served. The following rooms or areas shall be provided:

(1) Living room. There shall be at least one comfortably furnished living room. (This subsection is not applicable to juvenile detention facilities.)

(2) Dining area. An attractive dining area shall be provided of sufficient capacity to accommodate the group comfortably. (This subsection is not applicable to juvenile detention facilities.)

(3) Staff quarters. Rooms for staff on night supervision shall be separate from but in proximity to the sleeping rooms of the children. (This subsection is not applicable to juvenile detention facilities.)

(4) Recreation area. When there are more than twelve occupants, at least one separate indoor area shall be provided, sufficient in size and location, for recreational and informal education activities.

(5) Offices. There shall be a room or area that can be used as an administrative office. Suitable offices shall be provided for social service staff. In facilities caring for fewer than thirteen children, such offices may be combined with the administrative office.

(6) Visiting area. There shall be space provided where privacy can be achieved for the use of visitors.

[Statutory Authority: RCW 74.15.030. 84-06-030 (Order 2081), § 388-73-610, filed 2/29/84. Statutory Authority: RCW 74.08.090 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-610, filed 9/10/79. Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-610, filed 9/8/78.]

WAC 388-73-700 Maternity services. The rules in WAC 388-73-700 through 388-73-750 apply exclusively to the licensing of an agency providing or arranging maternity service.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-700, filed 9/8/78.]

WAC 388-73-702 Types of maternity services. (1) Day programs for mothers. A day program provides pregnant or delivered young women training in child care, help with adjustment problems, counseling and social planning, infant care as needed, and academic or vocational training as appropriate during part of the twenty-four-hour day in a facility suitable for such purposes.

(2) Child-placing agencies. The placement of pregnant children and adults and mothers with infants in properly licensed foster family homes.

(3) Residential care for expectant mothers (maternity home). A maternity home serves as a group living facility to provide residential care and treatment on a twenty-four-hour basis to expectant unmarried mothers during the period of their pregnancy and the immediate postpartum period.

(4) Residential care for mothers and infants. Residential care for a group of mothers and their infants provides a group living facility on a twenty-four-hour basis,

guidance, family life education, and child care for residents needing it, and academic and/or vocational training when appropriate. The care provided infants in the absence of their mother shall meet the applicable standards of chapter 388-73 WAC unless the care is exempt by virtue of RCW 74.15.020 (4)(a) through (k).

[Statutory Authority: RCW 74.15.030. 86-24-059 (Order 2445), § 388-73-702, filed 12/2/86; 78-10-006 (Order 1336), § 388-73-702, filed 9/8/78.]

WAC 388-73-704 Daily activities program. The agency shall submit a detailed written program description for departmental approval outlining the educational, recreational, and therapeutic services to be provided to persons in care, a schedule of typical daily activities for persons in care, and a statement of religious practices, if any.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-704, filed 9/8/78.]

WAC 388-73-706 Eligibility for service--Required services. (1) Eligibility for service shall not be contingent upon a parent's decision to keep or relinquish her child.

(2) Services required herein need not necessarily be provided directly by the licensee in each instance. However, if not provided directly, it is the responsibility of the licensee to arrange for such services through formal agreements with other community resources or to otherwise assist mothers in the program to obtain appropriate and needed services.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-706, filed 9/8/78.]

WAC 388-73-708 Required personnel. (1) A director, at least twenty-one years of age and a mature person especially equipped by training, experience, and personal qualities to insure an effective program, staff development, and efficient administration shall be employed. The director must possess an understanding of the program to be administered and have demonstrated such leadership and supervisory ability as will insure harmonious relationships and effective performance of agency personnel.

(2) Consultants. Consultants in mental health, education, religion, and law shall also be available as needed for work with agency staff, as well as with the parent. Consultants used by the agency shall meet the full requirements of professional competence in the consultants' respective fields.

(3) Residential staff. Residential programs providing twenty-four hour care to expectant mothers or to mothers and their infants shall employ residential staff in sufficient numbers to insure the physical and emotional needs of the residents are met. Residential staff are staff in charge of supervision of the day-to-day living situation. Such staff may carry out maintenance tasks not detracting from the staff's primary function.

(a) Residential staff shall be on duty in a ratio of one such staff to every eight mothers or major fraction thereof. When more than eight mothers are on the

premises, at least two adults (including at least one residential care staff) shall be on duty. Additional staff may be required under certain circumstances, as required by the department.

(b) On duty staff may include persons sleeping on the premises but are available to the residents as needed during the nighttime hours. In homes caring for fewer than ten persons, at least one staff shall be physically present with an additional person available "on call" at all times.

(4) Relief staff. Sufficient relief staff shall be available to allow all staff the equivalent of two days off a week.

[Statutory Authority: RCW 74.15.030. 83-02-060 (Order 1933), § 388-73-708, filed 1/5/83; 78-10-006 (Order 1336), § 388-73-708, filed 9/8/78.]

WAC 388-73-710 Guidance and counseling. (1) All maternity service programs shall provide information and referral service and guidance and counseling to every person who applies for care.

(2) Guidance and counseling may take the form of individual or group counseling sessions. Areas to be included are: Living arrangements, medical care planning, legal services, vocational or educational guidance, plans for the child, financial, emotional or psychological problems, relations with parents and unwed father and follow-up for those leaving the program.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-710, filed 9/8/78.]

WAC 388-73-712 Health education. All maternity service programs shall make provisions for skilled instruction in the nature and need for postnatal and pediatrics care, contraception, nutritional requirements for mother and child, child health and development, and, for expectant mothers, the hygiene of pregnancy, suitable preparation for childbirth, the physiological changes which occur, the events and procedures used in examination, and childbirth.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-712, filed 9/8/78.]

WAC 388-73-714 Family life education. All maternity service programs shall provide or arrange for classes in family life. Examples of such services are: Home management and consumer education, child-rearing techniques, and family planning.

[Statutory Authority: RCW 74.15.030. 83-02-060 (Order 1933), § 388-73-714, filed 1/5/83; 78-10-006 (Order 1336), § 388-73-714, filed 9/8/78.]

WAC 388-73-716 Leisure time activities. Programs shall be planned so that leisure time is used creatively, to accommodate the need for privacy when required and permit sufficient physical exercise to retain satisfactory body conditioning. Programs for mothers and infants must afford mothers some leisure time apart from their children as well as time with their children.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-716, filed 9/8/78.]

WAC 388-73-718 Child care. Programs serving parents with children have the responsibility for providing or assisting the parent in arranging for child care when parents are working or in school and at other appropriate times. Provisions shall be made for maximum interaction between mother and child in the child care arrangement. The child care facility, whether within the agency or without, shall meet the appropriate licensing requirements for day care facilities.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-718, filed 9/8/78.]

WAC 388-73-720 Medical service. (1) Each expectant mother and mother and infant shall be under the medical supervision of a physician.

(2) Consultation by specialists shall be provided when requested by the physician.

(3) For expectant mothers:

(a) Deliveries shall be in a licensed hospital or approved birthing facility. The length of hospitalization shall depend upon the mother's physician and the facilities and nursing care available in the maternity home.

(b) Postpartum medical examinations shall be provided at the end of six weeks and earlier, if indicated. An entry shall be made in mother's record to indicate the date of the postpartum examination and name of the examining physician. If a postpartum examination is not provided, the record should indicate the reasons.

(c) No expectant mother who has a known or suspected infectious disease shall be admitted or retained in group care.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-720, filed 9/8/78.]

WAC 388-73-722 Required rooms, areas, equipment. (1) The required rooms, areas and equipment specified for group care facilities in WAC 388-73-610 apply to maternity homes and also residential care for mothers and infants.

(2) The required rooms, areas and equipment specified for group care facilities in WAC 388-73-610 except for living rooms, dining areas, staff quarters and recreational areas, also apply to day programs for mothers.

(3) Facilities for medical and nursing care. In agencies in which medical clinics are held, there shall be a separate adequately equipped examination room. Adequate nursing equipment shall be provided as necessary.

[Statutory Authority: RCW 74.15.030. 78-10-006 (Order 1336), § 388-73-722, filed 9/8/78.]

WAC 388-73-800 Crisis residential centers. The rules in WAC 388-73-800 through 388-73-820 apply exclusively to crisis residential centers. The crisis residential center may, in addition to being licensed as such, also be licensed as a family foster home or as a group care facility and may house juveniles assigned for regular foster family care or group care as well as juveniles receiving temporary protective care.

[Statutory Authority: RCW 74.08.090 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-800, filed 9/10/79.]

WAC 388-73-802 Limitations on number of facilities. Crisis residential centers will be licensed as such at the discretion of the department as determined by the need for such a facility in the area in which the facility will be located and moneys appropriated for such purposes.

[Statutory Authority: RCW 74.08.090 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-802, filed 9/10/79.]

WAC 388-73-804 Hours of operation. Intake shall be open twenty-four hours a day, seven days a week.

[Statutory Authority: RCW 74.08.090 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-804, filed 9/10/79.]

WAC 388-73-810 Group crisis residential centers. All requirements applicable to group care facilities unless otherwise indicated by the text, are also applicable to regional crisis residential centers and to crisis residential centers operated as part of a licensed group care facility.

[Statutory Authority: RCW 74.08.090 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-810, filed 9/10/79.]

WAC 388-73-820 Family crisis residential centers. All requirements applicable to foster family homes, unless otherwise indicated in the text, are also applicable to crisis residential centers operated in a foster family.

[Statutory Authority: RCW 74.08.090 and 1979 c 155. 79-10-026 (Order 1431), § 388-73-820, filed 9/10/79.]

WAC 388-73-900 Facilities for severely and multiply-handicapped children. The rules in WAC 388-73-900 through 388-73-904 apply exclusively to facilities for severely and multiply-handicapped children.

[Statutory Authority: RCW 74.15.030. 84-06-030 (Order 2081), § 388-73-900, filed 2/29/84.]

WAC 388-73-902 Services provided. In addition to educational services provided pursuant to WAC 388-73-072 and nursing services provided pursuant to WAC 388-73-606 (2)(e), the facility shall also provide or arrange for additional services, as required by the individual needs of the children in care. The services to be available include:

- (1) Physicians, including surgeons, general and family practitioners, and specialists in the child's particular diagnosis on either a referral, consultative, or ongoing treatment basis;
- (2) Dental care of both routine and emergent nature;
- (3) Communication disorder therapy;
- (4) Physical and occupational habilitation and rehabilitation therapy and devices;
- (5) Recreation therapy;
- (6) Psychological testing; and
- (7) Transportation.

[Statutory Authority: RCW 74.15.030. 84-06-030 (Order 2081), § 388-73-902, filed 2/29/84.]

WAC 388-73-904 Therapy room. Each facility for severely and multiply-handicapped children shall have a

room for the delivery of physical and occupational therapy and storage of necessary devices or provide for such care outside of the facility.

[Statutory Authority: RCW 74.15.030. 84-06-030 (Order 2081), § 388-73-904, filed 2/29/84.]

Chapter 388-76 WAC

ADULT FAMILY HOMES MINIMUM LICENSING REQUIREMENTS

WAC

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WAC 388-76-010 Authority. The following rules are adopted under chapter 70.128 RCW.

[Statutory Authority: 1989 c 427. 90-03-051 (Order 2934), § 388-76-010, filed 1/16/90, effective 2/16/90. Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-010, filed 12/18/85.]

WAC 388-76-020 Adult family homes. The rules in this chapter apply entirely to licensing adult family homes and replace and supersede any rules on licensing adult family homes found in previous editions of chapter 388-76 WAC.

[Statutory Authority: 1989 c 427. 90-03-051 (Order 2934), § 388-76-020, filed 1/16/90, effective 2/16/90. Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-020, filed 12/18/85.]

WAC 388-76-030 Definitions. Those terms in chapter 70.128 RCW shall have the same meaning when used in this chapter except as otherwise provided herein.

(1) "Abuse" means an act of physical or mental mistreatment or injury, harming or threatening a person through action or inaction by another individual.

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

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

(2) "Adult dependent person" means a person eighteen years of age or older found legally incompetent under chapter 11.88 RCW or found disabled to such a degree under this chapter that protection is needed.

(3) "Adult family home" means a regular family abode of a person providing personal care, room, and board to more than one, but not more than four, adults not related by blood or marriage to the person or persons providing the services; except, a maximum of six adults may be permitted if the department determines the home is of adequate size and the home and provider are capable of meeting standards and qualifications as provided for in law and this chapter.

(4) "Adult in need of personal care" means a person eighteen years of age or older who, because of developmental disability or physical or mental disability requires supervision and assistance in personal care services.

(5) "Ambulatory resident" means a resident physically and mentally capable of walking unaided or capable of independent mobility or transfer with the use of a cane, crutches, walkerette, walker, wheelchair, artificial limb, or other assistive device. A resident is considered nonambulatory when bedridden, immobile, unable to walk or move without assistance from another person, or unable to independently transfer.

(6) "Applicant" means a person who completes an adult family home license application.

(7) "Bedroom" means a living space set apart by floor-to-ceiling walls on all sides with all openings provided with doors or windows.

(8) "Board" means the availability of three or more daily meals.

(9) "Capacity" means the maximum number of persons permitted under adult family home care at a given time.

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

(11) "Developmentally disabled adult" means a person eighteen years of age or older who the department determines is developmentally disabled.

(12) "Good cause" means the conditions providing for the best interest of the resident.

(13) "Imminent danger" means serious physical harm to or death of a resident occurred or a serious threat to resident life, health, or safety exists.

(14) "Nursing care" means the practice of nursing by a licensed practical nurse (LPN) or registered nurse (RN) as specified under chapter 18.88 or 18.78 RCW.

(15) "Other persons on the premises" means relief caregivers, supportive assistance staff person, family members, other relatives and friends of the sponsor with unmonitored access to the residents in care.

(16) "Personal care" means assistance with the following tasks:

- (a) Personal hygiene;
- (b) Dressing;
- (c) Bathing;
- (d) Eating;
- (e) Toileting;
- (f) Ambulation;
- (g) Transfer;
- (h) Positioning;
- (i) Self-medication;
- (j) Body-care;
- (k) Travel to medical services; and
- (l) Essential shopping.

These tasks are provided to the resident as needed according to the resident's physical condition. The department may define and include additional tasks.

(17) "Premises" means the residence, other buildings, and adjoining grounds.

(18) "Private pay resident" means a resident whose cost of care is paid entirely without the assistance of state funds.

(19) "Provider" is synonymous with "sponsor."

(20) "Relative" or "related" means a person related by birth, marriage, or adoption as follows:

- (a) Parent,
- (b) Grandparent,
- (c) Brother,
- (d) Sister,
- (e) Son,
- (f) Daughter,
- (g) Step parent,
- (h) Step brother,
- (i) Step sister,
- (j) Uncle,
- (k) Aunt, and/or
- (l) First cousin.

(21) "Relief caregiver" means a person designated by the sponsor and who meets the relief caregiver standards to care for residents in the sponsor's absence.

(22) "Resident" means any adult person unrelated to the sponsor receiving room, board, personal, and/or special care and supervision, as defined by the department, in an adult family home.

(23) "Service plan" means a written description of a resident's needs and capabilities, including who, when, and how often care services are provided and the expected outcomes.

(24) "Special care" means care beyond personal care and other services authorized through an exception to policy process. Special care services are provided to persons suffering chronic long-term health conditions.

(25) "Sponsor" means a person licensed under this chapter to operate an adult family home. The sponsor shall reside at the adult family home. Exceptions may be authorized by the department for good cause, as defined in the rule.

(26) "State-pay resident" means a resident receiving financial assistance from the state for paying adult family home cost of care.

(27) "Supervision" means a sponsor available to:

(a) Help the client with personal care tasks that cannot be scheduled, for example, toileting, ambulation, transfer, positioning, some medication assistance;

(b) Provide protective supervision to a client who cannot be left alone because of confusion, forgetfulness, or lack of judgment; or

(c) Intervene on a resident's behalf if a crisis arises.

(28) "Supportive assistance" means assistance with caregiving tasks provided to residents and/or home care by co-sponsor, employed staff, or appropriate others at the same time the sponsor or relief caregiver is present in the adult care home.

(29) "Vulnerable adult" means a person sixty years of age or older and unable to care for or protect self because of a functional, mental, or physical disability.

[Statutory Authority: 1989 c 427. 90-03-051 (Order 2934), § 388-76-030, filed 1/16/90, effective 2/16/90. Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-030, filed 12/18/85.]

WAC 388-76-040 Application for license. (1) Persons making application for a license under this chapter shall do so upon department-provided forms. The forms shall contain information the department reasonably requires. The application shall be made by and in the name of the person who shall be the adult family home sponsor.

(2) The department shall send the sponsor a license application form and written notice no later than one hundred twenty days before the license expiration date. The sponsor shall apply for license renewal no later than ninety days before the expiration date. Submittal of a renewal application and fee before the expiration date shall keep the license in effect until the department takes action. If the renewal application and applicable fee are not submitted before the expiration date, the department shall treat the home as an unlicensed facility. The department shall have the authority to investigate the accuracy of any information included in the application for a license.

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(3) The applicant shall submit additional information the department considers necessary for proper administration of this chapter. The department shall make investigations of the applicant, relief caregivers, supportive assistance staff persons, and members of applicant's household.

(4) The department shall make a criminal history check of all applicants, relief caregivers, supportive assistance staff persons, and members of the applicant's household before an initial license is issued or a license is renewed. The department shall furnish, upon request from the sponsor, a copy of the completed State Patrol criminal history check for any person involved in the sponsor's adult family home operation.

(5) The department shall issue licenses provided under this chapter for a period of one year.

(6) A sponsor may accept a state-pay client into the adult family home only if the sponsor is licensed and has an adult family home contract with the department.

(7) If the department finds the home is not in compliance with chapter 70.128 RCW and this chapter, the department shall require the home to correct any violations in a time frame specified by the department. If corrections are not made within this time period, the department may take one or more of the following actions:

(a) Refuse to issue a license;

(b) Suspend, revoke, or refuse to renew a license; or

(c) Suspend admissions to the adult family home.

(8) The department shall issue a license to an adult family home if:

(a) The department finds the applicant and the home are in compliance with chapter 70.128 RCW and the rules adopted under this chapter;

(b) The applicant has no prior violations of the rules pertaining to adult family home licensing in either the home the applicant is applying for or any other adult family home;

(c) The applicant has no prior violation of any other law regulating residential care facilities within the past five years resulting in revocation or nonrenewal of a license.

(9) The department shall serve upon the applicant a copy of the decision granting or denying an application for a license. An applicant shall have the right to contest denial of the applicant's application for a license. The proceedings shall be governed by the Administrative Procedure Act (chapter 34.05 RCW) and chapter 388-08 WAC by requesting a hearing, in writing, within ten days after receipt of the notice of denial.

[Statutory Authority: 1989 c 427. 90-03-051 (Order 2934), § 388-76-040, filed 1/16/90, effective 2/16/90. Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-040, filed 12/18/85.]

WAC 388-76-045 Unlicensed facilities. (1) A public agency contractor or employee shall not place, refer, or recommend placement of a person into an adult family home operating without a license.

(2) A public agency contractor or employee knowing or with reason to know an adult family home is operating without a license shall report the adult family home's

name and address to the department. The department shall investigate any report filed under this section.

(3) The department may deny the application of a person operating an adult family home without a license.

[Statutory Authority: 1989 c 427. 90-03-051 (Order 2934), § 388-76-045, filed 1/16/90, effective 2/16/90.]

WAC 388-76-050 Licensing of state employees. Department staff or any member of the state employee's household shall be prohibited from obtaining an adult family home license when involved:

(1) Directly or in an administrative or supervisory capacity in the adult family home licensing process;

(2) In placement of persons in a licensed adult family home; or

(3) In authorizing payment for such persons.

[Statutory Authority: 1989 c 427. 90-03-051 (Order 2934), § 388-76-050, filed 1/16/90, effective 2/16/90. Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-050, filed 12/18/85.]

WAC 388-76-060 Limitations on licenses. The department shall not issue licenses to an applicant for both children and adults in the same family home. The department may make exceptions only if it is clearly evident the care of one category of clients does not interfere with the quality of care to be provided to the other category of clients. In such circumstances, the total number of persons in care in both categories shall not exceed the number permitted by the licensed capacity of the adult family home.

[Statutory Authority: 1989 c 427. 90-03-051 (Order 2934), § 388-76-060, filed 1/16/90, effective 2/16/90. Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-060, filed 12/18/85.]

WAC 388-76-070 General qualifications of sponsor, relief caregiver, and supportive assistance staff person.

(1) The adult family home sponsor shall meet the following minimum qualifications:

(a) Twenty-one years of age or older;

(b) Be of good moral and responsible character and reputation;

(c) Literate;

(d) Able to carry out the requirements of this chapter;

(e) Have an approved TB skin test or X-ray;

(f) Have an unexpired first aid/CPR card;

(g) Have a satisfactory criminal history check; and

(h) Have successfully completed appropriate training on the prevention, transmission, and treatment of human immunodeficiency virus (HIV) and acquired immunodeficiency syndrome (AIDS).

(2) The relief caregiver shall meet the following minimum qualifications:

(a) Eighteen years of age or older;

(b) Be of good moral and responsible character and reputation;

(c) Literate;

(d) Have an approved TB skin test or X-ray;

(e) Have an unexpired first aid/CPR card;

(f) Have a satisfactory criminal history check; and

(g) Have successfully completed appropriate training on the prevention, transmission, and treatment of human

immunodeficiency virus (HIV) and acquired immunodeficiency syndrome (AIDS).

(3) The supportive assistance staff person shall meet the following minimum qualifications:

(a) Eighteen years of age or older;

(b) Be of good moral and responsible character and reputation;

(c) Have an approved TB skin test or x-ray;

(d) Have a satisfactory criminal history check;

(e) Have successfully completed appropriate training on the prevention, transmission, and treatment of human immunodeficiency virus (HIV) and acquired immunodeficiency syndrome (AIDS).

(4) The sponsor and relief caregiver shall have the understanding, language skills, physical health, emotional stability, personality, and skills to meet the physical, mental, emotional, and social needs of residents.

(5) The sponsor and relief caregiver and supportive assistance staff person shall not have been convicted of abuse and/or any crime involving physical harm to another person as specified under RCW 43.43.830 and 43.43.832.

(6) The sponsor, relief caregiver, and supportive assistance staff person shall not have been found, by a court in a protection proceeding to have abused or financially exploited a vulnerable adult as specified under chapter 74.34 RCW.

(7) The sponsor, relief caregiver, and supportive assistance staff person shall specify crimes against persons and crimes relating to financial exploitation where the victim is a vulnerable adult as defined under RCW 43.43.830.

(8) The sponsor shall notify the department before employing a relief caregiver or supportive assistance staff person on a conditional basis. The sponsor may employ a relief caregiver and supportive assistance staff person pending completion of the background investigation and HIV/AIDS training. In an extraordinary situation requiring immediate employment action, the sponsor shall notify the department within forty-eight hours after employing a relief caregiver or supportive assistance staff person. The sponsor shall submit to the licensor the properly completed form requesting a criminal history check within seven days after the relief caregiver and supportive assistance staff person begin employment in the adult family home.

(9) No licensed adult family home sponsor, relief caregiver, or supportive assistance staff person shall provide skilled nursing care unless licensed and registered under chapter 18.88 or 18.78 RCW.

(10) The relief caregiver or supportive assistance staff person shall not be a resident requiring care.

[Statutory Authority: 1989 c 427. 90-03-051 (Order 2934), § 388-76-070, filed 1/16/90, effective 2/16/90. Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-070, filed 12/18/85.]

WAC 388-76-080 Multiple facility ownership. No sponsor shall be licensed to operate more than one adult family home concurrently. An individual shall not be employed by a corporation partnership, or individual to

operate an adult family home. Being employed by someone to operate an adult family home shall be grounds for denial, suspension, or revocation of that application or license and all associated applications and licenses. Exceptions may be authorized by the department for good cause.

[Statutory Authority: RCW 74.08.044, 89-05-033 (Order 2761), § 388-76-080, filed 2/13/89.]

WAC 388-76-085 General standards. A sponsor shall assure the following standards:

(1) The sponsor shall maintain the adult family home internally and externally in good repair and condition. The home shall have safe and functioning systems for heating, cooling, hot and cold water, electricity, plumbing, garbage disposal, sewage, cooking, laundry, artificial and natural light, ventilation, and any other feature of the home. Steps shall be provided with handrails as determined necessary by the department. Emergency lighting devices, such as flashlights, shall be in working order, available and easily accessible to sponsors, relief caregivers, and residents.

(2) The adult family home shall be maintained in a clean and sanitary manner, including proper food handling and hygiene practices.

(3) The adult family home shall have clean, functioning, safe, adequate household items and furnishings to provide for the needs of residents.

(4) The sponsor shall assure an adult family is located on a well-drained site free from hazardous conditions.

(5) Sponsors shall be able to gain rapid access to any bedroom, shower room, bathroom, or other room occupied by residents in case of emergency.

(6) The sponsor shall provide one operating nonpay telephone or more on the premises accessible to residents and affording privacy. The telephone shall be available for emergency incoming or outgoing use at all times.

[Statutory Authority: 1989 c 427, 90-03-051 (Order 2934), § 388-76-085, filed 1/16/90, effective 2/16/90.]

WAC 388-76-087 Inspections. (1) The department shall inspect an adult family home regarding compliance with chapter 70.128 RCW and this chapter at the time of initial licensure.

(2) The department shall inspect licensed homes regarding compliance with chapter 70.128 RCW and this chapter every eighteen months. The department shall notify the sponsor, in writing, two weeks or more in advance of a regular inspection.

(3) When a complaint is received, the department may inspect, without written notice, a licensed home. At the time of the inspection, the department shall furnish the sponsor with a written copy of the complaint. The name of the complainant shall remain confidential.

(4) During inspections of an adult family home, the department shall have access and authority to examine areas and articles in the home used to provide resident care or support, including resident's records, accounts, equipment, and the physical premises. The department also has the authority to interview the sponsor, relief caregiver, supportive assistance staff person, residents,

guardian and resident advocates of an adult family home.

(5) When conducting an inspection, the department shall prepare a written report summarizing all information obtained during the inspection. If the home is in violation of this chapter, the department shall provide the sponsor a copy of the inspection report at the same time as a notice of violation is served. If the home is not in violation of this chapter, the department shall mail the sponsor a copy of the inspection report within ten days of the home inspection. The department shall make available to the public all department inspection reports during business hours.

(6) The inspection report shall describe any of the sponsor's corrective measures which are completed and necessary to pass a reinspection and will include a time frame when the corrections shall be completed. If the department finds upon reinspection of the home the corrective measures are satisfactorily implemented, the department shall cease any actions taken against the home. This section shall not require the department to license or renew the adult family home's license where serious physical harm or death occurred to a resident due to the action or inaction of the sponsor.

(7) An adult family home shall have readily available for the public's review:

(a) The adult family home's license to operate; or

(b) Copies of inspection reports the adult family home received from the department for the past three years.

[Statutory Authority: 1989 c 427, 90-03-051 (Order 2934), § 388-76-087, filed 1/16/90, effective 2/16/90.]

WAC 388-76-090 Licensure--Denial, suspension, or revocation. (1) Disqualified applicants. Before granting a license and as a condition for continuance of a license, the department shall consider separately and jointly the ability of each applicant to sponsor an adult family home in accordance with the law and this chapter. If the department disqualifies an applicant in accordance with this chapter, the department shall deny, suspend, revoke, or not renew the license.

(a) The department shall disqualify any applicant who has engaged in the past year or is engaging in illegal use of drugs or excessive use of alcohol.

(b) The department shall disqualify any applicant who within seven years of the date of application for a license was:

(i) Released from prison;

(ii) Convicted of a felony or any crime involving physical harm to another. This shall be an issue if the conviction or identification is reasonably related to the competency of the person to exercise responsibilities for home management, supervision, and full-time family care and the department determines, after investigation, that such person has not been sufficiently rehabilitated subsequent to the conviction or identification to warrant public trust.

(c) The department shall disqualify applicants who, in this state or elsewhere, have for cause been denied a license or had a license suspended or revoked within five

years to operate a hospital, nursing home, boarding home, adult family home, or a facility for the care of:

- (i) Children; or
 - (ii) Developmentally disabled or aged adults.
- (2) The department may deny, suspend, or revoke a license for failure to comply with the provisions of chapter 70.128 RCW and rules contained in this chapter or for any of the following reasons:

(a) Knowingly or with reason to know made a false statement of material fact:

(i) On the license application or any data attached thereto; or

(ii) In any matter under investigation by the department;

(b) Operates an adult family home without a license or under a revoked license;

(c) Willfully prevents or interferes with any inspection or investigation by the department, local fire protection authority, or state fire marshal to inspect the premises;

(d) Commits, permits, aids, or abets the commission of any illegal act on the premises;

(e) Commits, permits, aids, or abets assault, abuse, neglect, exploitation, or cruelty;

(f) Fails to provide adequate resident supervision;

(g) Allows unqualified persons to care for residents;

(h) Displays an inability to care for residents consistent with WAC 388-76-465, Resident rights;

(i) Misappropriates resident property;

(j) Refuses to permit authorized department representatives to:

(i) Have access to the adult family home resident records; or

(ii) Interview residents.

(k) Exceeds the licensed adult family home capacity.

(3) The department has the authority to immediately suspend a license if the department finds conditions at the adult family home constitute an imminent danger to residents. The department shall issue a stop placement order and assist with relocation of residents.

(4) If the department denies, suspends, revokes, or fails to renew a license or issue a stop placement order, the department decision becomes final ten days after the same is served upon the applicant or license unless a hearing is requested in writing. The proceedings shall be governed by the Administrative Procedure Act (chapter 34.05 RCW) and chapter 388-08 WAC.

[Statutory Authority: 1989 c 427. 90-03-051 (Order 2934), § 388-76-090, filed 1/16/90, effective 2/16/90. Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-090, filed 12/18/85.]

WAC 388-76-095 License action notice--Adjudicative proceeding. (1) The department's notice of a denial, suspension, modification, or revocation of a license is governed by RCW 43.20A.205. The applicant's and license holder's right to an adjudicative proceeding is in the same law.

(2) A license applicant or holder contesting a department license decision shall, within ten days of receipt of the decision:

(a) File a written application for an adjudicative proceeding by a method showing proof of receipt with the office of appeals; and

(b) Include in or with the application:

(i) A specific statement of the issues and law involved;

(ii) The grounds for contesting the department decision; and

(iii) A copy of the department decision being contested.

(3) The proceeding shall be governed by the Administrative Procedure Act (chapter 34.05 RCW), RCW 43.20A.205, this chapter, and chapter 388-08 WAC. If any provision in this chapter conflicts with chapter 388-08 WAC, the provision in this chapter governs.

[Statutory Authority: RCW 74.08.044. 90-24-029 (Order 3107), § 388-76-095, filed 11/30/90, effective 1/1/91. Statutory Authority: RCW 34.05.220 (1)(a) and 74.08.044. 90-04-071 (Order 3003), § 388-76-095, filed 2/5/90, effective 3/1/90.]

WAC 388-76-100 License fees. The applicant/sponsor shall submit the license fee with the application. The license fee shall be set at fifty dollars per year for each home. A fifty dollar processing fee shall also be charged each adult family home when the home is initially licensed.

[Statutory Authority: 1989 c 427. 90-03-051 (Order 2934), § 388-76-100, filed 1/16/90, effective 2/16/90. Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-100, filed 12/18/85.]

WAC 388-76-110 Discrimination prohibited. The sponsor shall comply with federal and state statutory and regulatory requirements regarding nondiscrimination.

[Statutory Authority: 1989 c 427. 90-03-051 (Order 2934), § 388-76-110, filed 1/16/90, effective 2/16/90. Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-110, filed 12/18/85.]

WAC 388-76-130 Persons subject to licensing. A person providing full-time care in the person's own home for an unrelated adult in need of room, board, supervision, personal, and/or special care shall be subject to licensing requirements of this chapter when the total resident census includes:

(1) One or more state pay residents; or

(2) Two or more private pay residents.

[Statutory Authority: 1989 c 427. 90-03-051 (Order 2934), § 388-76-130, filed 1/16/90, effective 2/16/90. Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-130, filed 12/18/85.]

WAC 388-76-140 Persons not subject to licensing. The department shall exempt the following person from licensing requirements according to this chapter:

(1) A person caring for an adult in need of personal care in that adult's own home whether related or not; and

(2) A person providing care in the person's own home for one unrelated adult and for whom the department has not authorized care (chapter 74.15 RCW; RCW 18.20.020; RCW 74.08.044).

[Statutory Authority: 1989 c 427. 90-03-051 (Order 2934), § 388-76-140, filed 1/16/90, effective 2/16/90. Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-140, filed 12/18/85.]

WAC 388-76-155 Exceptions. (1) The department may grant an exception from all requirements in chapter 388-76 WAC excluding requirements listed in subsection (2) of this section. The department shall grant an exception only upon justification given to ensure an exception does not jeopardize the resident's health and safety.

(2) The department shall not grant an exception from requirements relating to:

- (a) Inspections;
- (b) Resident rights;
- (c) Access to the adult family home or resident records;
- (d) Resident's file and records;
- (e) License fees;
- (f) RCW 43.43.830 and 43.43.832; or
- (g) Any section required by chapter 70.128 RCW.

(3) The department shall not grant an exception related to fire safety requirements without approval of the appropriate local fire inspector.

(4) The department shall grant or deny exceptions, in writing, and review the exceptions at the time of license renewal, if not earlier.

[Statutory Authority: 1989 c 427. 90-03-051 (Order 2934), § 388-76-155, filed 1/16/90, effective 2/16/90.]

WAC 388-76-160 Capacity. (1) The department shall license an adult family home for no more than four adults. A maximum exception of six adults may be permitted when the department determines the home is of adequate size and the home and provider are capable of meeting standards and qualifications as provided for in law and this chapter. There shall be no more than the home's maximum licensed capacity of adults unrelated to the sponsor requiring full-time care on the premises at one time.

(2) Sponsors approved to care for five or six residents shall assure they have supportive assistance from a co-sponsor, employed staff, or appropriate others. Supportive assistance shall be provided in the following ratios:

(a) When caring for five residents, supportive assistance shall be available at least twenty hours per week during the normal hours residents are awake and present in the home;

(b) When caring for six residents, supportive assistance shall be available to residents forty hours or more per week during the hours the residents are normally awake and present in the home.

(3) Sponsors may provide care for a maximum of two persons suffering mental or physical handicaps of such severity as to require nursing care if the sponsor is qualified by training and/or experience to provide proper care and the person's treatment is under a physician's supervision.

(4) No sponsor shall provide care for more than one nonambulatory resident unless the sponsor has regular full-time assistance.

(5) The total number of persons in the home shall not exceed five for each toilet. A portable toilet or commode may be counted in the number of toilets available.

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(6) When a sponsor provides respite and/or day care, in addition to adult family home care, the total number of persons in care shall not exceed the licensed capacity for that home.

(7) A sponsor shall knowingly accept only residents for whom the sponsor is qualified to meet the resident needs and assure resident safety in the sponsors' care. No sponsor shall knowingly admit for care a person who is a danger to themselves or to others.

[Statutory Authority: 1989 c 427. 90-03-051 (Order 2934), § 388-76-160, filed 1/16/90, effective 2/16/90. Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-160, filed 12/18/85.]

WAC 388-76-170 Sponsors' outside employment. When both sponsors in a two-sponsor home or the single sponsor in a one-sponsor home are employed outside the home, the department may give written approval for placement in that adult family home. Approval shall be based on justification that the sponsor is able to provide adequate full-time care to the residents.

[Statutory Authority: 1989 c 427. 90-03-051 (Order 2934), § 388-76-170, filed 1/16/90, effective 2/16/90. Statutory Authority: RCW 74.08.044. 89-05-033 (Order 2761), § 388-76-170, filed 2/13/89; 86-01-079 (Order 2319), § 388-76-170, filed 12/18/85.]

WAC 388-76-180 Sponsor absence from home. The sponsor shall have a written plan, approved by the department for providing resident care during any absence of the sponsor from the home. This rule does not apply to the sponsor's short absences for shopping, errands, or other appointments unless the resident's condition requires full-time supervision.

[Statutory Authority: 1989 c 427. 90-03-051 (Order 2934), § 388-76-180, filed 1/16/90, effective 2/16/90. Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-180, filed 12/18/85.]

WAC 388-76-185 Placement of residents outside home. (1) The sponsor shall not temporarily place state pay residents in another home without the approval of the:

- (a) Department and resident; or
- (b) The department and resident's guardian or responsible relative.

(2) When an emergency such as fire or flood necessitates a temporary move, the sponsor shall notify the department no later than the first working day following the move.

[Statutory Authority: 1989 c 427. 90-03-051 (Order 2934), § 388-76-185, filed 1/16/90, effective 2/16/90.]

WAC 388-76-190 Effect of local ordinances. (1) Each adult family home shall meet applicable local licensing, building, and housing codes and state and local fire safety regulations. The applicant shall be responsible for checking with local authorities to ensure all local codes are met.

(2) An adult family home shall be considered a residential use of property for zoning purposes. Adult family homes shall be a permitted use in all areas zoned for residential or commercial purposes, including areas zoned for single family dwellings (RCW 70.128.175).

[Statutory Authority: 1989 c 427. 90-03-051 (Order 2934), § 388-76-190, filed 1/16/90, effective 2/16/90. Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-190, filed 12/18/85.]

WAC 388-76-200 Fire safety. (1) Every room used by persons under care shall have a fully-opening window of sufficient size and free of obstructions for emergency escape or rescue unless the room has:

- (a) Two separate doors; or
- (b) One door leading directly to the outside.

(2) Every occupied area shall have access to one exit or more not passing through rooms or spaces subject to being locked or blocked from the opposite side.

(3) No space shall be accessible only by ladder, folding stairs, or a trap door.

(4) Every bathroom door lock shall open from the outside in an emergency.

(5) Every closet door shall open from the inside.

(6) No stove or heater shall be located where the stove or heater blocks escape.

(7) Flammable or combustible material shall be stored away from exits and in areas not accessible to persons under care.

(8) Open flame devices, cooking appliances, and other similar products shall be used in a safe manner.

(9) Portable oil, gas, kerosene, and electric space heaters shall be prohibited, except in case of a power outage when the portable space heater is the only heat available.

(10) An adult family home shall have a posted, written plan for evacuation to safe areas in the event of fire. All residents and relief caregivers shall be instructed in emergency evacuation procedures. Fire drills shall be conducted at least every two months. The sponsor shall maintain a log of dates and times of fire drills. At the time of fire evacuation drills, the sponsor shall verify:

- (a) Fire extinguishers are fully charged; and
- (b) Smoke detectors are in proper working order.

(11) There shall be readily available an approved, 2A-rated or larger fire extinguisher in proper operating condition on each floor of the adult family home. Where local fire authorities require installation of a different type or size of fire extinguisher, the requirement of the local authority shall prevail.

(12) An approved automatic smoke detector, in working order, shall be located in proximity to the area where residents sleep. In addition, a smoke detector shall be located in each resident's bedroom and there shall be one smoke detector in working order on each floor of a multilevel home. For violations in maintaining battery-operated smoke detectors, the department may require hard wiring of the smoke detector into the home electrical system.

(13) If the sponsor's bedroom is not within hearing distance of resident bedrooms, the department may require a call bell or intercom system.

(14) An adult family home located in a rural area where there is no public fire district shall ensure fire protection is available to the adult family home.

(15) Beginning July 1, 1990, adult family homes with dead bolt locks on exterior doors shall have single motion door locks. Sliding doors are not considered exterior doors for purposes of this section.

(16) Sponsors shall not house nonambulatory residents above or below the ground level of the home.

(17) The sponsor shall notify the department of any fire on the premises by the first working day following the fire.

[Statutory Authority: 1989 c 427. 90-03-051 (Order 2934), § 388-76-200, filed 1/16/90, effective 2/16/90. Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-200, filed 12/18/85.]

WAC 388-76-220 Corporal punishment and physical restraints. Corporal punishment and physical restraints are prohibited.

(1) Physical contact in order to punish or discipline a resident is prohibited. Prohibited conduct includes, but is not limited to:

- (a) Striking with the hand;
- (b) Striking with an object;
- (c) Biting;
- (d) Kicking;
- (e) Shoving;
- (f) Choking;
- (g) Pulling of hair, and
- (h) Tripping.

(2) Physical restraint of a resident is prohibited.

(a) Prohibited physical restraints shall include, but are not limited to:

- (i) Sleeper holds;
- (ii) Arm twisting;
- (iii) Hair holds;
- (iv) Using chemicals not included in the plan of care.

(b) Prohibited mechanical restraints shall include, but are not limited to:

- (i) Hand coverings used to restrict motion;
- (ii) Belt restraints;
- (iii) Chest restraints;
- (iv) Gerichair.

[Statutory Authority: 1989 c 427. 90-03-051 (Order 2934), § 388-76-220, filed 1/16/90, effective 2/16/90. Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-220, filed 12/18/85.]

WAC 388-76-240 Resident's records and information. (1) The sponsor shall maintain records and information concerning each resident in a manner preserving the resident's confidentiality. Resident records shall be accessible to the department and other authorized persons. If resident records are computerized, there shall be complete directions for access and use available to relief caregivers. Sponsors shall retain a resident's record for three years following the resident's discharge or death. Sponsors shall maintain records documenting the following information for residents:

(a) Upon admission, a current written medical history;

(b) Upon admission, an inventory of personal belongings recorded, dated, and signed by the resident or the resident's guardian and the sponsor;

(c) Identifying information for:

(i) Private-pay residents including name, birthdate, dates of admission, and discharge;

(ii) State-pay residents including name, birthdate, Social Security Number, dates of admission, absences, and discharge.

(d) Names, addresses, and telephone numbers of next-of-kin or other persons to be contacted in case of emergency.

(2) The sponsor shall provide a space accessible to all residents and visitors for posting the following telephone numbers:

- (a) Long-term care ombudsman;
- (b) Local adult protective services office;
- (c) Adult family home licenser; and
- (d) Placement worker.

(3) The service plan describing care and services shall be provided for the resident based on resident needs assessment.

(4) In the event of the resident's death, while in the care of the adult family home, the sponsor shall record appropriate information including:

- (a) Time and date of death;
- (b) Circumstances of death;
- (c) Time of appropriate notification of the physician and relevant others, including the coroner, as required by law; and
- (d) Disposition of the body and personal effects.

[Statutory Authority: 1989 c 427. 90-03-051 (Order 2934), § 388-76-240, filed 1/16/90, effective 2/16/90. Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-240, filed 12/18/85.]

WAC 388-76-250 Reporting of illness, death, injury, epidemic, or adult abuse. (1) The sponsor shall report to the indicated person the following events:

(a) For private-pay residents, notify next-of-kin, interested friend, or relative identified in the care plan of any serious injury, trauma, or death of a person under care by the next working day, if not earlier;

(b) For state-pay residents, notify the department, next-of-kin, interested friend, or relative identified in the service plan of any serious injury, trauma, or death of a person under care by the next working day, if not earlier;

(c) Notify the local public health officer of any occurrence of food poisoning or communicable disease as required by the state board of health; and

(d) Notify the department of any evidence of abuse or neglect immediately by phone or in person, with a written follow-up report within five days.

(2) The sponsor shall maintain a log of injuries and accidents involving residents.

[Statutory Authority: 1989 c 427. 90-03-051 (Order 2934), § 388-76-250, filed 1/16/90, effective 2/16/90. Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-250, filed 12/18/85.]

WAC 388-76-260 Reporting change in circumstances. Adult family home sponsors shall report to the department changes in circumstances including, but not limited to, the following:

(1) Changes in sponsor's address, location, or telephone number;

(2) Changes in the maximum number or level of care of persons the sponsor wishes to serve;

(3) The illness or incapacity of the sponsor which interferes with the sponsor's ability to provide care;

(4) The marriage or divorce of a sponsor or other change in household composition;

(5) Employment of new relief caregiver or supportive assistance staff person; and

(6) Structural changes or significant damage to premises from any causes.

[Statutory Authority: 1989 c 427. 90-03-051 (Order 2934), § 388-76-260, filed 1/16/90, effective 2/16/90. Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-260, filed 12/18/85.]

WAC 388-76-280 Sponsor-provided transportation for residents. (1) The sponsor shall assure the vehicle is in a safe operating condition. The driver shall have a current driver's license.

(2) The sponsor or other driver shall carry auto insurance including adequate liability and medical coverage.

(3) Seat belts or other appropriate safety devices shall be provided for and used by all passengers. The number of passengers shall not exceed the vehicle's seating capacity. Buses approved by the state patrol shall not require seat belt equipment.

[Statutory Authority: 1989 c 427. 90-03-051 (Order 2934), § 388-76-280, filed 1/16/90, effective 2/16/90. Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-280, filed 12/18/85.]

WAC 388-76-290 Clothing. Sponsors shall provide or arrange for the care, washing, and repair of resident's clothing. Sponsors may assist residents in purchasing clothing. The resident or the resident's designated agent shall be responsible for the cost of clothing purchased. Clothing shall be clean, neat, seasonable, and of a quality and design fostering self-respect.

[Statutory Authority: RCW 74.08.044. 90-24-028 (Order 3106), § 388-76-290, filed 11/30/90, effective 1/1/91. Statutory Authority: 1989 c 427. 90-03-051 (Order 2934), § 388-76-290, filed 1/16/90, effective 2/16/90. Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-290, filed 12/18/85.]

WAC 388-76-300 Personal hygiene. Sponsors shall provide or assure each resident has individual items needed for good grooming and personal hygiene.

[Statutory Authority: 1989 c 427. 90-03-051 (Order 2934), § 388-76-300, filed 1/16/90, effective 2/16/90. Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-300, filed 12/18/85.]

WAC 388-76-310 Training. (1) Sponsors shall keep informed of policies and rules contained in chapter 70.128 RCW and this chapter. Before licensure, the department shall coordinate the completion of the required sponsor training.

(2) In addition, sponsors shall:

(a) Verify or arrange for appropriate education and training for themselves, relief caregivers, persons in the household, and employees on the prevention, transmission, and treatment of human immunodeficiency virus (HIV) and acquired immunodeficiency syndrome (AIDS) consistent with RCW 70.24.310; and

(b) Use infection control standards and educational material consistent with the approved curriculum manual *Know - HIV/AIDS Prevention Education for Health Care Facility Employees*, May 31, 1989, published by the office on HIV/AIDS.

[Statutory Authority: 1989 c 427, 90-03-051 (Order 2934), § 388-76-310, filed 1/16/90, effective 2/16/90. Statutory Authority: RCW 74.08.044, 86-01-079 (Order 2319), § 388-76-310, filed 12/18/85.]

WAC 388-76-320 Site. An adult family home shall be located on a well-drained site free from hazardous conditions, excessive noise, dust, smoke or odors, and be accessible to other facilities necessary to carry out the program.

[Statutory Authority: RCW 74.08.044, 86-01-079 (Order 2319), § 388-76-320, filed 12/18/85.]

WAC 388-76-325 Telephone. There shall be at least one operating nonpay telephone on the premises accessible to residents for emergency incoming or outgoing use at all times.

[Statutory Authority: RCW 74.08.044, 86-01-079 (Order 2319), § 388-76-325, filed 12/18/85.]

WAC 388-76-330 Safety and maintenance. (1) The premises and equipment shall be maintained in a clean and sanitary condition, free of hazards, and in good repair. Steps shall be provided with handrails as determined necessary by the department. Emergency lighting devices, such as flashlights, in working order shall be available and easily accessible to caretakers and residents.

(2) Sponsors shall be able to gain rapid access to any bedroom, toilet room, shower room, bathroom, or other room occupied by residents should emergency need arise.

[Statutory Authority: RCW 74.08.044, 86-01-079 (Order 2319), § 388-76-330, filed 12/18/85.]

WAC 388-76-340 Water safety. (1) Sponsors shall not permit residents to use swimming or other pools, hot tubs, saunas, or spas on the premises without supervision.

(2) Swimming pools, hot tubs, spas, or saunas shall not be accessible to residents in care without supervision.

[Statutory Authority: 1989 c 427, 90-03-051 (Order 2934), § 388-76-340, filed 1/16/90, effective 2/16/90. Statutory Authority: RCW 74.08.044, 86-01-079 (Order 2319), § 388-76-340, filed 12/18/85.]

WAC 388-76-350 Firearms. Sponsors shall keep any firearms in locked storage accessible only to authorized persons.

[Statutory Authority: 1989 c 427, 90-03-051 (Order 2934), § 388-76-350, filed 1/16/90, effective 2/16/90. Statutory Authority: RCW 74.08.044, 86-01-079 (Order 2319), § 388-76-350, filed 12/18/85.]

WAC 388-76-360 Storage. (1) Sponsors shall provide adequate space for residents' storage of clothing and a reasonable amount of personal possessions.

(2) Sponsors shall store cleaning supplies, toxic substances, poisons, aerosols, and items bearing warning labels in a place not accessible to residents except under supervision.

(1990 Ed.)

[Statutory Authority: 1989 c 427, 90-03-051 (Order 2934), § 388-76-360, filed 1/16/90, effective 2/16/90. Statutory Authority: RCW 74.08.044, 86-01-079 (Order 2319), § 388-76-360, filed 12/18/85.]

WAC 388-76-370 Bedrooms. (1) Sponsors shall not use hallways, kitchens, living rooms, dining rooms, and unfinished basements as resident bedrooms. Every resident bedroom shall be an outside room permitting entrance of natural light.

(2) Window screens shall be:

(a) Of such design that escape is not hindered; and

(b) Adequate to prevent entrance of flies and other insects.

(3) Separate sleeping quarters shall be available for each sex.

(4) Single occupancy bedrooms shall provide eighty square feet or more of floor space.

(5) Multiple occupancy bedrooms shall provide sixty square feet or more of floor space per occupant exclusive of closets. There shall be thirty-six inches or more laterally between beds. There shall be no more than two residents to a bedroom.

(6) Sponsors shall provide each resident a bed thirty-six inches or more wide with:

(a) A clean, firm mattress with waterproof cover for use when needed or requested by the resident;

(b) Clean sheets;

(c) Adequate blankets;

(d) Clean pillow cases; and

(e) Clean pillows:

(i) Covered with waterproof material; or

(ii) Of a washable type.

(7) The upper bunk of doubledeck beds shall be prohibited for resident use.

(8) Sheets and pillowcases shall be laundered weekly.

(9) Residents may not share a bedroom with persons under eighteen years of age unless approved by the department.

(10) Residents shall not share a bedroom with the sponsor or any member of the sponsor's family.

(11) Only rooms having unrestricted, direct access to hallways, corridors, living rooms, day rooms, or common use areas shall be used as bedrooms.

[Statutory Authority: 1989 c 427, 90-03-051 (Order 2934), § 388-76-370, filed 1/16/90, effective 2/16/90. Statutory Authority: RCW 74.08.044, 86-01-079 (Order 2319), § 388-76-370, filed 12/18/85.]

WAC 388-76-380 Kitchen facilities. Adult family homes shall have kitchen facilities providing proper storage, preparation, and food service.

[Statutory Authority: 1989 c 427, 90-03-051 (Order 2934), § 388-76-380, filed 1/16/90, effective 2/16/90. Statutory Authority: RCW 74.08.044, 86-01-079 (Order 2319), § 388-76-380, filed 12/18/85.]

WAC 388-76-390 Laundry. The adult family home sponsor shall have operational laundry and drying equipment unless other suitable arrangements are made.

[Statutory Authority: 1989 c 427, 90-03-051 (Order 2934), § 388-76-390, filed 1/16/90, effective 2/16/90. Statutory Authority: RCW 74.08.044, 86-01-079 (Order 2319), § 388-76-390, filed 12/18/85.]

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WAC 388-76-400 Toilets, lavatories, and bathing facilities. (1) An adult family home shall provide each toilet and bathing facility with one or more:

- (a) Indoor flush toilet;
- (b) Bathing facility; and
- (c) Lavatory with hot and cold running water.

(2) An adult family home shall provide a hot water temperature not to exceed one hundred twenty degrees Fahrenheit for all residents under care utilizing hot water at tub, shower, and lavatory facilities.

(3) An adult family home shall provide toilet and bathing facilities with privacy.

(4) An adult family home bathroom shall contain a lavatory in:

- (a) The same room; or
- (b) An adjacent common-use area.

(5) A department-approved resident bathing facility shall have securely fastened, conveniently located grab bars or other safety measures.

[Statutory Authority: 1989 c 427. 90-03-051 (Order 2934), § 388-76-400, filed 1/16/90, effective 2/16/90. Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-400, filed 12/18/85.]

WAC 388-76-410 Lighting. Sponsors shall assure all areas in use are appropriately lighted by natural or artificial means. Light fixtures shall be located to provide for the comfort and safety of the persons under care.

[Statutory Authority: 1989 c 427. 90-03-051 (Order 2934), § 388-76-410, filed 1/16/90, effective 2/16/90. Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-410, filed 12/18/85.]

WAC 388-76-420 Pest control. The sponsor shall assure the premises are kept free from rodents, flies, cockroaches, and other insects.

[Statutory Authority: 1989 c 427. 90-03-051 (Order 2934), § 388-76-420, filed 1/16/90, effective 2/16/90. Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-420, filed 12/18/85.]

WAC 388-76-430 Sewage and liquid wastes. The sponsor shall assure sewage and liquid wastes are discharged into a public sewer system or into an independent sewage system approved by the local health authority or department. Discharge of sewage or liquid wastes directly on the ground, into bodies of water, or directly into ground water shall be prohibited.

[Statutory Authority: 1989 c 427. 90-03-051 (Order 2934), § 388-76-430, filed 1/16/90, effective 2/16/90. Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-430, filed 12/18/85.]

WAC 388-76-435 Pets. (1) The sponsor shall assure that sanitation for household pets and other domestic animals is adequate to prevent health hazards.

(2) The sponsor shall assure pets residing on the premises have up-to-date rabies vaccinations.

(3) The sponsor shall assure pets not confined in enclosures are under control and shall not present a danger to residents or guests.

[Statutory Authority: 1989 c 427. 90-03-051 (Order 2934), § 388-76-435, filed 1/16/90, effective 2/16/90.]

[Title 388 WAC—p 330]

WAC 388-76-440 Water supply. The applicant/sponsor shall have a private water supply approved by the local health authority. Nonpotable water on the premises shall be labeled to avoid use.

[Statutory Authority: 1989 c 427. 90-03-051 (Order 2934), § 388-76-440, filed 1/16/90, effective 2/16/90. Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-440, filed 12/18/85.]

WAC 388-76-450 Temperature. Temperature within the adult family home shall be maintained at:

(1) Sixty-eight degrees Fahrenheit or more during waking hours; and

(2) Sixty degrees Fahrenheit or more during sleeping hours.

[Statutory Authority: 1989 c 427. 90-03-051 (Order 2934), § 388-76-450, filed 1/16/90, effective 2/16/90. Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-450, filed 12/18/85.]

WAC 388-76-460 Ventilation. The adult family home shall be ventilated to adequately assure health and comfort of the residents.

[Statutory Authority: 1989 c 427. 90-03-051 (Order 2934), § 388-76-460, filed 1/16/90, effective 2/16/90. Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-460, filed 12/18/85.]

WAC 388-76-465 Resident rights. All resident rights, house policies, and admission agreements are subject to department review and approval. Each resident shall have the following rights:

(1) The sponsor shall make a written list of resident rights;

(2) To receive a written copy of resident's rights or to have a copy of such rights provided to the guardian or agent designated by the resident; sponsors shall retain a signed copy for each resident.

(3) To be treated in a manner respecting the resident's individual identity, dignity, and self-esteem;

(4) To be notified thirty days in advance if the resident requires transfer for the resident's welfare or the welfare of other residents, unless an emergency condition requires immediate transfer;

(5) To open communications including the right to:

(a) Associate and communicate privately with persons of the resident's choice;

(b) Send and receive uncensored correspondence;

(c) Have reasonable access to a telephone both to make and to receive personal calls; and

(d) Receive visitors in the adult family home and to be assured privacy for visits with relatives and guests, provided the visits do not infringe upon other resident or sponsor rights.

(6) To manage personal financial affairs unless the resident is declared incompetent in a court proceeding. If the sponsor maintains resident funds, the sponsor shall provide the resident or designated agent with a complete accounting of funds. Sponsors shall not commingle resident funds with sponsor funds;

(7) To retain and use personal possessions unless doing so infringes upon the rights of other residents;

(8) To refuse to perform services for the sponsor;

(9) To complain about or recommend changes in policies and services of the home to the sponsor and/or to outside representatives free from reprisal;

(10) To participate in social, religious, and community activities of the resident's choice;

(11) To have information contained in resident health records kept confidential;

(12) To be given timely notice of changes in policies and procedures; and

(13) To receive the services outlined in the service plan.

[Statutory Authority: 1989 c 427. 90-03-051 (Order 2934), § 388-76-465, filed 1/16/90, effective 2/16/90. Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-465, filed 12/18/85.]

WAC 388-76-470 Health care plan. All adult family homes providing direct care shall maintain current written medical policies and procedures including first aid, care of minor illnesses, action to be taken in event of medical emergencies, and general health practices.

[Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-470, filed 12/18/85.]

WAC 388-76-475 Service plan. (1) The department shall develop the service plan for state-pay residents. The sponsor shall follow the service plan in providing services to the state-pay resident.

(2) The sponsor shall develop the service plan in consultation with the resident and resident's family, if appropriate, for private pay residents. The service plan includes, but is not limited to:

(a) Identification of resident's needs related to personal and special care and supervision;

(b) Description of how the service plan needs shall be met;

(c) Identification of the person providing the services and when the services are provided;

(d) Expected outcome description; and

(e) Updates entered when the client's condition changes.

[Statutory Authority: 1989 c 427. 90-03-051 (Order 2934), § 388-76-475, filed 1/16/90, effective 2/16/90.]

WAC 388-76-480 First aid. An adult family home sponsor shall provide current, readily available first-aid supplies and a first-aid manual.

[Statutory Authority: 1989 c 427. 90-03-051 (Order 2934), § 388-76-480, filed 1/16/90, effective 2/16/90. Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-480, filed 12/18/85.]

WAC 388-76-490 Medication services. (1) All medications shall be kept in locked storage or otherwise made inaccessible to other residents and unauthorized persons.

(2) All medication shall be stored in the medication's original containers with the legible, original label. Medication organizers may be used when they are filled by the resident, pharmacist, nurse, a resident's family member, or legal guardian.

(3) Sponsors shall assist the resident to self medicate only on the written consent of the resident or other person having authority to approve medical care.

(4) Unless a licensed health professional, the sponsor shall only assist the resident to self medicate by:

(a) Reminding the resident when it is time to take a medication;

(b) Handing the resident the medication container; and

(c) Opening the resident's medication container.

(5) A record shall be kept of all physician-prescribed medications the resident takes.

(6) Unused or expired medications shall be disposed of properly.

(7) A resident may self-administer medications, including injections. Medications, including injections, shall also be allowed to be given by:

(a) The resident's relative;

(b) A licensed practical nurse (LPN) or registered nurse (RN); or

(c) A physician.

[Statutory Authority: 1989 c 427. 90-03-051 (Order 2934), § 388-76-490, filed 1/16/90, effective 2/16/90. Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-490, filed 12/18/85.]

WAC 388-76-500 Self-administration of medications. Self-administration of medications by a resident shall be in accordance with the following:

(1) The resident shall be at least capable of administering his or her own medications properly with minimal guidance and assistance. If a resident requires minimal guidance or assistance, it shall be appropriately provided.

(2) A resident's medications shall be kept so the medications are not available to other residents.

(3) There shall be written policies and procedures for sponsors providing minimal guidance and assistance to residents with medications, when a resident requires such guidance and assistance.

[Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-500, filed 12/18/85.]

WAC 388-76-520 Infection control, communicable disease. (1) Persons with a communicable disease in an infectious stage shall not provide care or supervision in an adult family home.

(2) Appropriate infection control measures shall be instituted when the resident or any household member has, or is suspected of having, a communicable disease.

(3) Each sponsor, relief caregiver, and other adult person residing in the adult family home having regular contact with residents shall have a tuberculin skin test.

(a) Persons whose TB skin test is positive (ten millimeters or more induration) shall have a chest x-ray within ninety days following the skin test. Proof of follow-up treatment shall be required when there is a positive chest x-ray.

(b) Routine periodic retesting or x-ray after the entry testing is not required.

(c) An entry test shall not be required of persons whose TB skin test has been documented as negative (less than ten millimeters) nor shall routine periodic retesting or x-ray be required.

(4) A record of skin test, x-ray results, or exemptions to such shall be kept in the adult family home.

[Statutory Authority: 1989 c 427. 90-03-051 (Order 2934), § 388-76-520, filed 1/16/90, effective 2/16/90. Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-520, filed 12/18/85.]

WAC 388-76-530 Food services. (1) Sponsors shall serve food meeting the needs of residents, taking into consideration the resident's:

- (a) Age;
- (b) Developmental and physical capabilities;
- (c) Caloric need;
- (d) Cultural background; and
- (e) Any physical condition making food intake difficult.

To promote a social environment, residents and sponsors shall be encouraged to sit together at meal times. The same foods shall be available to the resident and the sponsor unless a special diet is prescribed.

- (2) The use of raw milk is prohibited.
- (3) Sponsors shall serve nutrient concentrates, supplements, and modified diets only on the written approval of the the resident's physician.
- (4) Sponsors shall provide a minimum of three meals in each twenty-four-hour period. The time interval between the evening meal and breakfast shall be fourteen hours or less. Sponsors shall make snacks reasonably available between residents' meals.

[Statutory Authority: 1989 c 427. 90-03-051 (Order 2934), § 388-76-530, filed 1/16/90, effective 2/16/90. Statutory Authority: RCW 74.08.044. 86-01-079 (Order 2319), § 388-76-530, filed 12/18/85.]

Chapter 388-77 WAC

FAMILY INDEPENDENCE PROGRAM

WAC

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[Title 388 WAC—p 332]

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 388-77-230 Family independence program—Incapacity criteria. [Statutory Authority: RCW 74.50.010. 89-12-036 (Order 2805), § 388-77-230, filed 6/1/89. Statutory Authority: Chapter 74.21 RCW. 88-12-093 (Order 2630), § 388-77-230, filed 6/1/88.] Repealed by 91-01-062, 91-04-041, 91-05-010 and 91-05-058 (Orders 3113, 3113A, 3113AA and 3113AAA), filed 12/14/90, 1/31/91, 2/7/91 and 2/15/91, effective 2/1/91, 2/7/91, 2/15/91 and 4/1/91. Statutory Authority: RCW 74.21.070.
- 388-77-530 Income—Nonrecurring lump sum payments. [Statutory Authority: Chapter 74.21 RCW. 88-18-024 (Order 2683), § 388-77-530, filed 8/30/88.] Repealed by 91-01-062, 91-04-041, 91-05-010 and 91-05-058 (Orders 3113, 3113A, 3113AA and 3113AAA), filed 12/14/90, 1/31/91, 2/7/91 and 2/15/91, effective 2/1/91, 2/7/91, 2/15/91 and 4/1/91. Statutory Authority: RCW 74.21.070.

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, at the annual grant face-to-face eligibility review, and at such other times as designated by the department, except:

(a) An applicant who received AFDC within thirty days before application shall not be converted to FIP. If eligible, the household shall be authorized AFDC;

(b) AFDC recipients who lose their exemption from participation in the Washington employment opportunities program (OPPORTUNITIES) may convert to FIP as an alternative to being referred to OPPORTUNITIES;

(c) 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, or who transferred, from a FIP to a non-FIP geographic area shall have the option to retain their FIP status when the following conditions exist:

- (a) There is a FIP community services office (CSO) in the county to which they transfer; and

(b) The enrollee moved to a non-FIP geographic area before May 1, 1990, and the enrollee is participating in approved training or is employed; or

(c) The enrollee moves to a non-FIP geographic area after May 1, 1990, and the move is to maintain employment or to accept offered employment and the enrollee is participating in such employment; and

(d) Such enrollees remaining in FIP shall report to, have their eligibility maintained by, and services provided by the FIP CSO in the county to which they transfer.

(7) Before transferring existing cases from FIP for failing to meet the conditions of subsection (6) of this section, the department shall provide ten days advance notice of the transfer.

(8) Before denial or termination of FIP benefits, the department shall determine eligibility for other financial assistance, medical assistance, and food stamps.

[Statutory Authority: 1990 1st ex.s. c 6. 90-12-059 (Order 3017), § 388-77-005, filed 5/31/90, effective 7/1/90. Statutory Authority: Chapter 74.21 RCW. 89-03-053 (Order 2757), § 388-77-005, filed 1/13/89; 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 388-77-006 Freezing enrollments. (1) Notwithstanding WAC 388-77-005(5), effective May 1, 1990, the department shall temporarily stop FIP enrollments in all FIP community services offices (CSO) except the treatment sites for:

(a) Applications filed on or after the date enrollments stop. For the purposes of this subsection, a re-application for assistance made following a break in assistance of one calendar month or more shall be considered an application;

(b) Conversions, if the review month for the annual grant face-to-face review is during or after the month in which enrollments stop;

(c) Conversions for households that lose exemption from participation in OPPORTUNITIES and the exemption is lost during or after the month in which enrollments stop;

(d) Voluntary conversions, if the request was filed on or after the date enrollments stop; or

(e) Transfers, where the household made the transfer request on or after the date enrollments stop. FIP enrollees transferring to FIP nontreatment sites shall not be subject to the enrollment freeze.

(2) The department shall treat FIP applications, made in a nontreatment site after enrollments stop, as a request for AFDC.

(3) The department shall exempt the treatment sites from the enrollment freeze. For the purposes of this section, treatment site shall mean those sites chosen in accordance with federal standards for data collection by the independent evaluator contracted for under RCW 74.21.140(3). The treatment sites include the following CSOs:

- (a) Moses Lake; Othello; Ephrata;
- (b) Spokane North;
- (c) Everett; Skykomish Valley;
- (d) Burien; West Seattle;

(e) White Salmon; Stevenson; and Goldendale.

(4) The department shall stop enrollments in the non-treatment sites including the following CSOs:

- (a) Spokane East;
- (b) Spokane Southwest;
- (c) Sunnyside;
- (d) Toppenish;
- (e) Smokey Point;
- (f) Capitol Hill;
- (g) King Eastside;
- (h) Pierce North;
- (i) Puyallup; and
- (j) Port Angeles.

[Statutory Authority: 1990 1st ex.s. c 6. 90-12-059 (Order 3017), § 388-77-006, filed 5/31/90, effective 7/1/90.]

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) "Good cause for late reporting" means any circumstance beyond the control of the enrollee. Good cause shall be determined by the department.

(12) "Half-time employment" means working seventy-five or more hours, but less than one hundred fifty hours, per month.

(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: RCW 74.21.070, 91-01-062, 91-04-041, 91-05-010 and 91-05-058 (Orders 3113, 3113A, 3113AA and 3113AAA), § 388-77-010, filed 12/14/90, 1/31/91, 2/7/91 and 2/15/91, effective 2/1/91, 2/7/91, 2/15/91 and 4/1/91. 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 seventeen years of age or younger;
 - (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 the home and placed in foster care, and who meets the conditions specified under WAC 388-24-207;

(4) Who, if living with a nonparent caretaker relative, the nonparent caretaker relative is included in the Title IV-A benefit unit with the child. Households where the nonparent caretaker relative is not included in the Title IV-A benefit unit shall be ineligible for FIP except when the caretaker relative is excluded from the Title IV-A benefits unit because of sanction for noncooperation with program requirements. Before terminating

benefits for existing FIP households failing to meet the conditions of this subsection, the department shall provide ten days advance notice.

(5) Who, if living with both parents when neither is incapacitated, meets the conditions in WAC 388-77-240;

(6) Who is a citizen or an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States;

(7) Whose parent or stepparent has not transferred property contrary to law or WAC 388-24-457 through 388-24-465;

(8) Who is in financial need according to WAC 388-77-500;

(9) Who is a child eighteen years of age and under nineteen years of age who is a full-time student reasonably expected to complete a program of secondary school, or the equivalent level of vocational or technical training, before the end of the month 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.

(10) For persons to be included in the FIP assistance unit, see WAC 388-77-210.

[Statutory Authority: 1990 1st ex.s. c 6, 90-12-059 (Order 3017), § 388-77-200, filed 5/31/90, effective 7/1/90. 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 388-77-240 FIP--Eligibility for qualifying a parent. (1) A child residing with two parents, when neither is incapacitated, shall be categorically 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 as defined by subsection (1)(a) of this section for thirty days or more prior to the date FIP is authorized; and

(c) Meets the work quarter or unemployment compensation requirement in subsection (3) of this section. The work quarter and unemployment requirements shall apply to:

(i) Initial applications filed on or after July 1, 1989; or

(ii) Reapplications following a one-month break or more in assistance, filed on or after July 1, 1989; and

(d) Has not refused a bona fide offer of employment or employment training; or

(e) Has not voluntarily left a job without good cause during the thirty days prior to the date FIP is authorized; or

(f) 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 qualifying parent shall meet the work quarter or unemployment compensation requirement if:

(a) Within one year prior to application, the qualifying parent:

(i) Received, or was eligible to receive, unemployment compensation had the parent applied; or

(ii) For noncovered employment, had a work history such that had the employment been covered the parent would have been eligible for unemployment compensation; or

(b) The qualifying parent had six or more quarters of work within any thirteen calendar quarter period ending within one year prior to the request for benefits:

(i) A quarter of work means a calendar quarter in which the qualifying parent earned income of not less than fifty dollars, or participated in the work incentive (WIN) program or community work experience program (CWEP); and

(ii) A calendar quarter means a period of three consecutive calendar months ending March 31st, June 30th, September 30th, or December 31st.

(4) 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;

(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.

(5) 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.

(6) 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: RCW 74.50.010, 89-12-036 (Order 2805), § 388-77-240, filed 6/1/89. 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. (1) Unless a FIP enrollee is exempted in subsection (2) of this section, the department shall:

(a) Require the qualifying parent in a two-parent household, where neither is incapacitated, to participate in the employment and training portion of the FIP assessment. The department shall not consider failure of a nonexempt qualifying parent to participate in the assessment as a basis for reduction, denial, or termination of benefits; and

(b) Ask all other FIP enrollees to voluntarily participate in the assessment.

(2) The department shall exempt from the assessment an enrollee who is:

(a) On assistance for the first time and until the enrollee is on assistance for six months;

(b) Fifteen years of age or under or sixty-five years of age or older;

(c) Sixteen years of age or older and attending high school;

(d) Incapacitated, temporarily ill, or needed at home to care for an impaired person; or

(e) In the third trimester of pregnancy.

[Statutory Authority: Chapter 74.21 RCW. 89-23-084 (Order 2902), § 388-77-255, filed 11/17/89, effective 12/18/89; 88-12-093 (Order 2630), § 388-77-255, filed 6/1/88.]

WAC 388-77-256 Employability reassessment. (1) The department and the employment security department (ESD) shall conduct an employability reassessment for an enrollee employed full time to determine if the employment will lead to self-sufficiency within one year:

(a) The reassessment shall apply only for a household with earnings less than one hundred thirty-five percent of the benchmark plus applicable incentives;

(b) The department shall identify such household at the annual grant face-to-face review;

(c) For the purposes of this subsection, full-time employment shall mean the household received a full-time incentive in each of the four months immediately preceding the month in which the annual grant face-to-face review is due.

(2) Based on the employability reassessment, the department shall suspend employability plan approval if the enrollee is unlikely to become self-sufficient within one year as a result of the employment;

(a) The enrollee shall be offered the opportunity and be encouraged to participate in the employability reassessment;

(b) The department and ESD shall jointly determine if the employment will likely lead to self-sufficiency within one year;

(c) The department and the ESD shall consider the following in determining the likelihood of the enrollee becoming self-sufficient as a result of the employment:

(i) The enrollee's previous achievements, education, training, and employment;

(ii) The advancement opportunities and the income potential of the current position/occupation;

(iii) Current labor market conditions;

(iv) The availability of other employment in the enrollee's labor market with income high enough to lead to self-sufficiency.

(d) The department and ESD shall document all decisions where it is determined the employment is not likely to lead to self-sufficiency.

(3) An enrollee continuing employment for more than eighteen months under a suspended plan shall be ineligible for FIP incentives, supportive services, and child care. The department shall so notify the enrollee:

(a) At the time the employability plan is suspended; and

(b) Six months before FIP incentives and child care are suspended.

(4) The department shall lift the sanction of incentives, supportive services, and child care benefits for working under a suspended plan when the:

(a) Employability plan is approved; or

(b) Household is no longer employed.

(5) The department and ESD shall periodically offer services to an enrollee with suspended employability plans to assist the enrollee in attaining self-sufficiency.

[Statutory Authority: 1990 1st ex.s. c 6. 90-12-059 (Order 3017), § 388-77-256, filed 5/31/90, effective 7/1/90.]

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 nonexempt real property as long as the enrollee is making a good faith effort to sell the property.

[Statutory Authority: RCW 74.21.070. 91-01-062, 91-04-041, 91-05-010 and 91-05-058 (Orders 3113, 3113A, 3113AA and 3113AAA), § 388-77-320, filed 12/14/90, 1/31/91, 2/7/91 and 2/15/91, effective 2/1/91, 2/7/91, 2/15/91 and 4/1/91. 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 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: RCW 74.21.070. 91-01-062, 91-04-041, 91-05-010 and 91-05-058 (Orders 3113, 3113A, 3113AA and 3113AAA), § 388-77-500, filed 12/14/90, 1/31/91, 2/7/91 and 2/15/91, effective 2/1/91, 2/7/91, 2/15/91 and 4/1/91. 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) The earnings of a child under eighteen years of age;

(3) Retroactive FIP benefits;

(4) Income tax refunds; and

(5) Gifts as follows:

(a) Small nonrecurring gifts, not to exceed thirty dollars per recipient in any quarter;

(b) Gifts to cover the costs of tuition, books, or fees; or

(c) Gifts to cover medical expenses for procedures used to eliminate barriers to employment.

[Statutory Authority: RCW 74.21.070. 91-01-062, 91-04-041, 91-05-010 and 91-05-058 (Orders 3113, 3113A, 3113AA and 3113AAA), § 388-77-515, filed 12/14/90, 1/31/91, 2/7/91 and 2/15/91, effective 2/1/91, 2/7/91, 2/15/91 and 4/1/91. Statutory Authority: Chapter 74.21 RCW. 90-12-042 (Order 2984), § 388-77-515, filed 5/31/90, effective 7/1/90; 88-12-093 (Order 2630), § 388-77-515, filed 6/1/88.]

WAC 388-77-520 Income--Deductions. (1) In computing income for FIP Title IV-A assistance, the only deduction the department shall allow is ten percent from gross earned income.

(2) The department shall not allow the ten percent earned income deduction if earnings are reported after the eighteenth of the process month without good cause.

[Statutory Authority: RCW 74.21.070. 91-01-062, 91-04-041, 91-05-010 and 91-05-058 (Orders 3113, 3113A, 3113AA and 3113AAA), § 388-77-520, filed 12/14/90, 1/31/91, 2/7/91 and

2/15/91, effective 2/1/91, 2/7/91, 2/15/91 and 4/1/91. 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 388-77-555 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 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) Terminate 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) Disallow AFDC income disregards in the hold-harmless calculation if income is reported after the eighteenth of the process month without good cause.

(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: RCW 74.21.070, 91-01-062, 91-04-041, 91-05-010 and 91-05-058 (Orders 3113, 3113A, 3113AA and 3113AAA), § 388-77-555, filed 12/14/90, 1/31/91, 2/7/91 and 2/15/91, effective 2/1/91, 2/7/91, 2/15/91 and 4/1/91. 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 if such deduction may be allowed for AFDC.

[Statutory Authority: RCW 74.21.070, 91-01-062, 91-04-041, 91-05-010 and 91-05-058 (Orders 3113, 3113A, 3113AA and 3113AAA), § 388-77-600, filed 12/14/90, 1/31/91, 2/7/91 and 2/15/91, effective 2/1/91, 2/7/91, 2/15/91 and 4/1/91. 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) As described under subsection (1) of this section, the department shall not provide employment incentives for:

(a) Earnings reported after the eighteenth day of the process month unless good cause exists for late reporting; or

(b) Income that is exempt or disregarded.

(3) 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.

(4) The department shall allow self-employed enrollees with an approved self-employment plan fifteen percent or thirty-five percent of the benchmark standard based on:

(a) The enrollee's declaration of hours worked for six consecutive months starting with the first month the enrollee is entitled to an incentive for self-employment; and

(b) Thereafter, the hours worked as computed by dividing the enrollee's gross income by the federal minimum wage.

(5) An enrollee's participation in job search skills development or job search activities shall not qualify the enrollee for an incentive under WAC 388-77-610.

(6) The department shall not allow more than one incentive per assistance unit. The department shall allow the incentive at the highest level for which the assistance unit qualifies.

(7) The department shall round incentive payments down to the nearest dollar.

(8) The department shall provide incentives for employment to correspond with the budgeting of income. Incentives for training shall be provided using prospective budgeting.

(9) For the purposes of the incentive computation, the department shall calculate the food assistance amount used in the benchmark 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: RCW 74.21.070, 91-01-062, 91-04-041, 91-05-010 and 91-05-058 (Orders 3113, 3113A, 3113AA and 3113AAA), § 388-77-610, filed 12/14/90, 1/31/91, 2/7/91 and 2/15/91, effective 2/1/91, 2/7/91, 2/15/91 and 4/1/91. Statutory Authority: Chapter 74.21 RCW, 89-03-053 (Order 2757), § 388-77-610, filed 1/13/89; 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. 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: RCW 74.21.070, 91-01-062, 91-04-041, 91-05-010 and 91-05-058 (Orders 3113, 3113A, 3113AA and 3113AAA), § 388-77-615, filed 12/14/90, 1/31/91, 2/7/91 and 2/15/91, effective 2/1/91, 2/7/91, 2/15/91 and 4/1/91. 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. (1) The department shall:

(a) Determine eligibility and benefit amounts for food cash assistance according to the food stamp program in chapter 388-49 WAC; except:

(b) For enrollees, disregard the following additional types of income in determining the food stamp benefit amount:

(i) The FIP incentive and the value of child care provided under FIP;

(ii) Higher education benefits;

(iii) Earned income tax credit;

(iv) Retroactive FIP benefits;

(v) Any fifty dollar child support pass-through payment received in the month;

(vi) Earnings of a child seventeen years of age and under; and

(vii) Self-employment income used for capital expenditures included as part of a self-sufficiency plan.

(2) For enrollees, the department shall pay the food stamp cash equivalent as a grant;

(3) For enrollees, the department shall verify eligibility factors as in WAC 388-77-045;

(4) The department shall consider households with all FIP members as categorically eligible for food stamp cash assistance;

(5) The department shall follow earned income reporting rules in WAC 388-77-555 instead of mandatory monthly reporting;

(6) The department shall determine eligibility and benefit amount for nonassistance households with a FIP member or members according to chapter 388-49 WAC, except:

(a) FIP members shall receive a prorated amount of benefits as food cash assistance; and

(b) Non-FIP members shall receive a prorated amount of benefits in food stamps; and

(c) The provisions of WAC 388-77-820 (1), (2), and (3) shall apply to the FIP members of the mixed household.

[Statutory Authority: Chapter 74.21 RCW, 89-21-048 (Order 2879), § 388-77-820, filed 10/13/89, effective 11/13/89; 89-03-053 (Order 2757), § 388-77-820, filed 1/13/89; 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

| | |
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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.

(1990 Ed.)

(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 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:

(a) Eighteen years of age or older;

(b) Free of communicable disease;

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

(d) Able to work with children without using physical punishment or psychological abuse; and

(e) Prompt and regular in job attendance.

[Statutory Authority: Chapter 74.21 RCW. 89-08-050 (Order 2781), § 388-78-210, filed 3/31/89; 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.]

[Title 388 WAC—p 342]

Chapter 388-80 WAC MEDICAL CARE--DEFINITIONS

WAC

388-80-002 Applicability.
388-80-005 Definitions.

WAC 388-80-002 Applicability. These rules are immediately applicable to determinations of eligibility under the medical care program enacted by Substitute Senate Bill No. 4299, effective July 1, 1981.

[Statutory Authority: RCW 74.08.090. 81-16-033 (Order 1685), § 388-80-002, filed 7/29/81.]

WAC 388-80-005 Definitions. (1) "Application" shall mean a written request for medical assistance or limited casualty program from the applicant, an authorized representative, or if the applicant is incompetent or incapacitated, someone acting responsibly for the applicant to the department of social and health services the application shall be on a form prescribed by the department.

(2) "Assignment" is the method by which the provider receives payment for services under Part B of Medicare.

(3) "Assistance unit" means a person or members of a family unit who are eligible for cash or medical assistance under a federally matched program including state supplement.

(4) "Authorization" means an official approval of a departmental action.

(5) "Beneficiary" is an eligible individual who receives a federal cash benefit and/or state supplement under Title XVI.

(6) "Benefit period" is the time period used in determining whether Medicare can pay for covered Part A services. A benefit period begins the first day a beneficiary is furnished inpatient hospital or extended care services by a qualified provider. It ends when the beneficiary has not been an inpatient of a hospital or other facility primarily providing skilled nursing or rehabilitation services for sixty consecutive days. There is no limit to the number of benefit periods a beneficiary can have.

(7) "Cabulance" means a vehicle designed and used for the purpose of transporting persons confined to a wheelchair or persons otherwise physically restricted.

(8) "Carrier" is an organization who has a contract with the federal government to process claims under Part B of Medicare.

(9) "Categorically needy" refers to a resident of the state of Washington whose income and resources are evaluated for cash assistance and who is:

(a) Receiving or eligible to receive cash assistance.

(i) Aid to families of dependent children (AFDC).

(ii) Supplemental Security Income (SSI), including grandfathered individuals and individuals with essential spouses.

(iii) State supplement.

(iv) Special categories.

(b) A financially eligible person under twenty-one who would be eligible for AFDC but does not qualify as a dependent child and who is in:

(i) Foster care, or
 (ii) Subsidized adoption, or
 (iii) A skilled nursing home, intermediate care facility, or intermediate care facility for mentally retarded, or

(iv) An approved inpatient psychiatric facility.

(c) Individuals who would be eligible for cash assistance except for their institutional status.

(d) An individual who is SSI categorically related and would not be eligible for cash assistance if they were not institutionalized and whose gross income does not exceed the three hundred percent SSI benefit cap. This includes only aged, blind, and disabled groups.

(10) "Central disbursements" is a state office section which audits non-Medicaid medical claims for payment.

(11) "Certification date" means the date the worker certifies changes in a recipient's circumstances and authorizes an action.

(12) "CFR" means the code of federal regulations and is a codification of the general and permanent rules published in the federal register by the executive departments and agencies of the federal government.

(13) "Child" or "minor child" means a person under eighteen years of age.

(14) "Client" means an applicant for or recipient of financial and/or social services provided by the department of social and health services.

(15) "Coinsurance" means the portion of reimbursable hospital and medical expenses, after subtraction of any deductible, which Medicare does not pay. Under Part A, coinsurance is a per day dollar amount, and under Part B, is twenty percent of reasonable charges.

(16) "CSO" (community service office) is an office of the department which administers the various social and health services at the community level.

(17) "Continuing assistance" means payments to persons who presumably will be eligible for and receive, from the date of authorization, regular monthly grants on a prepayment basis. Continuing assistance includes federal aid and continuing general assistance grants to unemployable persons.

(18) "Copayment" means a fixed dollar amount that is the responsibility of the recipient of specified services.

(19) "Deductible" means an initial specified amount that is the responsibility of the applicant and/or recipient.

(a) Part A of Medicare - Inpatient hospital deductible - an initial amount in each benefit period which Medicare does not pay.

(b) Part B of Medicare - The first sixty dollars in expenses which must be incurred before Medicare starts to pay.

(c) Limited casualty program-medically indigent-means incurring a dollar amount as specified in chapter 388-100 WAC, the department does not pay.

(20) "Delayed certification" shall mean the date of certification for Medicaid and date of application for SSI are the same for an SSI beneficiary whose eligibility decision was delayed due to administrative action.

(21) "Department" shall mean the state department of social and health services.

(22) "Division of medical assistance" shall mean the single state agency authorized to administer the Title XIX medical assistance program.

(23) "Eligible couple" means an eligible individual and eligible spouse.

(24) "Eligible individual" means an aged, blind or disabled person as defined in Title XVI of the Social Security Act. If two such persons are husband and wife (and have not been living apart for more than six months), only one of them may be considered an eligible individual.

(25) "EPSDT" shall mean a program providing early and periodic screening, diagnosis and treatment to persons under twenty-one years of age who are eligible under Title XIX of the Social Security Act.

(26) "Essential spouse" means a spouse whose needs were taken into account in determining the need of OAA, AB, or DA recipient for December, 1973, who continues to live in the home of such recipient, and continues to be an essential spouse.

(27) "Extended care patient" is a recently hospitalized Medicare patient who needs relatively short-term skilled nursing and rehabilitative care in a skilled nursing facility.

(28) "Fair hearing" means an administrative proceeding by which the department hears and decides the appeal of an applicant/recipient from an action or decision of the department.

(29) "Federal aid" means the assistance programs for which the state receives matching funds from the federal government.

(30) "Fraud" shall mean a deliberate, intentional, and wilful act, with the specific purpose of deceiving the department with respect to any material, fact, condition, or circumstances affecting eligibility or need.

(31) "General assistance - continuing" (GAU) means assistance to unemployable persons who are not eligible for or not receiving federal aid assistance and whose medical care is defined in chapter 388-86 WAC.

(32) "Grandfathering" refers to:

(a) A noninstitutionalized individual who meets all current requirements for Medicaid eligibility except the criteria for blindness or disability; and

(i) As eligible for Medicaid in December, 1973, as blind or disabled, whether or not he/she was receiving cash assistance in December, 1973; and

(ii) For each consecutive month after December, 1973, continue to meet the criteria for blindness and disability and other conditions of eligibility used under the Medicaid plan in December, 1973; and

(iii) The needs of the "essential person" shall only be considered when he/she is living with such person in the same household.

(b) An institutionalized individual who was eligible for Medicaid in December, 1973, or any part of that month, as an inpatient of a medical institution or resident of intermediate care facility that was participating in the Medicaid program and for each consecutive month after December, 1973:

(i) Continued to meet the requirements for Medicaid eligibility that were in effect under the state's plan in December, 1973, for institutionalized individuals; and

(ii) Remained institutionalized.

(33) "Home health agency" is an agency or organization certified under Medicare to provide skilled nursing and other therapeutic services to the patient in his/her place of residence.

(34) "Hospital" shall mean any institution licensed as a hospital by the official state licensing authority.

(35) "Institution" shall mean an establishment which furnishes food and shelter to four or more persons unrelated to the proprietor and, in addition provides medically related services and medical care. This would include hospitals, skilled nursing facilities, intermediate care facilities, and institutions for the mentally retarded, but does not include correctional institutions.

(36) "Intermediary" is an organization who has an agreement with the federal government to process Medicare claims under Part A.

(37) "Intermediate care facility" shall mean a licensed facility certified to provide intermediate care for which an agreement has been executed.

(38) "Intermediate care facility/IMR" shall mean a state institution or a licensed nursing home either of which has been certified by state office (SO) as meeting the CFR regulations to provide twenty-four hour health-related care and services to mentally retarded persons or persons with related conditions.

(39) "Legal dependents" are persons whom an individual is required by law to support.

(40) "Limited casualty program" means a medical care program for medically needy as defined in chapter 388-99 WAC, and for medically indigent as defined in chapter 388-100 WAC.

(41) "Medicaid" or "medical assistance" (MA) shall mean the federal aid Title XIX program under which medical care is provided to:

(a) Categorically needy as defined in chapter 388-82 WAC.

(b) Medically needy as defined in chapters 388-92 and 388-99 WAC.

(42) "Medical care services" means the limited scope of care financed by state funds and provided to general assistance recipients.

(43) "Medical consultant" shall mean a physician employed by the department at the CSO level.

(44) "Medical facility." See "institution."

(45) "Medically necessary" is a term for describing requested service which is reasonably calculated to prevent, diagnose, correct, cure, alleviate or prevent the worsening of conditions that endanger life, or cause suffering or pain, or result in illness or infirmity, or threaten to cause or aggravate a handicap, or cause physical deformity or malfunction, and there is no other equally effective more conservative or substantially less costly course of treatment available or suitable for the recipient requesting the service. For the purpose of this section "course of treatment" may include mere observation or, where appropriate, no treatment at all.

(46) "Medicare" is a commonly used term for the federal government health insurance program for certain aged or disabled recipients under Titles II and XVII of the Social Security Act.

(47) "Month of application" shall mean the calendar month in which the application is filed unless it is filed in the last ten days of that month; then the month of application may be the following month.

(48) "Nursing care consultant" shall mean a qualified and licensed registered nurse employed by the bureau of nursing home affairs who is centrally supervised, but stationed in CSO's.

(49) "Outpatient" is a nonhospitalized patient receiving care in an outpatient or emergency department of a hospital, or away from a hospital such as in a physician's office or the patient's own home or a nursing home.

(50) "Part A" is the hospital insurance portion of Medicare.

(51) "Part B" is the supplementary medical insurance benefit (SMIB) or the "doctor's portion" of Medicare.

(52) "PAS" - professional activity study is a compilation of inpatient hospital data by diagnosis and age, conducted by the commission of professional and hospital activities, which resulted in the determination of an average length of stay for patients. These data were published in a book entitled "Length of Stay in PAS Hospitals, Western." The department has adopted this book as the basis for authorizing payment for the maximum number of inpatient hospital days for recipients of state-funded programs, or where no memorandum of understanding with a PSRO exists.

(53) "Patient transportation" means the transportation of recipients to and from medical services covered under the medical assistance program.

(54) "Physician" is a doctor of medicine, osteopathy, or podiatrist who is legally authorized to perform the functions of his profession by the state in which he performs them.

(55) "Professional standards review organization" (PSRO). See "Washington state professional standards review organization."

(56) "Provider" or "provider of service" means an institution, agency, or individual who has a signed agreement to furnish medical care and goods and/or services to recipients and who is eligible to receive payment from the department.

(57) "Provider services" shall mean the office of the division of medical assistance which processes claims for payment under Title XIX and state-funded programs.

(58) Residence, state of means:

(a) The state where the applicant/recipient is living with the intent to remain there permanently or for an indefinite period;

(b) The state which he/she entered with a job commitment or to seek employment, whether or not currently employed;

(c) The state making a state supplementary payment;

(d) The state making placement in an out-of-state institution;

(e) The state of the parents or legal guardian, if one has been appointed, of an institutionalized individual

who is under age twenty-one or is age twenty-one or over and who became incapable of determining residential intent before age twenty-one;

(f) The state where the person over age twenty-one judged to be legally incompetent is living.

(59) "Retroactivity" means: The period of no more than three months prior to month of application to an otherwise eligible individual under the Federal aid Title XIX medical assistance program.

(60) "Skilled nursing facility," unless otherwise described, shall mean any institution or facility licensed by the department as a nursing home, or is a nursing home unit of a hospital licensed by the state department of social and health services and is certified, and has an agreement to provide skilled nursing home care.

(61) "Spell of illness." See "benefit period."

(62) "Spend down" means the individual incurs medical expenses to reduce income to the financial standards established by the department.

(63) "Spouse"

(a) "Eligible spouse" means an aged, blind or disabled individual who is the husband or wife of an eligible individual and who has not been living apart from such eligible individual for more than six months.

(b) "Ineligible spouse" means the husband or wife of an eligible individual who is not aged, blind or disabled; or who although aged, blind or disabled has not applied for such assistance.

(c) "Nonapplying spouse" means the husband or wife of an eligible individual who although aged, blind or disabled has not applied for such assistance.

(64) "State office" or "SO" shall mean the division of medical assistance of the department.

(65) "Supplementary payment" means the state money payment to individuals receiving benefits under Title XVI (or who would, but for their income, be eligible for such benefits) as assistance based on need in supplementation of SSI benefits. This payment includes:

(a) "Mandatory state supplement" means the state money payment with respect to individuals who, for December, 1973, were recipients of money payments under the department's former programs of old age assistance, aid to the blind and disability assistance.

(b) "Optional state supplement" means the elected state money payment to individuals eligible for SSI benefits or who except for the level of their income would be eligible for such benefits.

(66) "Supplemental security income (SSI) program, Title XVI," means the federal program of supplemental security income for the aged, blind, and disabled established by section 301 of the social security amendments of 1972, and subsequent amendments, and administered by the Social Security Administration (SSA).

(67) "Third party" means any entity that is or may be liable to pay all or part of the medical cost of injury, disease, or disability of an applicant or recipient of Medicaid.

(68) "Washington state professional standards review organization" (WSPSRO) is the state level organization

responsible for determining whether health care activities are medically necessary, meet professionally acceptable standards of health care, and are appropriately provided in an outpatient or institutional setting for beneficiaries of Medicare and recipients of Medicaid and maternal and child health.

[Statutory Authority: RCW 74.08.090. 83-17-006 (Order 1996), § 388-80-005, filed 8/5/83; 82-10-062 (Order 1801), § 388-80-005, filed 5/5/82; 82-06-003 (Order 1766), § 388-80-005, filed 2/18/82; 82-01-001 (Order 1725), § 388-80-005, filed 12/3/81; 81-16-033 (Order 1685), § 388-80-005, filed 7/29/81; 81-11-046 (Order 1655), § 388-80-005, filed 5/20/81; 80-13-020 (Order 1542), § 388-80-005, filed 9/9/80; 80-02-001 (Order 1470), § 388-80-005, filed 1/3/80; 78-06-081 (Order 1299), § 388-80-005, filed 6/1/78; Order 1196, § 388-80-005, filed 3/3/77; Order 1112, § 388-80-005, filed 4/15/76; Order 1061, § 388-80-005, filed 10/8/75; Order 922, § 388-80-005, filed 4/15/74; Order 761, § 388-80-005, filed 1/2/73; Order 735, § 388-80-005, filed 11/22/72; Order 676, § 388-80-005, filed 5/10/72; Order 615, § 388-80-005, filed 10/7/71; Order 564, § 388-80-005, filed 5/19/71; Order 577, § 388-80-005, filed 7/20/71; Order 471, § 388-80-005, filed 8/19/70; Order 381, § 388-80-005, filed 8/27/69; Order 298, § 388-80-005, filed 9/6/68; Order 264 (part), § 388-80-005, filed 11/24/67.]

Chapter 388-81 WAC

MEDICAL CARE--ADMINISTRATION--GENERAL

WAC

- 388-81-005 Medical care program.
- 388-81-010 Civil rights.
- 388-81-015 Institution of control.
- 388-81-020 Vendor reports--Collection and analysis of statistical data.
- 388-81-025 Eligibility--General.
- 388-81-030 Case exception.
- 388-81-035 Confidential records.
- 388-81-040 Fair hearing.
- 388-81-042 Fair hearing--Provider.
- 388-81-043 Dispute conference--Contractor/provider.
- 388-81-044 Interest penalties--Providers.
- 388-81-047 Recovery from estates.
- 388-81-050 Restitution.
- 388-81-052 Receipt of resources without giving adequate consideration.
- 388-81-055 Fraud.
- 388-81-060 Medicare cost sharing.
- 388-81-070 Determination of maternity care distressed areas.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 388-81-045 Procedure prior to fair hearing. [Order 264 (part), § 388-81-045, filed 11/24/67.] Repealed by Order 299, filed 9/6/68.

WAC 388-81-005 Medical care program. The department of social and health services provides a medical care program, administered through the division of medical assistance, designed to meet the health care needs of eligible individuals who have been determined eligible as defined in chapters 388-82, 388-99, and 388-100 WAC.

[Statutory Authority: RCW 74.08.090. 81-16-033 (Order 1685), § 388-81-005, filed 7/29/81; 81-10-014 (Order 1646), § 388-81-005, filed 4/27/81; 80-13-020 (Order 1542), § 388-81-005, filed 9/9/80; Order 1233, § 388-81-005, filed 8/31/77; Order 833, § 388-81-005, filed 7/26/73; Order 264 (part), § 388-81-005, filed 11/24/67.]

WAC 388-81-010 Civil rights. The department will assure that all participating providers will not discriminate in providing approved services to any applicant or recipient because of race, creed, color, handicap, or national origin, nor will they discriminate against any employee or applicant for employment because of race, creed, color, handicap, or national origin, except to the extent permitted by a bona fide occupational qualification.

[Statutory Authority: RCW 74.08.090. 79-01-002 (Order 1359), § 388-81-010, filed 12/8/78; Order 1233, § 388-81-010, filed 8/31/77; Order 264 (part), § 388-81-010, filed 11/24/67.]

WAC 388-81-015 Institution of control. The department shall establish and enforce such administrative controls as may be necessary to prevent abuses by vendors or recipients including, but not limited to, determination of need for and duration of services, assurance of justification of services, reasonableness of costs, and operation of the program within the limits of the legislative appropriation.

(1) The department shall conduct audits and investigations of providers of medical and other services provided as authorized by chapter 74.09 RCW to determine compliance with the rules and regulations of the program.

(a) In the conduct of such audits or investigations, the secretary or his authorized representative may examine only those records or portion thereof including patient records pertaining to services rendered by a health care provider and reimbursed by the department. Copies of, but no original records shall be removed from the premises of the health care provider. The secretary shall destroy all copies of recipient medical records made during an audit or investigation. This destruction will take place no later than ninety days after the point when no further actions can be taken or are going to be taken either by the department, the provider or the courts on a particular audit, investigation or proceeding. The provider will be notified in writing that such destruction has taken place.

(b) The department shall give twenty days notice to providers that his/her patient medical records are to be audited for compliance with program rules and standards. This notice provision shall not apply to investigations of providers for fraudulent or abusive practices. Such notice shall not include names of patient files which are to be reviewed. For the purpose of this provision, prescriptions or records of drugs dispensed are not to be defined as patient medical records.

(c) The department shall work with the provider to minimize inconvenience and disruption of health care delivery.

(2) Based upon the findings of an audit, investigation or other proceeding, the secretary or his authorized representative may order repayment of excess benefits or payments received by the provider, plus interest on the amount of excess benefits and assess civil penalties as provided for in chapter 74.09 RCW. Civil penalties shall be assessed in an amount not to exceed three times the

amount of excess benefits or payments received by the provider.

(3) Whenever the department imposes a civil penalty or suspends or terminates a provider from the program, it shall give written notice of the action taken to the appropriate licensing agency and/or disciplinary board. The department may refer to the appropriate disciplinary board providers who have demonstrated a significant noncompliance with the provisions of the medical care program through the results of an audit, investigation or utilization review function. The Washington state medical disciplinary board shall generally serve in an advisory capacity to the secretary in the conduct of audits or investigations of physicians.

(4) The secretary or his authorized representative shall refer all cases to the appropriate prosecuting authority for possible criminal action where the department finds substantial evidence supporting a finding of fraud. Prima facie evidence does not in itself provide a substantial basis for criminal prosecution.

[Statutory Authority: RCW 74.08.090. 80-13-020 (Order 1542), § 388-81-015, filed 9/9/80; Order 264 (part), § 388-81-015, filed 11/24/67.]

WAC 388-81-020 Vendor reports--Collection and analysis of statistical data. (1) When requested by the division, full reports of goods furnished and services rendered shall be submitted to the department by all vendors under the program in the manner specified. The department shall provide the vendor with standardized forms to report these data.

(2) Data collected by the department in this manner shall be tabulated and analyzed to secure statistics on costs of and the services rendered in the various phases of the program. Tabulations and analyses so prepared shall be available to the department's advisory committee, state welfare medical care committee, official organizations of vendor groups participating in the program, and other appropriate individuals or groups.

[Order 264 (part), § 388-81-020, filed 11/24/67.]

WAC 388-81-025 Eligibility--General. (1) Financial eligibility is established when the department certifies that the applicant meets the appropriate financial requirements in chapter 388-83, 388-92, 388-99 or 388-100 WAC.

(2) The department shall be responsible for payment of medical care provided within the scope of the program to eligible persons.

[Statutory Authority: RCW 74.08.090. 82-01-001 (Order 1725), § 388-81-025, filed 12/3/81; 81-16-033 (Order 1685), § 388-81-025, filed 7/29/81; 81-10-014 (Order 1646), § 388-81-025, filed 4/27/81; 80-13-020 (Order 1542), § 388-81-025, filed 9/9/80; Order 1112, § 388-81-025, filed 4/15/76; Order 472, § 388-81-025, filed 8/19/70; Order 299, § 388-81-025, filed 9/6/68; Order 264 (part), § 388-81-025, filed 11/24/67.]

WAC 388-81-030 Case exception. A request for an exception to policy for medical care services denied by strict application of a rule or regulation requires approval by the division of medical assistance, the single

state agency for administering Title XIX. See WAC 388-20-020 for exception to policy procedures.

[Statutory Authority: RCW 74.08.090. 82-17-072 (Order 1868), § 388-81-030, filed 8/18/82; 80-13-020 (Order 1542), § 388-81-030, filed 9/9/80; Order 1112, § 388-81-030, filed 4/15/76; Order 299, § 388-81-030, filed 9/6/68; Order 264 (part), § 388-81-030, filed 11/24/67.]

WAC 388-81-035 Confidential records. Medical and administrative records pertaining to applications and services rendered recipients are confidential. Disclosure of information contained in such records, files, papers, and communications is prohibited except for purposes directly connected with the administration of the public assistance and medical care programs.

[Order 264 (part), § 388-81-035, filed 11/24/67.]

WAC 388-81-040 Fair hearing. (1) Any applicant for or recipient of medical care provided under chapter 74.09 RCW who feels aggrieved by a decision rendered by the department has a right to a fair hearing as provided by chapter 388-08 WAC.

(2) When the fair hearing request calls into question a decision of a medical consultant or when eligibility is being determined in the medicaid category or state funded medical program, a prehearing review is the responsibility of the division of medical assistance.

(3) Chapter 388-08 WAC applies when a request for a fair hearing is related to medical care.

(4) The medical director or his designee shall review all fair hearing requests referred by the examiner to determine:

(a) Whether or not the appellant's request for service was filed according to the applicable rules and regulations,

(b) Whether or not the decisions have been made upon complete and accurate evaluation of the facts, existing standards, regulations, and policies.

(5) All records and information necessary to determine the validity of the appellant's fair hearing request shall be furnished upon request to the reviewing authority and forwarded not later than ten days from such request.

(6) An medical assessment by a professionally qualified person and/or persons not a party to the action being appealed may be obtained at the request of the examiner or the appellant.

(7) Upon receipt of the necessary material, evidence, or reports, the designated reviewing authority shall evaluate the appellant's request in accord with existing rules, regulations, and policies of the department. The reviewing authority:

(a) May reverse the decision when such adverse decision has been made contrary to rules, regulations and policies of the division;

(b) May resolve a situation resulting in the fair hearing request by adjustment.

(8) In providing a system for fair hearings for applicants or recipients of medical care, the rules in chapter

388-08 WAC shall be adhered to and, where appropriate, other portions of WAC which are applicable to the particular circumstances of the appellant.

[Statutory Authority: RCW 74.08.090. 81-10-014 (Order 1646), § 388-81-040, filed 4/27/81; 80-13-020 (Order 1542), § 388-81-040, filed 9/9/80; 78-10-077 (Order 1346), § 388-81-040, filed 9/27/78; Order 1112, § 388-81-040, filed 4/15/76; Order 952, § 388-81-040, filed 7/16/74; Order 578, § 388-81-040, filed 7/20/71; Order 299, § 388-81-040, filed 9/6/68; Order 264 (part), § 388-81-040, filed 11/24/67.]

WAC 388-81-042 Fair hearing--Provider. Any certified provider of medical care services who is assessed a civil penalty pursuant to RCW 74.09.210 or otherwise served with notice that repayment of excess benefits is due pursuant to RCW 74.09.210, has a right to a fair hearing as provided by chapter 388-08 WAC.

[Statutory Authority: RCW 74.08.090. 80-13-020 (Order 1542), § 388-81-042, filed 9/9/80.]

WAC 388-81-043 Dispute conference--Contractor/provider. (1) Right to an administrative appeal. Any enrolled contractor/provider of medical services, except nursing homes governed by WAC 388-96-904, shall have a right to an administrative appeal when the department:

(a) Finds a contractor/provider liable for receipt of excess payments under RCW 74.09.220 or otherwise served with notice that repayment of excess benefits is due under the statute;

(b) Changes the contractor/provider reimbursement rate and the contractor/provider disagrees with the change; and

(c) Initiates contract action, such as termination, with which the contractor/provider disagrees.

(2) First level of appeal. A contractor/provider wishing to contest an action described in subsection (1) of this section files an appeal with the appropriate program or audit manager.

(a) Audit disputes. When the department finds a hospital contractor/provider liable for receipt of excess payments, the contractor/provider shall appeal such findings to the office of nursing home audit, administrative services. All other medical service contractors/providers shall appeal to the office of operations review, administrative services.

(i) Unless otherwise specified, the audited contractor/provider shall submit such an appeal within forty-five days after receipt of the draft audit report. If the audited contractor/provider does not submit the appeal timely, the department shall not consider the appeal and the contractor/provider forfeits any right to a dispute conference.

(ii) The audited contractor/provider's appeal shall include a statement specifying which portions of the audit findings are disputed, with supporting justification. Administrative services may request additional documentation to complete their review.

(iii) Administrative services shall issue a decision or request additional information within ninety days of receipt of the appeal. When additional information is necessary, administrative services shall issue a decision

within sixty days of receipt of complete information. Publication of the final audit report and identification of a sum certain due the department shall constitute the department's final audit position.

(iv) Administrative services may grant discretionary extensions of time to the audited contractor/provider. The audited contractor/provider shall request an extension within the forty-five-day period referenced under subsection (2)(a)(i) of this section.

(b) Rate disputes. A contractor/provider may appeal its rates by submitting a written notice of appeal to the rate analysis section, division of medical assistance (DMA).

(i) Unless the written rate notification specifies otherwise, the contractor/provider shall file a rate appeal requesting retroactive rate adjustments within sixty days after being notified of an action or determination the contractor/provider wishes to challenge. The notification date of an action or determination is the date of the written rate notification letter. A contractor/provider rate adjustment appeal, filed after the sixty-day period described in this subsection shall not be considered for retroactive adjustments.

(ii) The appeal shall include a statement of the issue being appealed, supporting documentation, and a request for recalculation of the rate. DMA may request additional documentation to complete the review. DMA may conduct an audit of the documentation provided in order to complete the review.

(iii) When any portion of a rate is appealed, DMA may review all components of the reimbursement rate.

(iv) DMA shall issue a decision or request additional information within sixty days of the receipt of the rate appeal request. When additional information is necessary, the contractor/provider shall have forty-five days to submit the information. DMA shall issue a decision within thirty days of receipt of complete information.

(v) Unless the written rate notification specifies otherwise, increases in rates resulting from an appeal, filed within sixty days after the written rate notification letter that the contractor/provider is challenging, shall be effective retroactively to the effective date of the rate change as specified in the notification letter. Increases in rates, resulting from a rate appeal filed after the sixty-day period described in subsection (2)(b)(i) of this section, shall be effective the date the appeal is filed with DMA. Appeals resulting in rate decreases shall be effective on the date specified in the appeal decision notification. The effective date shall not be before the date of the appeal decision notification. Rate changes subject to the provisions of fraudulent practices under RCW 74.09.210 are exempt from these provisions.

(vi) DMA may grant extensions of time at their discretion if requested within the sixty-day period referenced under subsection (2)(b)(i) of this section.

(c) Contract disputes. The contractor/provider may appeal contract action involving termination or nonrenewal, to the medical director, DMA.

(i) Unless otherwise specified, the contractor/provider shall submit such an appeal within thirty days of the department's notification of contract action. If the contractor/provider does not appeal timely, the department shall not consider the appeal and the contractor/provider forfeits the right to a dispute conference.

(ii) The appeal shall include a statement of the actions appealed and supporting justification.

(iii) DMA shall issue a decision or request additional information within sixty days of receipt of the appeal. When additional information is necessary, the contractor/provider shall have forty-five days to submit the information. DMA shall issue a decision within thirty days of receipt of complete information.

(iv) DMA may grant extensions of time at their discretion if requested within the thirty-day period referenced under subsection (2)(c)(i) of this section.

(3) Second level of appeal. If the contractor/provider disagrees with an adverse audit, rate, or contract review decision, the contractor/provider may file a request for a dispute conference with the director, DMA. A dispute conference is defined as an informal administrative hearing for the purpose of resolving contractor/provider disagreements with any of the department actions, described under subsection (1)(a), (b), and (c) of this section, not resolved at the first level of appeal.

(a) A contractor/provider shall file a request for a dispute conference within thirty days following receipt of the adverse review decision. The department shall not consider dispute conference requests submitted after thirty days.

(b) DMA shall conduct the dispute conference within ninety days of the receipt of request.

(c) The director, DMA, or the director's designee shall chair the conference when issues regarding medical policy, program policy, or program regulation are in dispute. A contracts officer, office of vendor services, shall chair the conference if contract compliance issues are disputed. The director, DMA, shall determine who chairs the dispute conference.

(d) The conference chairperson shall issue the final decision within thirty days of the conference.

(e) The director, DMA, may grant extensions of time for extenuating circumstances.

(f) The effective date of dispute conference decisions regarding rate changes shall be the same as specified under subsection (2)(b)(v) of this section.

(g) The dispute conference shall be the final level of administrative appeal within the department.

(4) DMA shall construe failure on the part of the contractor/provider to attempt to resolve disputed issues as provided in this section as an abandonment of the dispute.

[Statutory Authority: RCW 74.08.090, 90-12-063 (Order 3021), § 388-81-043, filed 5/31/90, effective 7/1/90; 89-05-029 (Order 2758), § 388-81-043, filed 2/13/89; 84-02-053 (Order 2061), § 388-81-043, filed 1/4/84.]

WAC 388-81-044 Interest penalties--Providers. (1) Any certified provider of medical care services, except for nursing homes which are governed by WAC 388-96-

310, who is found liable for receipt of excess payments pursuant to RCW 74.09.220 or otherwise served with notice that repayment of excess benefits is due pursuant to RCW 74.09.220, will be assessed interest on the amounts of the excess benefits or payments.

(2) Pursuant to RCW 74.09.220, interest will be assessed at the rate of one percent each month from the date upon which payment was made to the date upon which repayment is made to the state. Interest does not apply when the excess benefits or payments were obtained as a result of errors made by the department.

(3) Interest amounts will be clearly identified in all overpayment communications. A daily interest accrual amount will also be identified. Daily interest will accrue until the day immediately preceding the day the full repayment check is mailed to the state. If repayment is made through the recoupment process (payments are withheld from current bills until the overpayment amount is met) interest will accrue to the date recoupment is finalized.

[Statutory Authority: RCW 74.08.090. 84-02-053 (Order 2061), § 388-81-044, filed 1/4/84.]

WAC 388-81-047 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.]

(1990 Ed.)

WAC 388-81-050 Restitution. (1) If a recipient of medical care was not eligible for such care or comes into possession of resources which he/she fails to disclose to the department, the amount of such medical care payment made by the department on his/her behalf which could have been met by his/her undisclosed resources shall be an overpayment and a debt due the department. (See chapter 388-44 WAC for definition of overpayment and procedures pertaining to repayment by grant recipients.) Reimbursement cannot be collected from a grant for vendor payments incorrectly paid for medical care.

(2) If repayment is not obtained from a nongrant recipient, the case and the files relative thereto shall be forwarded to the office of reimbursements for such further action as deemed necessary. However, in no event shall a lien be filed while the ineligible recipient or the dependent spouse is still living unless the claim has been reduced to judgment in a superior court of the state of Washington.

[Statutory Authority: RCW 74.08.090. 81-10-014 (Order 1646), § 388-81-050, filed 4/27/81; 78-02-024 (Order 1265), § 388-81-050, filed 1/13/78; Order 299, § 388-81-050, filed 9/6/68; Order 264 (part), § 388-81-050, filed 11/24/67.]

WAC 388-81-052 Receipt of resources without giving adequate consideration. (1) The department shall find any person liable for a civil penalty and subject to referral for criminal prosecution for commission of a gross misdemeanor if the:

(a) Person knowingly and willingly receives nonexempt resources for less than fair market value;

(b) Nonexempt resources were transferred or assigned after December 1, 1981 and before July 1, 1989; and

(c) Transfer enables an applicant or recipient to qualify or continue to qualify for Title XVI related medical assistance or the limited casualty program for the medically needy.

(2) The department shall find no liability for resources transferred for less than fair market value made after June 30, 1989.

(3) Definitions:

(a) Transfer shall mean any act or omission to act whereby title to or any interest in property is assigned, set over, or otherwise vested or allowed to vest in another person; including delivery of personal property, bills of sale, deeds, mortgages, pledges, or any other instrument conveying or relinquishing an interest in property. Transfer of title to a resource occurs by:

(i) An intentional act or transfer; or

(ii) Failure to act to preserve title to the resource.

(b) Fair market value means the reasonable value of a resource at the time of transfer or assignment.

(c) Uncompensated value means the fair market value of a resource minus the amount of compensation received in exchange for the resource.

(d) Value of compensation received means the consideration paid or agreed to be paid by the purchaser.

(e) Compensation includes:

(i) All money, real or personal property, food, shelter, or services received by the individual;

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(A) At or after the time of transfer in exchange for the resource if the compensation was provided pursuant to a binding (legally enforceable) agreement in effect at the time of transfer; or

(B) Before the actual transfer if the compensation was provided pursuant to a binding (legally enforceable) agreement whereby the eligible individual transfers the resource or otherwise pays for such item.

(ii) The payment or assumption of a legal debt owed by the individual in exchange for the resource.

(4) WAC 388-28-461, 388-28-462, and 388-28-465 are incorporated by reference and apply to this section, with the exception to the reference therein to WAC 388-28-460.

(5) The voluntary transfer or assignment of resources between spouses is permitted without affecting eligibility or continued eligibility of the spouse transferring or assigning the resources.

(6) The amount of the civil penalty shall be equal to the uncompensated value of the cash or resources transferred or assigned at less than fair market value.

(7) The civil penalty shall not exceed the cost of assistance rendered by the department to the recipient.

(8) Written notice of imposition of the civil penalty shall be provided by personal service or certified mail to the individual or entity subject to the civil penalty.

(9) The person or entity alleged to be subject to the civil penalty under this section has the right to request a hearing to appeal the determination, and said hearing shall be in accordance with the administrative procedures in chapter 388-08 WAC except as modified by this section.

(a) There is a rebuttable presumption that a person who received cash or other nonexempt resources from an applicant or recipient for less than fair market value within two years preceding the date of application for medical care, did so knowingly and willfully for the purpose of enabling the applicant or recipient to qualify or continue to qualify for assistance.

(b) The person has the right to offer evidence to rebut the presumption that the transfer or assignment was made for purposes of enabling the applicant or recipient to qualify or continue to qualify for assistance and that the person knowingly and willfully received the resource for such purpose.

(c) The prevailing party in such an action shall be awarded reasonable attorney fees.

[Statutory Authority: 1989 c 87, 89-18-032 (Order 2859), § 388-81-052, filed 8/29/89, effective 9/29/89. Statutory Authority: RCW 74.08.090, 84-04-068 (Order 2073), § 388-81-052, filed 2/1/84; 82-23-002 (Order 1897), § 388-81-052, filed 11/4/82; 82-10-017 (Order 1776), § 388-81-052, filed 4/28/82.]

WAC 388-81-055 Fraud. Any person who by means of willfully false statement or representation or by impersonation or other fraudulent device or failure to reveal resources as required obtains or attempts to obtain or aids or abets any person to obtain medical care to which he/she is not entitled shall be guilty of larceny. See WAC 388-44-020 for procedures to be followed in cases involving fraud.

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[Statutory Authority: RCW 74.08.090, 81-10-014 (Order 1646), § 388-81-055, filed 4/27/81; Order 299, § 388-81-055, filed 9/6/68; Order 264 (part), § 388-81-055, filed 11/24/67.]

WAC 388-81-060 Medicare cost sharing. (1) Subject to limitations under chapter 388-87 WAC, the department shall pay, for an otherwise eligible individual:

(a) Supplementary medical insurance Part B, under Title XVIII of the Social Security Act;

(b) Coinsurance; and

(c) Deductibles.

(2) In addition to subsection (1) of this section, the department shall pay Part A, under Title XVIII of the Social Security Act, for an individual eligible under WAC 388-82-140.

(3) The department shall pay only the Part A premium, under Title XVIII of the Social Security Act, for an individual eligible under WAC 388-82-160.

[Statutory Authority: RCW 74.08.090, 90-18-006 (Order 3060), § 388-81-060, filed 8/23/90, effective 9/23/90; 89-05-029 (Order 2758), § 388-81-060, filed 2/13/89; 81-10-014 (Order 1646), § 388-81-060, filed 4/27/81; Order 911, § 388-81-060, filed 3/1/74; Order 833, § 388-81-060, filed 7/26/73; Order 299, § 388-81-060, filed 9/6/68.]

WAC 388-81-070 Determination of maternity care distressed areas. (1) A maternity care distressed area shall be defined as a county where women eligible for medical assistance are unable to obtain adequate maternity care.

(2) The department shall conduct a biennial review of each county in the state to determine if the county is a maternity care distressed area. The department shall include the following factors in the department's determination:

(a) Higher than average percentage of eligible women receive late or no prenatal care;

(b) Higher than average percentage of eligible women go out of the area to receive maternity care;

(c) Higher than average ratio of medical assistance births to obstetrical care providers;

(d) Higher than average percentage of infants are born to eligible persons per obstetrical care provider; and

(e) Higher than average percentage of infants are of low birth weight born to eligible women. Low birth weight shall be defined as less than five and one-half pounds, or less than two thousand five hundred grams.

(3) The department shall notify the relevant county authority, for example, board of county commissioners, county council, or county executive, when the department determines a maternity care distressed area exists.

(4) The county authority shall, within one hundred twenty days from the date notified, submit a brief report to the department recommending remedial action.

(a) The county authority shall prepare the report in consultation with:

(i) The department and the department's local community service offices;

(ii) The local public health officer;

(iii) Community health clinics;

(iv) Health care providers;

(v) Hospitals;

- (vi) The business community;
- (vii) Labor representatives; and
- (viii) Low income advocates in the distressed area.
- (b) The county authority may contract with a local nonprofit agency to develop the report.
- (c) The county authority shall notify the department within thirty days if the county authority is unable or unwilling to develop the report.
- (5) The department shall develop the report for the distressed area if the department is notified that the county authority is unable or unwilling to develop the report.
- (6) The department shall review the report and use the report in developing strategies to improve maternity care access in the distressed area.

[Statutory Authority: RCW 74.08.090. 89-22-033 (Order 2883), § 388-81-070, filed 10/27/89, effective 11/27/89.]

Chapter 388-82 WAC

MEDICAL CARE--PROGRAM DESCRIBED--LIMITATIONS

WAC

- 388-82-006 Medical assistance.
- 388-82-008 Family independence program (FIP).
- 388-82-010 Persons eligible for medical assistance.
- 388-82-115 Categorically needy medical assistance eligibility.
- 388-82-126 Medical care services (GAU).
- 388-82-130 Medical care provided in bordering cities.
- 388-82-135 Out-of-state medical care.
- 388-82-140 Qualified Medicare beneficiaries eligible for Medicare cost sharing.
- 388-82-160 Hospital premium insurance enrollment for the working disabled.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 388-82-005 Medical care--General description of programs. [Statutory Authority: RCW 74.08.090. 80-13-020 (Order 1542), § 388-82-005, filed 9/9/80; 78-02-024 (Order 1265), § 388-82-005, filed 1/13/78; Order 952, § 388-82-005, filed 7/16/74; Order 264 (part), § 388-82-005, filed 11/24/67.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.
- 388-82-015 "H" category (federal aid). [Statutory Authority: RCW 74.08.090. 78-02-024 (Order 1265), § 388-82-015, filed 1/13/78; Order 1097, § 388-82-015, filed 2/13/76; Order 995, § 388-82-015, filed 12/31/74; Order 911, § 388-82-015, filed 3/1/74; Order 765, § 388-82-015, filed 1/10/73; Order 518, § 388-82-015, filed 2/24/71; Order 382, § 388-82-015, filed 8/27/69; Order 300, § 388-82-015, filed 9/6/68; Order 264 (part), § 388-82-015, filed 11/24/67.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.
- 388-82-020 Medical care services. [Statutory Authority: RCW 74.08.090. 80-15-034 (Order 1554), § 388-82-020, filed 10/9/80; 79-06-034 (Order 1402), § 388-82-020, filed 5/16/79; 79-01-002 (Order 1359), § 388-82-020, filed 12/8/78; Order 1203, § 388-82-020, filed 4/1/77; Order 1196, § 388-82-020, filed 3/3/77; Order 995, § 388-82-020, filed 12/31/74; Order 911, § 388-82-020, filed 3/1/74; Order 765, § 388-82-020, filed 1/10/73; Order 677, § 388-82-020, filed 5/10/72; Order 547, § 388-82-020, filed 3/31/71, effective 5/1/71; Order 382, § 388-82-020, filed 8/27/69; Order 300, § 388-82-020, filed 9/6/68; Order 264 (part), § 388-82-020, filed

- 11/24/67.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.
- 388-82-025 Institutional status. [Order 1097, § 388-82-025, filed 2/13/76; Order 518, § 388-82-025, filed 2/24/71; Order 264 (part), § 388-82-025, filed 11/24/67.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.
- 388-82-030 State of Washington resident requiring care out-of-state. [Statutory Authority: RCW 74.08.090. 79-01-002 (Order 1359), § 388-82-030, filed 12/8/78; Order 1203, § 388-82-030, filed 4/1/77; Order 1166, § 388-82-030, filed 10/27/76; Order 1112, § 388-82-030, filed 4/15/76; Order 709, § 388-82-030, filed 9/14/72; Order 462, § 388-82-030, filed 6/23/70; Order 332, § 388-82-030, filed 2/3/69; Order 300, § 388-82-030, filed 9/6/68; Order 264 (part), § 388-82-030, filed 11/24/67.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.
- 388-82-035 Out-of-state resident requiring medical care in Washington state. [Statutory Authority: RCW 74.08.090. 80-13-020 (Order 1542), § 388-82-035, filed 9/9/80; Order 1203, § 388-82-035, filed 4/1/77; Order 1158, § 388-82-035, filed 10/6/76; Order 995, § 388-82-035, filed 11/29/73; Order 404, § 388-82-035, filed 11/24/69; Order 382, § 388-82-035, filed 8/27/69; Order 300, § 388-82-035, filed 9/6/68; Order 264 (part), § 388-82-035, filed 11/24/67.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.
- 388-82-040 Medical care for Cuban refugees. [Order 995, § 388-82-040, filed 12/31/74; Order 834, § 388-82-040, filed 7/26/73; Order 300, § 388-82-040, filed 9/6/68.] Repealed by 78-02-024 (Order 1265), filed 1/13/78. Statutory Authority: RCW 74.08.090.
- 388-82-045 Medical care for United States citizen returned from foreign country. [Order 300, § 388-82-045, filed 9/6/68.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.
- 388-82-125 Recipients in medical institutions eligible under Title XIX. [Statutory Authority: RCW 74.08.090. 82-01-001 (Order 1725), § 388-82-125, filed 12/3/81; 81-10-014 (Order 1646), § 388-82-125, filed 4/27/81.] Repealed by 83-12-059 (Order 1964), filed 6/1/83. Statutory Authority: RCW 74.08.090. Later promulgation, see WAC 388-95-300.

WAC 388-82-006 Medical assistance. Medical assistance is the Title XIX funded medical program that provides full scope medical care to eligible individuals.

[Statutory Authority: RCW 74.08.090. 81-10-014 (Order 1646), § 388-82-006, filed 4/27/81.]

WAC 388-82-008 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 categorically needy person who is:

(1) Receiving or eligible to receive a cash assistance payment. Payment categories a person may qualify for 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 categorically needy medical assistance; and

(d) A person under twenty-one years of age:

(i) Whose income is less than the one-person AFDC standard and is in:

(A) Foster care; or

(B) Subsidized adoption; or

(C) A skilled nursing home, intermediate care facility, or intermediate care facility for mentally retarded (ICF/MR); or

(D) An approved inpatient psychiatric facility.

(ii) Meeting the eligibility requirements under WAC 388-83-033.

(e) Family independence program (FIP).

(2) A pregnant woman:

(a) Who would be eligible for AFDC if her child were born and residing 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; or

(b) Meeting the eligibility requirements under WAC 388-83-032.

(3) In a medical facility and:

(a) Who would be eligible for cash assistance if the person was not institutionalized. This includes all categorically needy groups; or

(b) 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.

(4) Not receiving cash assistance because of special provisions as defined in WAC 388-83-028.

(5) Not an inmate of a public institution.

(6) Sixty-four years of age or older, a patient in an institution for mental diseases, and eligible under subsection (3)(a) and (b) of this section.

(7) An individual:

(a) SSI categorically related;

(b) With gross income in excess of the total of the SSI and state supplement rate, but less than three hundred percent of the SSI federal benefit rate; and

(c) Eligible for, and accepting of, hospice services as described under WAC 388-86-047.

[Statutory Authority: RCW 74.08.090. 90-04-013 (Order 2932), § 388-82-010, filed 1/29/90, effective 3/1/90; 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 which becomes ineligible for AFDC before April 1, 1990, 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:

(a) The family received AFDC in at least three of the six months immediately preceding the month of ineligibility;

(b) A member of such family continues to be employed; and

(c) The 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;

(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 under P.L. 94-566, Section 503 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 before April 1, 1990, 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.

(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.

(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;

(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;

(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;

(d) Has been continuously entitled to a widow's or widower's benefit under section 202 (e) or (f) of the act;

(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;

(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;

(b) Is not eligible for the hospital Medicare (Part A of Title XVIII) benefits;

(c) Received SSI/SSP before sixty years of age;

(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 which becomes ineligible for FIP before April 1, 1990, 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:

(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.

(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;

(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. 90-06-033 (Order 2945), § 388-82-115, filed 3/1/90, effective 4/1/90; 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.]

WAC 388-82-126 Medical care services (GAU). (1) State-funded medical care services provides a more limited scope of medical care to eligible individuals as defined in chapter 388-86 WAC.

(2) Continuing general assistance recipients in skilled nursing homes, intermediate care facilities or intermediate care facilities for mentally retarded shall be provided medical care services to the same extent as a recipient of medical assistance.

[Statutory Authority: RCW 74.08.090. 83-17-006 (Order 1996), § 388-82-126, filed 8/5/83; 81-16-033 (Order 1685), § 388-82-126, filed 7/29/81; 81-10-014 (Order 1646), § 388-82-126, filed 4/27/81.]

WAC 388-82-130 Medical care provided in bordering cities. The department shall provide medical care to eligible Washington state residents in a bordering city on the same basis as in-state care. The only recognized bordering cities are Coeur d'Alene, Moscow, Sandpoint, Priest River, and Lewiston, Idaho; Portland, The Dalles, Hermiston, Hood River, Rainier, Milton-Freewater, and Astoria, Oregon.

[Statutory Authority: RCW 74.08.090. 90-17-121 (Order 3055), § 388-82-130, filed 8/21/90, effective 9/21/90; 84-02-055 (Order 2063), § 388-82-130, filed 1/4/84; 81-16-033 (Order 1685), § 388-82-130, filed 7/29/81; 81-10-014 (Order 1646), § 388-82-130, filed 4/27/81.]

WAC 388-82-135 Out-of-state medical care. (1) A categorically needy resident of the state of Washington temporarily out of the state may be provided medical assistance within the scope of the medicaid program.

(a) Residency requirements in chapter 388-80 WAC must be met.

(b) Medical assistance may be provided only in areas of Canada that border on the United States when no other resource is available.

(2) Persons eligible for the limited casualty program—medically needy may be provided medical care within the scope of that program.

(3) When an eligible individual goes to another state, excluding bordering cities, expressly to obtain medical care that is available within the state of Washington, medical assistance will only be provided on an emergency basis.

(4) Medical assistance will be provided to persons who enter the state and are determined to be financially eligible, provided the residency requirements in chapter 388-80 WAC are met.

(5) State-funded medical care is not provided out-of-state except in designated bordering cities.

[Statutory Authority: RCW 74.08.090. 81-16-033 (Order 1685), § 388-82-135, filed 7/29/81; 81-10-014 (Order 1646), § 388-82-135, filed 4/27/81.]

WAC 388-82-140 Qualified Medicare beneficiaries eligible for Medicare cost sharing. The department shall provide Medicare cost sharing under WAC 388-81-060(2) for an individual:

(1) Meeting the general nonfinancial requirements under chapter 388-83 WAC; and

(2) Entitled to Medicare hospital insurance benefits, Part A, under Title XVIII of the Social Security Act; and

(3) Having resources not exceeding twice the maximum supplemental security income (SSI) resource limits under chapter 388-92 WAC; and

(4) Having a total countable family income, as determined under chapter 388-92 WAC, not exceeding ninety percent of the federal poverty income guidelines as published and updated by the secretary of health and

human services. Ninety percent of the 1990 federal poverty income guidelines is:

| | Family Size | Monthly |
|-----|-------------|---------|
| (a) | One | \$ 471 |
| (b) | Two | 632 |
| (c) | Three | 792 |
| (d) | Four | 953 |
| (e) | Five | 1,113 |
| (f) | Six | 1,274 |
| (g) | Seven | 1,434 |
| (h) | Eight | 1,595 |

(i) For family units with more than eight members, add \$ 161 to the monthly income for each additional member.

[Statutory Authority: RCW 74.08.090. 90-12-045 (Order 2987), § 388-82-140, filed 5/31/90, effective 7/1/90; 89-24-039 (Order 2910), § 388-82-140, filed 12/1/89, effective 1/1/90; 89-11-057 (Order 2798), § 388-82-140, filed 5/17/89; 89-05-029 (Order 2758), § 388-82-140, filed 2/13/89.]

WAC 388-82-160 Hospital premium insurance enrollment for the working disabled. The department shall pay premiums for Medicare Part A for an individual:

(1) Who is not otherwise entitled for medical assistance;

(2) Entitled to enroll for Medicare hospital insurance benefits, Part A, under section 1818A of the Social Security Act;

(3) Having resources, as determined under chapter 388-92 WAC, not exceeding twice the maximum supplemental security income (SSI) resource limits under chapter 388-92 WAC for an individual or a couple (individual with a spouse); and

(4) Having a total countable family income, as determined under chapter 388-92 WAC, not exceeding two hundred percent of the poverty income guidelines as published and updated by the secretary of health and human services. Two hundred percent of the 1990 poverty income guidelines is:

| | Family Size | Monthly |
|-----|-------------|------------|
| (a) | One | \$1,046.00 |
| (b) | Two | 1,404.00 |

(c) For family units with three members or more, add \$356.00 to the monthly income for each additional member.

[Statutory Authority: RCW 74.08.090. 90-18-006 (Order 3060), § 388-82-160, filed 8/23/90, effective 9/23/90.]

**Chapter 388-83 WAC
MEDICAL CARE--ELIGIBILITY**

| WAC | |
|------------|---|
| 388-83-005 | Medical assistance eligibility. |
| 388-83-006 | Medical care services. |
| 388-83-010 | Alternative sources for medical care. |
| 388-83-012 | Assignment of rights. |
| 388-83-013 | Cooperation in securing medical care support. |

- 388-83-014 Good cause not to cooperate in securing medical care support.
 - 388-83-015 Citizenship and alienage.
 - 388-83-017 Social Security number.
 - 388-83-020 Age.
 - 388-83-025 Residence.
 - 388-83-026 Availability of resources—General.
 - 388-83-029 Medical extensions.
 - 388-83-031 Continuation of eligibility for pregnant women.
 - 388-83-032 Pregnant women.
 - 388-83-033 Children—Eligible to eighteen years of age.
 - 388-83-036 Monthly maintenance standard—Client not in own home.
 - 388-83-130 Eligibility—Special situations.
 - 388-83-200 Community options program entry system (COPES).
 - 388-83-210 Community alternatives program (CAP) and outward bound residential alternatives (OBRA) program.
 - 388-83-220 Coordinated community AIDS service alternatives (CCASA) program.
- DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER**
- 388-83-027 Medical need. [Order 1196, § 388-83-027, filed 3/3/77; Order 1061, § 388-83-027, filed 10/8/75; Order 964, § 388-83-027, filed 8/19/74; Order 922, § 388-83-027, filed 4/15/74; Order 911, § 388-83-027, filed 3/1/74; Order 879, § 388-83-027, filed 11/29/73; Order 787, § 388-83-027, filed 4/12/73; Order 736, § 388-83-027, filed 11/22/72; Order 419, § 388-83-027, filed 12/31/69.] Repealed by 78-02-024 (Order 1265), filed 1/13/78. Statutory Authority: RCW 74.08.090.
 - 388-83-028 Eligibility factors for special categories. [Statutory Authority: RCW 74.08.090. 85-16-046 (Order 2262), § 388-83-028, filed 7/31/85; 84-04-069 (Order 2074), § 388-83-028, filed 2/1/84; 83-17-005 (Order 1995), § 388-83-028, filed 8/5/83; 82-01-001 (Order 1725), § 388-83-028, filed 12/3/81; 81-10-014 (Order 1646), § 388-83-028, filed 4/27/81; 79-06-034 (Order 1402), § 388-83-028, filed 5/16/79; 78-02-024 (Order 1265), § 388-83-028, filed 1/13/78.] Repealed by 90-12-060 (Order 3018), filed 5/31/90, effective 7/1/90. Statutory Authority: RCW 74.08.090.
 - 388-83-030 Computation of available income and resources. [Statutory Authority: RCW 74.08.090. 80-13-020 (Order 1542), § 388-83-030, filed 9/9/80; 79-09-053 (Order 1427), § 388-83-030, filed 8/24/79; 78-10-077 (Order 1346), § 388-83-030, filed 9/27/78; Order 1203, § 388-83-030, filed 4/1/77; Order 1196, § 388-83-030, filed 3/3/77; Order 1158, § 388-83-030, filed 10/6/76; Order 1112, § 388-83-030, filed 4/15/76; Order 922, § 388-83-030, filed 4/15/74; Order 780, § 388-83-030, filed 3/16/73; Order 710, § 388-83-030, filed 9/14/72; Order 655, § 388-83-030, filed 2/9/72; Order 466, § 388-83-030, filed 6/23/70; Order 264 (part), § 388-83-030, filed 11/24/67.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.
 - 388-83-035 Monthly maintenance standard—Applicant living in own home. [Statutory Authority: RCW 74.08.090. 80-12-012 (Order 1537), § 388-83-035, filed 8/25/80; 79-09-032 (Order 1424), § 388-83-035, filed 8/15/79; 78-10-059 (Order 1339), § 388-83-035, filed 9/22/78; Order 1246, § 388-83-035, filed 10/11/77; Order 1144, § 388-83-035, filed 8/26/76; Order 1061, § 388-83-035, filed 10/8/75; Order 1040, § 388-83-035, filed 8/7/75; Order 1015, § 388-83-035, filed 3/27/75; Order 995, § 388-83-035, filed 12/31/75; Order 952, § 388-83-035, filed 7/16/74; Order 922, § 388-83-035, filed 4/15/74; Order 911, § 388-83-035, filed 3/1/74; Order 879, § 388-83-035, filed 11/29/73; Order 787, § 388-83-035, filed 4/12/73; Order 655, § 388-83-035, filed 2/9/72; Order 555, § 388-83-035, filed 4/1/71; Order 466, § 388-83-035, filed 6/23/70; Order 383, § 388-83-035, filed 8/27/69; Order 264 (part), § 388-83-035, filed 11/24/67.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.
 - 388-83-040 Monthly personal needs allowance—Applicant in institution. [Statutory Authority: RCW 74.08.090. 80-13-020 (Order 1542), § 388-83-040, filed 9/9/80; 80-02-062 (Order 1478), § 388-83-040, filed 1/18/80; 79-01-002 (Order 1359), § 388-83-040, filed 12/8/78; Order 1061, § 388-83-040, filed 10/8/75; Order 922, § 388-83-040, filed 4/15/74; Order 383, § 388-83-040, filed 8/27/69; Order 264 (part), § 388-83-040, filed 11/24/67.] Repealed by 81-16-033 (Order 1685), filed 7/29/81. Statutory Authority: 74.08.090.
 - 388-83-045 Allocation of available income and nonexempt resources. [Statutory Authority: RCW 74.08.090. 80-15-034 (Order 1554), § 388-83-045, filed 10/9/80; 80-02-061 (Order 1479), § 388-83-045, filed 1/18/80; 79-01-002 (Order 1359), § 388-83-045, filed 12/8/78; Order 1233, § 388-83-045, filed 8/31/77; Order 1196, § 388-83-045, filed 3/3/77; Order 1151, § 388-83-045, filed 9/8/76; Order 1061, § 388-83-045, filed 10/8/75; Order 994, § 388-83-045, filed 12/31/74; Order 922, § 388-83-045, filed 4/15/74; Order 911, § 388-83-045, filed 3/1/74; Order 879, § 388-83-045, filed 11/29/73; Order 835, § 388-83-045, filed 7/26/73; Order 787, § 388-83-045, filed 4/12/73; Order 678, § 388-83-045, filed 5/10/72; Order 628, § 388-83-045, filed 11/24/71; Order 579, § 388-83-045, filed 7/20/71; Order 548, § 388-83-045, filed 3/31/71, effective 5/1/71; Order 497, § 388-83-045, filed 11/25/70, effective 1/1/71; Order 419, § 388-83-045, filed 12/31/69; Order 405, § 388-83-045, filed 11/24/69; Order 301, § 388-83-045, filed 9/6/68; Order 264 (part), § 388-83-045, filed 11/24/67.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.
 - 388-83-050 Availability of resources. [Statutory Authority: RCW 74.08.090. 80-13-020 (Order 1542), § 388-83-050, filed 9/9/80; 79-09-053 (Order 1427), § 388-83-050, filed 8/24/79; Order 1202, § 388-83-050, filed 4/1/77; Order 1097, § 388-83-050, filed 2/13/76; Order 879, § 388-83-050, filed 11/29/73; Order 333, § 388-83-050, filed 2/3/69; Order 264 (part), § 388-83-050, filed 11/24/67.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.
 - 388-83-055 Exempt resources. [Statutory Authority: RCW 74.08.090. 80-13-020 (Order 1542), § 388-83-055, filed 9/9/80; Order 1233, § 388-83-055, filed 8/31/77; Order 1158, § 388-83-055, filed 10/6/76; Order 780, § 388-83-055, filed 3/16/73; Order 710, § 388-83-055, filed 9/14/72; Order 419, § 388-83-055, filed 12/31/69; Order 400, § 388-83-055, filed 11/5/69; Order 301, § 388-83-055, filed 9/6/68; Order 264 (part), § 388-83-055, filed 11/24/67.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.
 - 388-83-060 Nonexempt resources. [Statutory Authority: RCW 74.08.090. 80-13-020 (Order 1542), § 388-83-060, filed 9/9/80; Order 400, § 388-83-060, filed 11/5/69; Order 264 (part), § 388-83-060, filed 11/24/67.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.
 - 388-83-065 Transfer of resources within two years prior to application. [Statutory Authority: RCW 74.08.090. 79-06-034 (Order 1402), § 388-83-065, filed 5/16/79; Order 1233, § 388-83-065, filed 8/31/77; Order 930, § 388-83-065, filed 4/25/74.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.
 - 388-83-135 Eligibility determination—Institutional. [Statutory Authority: RCW 74.08.090. 82-10-062 (Order

1801), § 388-83-135, filed 5/5/82; 82-01-001 (Order 1725), § 388-83-135, filed 12/3/81; 81-16-033 (Order 1685), § 388-83-135, filed 7/29/81; 81-10-014 (Order 1646), § 388-83-135, filed 4/27/81.] Repealed by 83-12-059 (Order 1964), filed 6/1/83. Statutory Authority: RCW 74.08.090. Later promulgation, see WAC 388-95-320.

388-83-140 Allocation of income—Institutionalized recipient. [Statutory Authority: RCW 74.08.090. 83-02-027 (Order 1930), § 388-83-140, filed 12/29/82; 82-10-062 (Order 1801), § 388-83-140, filed 5/5/82; 81-16-033 (Order 1685), § 388-83-140, filed 7/29/81; 81-10-014 (Order 1646), § 388-83-140, filed 4/27/81.] Repealed by 83-12-059 (Order 1964), filed 6/1/83. Statutory Authority: RCW 74.08.090. Later promulgation, see WAC 388-95-360.

WAC 388-83-005 Medical assistance eligibility.

The department shall provide medical assistance within the limitations set forth under these rules and regulations to any individual who has been certified Title XIX eligible categorically needy. The recipient shall be responsible for furnishing the provider with a medical identification coupon or other adequate notification of eligibility provided by the department. Eligibility for medically needy is described in chapter 388-99 WAC.

[Statutory Authority: RCW 74.08.090. 81-16-033 (Order 1685), § 388-83-005, filed 7/29/81; 81-10-014 (Order 1646), § 388-83-005, filed 4/27/81; Order 1203, § 388-83-005, filed 4/1/77; Order 922, § 388-83-005, filed 4/15/74; Order 483, § 388-83-005, filed 10/13/70; Order 264 (part), § 388-83-005, filed 11/24/67.]

WAC 388-83-006 Medical care services. (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 388-83-010 Alternative sources for medical care. (1) All third party resources for medical care available to the applicant or recipient must be utilized to the fullest possible extent in the payment for the medical care prior to participation by the department.

(2) The department makes agreements with providers of prepaid medical plans. Eligible recipients who choose to participate in a prepaid program are required to utilize such providers of service exclusively except for certain noncovered services for which the department may be responsible under the medical care program. See WAC 388-87-010(4).

(3) Supplementation of medical services shall meet the following limitations:

(a) Supplemental services:

(i) Shall be services beyond those covered by the medical assistance programs;

(ii) Shall not be required, implied or otherwise, by the provider in order for the recipient to receive services covered by the medical assistance program.

(b) Funds for payment of the supplemental services from a source other than the recipient are not considered as income available to the recipient for eligibility purposes if:

(i) The funds are paid directly to the provider; and

(ii) The funds do not at any time come under the control of the recipient.

[Statutory Authority: RCW 74.08.090. 84-15-060 (Order 2126), § 388-83-010, filed 7/18/84; 81-10-014 (Order 1646), § 388-83-010, filed 4/27/81; 80-13-020 (Order 1542), § 388-83-010, filed 9/9/80; Order 1061 § 388-83-010, filed 10/8/75; Order 780, § 388-83-010, filed 3/16/73; Order 405, § 388-83-010, filed 11/24/69; Order 264 (part), § 388-83-010, filed 11/24/67.]

WAC 388-83-012 Assignment of rights. (1) As a condition of eligibility for medical assistance, an applicant or recipient/enrollee shall assign to the state of Washington all right, title, and interest to any medical care support available as a result of:

(a) A court order;

(b) An administrative agency order; or

(c) Any third-party payments for medical care.

(2) The applicant or recipient/enrollee shall assign rights of payment to any medical care support the applicant or recipient/enrollee may have in his or her own behalf or on the behalf of any other applicant or recipient/enrollee for whom the applicant or recipient/enrollee can legally assign such rights.

[Statutory Authority: RCW 74.08.090. 89-12-080 (Order 2809), § 388-83-012, filed 6/7/89; 84-23-027 (Order 2168), § 388-83-012, filed 11/14/84.]

WAC 388-83-013 Cooperation in securing medical care support. (1) As a condition of eligibility for medical assistance, the department shall require the applicant or recipient/enrollee to cooperate with the department in:

(a) Obtaining medical care support or payment for the applicant or recipient/enrollee or for any other applicant or recipient/enrollee other than an unborn for whom the applicant or recipient/enrollee can legally assign rights; and

(b) Identifying and providing information to assist the department in pursuing any liable third party.

(2) The department shall also require an AFDC/FIP-related medical assistance client to cooperate as described under WAC 388-14-200 (2)(a), (b), (c), (3), (4), (5), (6), (7), (8), (9), and (16), unless there is a finding of good cause under WAC 388-24-111, except for the provision under WAC 388-24-111 (15)(b), in establishing:

(a) The paternity of a child; and

(b) Medical care support.

(3) The department shall waive such cooperation requirements if the department finds the applicant or recipient/enrollee has good cause under WAC 388-83-014 for noncooperation.

(4) Unless the department finds good cause for non-cooperation under WAC 388-24-111 or 388-83-014, the department shall find the applicant or recipient/enrollee, who refuses to cooperate under subsection (1) of this section, ineligible to receive medical assistance.

(5) The department shall provide medical assistance to an otherwise eligible applicant or recipient/enrollee when the person who has the legal authority to cooperate on behalf of the applicant or recipient/enrollee refuses such cooperation.

[Statutory Authority: RCW 74.08.090, 90-04-012 (Order 2937), § 388-83-013, filed 1/29/90, effective 3/1/90; 89-12-080 (Order 2809), § 388-83-013, filed 6/7/89.]

WAC 388-83-014 Good cause not to cooperate in securing medical care support. (1) The department shall waive the cooperation requirement under WAC 388-83-013(1), if the client claims and the department determines cooperation is not in the best interest of the:

(a) Medical care client for whom assignment is made; or

(b) Person making the assignment.

(2) The department shall inform a client of the right to claim good cause for not cooperating.

(3) The department shall make a final determination of the existence of good cause using the time limits and exceptions described under WAC 388-84-110.

(4) The department shall find good cause if the cooperation is not in the best interest of the applicant or recipient/enrollee or the person responsible for cooperating. Circumstances constituting good cause for noncooperation include, but are not limited to:

(a) Cooperation is reasonably anticipated to result in physical harm or an emotional impairment substantially affecting the ability to function of the:

(i) Applicant or recipient/enrollee; or

(ii) Person responsible for cooperating.

(b) That the person for whom support is sought was conceived as a result of rape or incest;

(c) Legal proceedings for adoption are pending;

(d) The question of whether to place the child for adoption is under active consideration; or

(e) For an AFDC/FIP applicant or recipient/enrollee, if the department finds good cause for not cooperating under WAC 388-24-111 for establishing paternity for a child or a medical care support resource.

(5) If the client is otherwise eligible, the department shall not deny, delay, or discontinue medical assistance pending a determination of good cause for refusing to cooperate if the client complies with the requirements to furnish evidence or information.

(6) At each reapplication or eligibility reevaluation, the department shall review all cases in which the department found good cause for refusing to cooperate. If good cause no longer exists, the department shall rescind the decision and require cooperation by the client.

(7) If the department determines good cause does not exist:

(a) The department shall notify the client, in writing, and afford the client the opportunity to:

(i) Cooperate;

(ii) Withdraw the application for medical assistance;

(iii) Have the case closed; or

(iv) Request a fair hearing; and

(b) The department shall deny or terminate medical assistance, if the client refuses to cooperate as required under WAC 388-83-013.

[Statutory Authority: RCW 74.08.090, 89-12-080 (Order 2809), § 388-83-014, filed 6/7/89.]

WAC 388-83-015 Citizenship and alienage. (1) The department shall provide Medicaid to an otherwise eligible individual who is:

(a) A citizen of the United States; or

(b) A North American Indian born in Canada:

(i) Claiming fifty percent Indian blood; or

(ii) Claiming fifty percent or less Indian blood and maintains United States residency since before December 25, 1952; or

(c) An alien lawfully admitted for permanent residence or otherwise permanently residing under color of law (PRUCOL) in the United States or an alien who is lawfully present in the United States according to provisions of sections 203 (a)(7), 207(c), 208, and 212 (d)(5) of the Immigration and Nationality Act (INA); or

(d) An alien granted lawful temporary residence, or permanent residence according to provisions of section 245A, 210, and 210A of INA and section 202 of the Immigration Reform and Control Act (IRCA) if the alien is:

(i) Aged, blind, or disabled;

(ii) Seventeen years of age or under;

(iii) Pregnant; or

(iv) A Cuban/Haitian entrant as defined in sections 501 (e)(1) and (2)(A) of P.L. 96-422.

(2) For five years from the date Immigration and Naturalization Service (INS) grants lawful temporary or permanent resident status to an alien, under sections 245A, 210, and 210A of INA, the alien, other than those described under subsection (1)(d) of this section, shall be eligible for Medicaid services only as follows:

(a) Medical care and services necessary for treatment of the alien's emergency medical condition. For purposes of this subsection, 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:

(i) Placing the alien's health in serious jeopardy;

(ii) Serious impairment to bodily functions; or

(iii) Serious dysfunction of any bodily organ or part.

(b) When such alien meets the eligibility requirements of any one of the medical assistance programs under chapters 388-82, 388-83, 388-92, 388-95, and 388-99 WAC.

(3) The department shall consider a seasonal agricultural worker (SAW), granted temporary or permanent residence under sections 210(f) of INA and 302 of IRCA, eligible for Medicaid on the same basis as aliens under subsections (1)(d) or (2) of this section.

(4) An alien who is not lawfully admitted for permanent residence, or otherwise permanently residing in the

United States under color of law, or described in subsection (2) or (3) of this section, 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 any one of the medical assistance programs under 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 alien'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. 89-11-057 (Order 2798), § 388-83-015, filed 5/17/89; 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 388-83-017 Social Security number. (1) As a condition of eligibility each applicant for or recipient of medical assistance shall be required to:

(a) Furnish Social Security numbers for all persons for whom assistance is being requested or,

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

(c) In the case of a child born to a woman eligible for and receiving medical assistance, on the date of the child's birth, medical assistance may be provided for the child before application for a Social Security number for a period of one year if:

(i) The child remains a member of the mother's household, and

(ii) The mother remains eligible for medical assistance.

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

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

(4) If the applicant or recipient fails or refuses to comply with the requirement in subsection (1) of this section for each person included in the assistance unit, eligibility for such person(s) cannot be determined and they shall be excluded from the assistance unit and denied medical assistance.

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

(6) These rules shall be effective April 1, 1985.

[Statutory Authority: RCW 74.08.090. 85-03-072 (Order 2194), § 388-83-017, filed 1/17/85; 81-10-014 (Order 1646), § 388-83-017, filed 4/27/81; Order 1056, § 388-83-017, filed 9/25/75.]

WAC 388-83-020 Age. No age requirement is imposed as a condition of eligibility in regard to medical assistance. The age of the applicant is established to determine whether the individual may be related to a federal aid category, or may be eligible for the under age twenty-one category.

[Statutory Authority: RCW 74.08.090. 81-16-033 (Order 1685), § 388-83-020, filed 7/29/81; 81-10-014 (Order 1646), § 388-83-020, filed 4/27/81; Order 264 (part), § 388-83-020, filed 11/24/67.]

WAC 388-83-025 Residence. (1) A client of the benefits of the medical care program shall be a resident of the state of Washington; a client need not be a resident of the county in which medical care is obtained.

(2) The department shall consider a client a resident if the client:

(a) Intends to remain permanently or for an indefinite period in the state; or

(b) Enters the state with a job commitment or seeks employment, whether the client is or is not currently employed.

(3) The department shall not consider a person, entering the state temporarily for the sole purpose of obtaining medical care, a resident.

(4) The department shall consider a client's residence the state:

(a) Making a state supplemental security income (SSI) supplementary payment;

(b) Making federal payments for foster or adoption assistance under Title IV-E of the Social Security Act;

(c) Of residence of the parent or legal guardian, if one has been appointed, for an institutionalized minor child;

(d) Of residence of the parent or legal guardian, if one has been appointed, for an institutionalized client twenty-one years of age or older who became incapable of determining residential intent before twenty-one years of age;

(e) Where a client is residing if the person becomes incapable before twenty-one years of age; and

(f) Making placement in an out-of-state institution.

(5) State of residence of a noninstitutionalized minor child, unless married or emancipated, follows the rules under chapter 388-24 WAC.

(6) Married or emancipated minor children follow the rules of subsections (1), (2), (3), and (4) of this section.

(7) Where two or more states cannot resolve which state is the client's state of residence, the state where the client is physically located is the state of residence.

[Statutory Authority: RCW 74.08.090. 90-02-047 (Order 2926), § 388-83-025, filed 12/29/89, effective 2/1/90; 81-10-014 (Order 1646), § 388-83-025, filed 4/27/81; 80-02-001 (Order 1470), § 388-83-025, filed 1/3/80; Order 264 (part), § 388-83-025, filed 11/24/67.]

WAC 388-83-026 Availability of resources—General. (1) To be eligible for medical care, a person's resources shall not exceed the specified limits for the appropriate eligibility standards for non-cash or cash

assistance categorically needy, medically needy, qualified Medicare beneficiaries, or qualified working disabled individual groups.

(2) In establishing eligibility for medical care, the department shall consider only those resources actually available or in hand that a person or spouse:

- (a) Owns;
- (b) Has the authority or power to convert to cash, or cash; and
- (c) Is not legally restricted from using for the person's support and maintenance.

(3) In establishing eligibility for medical assistance for noncash assistance categorically and medically needy persons, the department shall not consider noncash resources, that cannot be expected to be converted into cash within twenty work days, available to the extent that there is an ongoing bona fide effort to convert the noncash resources into cash.

[Statutory Authority: RCW 74.08.090, 90-23-068 (Order 3093), § 388-83-026, filed 11/20/90, effective 12/21/90.]

WAC 388-83-029 Medical extensions. (1) See WAC 388-83-031 for extensions for a pregnant woman.

(2) A family unit ineligible for AFDC or FIP cash 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) Is eligible for and received AFDC or FIP cash assistance in three or more of the six months immediately preceding the month of ineligibility; and

(b) Became ineligible for AFDC or FIP on or after August 16, 1984.

(3) Beginning with the month of ineligibility, an AFDC family unit becoming ineligible solely because of increased income from or increased hours of employment shall remain eligible for medical assistance (MA):

(a) For four calendar months, if ineligible before April 1, 1990;

(b) When the family receives AFDC or FIP in three or more of the six months immediately preceding the month of ineligibility; and

(c) If a family member continues employment.

(4) Beginning with April 1, 1990, an AFDC family unit which becomes ineligible because of income from or hours of employment of the caretaker relative or the loss of the thirty dollars plus one-third disregard, or the thirty dollar exemption, shall remain eligible for six calendar months when:

(a) The family receives AFDC or FIP in three or more of the six months immediately preceding the month of ineligibility; and

(b) The family unit includes a child.

(5) The AFDC family unit, under subsection (4) of this section, shall be:

(a) Eligible for six additional calendar months of medical assistance provided the family unit:

(i) Continues to meet the criteria under subsection (4)(b) of this section;

(ii) Receives medical assistance for the entire six-month extension under subsection (4) of this section; and

(iii) Reports any family earnings and child care costs related to the employment of the caretaker relative, for the immediately preceding three-month period by the twenty-first day of the fourth month of the initial extension, unless good cause is established.

(b) Terminated from the six additional calendar months of medical assistance when the:

(i) Family's average gross income, less the costs of child care related to the employment of the caretaker relative, exceeds one hundred eighty-five percent of the Federal Poverty Level when averaged over the immediately preceding three-month period;

(ii) Family fails to report any family earnings and cost of child care related to the employment of the caretaker relative for the immediately preceding three-month period by the twenty-first day of the first and fourth months of the additional extension period, unless good cause is established; or

(iii) Caretaker relative has no earnings in one or more of the previous three months, unless such lack of earnings is due to a good cause.

(6) Beginning with the month of ineligibility, an AFDC family unit becoming ineligible for AFDC cash assistance solely because of the loss of the thirty dollars plus one-third disregard, or the thirty-dollar income exemption, shall remain categorically eligible for MA for nine calendar months, if ineligible before April 1, 1990.

(7) A family unit suspended from FIP cash assistance because of increased earned income shall be eligible for extended medical assistance. This period of eligibility shall not exceed twelve months as determined under WAC 388-77-737.

(8) Beginning with the month of ineligibility, a FIP family unit becoming ineligible solely because of hours of employment shall remain eligible for MA:

(a) For four calendar months, if ineligible before April 1, 1990;

(b) When the family receives FIP or AFDC in three or more of the six months immediately preceding the month of ineligibility; and

(c) If a family member continues employment.

(9) Beginning with the month of ineligibility, a FIP family unit becoming ineligible solely because of hours of the caretaker relative's employment shall remain eligible for MA for six calendar months, if ineligible after March 31, 1990, provided:

(a) The family receives FIP or AFDC in three or more of the six months immediately preceding the month of ineligibility; and

(b) The family unit includes a child.

(10) The FIP family unit, under subsection (9) of this section, shall be:

(a) Eligible for six additional calendar months of extended medical assistance provided the family unit:

(i) Continues meeting the criteria under subsection (9)(b) of this section;

(ii) Receives medical assistance for the entire six-month extension under section (9) of this section; and

(iii) Reports any family earnings and child care costs related to the employment of the caretaker relative for the immediately preceding three-month period by the twenty-first day of the fourth month of the initial extension, unless good cause is established.

(b) Terminated from the six additional calendar months of extended medical assistance when the:

(i) Family's average gross income, less the cost of the child care related to the employment of the caretaker relative, exceeds one hundred eighty-five percent of the Federal Poverty Level when averaged over the immediately preceding three-month period; or

(ii) Family fails to report any family earnings and child care costs related to the employment of the caretaker relative for the immediately preceding three-month period by the twenty-first day of the first and fourth months of the additional extension period, unless good cause is established; or

(iii) Caretaker relative has no earnings in one or more of the previous three months, unless lack of earnings is due to good cause.

(11) An AFDC or FIP family member is not eligible for the extensions in subsections (4), (5), (9), or (10) of this section when the department finds the person ineligible for AFDC or FIP in any of the last six months before the extension because of fraud.

(12) A person, found ineligible for AFDC or FIP in any of the last six months before the extension because of fraud, who becomes ineligible for a FIP grant due to hours of employment is eligible for a four-month medical extension under rules in effect before April 1, 1990.

[Statutory Authority: RCW 74.08.090. 90-12-060 (Order 3018), § 388-83-029, filed 5/31/90, effective 7/1/90.]

WAC 388-83-031 Continuation of eligibility for pregnant women. A woman who was eligible for and received Medicaid on the last day of pregnancy shall continue to be eligible for Medicaid-covered postpartum and pregnancy-related services for sixty days following that date.

[Statutory Authority: RCW 74.08.090. 86-21-002 (Order 2430), § 388-83-031, filed 10/2/86.]

WAC 388-83-032 Pregnant women. (1) The department shall find a pregnant woman eligible for Medicaid as categorically needy, if the pregnant woman meets:

- (a) The income requirements of this section; and
- (b) Citizenship, Social Security number, and residence requirements under chapter 388-83 WAC.

(2) If a pregnant woman applies on or before the last day of pregnancy, the department shall find her eligible for continued Medicaid coverage through the end of the month containing the sixtieth day from the day pregnancy ends.

(3) Income eligibility:

(a) Total family income shall not exceed one hundred eighty-five percent of the federal poverty income guidelines as published and updated by the secretary of health and human services. One hundred eighty-five percent of the 1990 federal poverty income guidelines is:

| | Family Size | Monthly |
|--------|-------------|----------|
| (i) | One | \$ 968 |
| (ii) | Two | \$ 1,298 |
| (iii) | Three | \$ 1,628 |
| (iv) | Four | \$ 1,958 |
| (v) | Five | \$ 2,288 |
| (vi) | Six | \$ 2,618 |
| (vii) | Seven | \$ 2,948 |
| (viii) | Eight | \$ 3,278 |

(ix) For family units with nine members or more, add \$330 to the monthly income for each additional member.

(b) The department shall determine family income:

(i) According to AFDC methodology, except the department shall:

(A) Exclude the income of the unmarried father of the unborn or unborns unless the income is actually contributed; and

(B) Determine eligibility as if the unborn or unborns are born.

(ii) Apply the special situations under WAC 388-83-130.

(4) The department shall not consider resources in determining the pregnant woman's eligibility.

(5) Changes in family income shall not affect eligibility for medical assistance during pregnancy and when eligible under subsection (2) of this section through the end of the month that contains the sixtieth day from the last day of pregnancy:

(a) Once the department determines a pregnant woman eligible under this section; or

(b) If at any time while eligible for and receiving medical assistance a pregnant woman meets the eligibility requirements of this section.

[Statutory Authority: RCW 74.08.090. 90-24-027 (Order 3105), § 388-83-032, filed 11/30/90, effective 1/1/91; 90-12-052 (Order 3010), § 388-83-032, filed 5/31/90, effective 7/1/90; 89-22-034 (Order 2884), § 388-83-032, filed 10/27/89, effective 11/27/89; 89-11-057 (Order 2798), § 388-83-032, filed 5/17/89; 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 388-83-033 Children--Eligible to eighteen years of age. (1) The department shall find a child who has not yet attained eighteen years of age eligible for Medicaid when the child meets citizenship, residence, and enumeration requirements under this chapter and the income requirement corresponding to the age levels under the following subsections:

(a) A child born before October 1, 1983, who attains seven years of age, but has not attained eighteen years of age, shall be eligible as categorically needy when the family income and resources are equal to or less than the AFDC income and resource standards;

(b) A child born after September 30, 1983, who attains six years of age, but has not attained eight years of age, shall be eligible as categorically needy when the total family countable income does not exceed one hundred percent of the poverty income guidelines as published and updated by the secretary of health and

human services. One hundred percent of the 1990 poverty income guidelines is:

| | FAMILY SIZE | MONTHLY |
|--------|-------------|----------|
| (i) | One | \$ 523 |
| (ii) | Two | \$ 702 |
| (iii) | Three | \$ 880 |
| (iv) | Four | \$ 1,058 |
| (v) | Five | \$ 1,237 |
| (vi) | Six | \$ 1,415 |
| (vii) | Seven | \$ 1,593 |
| (viii) | Eight | \$ 1,772 |

(ix) For family units with more than eight members, add \$ 178 to the monthly income for each additional member.

(c) A child who attains one year of age, but has not attained six years of age, shall be eligible as categorically needy when the total family countable income does not exceed one hundred thirty-three percent of the federal poverty income guidelines as published and updated by the secretary of health and human services. One hundred thirty-three percent of the 1990 federal poverty income guidelines is:

| | FAMILY SIZE | MONTHLY |
|--------|-------------|----------|
| (i) | One | \$ 696 |
| (ii) | Two | \$ 933 |
| (iii) | Three | \$ 1,170 |
| (iv) | Four | \$ 1,408 |
| (v) | Five | \$ 1,645 |
| (vi) | Six | \$ 1,882 |
| (vii) | Seven | \$ 2,119 |
| (viii) | Eight | \$ 2,356 |

(ix) For family units with more than eight members, add \$237 to the monthly income for each additional member.

(d) An infant under one year of age shall be eligible as categorically needy when the infant is a member of a family whose total family countable income does not exceed one hundred eighty-five percent of the 1990 federal poverty income guidelines. See income guidelines as described under WAC 388-83-032 (3)(a).

(2) The department shall:

(a) Find an infant under one year of age eligible as categorically needy when the infant:

(i) Is born to a woman eligible for and receiving medical assistance on the date of the infant's birth; and

(ii) Remains a member of the mother's household and the mother remains eligible for medical assistance.

(b) Not consider citizenship, enumeration, income, or resource requirements for infants under this subsection.

(3) Effective January 1, 1991, regardless of citizenship or enumeration, the department shall determine a child from birth to eighteen years of age, eligible for state-funded medical services with the same medical coverage as categorically needy, if the:

(a) Child is not eligible for any federally-funded Medicaid program; and

(b) Child's total family countable income does not exceed one hundred percent of the 1990 federal poverty

income guidelines. See income guidelines as described under subsection (1)(b) of this section.

(4) The department shall determine family income according to AFDC methodology, and apply the special situations as required under WAC 388-83-130.

(5) The department shall not consider resources in determining eligibility of a child under this section except in subsection (1)(a) of this section.

(6) A child shall remain eligible under this section until the later of the end of the month:

(a) Of the child's birthday that exceeds the age requirement; or

(b) In which the child receives inpatient services if:

(i) The child is receiving inpatient services on the last day of the month of the child's birthday that exceeds the age requirement; and

(ii) The stay for inpatient services continues into the following month or months; and

(iii) Except for the age requirement, the child would be eligible for assistance under this section.

[Statutory Authority: RCW 74.08.090, 90-24-027 (Order 3105), § 388-83-033, filed 11/30/90, effective 12/31/90; 90-12-043 (Order 2985), § 388-83-033, filed 5/31/90, effective 7/1/90; 89-22-034 (Order 2884), § 388-83-033, filed 10/27/89, effective 11/27/89.]

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:

(a) Applying solely for medical assistance, except for families applying for medical assistance who received

AFDC or FIP cash assistance in any of the four preceding months; and

(b) After the client receives the thirty dollars plus one-third income disregard for a maximum of four consecutive months. A client is not eligible for the disregard until the client does not receive AFDC or FIP cash assistance for twelve consecutive months.

(3) For family units determined ineligible for AFDC or FIP cash assistance solely due to the requirements of WAC 388-24-050 or 388-77-210 that certain 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.

(4) 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.

(5) The department shall consider AFDC children sixteen and seventeen years of age, terminated from cash assistance, as eligible for Medicaid on the same basis as a dependent child when termination was solely due to the children:

(a) Ceasing to attend school; and

(b) Refusing to participate in the OPPORTUNITIES program.

(6) The department shall consider a person eligible for Medicaid when the person is denied AFDC cash assistance solely because:

(a) Of income and resources deemed available from the following person who is not a member of the AFDC unit, unless actually available to the assistance unit:

(i) Stepparent who is not legally liable for support of stepchildren;

(ii) Grandparent;

(iii) Legal guardian who is not a parent;

(iv) Alien sponsor; or

(v) Sibling.

(b) Of counting a sibling's income or resources or both to determine AFDC cash assistance when the sibling is residing in the same residence, unless the sibling actually contributes or makes available the income or resources or both to the AFDC assistance unit; and

(c) After July 1, 1989, a member of the family transferred a resource without receiving adequate compensation. If the family member is institutionalized, refer to chapter 388-95 WAC.

(7) The department shall consider a person eligible for Medicaid when the person is denied SSI cash assistance solely because of income and resources deemed available from an alien sponsor.

[Statutory Authority: RCW 74.08.090, 90-12-060 (Order 3018), § 388-83-130, filed 5/31/90, effective 7/1/90; 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.]

WAC 388-83-200 Community options program entry system (COPES). (1) An eligible person for COPES is an individual eighteen years of age or over:

(a) Meeting the Title XIX categorically needy eligibility requirements for an SSI-related institutionalized individual. For the purposes of COPES, an individual is considered institutionalized as of the date all eligibility criteria, except institutionalized status, is met;

(b) The department assesses as requiring the level of care provided in a skilled nursing facility or an intermediate care facility;

(c) For whom the department approves a feasible plan of care and the total cost for this plan of care, including the MNIL for one person, is less than ninety percent of the department's state-wide average nursing home rate; and

(d) Able and choosing to reside at home with community support services, in a congregate care facility, or in a licensed adult family home.

(2) The department shall allocate available income of the COPES recipient residing at home as described under WAC 388-95-360 (1), (2)(c), (d), (e), (f), and (g), (3), (4), and (5), except the recipient retains an amount equal to the medically needy income level (MNIL) for one person for the recipient's maintenance needs.

(3) The department shall allocate income of a COPES recipient residing in an adult family home or congregate care facility. The recipient shall:

(a) Retain a specified personal needs allowance as described under WAC 388-29-130 and 388-29-280; and

(b) Pay remaining income up to the MNIL to the facility for the cost of board and room.

(4) Income remaining after allocations shall be the participation amount for COPES services as described under WAC 388-15-620.

[Statutory Authority: RCW 74.08.090, 90-12-050 (Order 3008), § 388-83-200, filed 5/31/90, effective 7/1/90; 85-13-063 (Order 2243), § 388-83-200, filed 6/18/85. Statutory Authority: RCW 74.08.044, 84-12-033 (Order 2103), § 388-83-200, filed 5/30/84. Statutory Authority: RCW 74.08.090, 83-18-030 (Order 2020), § 388-83-200, filed 8/31/83; 83-08-024 (Order 1954), § 388-83-200, filed 3/30/83.]

WAC 388-83-210 Community alternatives program (CAP) and outward bound residential alternatives (OBRA) program. (1) An eligible person for CAP is an individual:

(a) Meeting the requirements and eligible for services of the division of developmental disabilities and disabled according to SSI rules;

(b) Meeting the Title XIX categorically needy eligibility requirements for an SSI-related institutionalized individual. For the purposes of CAP and OBRA, an individual is considered institutionalized as of the date all eligibility criteria, except institutionalized status, is met;

(c) The department assesses as requiring the level of care provided in an intermediate care facility for the mentally retarded (IMR);

(d) For whom the department approves an individual plan of care describing the provided community support services; and

(e) Able and choosing to reside in the community with community support services according to the plan of care.

(2) An eligible person for the OBRA home and community-based services program is an individual:

(a) Meeting the CAP eligibility standards in WAC 388-83-210(1) of this section; and

(b) Residing in a Title XIX nursing facility at the time of application for OBRA services.

(3) The department shall allocate available total income, including amounts disregarded in determining eligibility, of a CAP or OBRA recipient as follows:

(a) For a recipient residing in the recipient's residence, including a recipient receiving intensive tenant support services, an amount equal to a maximum of three hundred percent of the SSI federal benefit rate for one person shall be protected for the recipient's maintenance needs;

(b) For a recipient residing in a state-contracted or state-operated group home, adult family home, or congregate care facility, the following amounts shall be protected for the recipient's maintenance needs:

(i) A specified personal needs allowance, as described under WAC 388-29-130 and 388-29-280;

(ii) An amount equal to the monthly room and board cost for the facility where the recipient resides;

(iii) The first twenty dollars per month of earned or unearned income; and

(iv) The first sixty-five dollars plus one-half of the remaining earned income not previously excluded.

(c) For a recipient described in subsection (3)(b) of this section, the maximum amount allowed for any recipient's individual maintenance needs shall not exceed three hundred percent of the SSI federal benefit rate. A recipient shall not be allowed an individual maintenance needs deduction of less than the SSI payment standard;

(d) For a recipient with a spouse at home who is not receiving CAP or OBRA services, an amount is protected for the spouse's maintenance needs as computed in WAC 388-95-360 (2)(d);

(e) For a recipient with a dependent relative residing with the spouse not receiving CAP or OBRA services, an amount is protected for the relative's maintenance needs as computed in WAC 388-95-360 (2)(e);

(f) Amounts for incurred medical expenses not subject to third party payment shall be protected, including:

(i) Medicare and other health insurance premiums, deductibles, or coinsurance charges; and

(ii) Necessary medical care recognized under state law but not covered under Medicaid.

(g) Income remaining after deductions in subdivision (a), (b), (c), (d), (e), and (f) of this subsection will be the participation amount for CAP or OBRA services.

[Statutory Authority: RCW 74.08.090. 90-12-050 (Order 3008), § 388-83-210, filed 5/31/90, effective 7/1/90; 85-13-063 (Order 2243), § 388-83-210, filed 6/18/85; 84-04-066 (Order 2071), § 388-83-210, filed 2/1/84.]

WAC 388-83-220 Coordinated community AIDS service alternatives (CCASA) program. (1) An eligible person for CCASA shall be an individual:

(a) Meeting the Title XIX categorically needy eligibility requirements for SSI-related institutionalized individuals. For the purposes of CCASA, the department shall consider an individual institutionalized the date the individual meets other eligibility criteria, except institutional status;

(b) Having a diagnosis of acquired immune deficiency syndrome or disabling class IV human immunodeficiency virus disease or P2 HIV/AIDS diagnosis, if fourteen years of age or under, as defined by the centers for disease control or Washington state department of health;

(c) Determined medically at risk of need for the level of hospital-provided care;

(d) Certified by the person's physician or nurse practitioner as in the terminal stage of life;

(e) Agreeing to receive services in the person's own home, a licensed congregate care facility, or adult family home; and

(f) Having a department-approved and department of health approved plan of care.

(2) The department shall allocate available total income, including amounts disregarded in determining eligibility of a CCASA recipient residing at home:

(a) The recipient retains as maintenance needs an amount equal to the medically needy income level (MNIL) for one person; and

(b) As described under WAC 388-95-360 (1), (2)(c), (d), (e), and (f), (3), (4), and (5).

(3) The department shall allocate available total income, including amounts disregarded in determining eligibility of a CCASA recipient residing in an adult family home or congregate care facility as follows:

(a) The recipient shall retain a specified personal needs allowance as described under WAC 388-29-130 or 388-29-280;

(b) As described under WAC 388-95-360 (1), (2)(c), (d), (e), (f), and (g), and (3), (4), and (5); and

(c) Pay remaining income up to the MNIL to the facility for the cost of board and room.

(4) CCASA recipient's income remaining after deductions in subsection (2) or (3) of this section shall be the participation amount for CCASA services.

(5) When the department has determined that the client has financial participation under subsection (4), the client must meet the participation obligation to remain eligible.

[Statutory Authority: RCW 74.08.090. 90-17-118 (Order 3052), § 388-83-220, filed 8/21/90, effective 9/21/90.]

**Chapter 388-84 WAC
MEDICAL CARE--APPLICATION**

WAC

| | |
|------------|--|
| 388-84-105 | Medical assistance. |
| 388-84-110 | Application--Disposition. |
| 388-84-115 | Effective date of eligibility. |
| 388-84-120 | Effective date of eligibility for medical care services. |

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 388-84-005 Right to apply. [Statutory Authority: RCW 74.08.090, 80-13-020 (Order 1542), § 388-84-005, filed 9/9/80; 79-06-034 (Order 1402), § 388-84-005, filed 5/16/79; Order 1233, § 388-84-005, filed 8/31/77; Order 995, § 388-84-005, filed 12/31/74; Order 879, § 388-84-005, filed 11/29/73; Order 793, § 388-84-005, filed 4/26/73; Order 764, § 388-84-005, filed 1/10/73; Order 629, § 388-84-005, filed 11/24/71; Order 473, § 388-84-005, filed 8/19/70; Order 302, § 388-84-005, filed 9/6/68; Order 264 (part), § 388-84-005, filed 11/24/67.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.
- 388-84-010 Disposition of application. [Order 1111, § 388-84-010, filed 4/15/76; Order 995, § 388-84-010, filed 12/31/74; Order 938, § 388-84-010, filed 5/23/74; Order 302, § 388-84-010, filed 9/6/68; Order 264 (part), § 388-84-010, filed 11/24/67.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.
- 388-84-015 Approval of application. [Statutory Authority: RCW 74.08.090, 81-06-003 (Order 1610), § 388-84-015, filed 2/19/81; Order 1203, § 388-84-015, filed 4/1/77; Order 938, § 388-84-015, filed 5/23/74; Order 879, § 388-84-015, filed 11/29/73; Order 711, § 388-84-015, filed 9/14/72; Order 695, § 388-84-015, filed 6/29/72; Order 591, § 388-84-015, filed 8/25/71; Order 435, § 388-84-015, filed 3/31/70; Order 302, § 388-84-015, filed 9/6/68; Order 264 (part), § 388-84-015, filed 11/24/67.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.
- 388-84-020 Denial of application. [Statutory Authority: RCW 74.08.090, 80-15-034 (Order 1554), § 388-84-020, filed 10/9/80; 79-01-002 (Order 1359), § 388-84-020, filed 12/8/78; Order 1203, § 388-84-020, filed 4/1/77; Order 788, § 388-84-020, filed 4/12/73; Order 737, § 388-84-020, filed 11/22/72; Order 695, § 388-84-020, filed 6/29/72; Order 629, § 388-84-020, filed 11/24/71; Order 580, § 388-84-020, filed 7/20/71; Order 419, § 388-84-020, filed 12/31/69; Order 264 (part), § 388-84-020, filed 11/24/67.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.
- 388-84-025 Withdrawal. [Order 695, § 388-84-025, filed 6/29/72; Order 264 (part), § 388-84-025, filed 11/24/67.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.

WAC 388-84-105 Medical assistance. (1) 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 388-84-110 Application--Disposition. (1) The department shall act on a request for medical assistance within:

- (a) Sixty days for applicants based on disability;
- (b) Fifteen working days for a pregnant woman, including an interview within five working days; and
- (c) Forty-five days for all other categories.

(2) The department shall:

(a) Not use the standards for timely processing of applications as a waiting period for determining eligibility; and

(b) Act on each application as quickly as possible.

(3) When the department has otherwise acted promptly at all stages of the application process, the department may extend the time standard if the department cannot reach a timely eligibility decision because the:

(a) Applicant or an examining physician delays or fails to provide information or fails to take a required action; or

(b) Eligibility determination depends upon out-of-state or intercity correspondence and no other verification is available to establish the eligibility factor at issue; or

(c) Occurrence of an administrative or other emergency is beyond the control of the department. Administrative burdens do not justify delayed processing of applications; or

(d) Eligibility determination depends on receipt of medical expense documentation under WAC 388-99-030 and 388-100-020.

(4) For cash assistance except consolidated emergency assistance program (CEAP), approval of the medical assistance is concurrent.

(5) The department shall notify applicants for medical assistance of departmental action by letter.

(6) Approval, denial, or withdrawal of the application for medical assistance, medical care services, or the limited casualty program will follow cash assistance standards and criteria in chapter 388-38 WAC, with the exception of WAC 388-38-110. For time limits for disposal of a medical application, subsections (1), (2) and (3) of this section shall apply.

(7) The department may rescind a denial and approve assistance based on a denied application when:

(a) The applicant, within thirty days from the date of denial, provides additional information needed to establish eligibility; or

(b) Following this thirty-day period, the applicant:

(i) Timely requests a fair hearing to appeal the denial; and

(ii) Provides the additional information needed to establish eligibility.

[Statutory Authority: RCW 74.08.090. 89-24-035 (Order 2906), § 388-84-110, filed 12/1/89, effective 1/1/90; 86-17-022 (Order 2409), § 388-84-110, filed 8/12/86; 86-11-022 (Order 2375), § 388-84-110, filed 5/14/86; 86-01-002 (Order 2314), § 388-84-110, filed 12/5/85; 82-01-001 (Order 1725), § 388-84-110, filed 12/3/81; 81-10-014 (Order 1646), § 388-84-110, filed 4/27/81.]

WAC 388-84-115 Effective date of eligibility. (1) The effective date of eligibility for medical assistance shall be no earlier than the third month before the month of application provided:

(a) The medical services received were covered.

(b) Individual would have been eligible had he/she applied.

(c) The applicant met all eligibility factors in either chapter 388-83, 388-92, or 388-99 WAC.

(2) The effective date of eligibility for medical assistance is the first day of the month if the individual is eligible at any time during that month.

(3) The month of application for medical assistance for SSI beneficiaries shall be the month they apply for SSI.

[Statutory Authority: RCW 74.08.090. 89-11-002 (Order 2791), § 388-84-115, filed 5/4/89; 82-01-001 (Order 1725), § 388-84-115, filed 12/3/81; 81-10-014 (Order 1646), § 388-84-115, filed 4/27/81.]

WAC 388-84-120 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.
- 388-85-110 SSI/state supplement termination.
- 388-85-115 Denied Title II and Title XVI applicants.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 388-85-005 Certification document. [Order 952, § 388-85-005, filed 7/16/74; Order 264 (part), § 388-85-005, filed 11/24/67.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.
- 388-85-010 Authorization procedure. [Statutory Authority: RCW 74.08.090. 80-13-020 (Order 1542), § 388-85-010, filed 9/9/80; Order 1196, § 388-85-010, filed 3/3/77; Order 952, § 388-85-010, filed 7/16/74; Order 789, § 388-85-010, filed 4/12/73; Order 419, § 388-85-010, filed 12/31/69; Order 384, § 388-85-010, filed 8/27/69; Order 264 (part), § 388-85-010, filed 11/24/67.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.
- 388-85-015 Period of certification. [Statutory Authority: RCW 74.08.090. 80-15-034 (Order 1554), § 388-85-015, filed 10/9/80; Order 1233, § 388-85-015, filed 8/31/77; Order 952, § 388-85-015, filed 7/16/74; Order 776, § 388-85-015, filed 3/1/73; Order 679, § 388-85-015, filed 5/10/72; Order 565, § 388-85-015, filed 5/19/71; Order 384, § 388-85-015, filed 8/27/69; Order 264 (part), § 388-85-015, filed 11/24/67.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.
- 388-85-020 Redetermination of eligibility. [Statutory Authority: RCW 74.08.090. 80-13-020 (Order 1542), § 388-85-020, filed 9/9/80; 78-10-077 (Order 1346), § 388-85-020, filed 9/27/78; Order 952, § 388-85-020, filed 7/16/74; Order 776, § 388-85-020, filed 3/1/73; Order 712, § 388-85-020, filed 9/14/72; Order 565, § 388-85-020, filed 5/19/71; Order 334, § 388-85-020, filed 2/3/69; Order 264 (part), § 388-85-020, filed 11/24/67.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.
- 388-85-025 Notification—Initial certification, redetermination of eligibility and change of circumstances. [Order 712, § 388-85-025, filed 9/14/72.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.
- 388-85-027 Effective date of change in eligibility. [Order 1137, § 388-85-027, filed 7/29/76.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.
- 388-85-125 Continuing eligibility of grandfathered recipient of federal aid medical care only—Criteria. [Order 952, § 388-85-125, filed 7/16/74.] Repealed by Order 996, filed 12/31/74. See chapter 388-93 WAC.
- 388-85-130 Continuing eligibility of grandfathered recipient of federal aid medical care only—Blindness defined. [Order 952, § 388-85-130, filed 7/16/74.] Repealed by Order 996, filed 12/31/74. See chapter 388-93 WAC.
- 388-85-135 Continuing eligibility of grandfathered recipient of federal aid medical care only—Permanently and totally disabled defined. [Order 952, § 388-85-135, filed 7/16/74.] Repealed by Order 996, filed 12/31/74. See chapter 388-93 WAC.
- 388-85-140 Continuing eligibility of grandfathered recipient of federal aid medical care only—Refusal of disabled recipient to accept available and recommended medical treatment—Effect on eligibility. [Order 952, § 388-85-140, filed 7/16/74.] Repealed by Order 996, filed 12/31/74. See chapter 388-93 WAC.

- 388-85-145 Continuing eligibility of grandfathered recipient of federal aid medical care only—Annual review. [Order 952, § 388-85-145, filed 7/16/74.] Repealed by Order 996, filed 12/31/74. See chapter 388-93 WAC.
- 388-85-150 Continuing eligibility of grandfathered recipient of federal aid medical care only—Application following termination of eligibility. [Order 952, § 388-85-150, filed 7/16/74.] Repealed by Order 996, filed 12/31/74. See chapter 388-93 WAC.

WAC 388-85-105 Certification of eligibility. (1) The department shall continue eligibility for medical assistance until the client is determined ineligible for cash assistance.

(2) Before termination of medical assistance, whenever terminating cash assistance or medical assistance, the department shall redetermine the recipient's eligibility for other medical assistance programs or the medically indigent program.

(a) When 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 before termination of medical assistance as described under 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.

(3) When eligibility for AFDC cash assistance is terminated:

(a) Due to increased income from or increased hours of employment, medical assistance shall continue for the extension periods as described under WAC 388-82-029;

(b) Due to reaching state legal age of majority, the department shall 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, 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 the appropriate extension periods as described under WAC 388-82-029; and

(e) Due to the termination of pregnancy, medical assistance shall continue to the end of the month containing the sixtieth day from the day pregnancy ends.

(4) When eligibility for FIP cash assistance is terminated due to:

(a) Increased earnings, medical assistance shall continue for up to twelve calendar months beginning with the month of ineligibility;

(b) An increase in hours of employment, medical assistance shall continue for the appropriate extension periods as described under WAC 388-82-029;

(c) Reaching state legal age of majority, the department shall redetermine eligibility for medical assistance under another program; and

(d) Termination of pregnancy, medical assistance shall continue to the end of the month containing the sixtieth day from the day pregnancy ends.

(5) The department shall redetermine eligibility for medical assistance the same as for the related cash assistance program, for clients:

(a) Under eighteen years of age not related to SSI, eligibility shall be redetermined every six months using AFDC or FIP financial criteria;

(b) In medical institutions, eligibility shall be redetermined every twelve months.

(6) The client shall report to the CSO, within twenty days, any change in circumstances relating to eligibility.

(7) For any change of eligibility, the department shall use the same notification procedures as for cash assistance.

[Statutory Authority: RCW 74.08.090. 90-12-044 (Order 2986), § 388-85-105, filed 5/31/90, effective 7/1/90; 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.]

WAC 388-85-110 SSI/state supplement termination. (1) When an SSI/state supplemental beneficiary is terminated by SSA because of failure to meet blindness and disability criteria under Title XVI, medical assistance shall be terminated at the end of the second month following the month in which eligibility for these conditions ceases.

(a) If a timely request for a hearing under SSA jurisdiction has been filed by the individual and SSA continues the benefits, medical assistance would be continued concurrently.

(b) The CSO is not authorized to resubmit a request for a redetermination of blindness or disability for consideration of the categorically needy or medically needy program.

(c) If the individual presents medical evidence to the CSO, a referral to SSA is required.

(2) For individuals who are terminated by SSA for SSI/SSP financial benefits, financial eligibility and disability must be redetermined within thirty days for consideration for the limited casualty program.

(3) Institutional recipients must be notified in writing of termination.

[Statutory Authority: RCW 74.08.090. 84-02-055 (Order 2063), § 388-85-110, filed 1/4/84; 82-01-001 (Order 1725), § 388-85-110, filed 12/3/81; 81-16-033 (Order 1685), § 388-85-110, filed 7/29/81; 81-10-014 (Order 1646), § 388-85-110, filed 4/27/81.]

WAC 388-85-115 Denied Title II and Title XVI applicants. When an individual has applied for Title II or Title XVI benefits and the SSA has denied the application solely because of a failure to meet blindness or disability criteria under Title II or Title XVI, the SSA denial shall be binding on the department, unless:

(1) The SSA denial is under appeals in the reconsideration stage, the SSA's administrative fair hearing process, the SSA's appeals council, or the federal courts; or

(2) The applicant's medical condition has changed since the SSA denial was issued.

[Statutory Authority: RCW 74.08.090. 86-07-004 (Order 2347), § 388-85-115, filed 3/6/86; 84-02-055 (Order 2063), § 388-85-115, filed 1/4/84; 82-01-001 (Order 1725), § 388-85-115, filed 12/3/81.]

**Chapter 388-86 WAC
MEDICAL CARE—SERVICES PROVIDED**

WAC

- 388-86-005 Services available to recipients of categorical needy medical assistance.
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- 388-86-009 Voluntary prepaid health plans.
- 388-86-00901 Kitsap Physicians Service—Sound Care Plan.
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- 388-86-030 Eyeglasses and examinations.
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- 388-86-071 Private duty nursing services.
- 388-86-073 Occupational therapy.
- 388-86-075 Outpatient and emergency care.
- 388-86-080 Oxygen service.
- 388-86-085 Transportation (other than ambulance).
- 388-86-086 Ambulance services.
- 388-86-087 Personal care services.
- 388-86-090 Physical therapy.
- 388-86-095 Physicians' services.
- 388-86-09601 Podiatric services.
- 388-86-097 Respiratory therapy services.
- 388-86-098 Speech therapy services.
- 388-86-100 Durable medical equipment, prosthetic devices, and disposable/nonreusable medical supplies.
- 388-86-105 Voluntary agency.
- 388-86-110 X-ray services.
- 388-86-112 Physical medicine and rehabilitation evaluation and treatment.
- 388-86-115 Medical care provided out-of-state.
- 388-86-120 Medical care services.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 388-86-010 Anesthetization services. [Order 264 (part), § 388-86-010, filed 11/24/67.] Repealed by 80-13-020 and 80-15-034 (Order 1542 and 1554), filed 9/9/80 and 10/9/80. Statutory Authority: RCW 74.08.090.
- 388-86-023 Chiropractic services. [Statutory Authority: RCW 74.08.090. 80-15-034 (Order 1554), § 388-86-023, filed 10/9/80; 78-02-024 (Order 1265), § 388-86-023, filed 1/13/78; Order 1166, § 388-86-023, filed 10/27/76; Order 1112, § 388-86-023, filed 4/15/76; Order 891, § 388-86-023, filed 12/27/73; Order 696, § 388-86-023, filed 6/29/72; Order 581, § 388-86-023, filed 7/20/71; Order 453, § 388-86-023, filed

- 5/20/70, effective 6/20/70; Order 385, § 388-86-023, filed 8/27/69.] Repealed by 81-10-015 (Order 1647), filed 4/27/81. Statutory Authority: RCW 74.08.090.
- 388-86-02301 Chiropractic services. [Statutory Authority: RCW 74.08.090. 83-17-073 (Order 2011), § 388-86-02301, filed 8/19/83.] Repealed by 89-18-033 (Order 2860), filed 8/29/89, effective 9/29/89. Statutory Authority: RCW 74.08.090.
- 388-86-025 Drugs and pharmaceutical supplies. [Order 264 (part), § 388-86-025, filed 11/24/67.] Repealed by Order 316, filed 10/31/68.
- 388-86-032 Exceptions—Treatment for acute and emergent conditions. [Statutory Authority: RCW 74.08.090. 79-06-034 (Order 1402), § 388-86-032, filed 5/16/79; Order 1203, § 388-86-032, filed 4/1/77; Order 680, § 388-86-032, filed 5/10/72; Order 581, § 388-86-032, filed 7/20/71.] Repealed by 80-15-034 (Order 1554), filed 10/9/80. Statutory Authority: RCW 74.08.090.
- 388-86-060 Medical care for prisoners. [Order 444, § 388-86-060, filed 4/15/70; Order 412, § 388-86-060, filed 12/23/69; Order 264 (part), § 388-86-060, filed 11/24/67.] Repealed by 86-09-007 (Order 2364), filed 4/4/86. Statutory Authority: RCW 74.08.090.
- 388-86-065 Medical-social services. [Order 264 (part), § 388-86-065, filed 11/24/67.] Repealed by 80-15-034 (Order 1554), filed 10/9/80. Statutory Authority: RCW 74.08.090.
- 388-86-070 Nursing services. [Order 1112, § 388-86-070, filed 4/15/76; Order 938, § 388-86-070, filed 5/23/74; Order 264 (part), § 388-86-070, filed 11/24/67.] Repealed by 78-02-024 (Order 1265), filed 1/13/78. Statutory Authority: RCW 74.08.090.
- 388-86-083 Patient care supplies. [Order 499, § 388-86-083, filed 12/2/70.] Repealed by Order 1112, filed 4/15/76.
- 388-86-096 Podiatry. [Statutory Authority: RCW 74.08.090. 80-13-020 (Order 1542), § 388-86-096, filed 9/9/80.] Repealed by 81-10-016 (Order 1648), filed 4/27/81. Statutory Authority: RCW 74.08.090.

WAC 388-86-005 Services available to recipients of 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 twenty years of age or under;
- (b) Family planning services;
- (c) Federally qualified health center services;
- (d) Home health agency services;
- (e) Inpatient and outpatient hospital care;
- (f) Medicare certified rural health clinic services;
- (g) Other laboratory and x-ray services;
- (h) Skilled nursing home care;
- (i) Certified registered nurse practitioner services; and
- (j) 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) Anesthesia services;
- (b) Blood;
- (c) Chiropractic services;
- (d) Drugs and pharmaceutical supplies;
- (e) Eyeglasses and examination;
- (f) Hearing aids and examinations;
- (g) Hospice services;
- (h) Licensed midwife services;

- (i) Maternity support services;
- (j) Oxygen;
- (k) Personal care services;
- (l) Physical therapy services;
- (m) Private duty nursing services;
- (n) Surgical appliances;
- (o) Prosthetic devices and certain other aids to mobility; and
- (p) Dental services.

(3) The department shall limit organ transplants to the cornea, heart, heart-lung, kidney, kidney-pancreas, liver, pancreas, single lung, and bone marrow.

(4) The department shall provide treatment, dialysis, equipment, and supplies for acute and chronic nonfunctioning kidneys when the recipient is in the home, hospital, or kidney center as described under WAC 388-86-050(5).

(5) The department shall provide detoxification and medical stabilization to chemically using pregnant women in a hospital.

(6) The department shall provide detoxification of acute alcohol or other drug intoxication only in a certified detoxification center or in a general hospital having a detoxification provider agreement with the department.

(7) The department shall provide outpatient chemical dependency treatment in programs certified under chapter 275-19 WAC.

(8) The department shall approve requested services:

- (a) Listed in this section; and
- (b) Where evidence is obtainable to establish medical necessity as defined under WAC 388-80-005, if the recipient or provider submits sufficient objective clinical information including, but not limited to:

(i) A physiological description of the disease, injury, impairment, or other ailment;

(ii) Pertinent laboratory findings;

(iii) X-ray reports; and

(iv) Patient profiles.

(9) The department shall deny a request for medical services when the requested service is:

(a) Not medically necessary as defined under WAC 388-80-005; or

(b) Generally regarded by the medical profession as experimental in nature or as unacceptable treatment, unless the recipient demonstrates through sufficient objective clinical evidence the existence of particular circumstances rendering the requested service medically necessary.

(10) 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, neither approve nor deny the request, but shall return the request to the provider within five working days of the original receipt. If additional justifying information is:

(i) Not returned within thirty days of the date the request was returned to the provider, then the department shall approve or deny the original request.

(ii) Returned to the department, the department shall act on the request within five working days of the receipt of the additional justifying information.

(11) When the department denies a request for medical services, the department shall, within five working days of the decision, give the recipient and the provider written notice of the denial. 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 community service office (CSO) shall furnish the recipient the name and address of the nearest legal services office; and

(e) If a fair hearing is requested, a medical assessment from other than the person involved in making the original decision may be obtained at the department's expense.

(12) For services available under the limited casualty:

(a) Program-medically needy, see chapter 388-99 WAC; and

(b) Program-medically indigent, see chapter 388-100 WAC.

(13) The department may require a second opinion and/or consultation before the approval of any elective surgical procedure.

(14) The department shall designate diagnoses that may require surgical intervention:

(a) Performed in other than a hospital in-patient setting; and

(b) Requiring prior approval by the central authorization unit for a hospital admission.

(15) The department shall assure the availability of necessary transportation to and from covered Title XIX medical services.

[Statutory Authority: RCW 74.08.090. 90-17-122 (Order 3056), § 388-86-005, filed 8/21/90, effective 9/21/90; 90-12-051 (Order 3009), § 388-86-005, filed 5/31/90, effective 7/1/90; 89-18-033 (Order 2860), § 388-86-005, filed 8/29/89, effective 9/29/89; 89-13-005 (Order 2811), § 388-86-005, filed 6/8/89; 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 388-86-008 Recipient overutilization. (1) Whenever payment records and other information indicate that recipient use of medical assistance is excessive or inappropriate, the department may require a recipient to select a primary physician, a single pharmacy, or both for exclusive provider service in an effort to:

- (a) Protect the recipient's health and safety;
- (b) Provide continuity of medical care;
- (c) Avoid duplication of service by providers;
- (d) Avoid inappropriate or unnecessary use of medical assistance as defined by community practices and standards;
- (e) Avoid excessive use of prescription medications.

Excessive use of prescription medications shall be determined from published current medical and pharmacological references to include *Physicians' Desk Reference* published by Medical Economics Company, Oradell, New Jersey 07649; or *Facts and Comparisons* published by Facts and Comparisons, Inc., 12011 Marine Avenue, Suite 220, St. Louis, MO 63141; or *The Pharmacological Basis of Therapeutics* published by Macmillan Publishing Co., 866 Third Avenue, New York, NY 10022.

(2) The department shall provide the recipient with written notice of the recipient's excessive or inappropriate use of medical assistance. The notice shall state that:

(a) The recipient shall select, in writing, a single physician, a pharmacy, or both within twenty days from receipt of the notice;

(b) The recipient shall have the right to request a fair hearing within ninety days if the recipient disagrees with the department's action;

(c) Failure to cooperate in choosing a doctor or pharmacy shall cause the department to redirect the recipient's medical coupons to the community service office (CSO) until the recipient selects a physician, a pharmacy, or both;

(d) The department shall issue medical coupons imprinted with the message "RESTRICTED" to facilitate identification by providers.

(3) After the department confirms the selection of a physician, a pharmacy, or both, the recipient may not change physician, pharmacy, or both for a period of one hundred eighty days with the following exceptions:

(a) If the recipient moves to a new residence outside the normal service area of the selected physician, pharmacy, or both, the recipient may choose different providers in the area of the recipient's new residence; or

(b) Whenever the selected physician, pharmacy, or both refuse to continue as a designated provider, the department shall notify the recipient to choose, in writing, within twenty days a new physician, pharmacy, or both.

(4) The department shall:

(a) Monitor medical services the restricted recipients receive; and

(b) Deny payment for services and prescriptions unless authorized by the chosen physician. Providers may bill recipients for denied services.

(5) In the event of a bona fide emergency, a physician other than the one selected may see the recipient. The

primary physician may also refer the recipient to a specialist when necessary.

(6) After the department has restricted a recipient under the provisions of this section for a period of two years, the department shall conduct a review of that recipient's medical usage to determine whether the restriction should be terminated. The review shall include contact with the primary physician for comment and recommendation. The department will then determine whether the recipient shall:

(a) Remain restricted, with an annual review thereafter; or

(b) Be released from restriction and be reviewed in six months. If the department again determines the recipient's medical use is excessive or inappropriate, the department may again restrict the recipient under the provisions of this section.

[Statutory Authority: RCW 74.08.090, 89-24-038 (Order 2909), § 388-86-008, filed 12/1/89, effective 1/1/90; 85-09-002 (Order 2220), § 388-86-008, filed 4/4/85; 82-17-069 (Order 1865), § 388-86-008, filed 8/18/82; 82-01-001 (Order 1725), § 388-86-008, filed 12/3/81; 80-13-020 (Order 1542), § 388-86-008, filed 9/9/80; 78-02-024 (Order 1265), § 388-86-008, filed 1/13/78.]

WAC 388-86-009 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) The department shall enroll aid to families with dependent children (AFDC-R) grant recipients and family independence program (FIP-J and G) enrollees residing in Kitsap, Mason, Jefferson, or Clallam counties in the Kitsap Physicians Service-Sound Care Plan (plan), except as provided in subsections (4) and (5) of this section.

(2) The department may offer optional enrollment to additional program eligible groups with the agreement of the plan.

(3) Timely provision of services means a recipient shall have the right to receive medically necessary care without unreasonable delay.

(4) Upon a client's request, the department may exempt clients, for whom medically necessary care is required, and the plan is contracted to provide but cannot make medically necessary care available. In making the exemption determination, consideration shall include, but not be limited to:

(a) Whether distance or transportation problems make it unreasonably difficult for the client to obtain services; or

(b) Whether the absence of translators or of services accessible to disabled persons makes it unreasonably difficult for the client to obtain services.

(5) Indians eligible under subsection (1) of this section and eligible to receive health services through the Indian Health Service may choose to enroll in the plan.

(6) Emergencies and emergency transportation services are exempt from the plan's routine medical care authorization procedures. Emergency defines a situation in which medical services are immediately required to avoid placing an individual's health in serious jeopardy or alleviate a condition manifesting itself by acute symptoms, including severe pain, discomfort, or active labor.

(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 further services received only if the recipient is informed and agrees, in writing, to the responsibility before receiving the services as described under WAC 388-87-010(6).

(7) Any client aggrieved by a decision of the plan or the department has the right to a fair hearing under chapter 388-08 WAC.

(a) Except as provided in subdivision (b) and (c) of this subsection, a recipient shall exhaust the plan's grievance procedure before 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. The plan may be a party to the fair hearing.

(b) In any case where the plan denies a recipient urgently needed medical services, a recipient need only provide a written grievance to the plan before or when requesting a fair hearing.

(c) A client requesting exemption from enrollment in the plan is required to file a written request with the department. If not satisfied with the department's decision, the client may request a fair hearing. The plan may be a party to the fair hearing.

(8) Each recipient enrolled in the plan shall have a primary care physician (PCP):

(a) Recipients shall have an opportunity to choose a PCP from current plan providers;

(b) The plan shall assign a PCP to recipients not choosing a participating provider;

(c) Recipients shall have the right to change their PCP:

(i) One time during a twelve-month period for any reason;

(ii) For subsequent changes during the twelve-month period the recipient shall first show good cause.

(d) When requesting a change in their PCP the recipient shall notify the plan of the:

(i) Desired change including the name of the new PCP; and

(ii) Reason for the desired change.

(9) The recipient shall have the right to a second opinion by another participating physician or specialist:

(a) When the recipient needs more information as to the medical necessity of medical treatment recommended by the PCP; or

(b) If the recipient believes the PCP is not authorizing medically necessary care.

(10) When medically necessary, the PCP shall make a prompt referral to another participating physician or specialist.

(11) The department may terminate enrollment of a recipient in the plan if the:

(a) Recipient loses eligibility for the plan; or

(b) Recipient requests disenrollment under the same considerations as subsection (4) of this section; or

(c) Plan requests a disenrollment of the recipient, in writing, and the:

(i) Plan establishes the recipient's behavior is:

(A) Inconsistent with the plan's rules and regulations, such as intentional misconduct; or

(B) Such that it becomes medically nonfeasible to safely or prudently provide medical services.

(ii) Plan's requested termination is approved by the director of the division of medical assistance or the director's designee. The division of medical assistance shall:

(A) Make a decision on the requested termination within fifteen days of the receipt of the request; and

(B) Notify the recipient ten days in advance of the effective date of disenrollment for any approved termination.

(12) The plan shall not request termination of a recipient solely due to an adverse change in the recipient's health.

(13) The plan shall appoint a medical director who:

(a) Is responsible for the plan's quality assurance program and shall review all plan grievances; and

(b) Furnishes the division of medical assistance with a copy of all written grievances and the plan's response to such grievances.

(14) On at least an annual basis, the department shall arrange for and the plan shall permit an independent, external review of the quality of recipient services provided or arranged by the plan.

[Statutory Authority: RCW 74.08.090. 90-04-014 (Order 2936), § 388-86-00901, filed 1/29/90, effective 3/1/90; 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 388-86-012 Audiometric services. Evaluation of hearing by audiometric equipment is available to categorically needy recipients of medicaid when administered by an approved audiologist or a physician. These evaluations must be related to the provision of a hearing aid or to a disease process and are not available for routine or group screenings.

[Statutory Authority: RCW 74.08.090. 82-01-001 (Order 1725), § 388-86-012, filed 12/3/81; 81-06-003 (Order 1610), § 388-86-012, filed 2/19/81; 80-13-020 (Order 1542), § 388-86-012, filed 9/9/80; 78-02-024 (Order 1265), § 388-86-012, filed 1/13/78; Order 1202, § 388-86-012, filed 4/1/77.]

WAC 388-86-015 Blood. The department shall provide for purchase of needed whole blood or blood derivatives, subject to limitations as set forth in WAC 388-87-045.

[Statutory Authority: RCW 74.08.090. 82-01-001 (Order 1725), § 388-86-015, filed 12/3/81; Order 335, § 388-86-015, filed 2/3/69; Order 264 (part), § 388-86-015, filed 11/24/67.]

WAC 388-86-017 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 388-86-018 Coordinated community aids service alternatives (CCASA) program services. (1) For the purpose of this section, "CCASA Program services" means a medically directed interdisciplinary program of therapeutic services for a terminally ill patient diagnosed with Acquired Immune Deficiency Syndrome or Disabling Class IV Human Immunodeficiency Virus disease.

(2) Home health, home care or hospice agencies or other agencies meeting applicable state and federal licensure/certification requirements shall furnish CCASA services. Individual contractors meeting the applicable standards and state and federal licensure/certification requirements may provide some CCASA services.

(3) The department may pay for the following Title XIX services to a CCASA client:

- (a) Hourly skilled nursing services;
- (b) Attendant care;
- (c) Respite care;
- (d) Nutritional consultation;
- (e) Therapeutic home delivered meals;
- (f) Transportation; and
- (g) Psychosocial services.

(4) For the purpose of this waiver program:

(a) Hourly skilled nursing services means teaching, counseling, supervision, execution, and evaluation of the practice and execution of the medical regimes the physician or case manager prescribes, in consultation with a Registered Nurse, as outlined in the client's plan of care.

(b) Attendant care services means assisting with medically-oriented tasks necessitated by the medical or mental condition of the client and directly related to the client's medical or mental condition. Attendant care services are limited to assistance with the following: personal hygiene, dressing, bathing, eating, toileting, ambulation, transfer, positioning, self-medication, body care, travel to medical services and essential shopping.

(c) Respite care services means the provision of community or home-based services allowing members or designated significant others who ordinarily care for the client relief from those duties. CCASA shall provide respite care in the home, not in an institution.

(d) Therapeutic home-delivered meals services means nutritionally sound meals delivered to the home when included in a plan of care. These meals shall not replace, nor be a substitute for, a full day's nutritional regimen, but nutritionally supplement the normal three meals a day.

(e) Nutritional consultation services means a nutrition assessment of nutritional care and intervention for a CCASA client. The certified dietitian/nutritionist shall determine the appropriate means of nutrition intervention including the nutrients required, the feeding modality, and the method of nutrition education, counseling

and referral in consultation with the client, the client's physician and case manager.

(f) Transportation services means the provision of authorized necessary transportation in order for the client to receive services as included in the client's plan of care.

(g) Psychosocial services means the use of counseling techniques, appraisal skills, including mental status assessment or medication evaluation, consulting abilities and variety of treatment modalities and interventions to help the client and their primary care giver through the multiple stages of this terminal illness.

(5) The department shall provide CCASA services to recipients as described under WAC 388-83-220.

[Statutory Authority: RCW 74.08.090. 90-21-124 (Order 3088), § 388-86-018, filed 10/23/90, effective 11/23/90.]

WAC 388-86-019 Chiropractic services. (1) The department shall authorize payment for services of a chiropractor:

(a) When the chiropractor is licensed by the state of Washington to perform services within the scope of the chiropractor's license; and

(b) The services are medically necessary.

(2) Chiropractic services shall be subject to the following limitations:

(a) Treatment shall be restricted to adjustment by hand of subluxation of the spine;

(b) X-rays shall be:

(i) A single area film when the treatment area can be isolated;

(ii) A maximum of one x-ray per area, per calendar year; and

(iii) Limited to an anterior-posterior, and lateral view of the following spinal areas:

(A) Cervical;

(B) Thoracic (dorsal); and

(C) Lumbar or lumbo-sacral.

(c) The department shall pay for a maximum of twelve chiropractic visits within a twelve-month period.

(d) The maximum number of visits include the initial new patient visit.

(3) The department shall pay for chiropractic services for recipients under:

(a) The categorically needy, general assistance unemployable and ADATSA programs; and

(b) The medically needy program only when the recipient is:

(i) Twenty years of age and under; and

(ii) Referred by a screening provider under the early and periodic screening, diagnosis, and treatment program.

[Statutory Authority: RCW 74.08.090. 90-17-122 (Order 3056), § 388-86-019, filed 8/21/90, effective 9/21/90.]

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. (1) The department shall provide complete and partial dentures and modification, repair, and adjustment of dentures to recipients of medical assistance and the limited casualty programs with the following limitations:

- (a) Prior approval is needed for:
 - (i) Replacement dentures or partial dentures less than five years old;
 - (ii) Rebases on dentures and partial dentures; and
 - (iii) Cast base partial dentures.
- (b) The department shall approve only one:
 - (i) Rebasings of dentures or partial dentures:
 - (A) In a five-year period; and
 - (B) The rebased dentures or partial dentures must be at least three years of age or older.
 - (ii) Relining of dentures or partial dentures:
 - (A) In a two-year period; and
 - (B) The relined dentures or partial dentures must be six months of age or older.

(2) Exceptions to the limitations under subsection (1)(b) of this section shall be granted when medical necessity is documented.

[Statutory Authority: RCW 74.08.090. 90-12-046 (Order 2988), § 388-86-021, filed 5/31/90, effective 7/1/90; 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 388-86-022 Medical services by school districts. (1) The department shall pay for medical services to an eligible categorically needy child when a school district furnishes the medical services as part of the child's individualized education program (IEP).

(2) Qualified Medicaid providers as described under WAC 388-87-007 shall provide such school district medical services.

[Statutory Authority: RCW 74.08.090. 90-17-119 and 90-18-033 (Orders 3053 and 3053A), § 388-86-022, filed 8/21/90 and 8/27/90, effective 9/21/90 and 9/1/90.]

WAC 388-86-024 Enhanced benefits for pregnant women. (1) The department shall provide enhanced benefits to a Medicaid recipient during each pregnancy and through the end of the month containing the sixtieth day after the pregnancy ends.

(2) The enhanced benefits include:

(a) Maternity support services, by a provider approved by the division of parent-child health services, consisting of:

- (i) Nursing assessment and/or counseling visit;
- (ii) Psychosocial assessment and/or counseling visit;
- (iii) Nutrition assessment and/or counseling visit;
- (iv) Community health worker visit; and
- (v) Child birth/parenting education.

(b) Outpatient alcohol and drug treatment consisting of:

(i) A chemical dependency assessment by an Alcohol and Drug Abuse Treatment and Service Act assessment center as defined under chapter 275-19 WAC; and

(ii) Chemical dependency treatment.

(c) Vitamins and nonprescription drugs as listed in the department's formulary; and

(d) Transportation as provided under WAC 388-86-085.

(3) The recipient has the freedom of choice:

- (a) To receive maternity support services;
- (b) Of qualified maternity support services providers; and
- (c) To be referred for outpatient alcohol and drug treatment, unless ordered by the court.

(4) The department shall pay per recipient a maximum of:

(a) Ten contacts for assessment/counseling and community health worker visits under subsection (2)(a) of this section. The department shall pay for additional contacts when the maternity support services provider documents the need for additional contacts;

(b) One contact for child birth/parenting education;

(c) One contact for an alcohol and drug treatment assessment under subsection (2)(b) of this section; and

(d) Two hundred hours of outpatient chemical dependency treatment.

[Statutory Authority: RCW 74.08.090. 90-23-069 (Order 3094), § 388-86-024, filed 11/20/90, effective 12/21/90; 89-22-035 (Order 2885), § 388-86-024, filed 10/27/89, effective 11/27/89.]

WAC 388-86-027 Early and periodic screening, diagnosis and treatment of eligible individuals twenty years of age and younger. (1) To the extent provided under

these rules, the department shall make available to Medicaid recipients twenty years of age and younger, early and periodic screening and diagnosis and treatment (EPSDT).

(2) Early and periodic screening and diagnosis shall be provided at intervals:

(a) Meeting reasonable standards of dental and medical practice as determined by the division of medical assistance; and

(b) When indicated as medically necessary to determine the existence of a suspected physical or mental illness or condition.

(3) In obtaining EPSDT services, the recipient shall be free to choose from participating providers.

(4) The following services are included in the program:

(a) Screening by providers of screening services authorized by the division of medical assistance to provide screening. The screening services shall, at a minimum, include:

(i) A comprehensive health and developmental history;

(ii) An assessment of physical and mental health development and nutritional status;

(iii) A comprehensive unclothed physical exam;

(iv) Appropriate immunizations according to age and health history;

(v) Laboratory tests, including lead blood level assessment appropriate for age and risk factors; and

(vi) Health education, including anticipatory guidance.

(b) Vision services which shall, at a minimum, include diagnosis and treatment for defects in vision, including eyeglasses;

(c) Dental services which shall, at a minimum, include relief of pain and infections, restoration of teeth, and dental health maintenance;

(d) Hearing services which shall, at a minimum, include diagnosis and treatment for defects in hearing, including hearing aids; and

(e) Other medically necessary health care, diagnostic services, treatment, and other measures provided under Medicaid program, to correct or ameliorate defects and physical and mental illnesses and conditions the screening services discover. In addition, the department shall provide any of the following services, provided the screening services provider determines the necessity for such services during an EPSDT screening process:

(i) Occupational therapy;

(ii) Nutritional counseling; and

(iii) Chiropractic services.

(5) EPSDT services are subject to utilization controls as the department may impose.

(6) See WAC 388-86-005 and 388-86-020 for limitations of the dental program, WAC 388-86-030 for eyeglasses and examinations, and WAC 388-86-040 for management of hearing defects.

[Statutory Authority: RCW 74.08.090. 90-12-061 (Order 3019), § 388-86-027, filed 5/31/90, effective 7/1/90; 82-01-001 (Order 1725), § 388-86-027, filed 12/3/81; 81-10-015 (Order 1647), § 388-86-027, filed 4/27/81; 80-15-034 (Order 1554), § 388-86-027, filed 10/9/80; 79-12-047 (Order 1457), § 388-86-027, filed 11/26/79;

Order 1112, § 388-86-027, filed 4/15/76; Order 738, § 388-86-027, filed 11/22/72.]

WAC 388-86-030 Eyeglasses and examinations. (1)

The department shall provide 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 388-86-035 Family planning. (1) The department shall make known to clients the availability of family planning services. The department shall provide to eligible categorically needy recipients necessary physicians' services, clinic or hospital services, supplies and drugs needed in conjunction with family planning.

(2) Under the limited casualty program—medically needy only physicians' services and supplies will be provided.

[Statutory Authority: RCW 74.08.090. 81-16-033 (Order 1685), § 388-86-035, filed 7/29/81; 81-10-015 (Order 1647), § 388-86-035, filed 4/27/81; Order 1203, § 388-86-035, filed 4/1/77; Order 781, § 388-86-035, filed 3/16/73; Order 264 (part), § 388-86-035, filed 11/24/67.]

WAC 388-86-040 Hearing aids. (1) The department shall provide to categorically needy recipients:

(a) 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 388-86-045 Home health services. The department shall provide home health nursing and other services furnished by a Title XVIII certified home health agency. To qualify for home health services the patient must be in the care of an attending physician who has authorized the plan of treatment, which was developed for the individual patient. Approval by the office of the medical director is required for any care extending beyond the limits established by the division of medical assistance.

[Statutory Authority: RCW 74.08.090. 82-21-024 (Order 1891), § 388-86-045, filed 10/13/82; 80-13-020 (Order 1542), § 388-86-045, filed 9/9/80; 78-02-024 (Order 1265), § 388-86-045, filed 1/13/78; Order 1112, § 388-86-045, filed 4/15/76; Order 592, § 388-86-045, filed 8/25/71; Order 435, § 388-86-045, filed 3/31/70; Order 264 (part), § 388-86-045, filed 11/24/67.]

WAC 388-86-047 Hospice services. (1) For the purposes of this section, hospice services means a medically-directed, interdisciplinary program of palliative services for terminally ill recipients and the recipient's families.

(2) Hospice services shall be furnished by a hospice Medicare Title XVIII certified agency.

(3) The department shall authorize hospice services, including:

(a) Nursing care by or under the supervision of a registered nurse;

(b) Medical social services under the direction of a physician;

(c) Physician services performed by a doctor of medicine or osteopathy;

(d) Counseling services;

(e) Short-term inpatient care:

(i) In a participating hospice inpatient unit, participating hospital, skilled nursing facility (SNF); or

(ii) In an intermediate care facility (ICF) is limited to respite care;

(iii) When the services conform to a written plan of care; and

(iv) When the unit, hospital, SNF, or ICF meets the hospice staff and patient area standards.

(f) Medical appliances and supplies, including drugs and biologicals used while the individual is under hospice care;

(g) Home health aide services, under the direction of a registered nurse; or

(h) Physical therapy, occupational therapy, and speech-language pathology services.

(4) Hospice coverage shall be available to a person for at least two hundred ten days. The department may subdivide the hospice coverage time into two or more periods.

(5) The department shall pay the Medicaid hospice rate for daily care as:

(a) Routine home;

(b) Continuous home;

(c) Inpatient respite; or

(d) General inpatient.

(6) The department shall provide hospice services to a recipient:

(a) Categorically needy under the Medicaid program;

(b) Certified as terminally ill. For this program, an individual is defined as terminally ill if the individual has a medical prognosis that the individual's life expectancy is six months or less;

(c) With a caretaker in the residence;

(d) Requesting, in writing, hospice care voluntarily in lieu of other medical services, and

(e) Accepted by the designated hospice agency.

(7) While receiving hospice care, an individual shall waive all rights to Medicaid payments for:

(a) Hospice care provided by a hospice other than the hospice designated by the terminally ill patient or arranged by the designated hospice; and

(b) Medicaid services for treatment of the terminal or related condition for which hospice care is received or for services equivalent to the hospice care, except the services of or arranged by the designated hospice.

(8) A recipient may request voluntarily, in writing, to revoke the election of the hospice services.

[Statutory Authority: 1989 c 427. 89-18-034 (Order 2853), § 388-86-047, filed 8/29/89, effective 9/29/89.]

WAC 388-86-050 Inpatient hospital care. (1) The division of medical assistance shall provide hospitalization for recipients, with the exceptions and limitations in this section.

(2) The recipient shall have free choice of hospitalization with exceptions and limitations in WAC 388-86-051.

(3) The division of medical assistance shall require prior approval for nonemergent hospital admissions.

(4) The division of medical assistance shall approve for recipients:

- (a) Hospital admission;
- (b) Length of stay;
- (c) Services; or
- (d) Both length of stay and services.

(5) The division of medical assistance shall limit approval for inpatient hospital care in hospitals exempted from the diagnosis-related group (DRG) based payment system to the number of days established at the seventy-fifth percentile in the 1983 edition of the publication *Length of Stay in PAS Hospitals, by Diagnosis United States Western Region* unless the department has a:

(a) Prior contract arrangement for a specified length of stay; or

(b) The length of stay is specified under subsection (7) of this section.

(6) When a recipient's hospitalization exceeds the number of days allowed by subsection (5)(a) and (b) of this section, the hospital shall, within sixty days after discharge, submit to the central authorization unit (CAU) a request for approval of extra days:

- (a) With adequate justification; and
- (b) Signed by the attending physician.

(7) The department shall provide:

(a) For the chemical-using pregnant Medicaid recipient, up to twenty-six days of inpatient hospital care;

- (i) Hospital-based detoxification;
- (ii) Medical stabilization; and
- (iii) Drug treatment.

(b) Care when:

(i) Need for the inpatient care is verified through an Alcohol, Drug Addiction and Treatment Support Act (ADATSA) assessment center;

(ii) The hospital chemical dependency treatment unit is certified by the division of alcohol and substance abuse; and

(iii) The division of medical assistance gives prior authorization.

(8) The division shall cover eligible recipients for involuntary admissions for acute psychiatric conditions and reimburse using the DRG payment methodology as described under WAC 388-87-070.

(9) The department shall:

(a) Pay for care in a private psychiatric hospital only if the hospital is certified under Title XVIII; and

(b) Authorize the admission of an eligible individual to a private psychiatric hospital under the same conditions and program limitations as for treatment of psychiatric conditions in a general hospital.

(10) For categorically needy and medically needy recipients under twenty-one years of age and sixty-five

years of age and older, the department shall make Medicaid payments for care in:

- (a) A state mental institution; or
- (b) An approved psychiatric facility.

(11) The department shall pay hospitalization for Medicare recipients only when the medical recipients exhaust Medicare benefits.

(12) The department shall:

(a) Provide for hospitalization for the treatment of acute and chronic renal failure; and

(b) Pay only deductibles and coinsurance for a recipient who is:

- (i) A Medicare beneficiary; and
- (ii) Hospitalized for such treatment or for kidney transplant.

(13) The department shall not pay for hospital days prior to one day before scheduled surgery.

(14) The department shall:

(a) Approve hospitalization of a recipient based on semi-private room rates; and

(b) Reimburse at the multiple occupancy rate, regardless of the room provided by the hospital; and

(c) Define a semi-private room as not less than a two-bed nor more than a four-bed room.

(15) The department shall cover medically necessary services provided in a hospital for 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. 90-01-053 (Order 2916), § 388-86-050, filed 12/15/89, effective 1/15/90; 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 noncontracting 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 388-86-055 Laboratory services. The medical consultant's approval is not required for general laboratory procedures.

(1) Laboratory services provided to an inpatient in a hospital will be paid as a part of the total charges submitted for inpatient care in the hospital.

(2) Laboratory services provided on an outpatient basis by physicians in their offices, independent laboratories, or by exclusive service contract with the department will be provided to recipients and paid as specified in WAC 388-87-075.

[Statutory Authority: RCW 74.08.090. 82-01-001 (Order 1725), § 388-86-055, filed 12/3/81; Order 264 (part), § 388-86-055, filed 11/24/67.]

WAC 388-86-067 Mental health center services. (1) The department shall provide mental health or day health care services to a cash assistance recipient under SSI, state supplement or AFDC and to an eligible recipient of a state funded continuing general assistance grant. A recipient of the limited casualty program may be provided mental health center services. The services provided through these agencies are not subject to the limitation on the number of visits under the provisions of WAC 388-86-095.

(2) Community mental health services provided shall be as specified in a contract between the department and the participating center.

(3) For the purposes of this section, community mental health center shall mean an agency or program which meets the following criteria:

(a) Is included as a part of the approved county mental health plan, or is approved by the department to hold a subcontract from the area agency on aging to provide day health care.

(b) Receives state grant-in-aid funds as authorized by the Community Mental Health Services Act, chapter 71.24 RCW, and as described in WAC 275-25-030, or receives money through a contractual agreement with the area agency on aging for the provision of day health care.

(c) Provides treatment by, or under the direction of, a licensed doctor of medicine who has sufficient knowledge of the caseload and clinical program to be assured that the quality of the service is satisfactory.

(4) An agency or program must be either:

(a) An outpatient clinic, with its own governing body, administration and staff, or

(b) A county-administered outpatient clinic, or

(c) A separate identifiable outpatient clinic of a general hospital or psychiatric inpatient facility, or

(d) An outpatient clinic with a residential component within its administrative structure, or

(e) A separate identifiable outpatient clinical program of an agency which has other service functions.

(5) Agencies which have functions in addition to outpatient care (see subsection (4)(c), (d), and (e) of this section) shall adhere to the following criteria:

(a) Specific staff are delineated to provide outpatient clinical services exclusively,

(b) Outpatient clinical records are separated from other service records of the agency,

(c) The center's accounting and bookkeeping procedures are such that:

(i) If the center has an existing contract, a review or audit finds that these procedures assure adequate fiscal accountability. Audits will be conducted by either the department or the office of the state auditor.

(ii) If an agency is applying for a contract, the application will be accompanied by a statement from a licensed or certified public accountant reflecting the accountant's unqualified opinion of the adequacy, accuracy and accountability of the agency's records.

(6) The final decision regarding a mental health center's participation in this program shall be made by the department.

(7) Mental health service records—content:

An adequate clinical record shall be maintained for each eligible client receiving outpatient mental health services in a mental health center. The clinical records at a minimum shall contain the following:

(a) History,

(b) Diagnostic/evaluative statements,

(c) Treatment plan,

(d) Treatment notes,

(e) Periodic treatment review,

(f) Documentation of case conferences,

(g) Clinical summaries on termination of service.

(8) Subcontracts:

An agency which has a contract under this section shall not enter into subcontracts for any work agreed upon under the contract without obtaining prior written approval of the department from the office of medical assistance.

[Statutory Authority: RCW 74.08.090. 81-16-033 (Order 1685), § 388-86-067, filed 7/29/81; 81-10-015 (Order 1647), § 388-86-067, filed 4/27/81; 79-06-034 (Order 1402), § 388-86-067, filed 5/16/79; 78-10-077 (Order 1346), § 388-86-067, filed 9/27/78; Order 1196, § 388-86-067, filed 3/3/77; Order 1067, § 388-86-067, filed 11/17/75; Order 924, § 388-86-067, filed 4/15/74; Order 777, § 388-86-067, filed 3/1/73; Order 696, § 388-86-067, filed 6/29/72; Order 549, § 388-86-067, filed 3/31/71, effective 5/1/71; Order 501, § 388-86-067, filed 12/9/70.]

WAC 388-86-071 Private duty nursing services. (1) The department shall approve private duty nursing services when:

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(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 388-86-073 Occupational therapy. (1) The department shall pay for occupational therapy when the following conditions are met:

(a) A licensed occupational therapist, or a licensed occupational therapy assistant supervised by a licensed occupational therapist, provides the service;

(b) Approval is obtained before services are performed as required for each program as designated in the division of medical assistance billing instructions; and

(c) The occupational therapy is provided:

(i) As part of an outpatient program when identified in the early and periodic screening, diagnosis, and treatment program of a recipient twenty years of age and younger;

(ii) By a home health agency;

(iii) As part of the physical medicine and rehabilitation program; or

(iv) In a neuromuscular center.

(2) The department shall not pay for occupational therapy when payment for occupational therapy is included in the reimbursement of other treatment programs including, but not limited to hospital inpatient diagnosis related group services.

(3) The department shall pay for occupational therapy provided to recipients eligible under the:

(a) Categorically needy, general assistance unemployable and ADATSA programs;

(b) Medically needy program only when the recipient is:

(i) Twenty years of age and younger and referred by a screening provider under the early and periodic screening, diagnosis and treatment program; or

(ii) Receiving home health care services.

(c) Medically indigent program as part of the treatment program under home health care services.

[Statutory Authority: RCW 74.08.090. 90-17-119 and 90-18-033 (Orders 3053 and 3053A), § 388-86-073, filed 8/21/90 and 8/27/90, effective 9/21/90 and 9/1/90.]

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 388-86-080 Oxygen service. (1) Oxygen shall be made available through contract to include regulators, humidifiers, masks and related supplies to recipients under age sixty-five in their own homes when requested by the attending physician.

(2) Oxygen and related supplies may be obtained from contract supplier or other oxygen supplier at less cost for recipients in skilled nursing homes on the request of the attending physician.

(3) Recipients age sixty-five and over and others eligible for part B Medicare benefits who are not in a nursing home or hospital shall have oxygen and equipment for its administration available only under Medicare. Such persons are not eligible for state owned equipment.

[Statutory Authority: RCW 74.08.090. 86-02-031 (Order 2321), § 388-86-080, filed 12/27/85; 82-01-001 (Order 1725), § 388-86-080, filed 12/3/81; 81-06-003 (Order 1610), § 388-86-080, filed 2/19/81; Order 1196, § 388-86-080, filed 3/3/77; Order 1077, § 388-86-080, filed 12/24/75; Order 335, § 388-86-080, filed 2/3/69; Order 303, § 388-86-080, filed 9/6/68; Order 264 (part), § 388-86-080, filed 11/24/67.]

WAC 388-86-085 Transportation (other than ambulance). (1) The department shall assure the availability of necessary transportation for a recipient:

- (a) To and from medical services;
- (b) Covered under the recipient's medical assistance program; and
- (c) Suitable to the recipient's medical need.

(2) The department shall authorize payment for such transportation:

- (a) When other means of transportation are not available or appropriate to the recipient's need;
- (b) At the least costly alternative mode of transportation suitable to the recipient's medical condition;
- (c) When the department, broker, or contractor gives prior authorization for the transportation or gives retro-

authorization within seventy-two hours for transportation during hours when the department, broker, or contractor is not available; and

(d) When transportation is given to and from covered services:

(i) Within the local medical community unless necessary medical services are not available locally; or

(ii) Outside of the local medical community to the closest provider able and willing to provide the necessary and covered medical services.

(3) The department shall:

(a) Contract to provide such transportation as an administrative service in counties under broker or contractor agreements.

(i) Brokers or contractors shall certify transportation providers for medical services in accordance with rules established by the division of medical assistance; and

(ii) The department shall require the brokers and contractors to operate the services in accordance with all federal, state, and local ordinances, statutes, and regulations.

(b) Provide transportation as a medical service in unbrokered or noncontracted counties.

(4) The department, broker, or contractor shall pay for transportation only for the recipient unless the recipient has an identified need for an attendant or escort.

(5) When the department determines no other appropriate transportation resource is available to the recipient, the department may:

(a) Authorize public transit when a transit authority is present in the community and when the recipient is capable of using this level of service;

(b) Reimburse the recipient for mileage in a private vehicle or issue a gas voucher, in areas with gas voucher systems:

(i) When prior authorized; and

(ii) If distance traveled is more than forty miles to and from covered medical services in a given week.

(c) Reimburse volunteers providing recipient transportation:

(i) When prior authorized; and

(ii) From volunteer point of origin, and back to volunteer's point of origin.

(6) When transportation in subsection (5) of this section is either not available or not accessible by the recipient, and the transportation is medically necessary, the department shall authorize transportation by:

(a) Nonprofit organizations using specialized equipment, such as wheelchair lifts 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;

(b) Cabulance vehicle when medical necessity is clearly demonstrated and the physical condition of the recipient is such that any less specialized means of transportation is inadvisable; and

(c) Taxi transportation when medically necessary and other less expensive modes of transportation are not available or not appropriate to meet the recipient's needs.

(7) The department shall authorize interstate and intrastate transportation, e.g., bus, train, air, when:

(a) Transportation is medically necessary; and

(b) Necessary medical treatment is not available locally; and

(c) The physical condition of the recipient is such that the use of any other method of transportation is inadvisable.

(8) The department, broker, or contractor shall not authorize transportation for nursing home recipients to or from medical services which are expected to be provided by the facility:

(a) Securing prescription;

(b) Nursing care and supervision;

(c) Personal hygiene: Baths, shampoos, routine nail care for feet or hands, shaves, routine daily oral care, and skin care;

(d) Services relating to meeting medically related psychosocial needs, ordered by the physician when appropriate;

(e) Ancillary care services including services provided by activities specialists, audiologists, social workers, speech pathologists, physical therapists, and occupational therapists;

(f) A nutritionally adequate and varied diet including supplementary nourishments and vitamins.

[Statutory Authority: RCW 74.08.090, 90-16-053 (Order 3044), § 388-86-085, filed 7/27/90, effective 8/27/90; 89-23-081 (Order 2899), § 388-86-085, filed 11/17/89, effective 12/18/89; 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 388-86-087 Personal care services. The department shall authorize personal care services to eligible categorically needy persons under Title XIX as provided under WAC 388-15-810, 388-15-820, 388-15-830, 388-15-840, 388-15-850, 388-15-860, and 388-15-870.

[Statutory Authority: 1989 1st ex.s. c 19, 89-18-031 (Order 2858), § 388-86-087, filed 8/29/89, effective 9/29/89.]

WAC 388-86-090 Physical therapy. (1) The department shall pay for physical therapy as an outpatient service when:

(a) The attending physician prescribes physical therapy;

(b) A licensed physical therapist or physiatrist or a physical therapist assistant supervised by a licensed physical therapist provides the treatment; and

(c) The therapy assists the recipient:

(i) In avoiding hospitalization or nursing home care; or

(ii) In becoming employable; or

(iii) Who suffers from severe motor disabilities to obtain a greater degree of self-care or independence; or

(iv) As part of a treatment program intended to restore normal function of a body part following injury, surgery, or prolonged immobilization.

(2) The department shall require approval before services are performed for outpatient physical therapy sessions exceeding ten sessions per patient in a calendar year.

(3) The medical director of the division of medical assistance (DMA) may waive the prior approval requirement for physical therapy provided:

(a) In facilities having contracts with DMA as neuromuscular centers; and

(b) By school districts as part of an individual education program or individualized family service plan.

(4) The department shall not pay for physical therapy when payment for physical therapy is included in the reimbursement as part of other treatment programs including, but not limited to hospital inpatient diagnostic related group services and nursing home services.

(5) The department shall pay for outpatient physical therapy for recipients eligible under the:

(a) Categorically needy, general assistance unemployable and ADATSA programs;

(b) Medically needy program only when the recipient is:

(i) Twenty years of age and under and referred by a screening provider under the early and periodic screening, diagnosis, and treatment program; or

(ii) Receiving home health care services.

(c) Medically indigent program when receiving home health care services.

[Statutory Authority: RCW 74.08.090. 90-17-119 and 90-18-033 (Orders 3053 and 3053A), § 388-86-090, filed 8/21/90 and 8/27/90, effective 9/21/90 and 9/1/90; 89-05-029 (Order 2758), § 388-86-090, filed 2/13/89; 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 388-86-097 Respiratory therapy services. (1) Respiratory therapy services including nebulizers or other similar equipment shall be available when prescribed by a physician as necessary to permit the recipient to remain in his own home or in a skilled nursing home.

(2) Respiratory therapy services may be provided through contract to include necessary equipment and routine visits by a respiratory therapist, by loan of state owned respiratory therapy equipment or by visit of an independent respiratory therapist.

(3) For recipients eligible for part B Medicare benefits, necessary equipment for respiratory therapy shall be purchased and made available on a loan basis.

(4) Recipients living in areas covered by contract shall have approved respiratory therapy services available only through the contract source.

[Statutory Authority: RCW 74.08.090, 86-02-031 (Order 2321), § 388-86-097, filed 12/27/85; Order 1077, § 388-86-097, filed 12/24/75.]

WAC 388-86-098 Speech therapy services. (1) The department shall pay for speech therapy for conditions which are the result of medically recognized diseases and defects.

(2) The department shall pay for speech therapy when the following conditions are met:

(a) A speech pathologist is granted a certificate of clinical competence by the American speech, hearing and language association, or a person who completed the equivalent educational and work experience necessary for such a certificate provides the service; and

(b) Approval is obtained before the service is performed for:

(i) All speech therapy for recipients three years of age through twenty years of age; and

(ii) Speech therapy sessions after the evaluation and twelve sessions in a calendar year for recipients three years of age or younger or twenty-one years of age and over.

(3) The medical director of the division of medical assistance (DMA) may waive the prior approval requirement for speech therapy provided:

(a) In facilities having contracts with DMA as neuromuscular centers; and

(b) By school districts as part of an individualized education program or individualized family service plan.

(4) The department shall not pay for speech therapy when the speech therapy payment is in the reimbursement as part of other treatment programs including, but not limited to:

(a) Hospital diagnosis related group services; and

(b) Nursing home services.

(5) The department shall pay for speech therapy provided to recipients eligible under:

(a) The categorically needy, general assistance unemployable and ADATSA programs;

(b) The medically needy program only when the recipient is:

(i) Twenty years of age and under and referred by a screening provider under the early and periodic screening, diagnosis, and treatment program; or

(ii) Receiving home health care services.

(c) The medically indigent program when receiving home health care services.

[Statutory Authority: RCW 74.08.090, 90-17-119 and 90-18-033 (Orders 3053 and 3053A), § 388-86-098, filed 8/21/90 and 8/27/90, effective 9/21/90 and 9/1/90; 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 388-86-100 Durable medical equipment, prosthetic devices, and disposable/nonreusable medical supplies. (1) The division of medical assistance shall purchase and/or rent medically necessary medical equipment, prosthetic devices, and other disposable/nonreusable medical supplies when:

(a) The division is the payor of last resort; and

(b) The item requested is not included with other reimbursement methodologies, such as, but not limited to, diagnosis related group (DRG) for hospital inpatients, or a nursing home's per diem reimbursement.

(2) The division of medical assistance shall authorize payment for a requested item only when the item is

medically necessary as defined under WAC 388-80-005(45) and is covered by the medical assistance program.

(3) The division of medical assistance shall purchase and/or rent a wheelchair for a permanently disabled nursing home recipient when the chair is for the exclusive full-time use of the recipient and is not included in the nursing home's per diem reimbursement.

(4) Medical equipment and supplies purchased or reissued by the division of medical assistance become the property of the recipient for whom they are purchased/reissued.

(5) The division of medical assistance shall normally authorize the purchase and/or repair of only one wheelchair, manual or power-drive, per recipient. However, another wheelchair shall be provided and/or repaired when medically necessary.

(6) Durable medical equipment, prosthetic devices, and disposable/nonreusable supplies that require approval by the division of medical assistance prior to delivery of service include:

- (a) Prosthetic limbs;
- (b) Orthopedic shoes;
- (c) Osteogenic stimulator, noninvasive;
- (d) Communication devices;
- (e) Transcutaneous nerve stimulators;
- (f) Wheeled shower chairs;
- (g) Blood pressure kits;
- (h) Blood glucose monitors;
- (i) Air and gel cushions;
- (j) Fluidized air flotation system;
- (k) Decubitus care mattress, including flotation or gel mattress;
- (l) Complete patient lift, except for sling or wall mount;
- (m) Wheelchairs:
 - (i) Accessories;
 - (ii) Fitting fees; and
 - (iii) Freight charges.
- (n) Hospital bed and replacement mattress;
- (o) Replacement parts, repairs, and labor charges;
- (p) Bath accessories, decubitus care products (nonformulary), and patient equipment not listed in the division of medical assistance "durable medical equipment and supplies" billing instructions; and
- (q) All rentals.

(7) The division of medical assistance shall not authorize the purchase of vehicle driving controls, a vehicle wheelchair lift conversion, or purchase or repair of a vehicle wheelchair lift, unless:

- (a) Medical transportation provided under WAC 388-86-085 cannot meet the recipient's need for transportation to and from medically necessary covered services at a lower cost to the department; and
- (b) Prior approval is obtained.

[Statutory Authority: RCW 74.08.090. 89-08-052 (Order 2783), § 388-86-100, filed 3/31/89; 86-03-047 (Order 2329), § 388-86-100, filed 1/15/86; 82-17-072 (Order 1868), § 388-86-100, filed 8/18/82; 81-16-033 (Order 1685), § 388-86-100, filed 7/29/81; 81-06-003 (Order 1610), § 388-86-100, filed 2/19/81; 78-10-077 (Order 1346), § 388-86-100, filed 9/27/78; 78-02-024 (Order 1265), § 388-86-100, filed 1/13/78; Order 1233, § 388-86-100, filed 8/31/77; Order

1019, § 388-86-100, filed 4/30/75; Order 938, § 388-86-100, filed 5/23/74; Order 499, § 388-86-100, filed 12/2/70; Order 480, § 388-86-100, filed 9/22/70; Order 463, § 388-86-100, filed 6/23/70; Order 419, § 388-86-100, filed 12/31/69; Order 385, § 388-86-100, filed 8/27/69; Order 264 (part), § 388-86-100, filed 11/24/67.]

WAC 388-86-105 Voluntary agency. Medical care shall be provided for a child or unmarried mother certified by the department as eligible and receiving the services of a voluntary agency or maternity home.

[Statutory Authority: RCW 74.08.090. 81-06-003 (Order 1610), § 388-86-105, filed 2/19/81; Order 1151, § 388-86-105, filed 9/8/76; Order 482, § 388-86-105, filed 9/29/70, effective 11/1/70; Order 463, § 388-86-105, filed 6/23/70; Order 264 (part), § 388-86-105, filed 11/24/67.]

WAC 388-86-110 X-ray services. (1) Therapeutic x-rays (deep x-ray and related radiation treatment) will be provided when requested by the attending physician.

(2) Diagnostic and follow-up x-rays do not require the approval of the medical consultant, but films shall be made available to the consultant on request.

[Statutory Authority: RCW 74.08.090. 78-10-077 (Order 1346), § 388-86-110, filed 9/27/78; Order 264 (part), § 388-86-110, filed 11/24/67.]

WAC 388-86-112 Physical medicine and rehabilitation evaluation and treatment. (1) Physical medicine and rehabilitation inpatient evaluation and individualized treatment may be authorized for a period not exceeding four weeks at a time when the following conditions are met:

- (a) The person suffers from severe disabilities including but not limited to motor and/or cognitive deficits.
- (b) Physical medicine and rehabilitation treatment would potentially enable the person to obtain a greater degree of self-care and/or independence.
- (c) Prior approval of the office of the medical director is obtained.

(2) Extensions of the treatment intervals may be authorized by the office of the medical director if adequate justification is received from the physical medicine and rehabilitation facility.

[Statutory Authority: RCW 74.08.090. 85-17-037 (Order 2272), § 388-86-112, filed 8/15/85; 81-16-033 (Order 1685), § 388-86-112, filed 7/29/81; 78-02-024 (Order 1265), § 388-86-112, filed 1/13/78; Order 964, § 388-86-112, filed 8/19/74.]

WAC 388-86-115 Medical care provided out-of-state. (1) The department shall authorize and provide comparable medical care services to a recipient of medical assistance (MA) or limited casualty program—medically needy who is temporarily outside the state to the same extent that such medical care services are furnished to an eligible recipient in the state, subject to the exceptions and limitations in this section.

(2) Bordering cities listed in chapter 388-82 WAC are not considered "out-of-state" and are excluded from these provisions. When a recipient goes to another state, other than the specified bordering cities, specifically for the purpose of obtaining medical care that is available in the state of Washington, only emergency care will be provided by the state of Washington.

(3) State funded medical care is not provided out-of-state. Medical services in designated bordering cities may be authorized.

(4) The medical consultant shall review all cases involving out-of-state medical care to determine whether the services are within the scope of the medical assistance program.

(5) Medical assistance may be provided only in areas of Canada that border on the United States when no other resources are available.

[Statutory Authority: RCW 74.08.090. 81-16-033 (Order 1685), § 388-86-115, filed 7/29/81; 81-10-015 (Order 1647), § 388-86-115, filed 4/27/81; 79-06-034 (Order 1402), § 388-86-115, filed 5/16/79; 79-01-002 (Order 1359), § 388-86-115, filed 12/8/78; Order 799, § 388-86-115, filed 5/25/73; Order 781, § 388-86-115, filed 3/16/73; Order 303, § 388-86-115, filed 9/6/68; Order 264 (part), § 388-86-115, filed 11/24/67.]

WAC 388-86-120 Medical care services. (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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 388-87-095 Payment—Physician service.
 388-87-105 Payment—Medical care outside state of Washington.
 388-87-110 Durable medical equipment—Prosthetic devices.
 388-87-115 Payment—Organ transplantation.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 388-87-040 Payment—Anesthetization services. [Order 1203, § 388-87-040, filed 4/1/77; Order 264 (part), § 388-87-040, filed 11/24/67.] Repealed by 80-13-020 (Order 1542), filed 9/9/80. Statutory Authority: RCW 74.08.090.
 388-87-047 Payment—Chiropractic services. [Statutory Authority: RCW 74.08.090. 80-13-020 (Order 1542), § 388-87-047, filed 9/9/80; Order 1203, § 388-87-047, filed 4/1/77; Order 1166, § 388-87-047, filed 10/27/76; Order 1112, § 388-87-047, filed 4/15/76; Order 386, § 388-87-047, filed 8/27/69.] Repealed by 81-10-016 (Order 1648), filed 4/27/81. Statutory Authority: RCW 74.08.090.
 388-87-04701 Payment—Chiropractic services. [Statutory Authority: RCW 74.08.090. 83-17-073 (Order 2011), § 388-87-04701, filed 8/19/83.] Repealed by 89-18-033 (Order 2860), filed 8/29/89, effective 9/29/89. Statutory Authority: RCW 74.08.090.
 388-87-055 Payment—Eyeglasses and examinations. [Order 386, § 388-87-055, filed 8/27/69; Order 264 (part), § 388-87-055, filed 11/24/67.] Repealed by Order 994, filed 12/31/74.
 388-87-085 Payment—Pharmacy services. [Order 264 (part), § 388-87-085, filed 11/24/67.] Repealed by Order 316, filed 10/31/68.
 388-87-100 Payment—Special duty nursing. [Order 1112, § 388-87-100, filed 4/15/76; Order 794, § 388-87-100, filed 4/26/73; Order 264 (part), § 388-87-100, filed 11/24/67.] Repealed by 78-10-077 (Order 1346), filed 9/27/78. Statutory Authority: RCW 74.08.090.

WAC 388-87-005 Payment—Eligible providers defined. (1) The following providers shall be eligible for enrollment to provide medical services:

(a) Persons currently licensed by the state of Washington to practice medicine, osteopathy, dentistry, optometry, podiatry, midwifery, nursing, dental hygiene, chiropractic, or physical therapy;

(b) A hospital currently licensed by the department of health;

(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 licensed under chapter 70.127 RCW;

(f) A hospice care agency licensed under chapter 70.127 RCW;

(g) An independent (outside) laboratory certified to participate under Title XVIII or determined currently to meet the Medicare requirements for such participation;

(h) A company or individual, not excluded in subsection (3) of this section, supplying items vital to the provision of medical services such as ambulance service, oxygen, eyeglasses, other appliances, or approved services, not otherwise covered under this section;

(i) A provider of screening services having a signed agreement with the department to provide such services to eligible individuals in the early and periodic screening and diagnosis and treatment (EPSDT) program;

(j) A qualified and approved center for the detoxification of acute alcohol or other drug intoxication conditions;

(k) A qualified and approved outpatient clinical community mental health center, an approved inpatient psychiatric facility, drug treatment center, or Indian health service clinic;

(l) A Medicare certified rural health clinic;

(m) A federally qualified health care center;

(n) Licensed or certified agencies or persons having a signed agreement with the department to provide Coordinated Community AIDS Service Alternatives Program services;

(i) Home Care Agency Personal Care providers or self-employed independent contractors providing hourly attendant or respite care;

(ii) Facilities or agencies providing therapeutic home delivered meals;

(iii) Dietitians or nutritionists; and

(iv) Social workers, mental health counselors, or psychologists who are self-employed independent contractors or employed by various licensed or certified agencies.

(o) Approved prepaid health maintenance, prepaid health plans, or health insuring organizations; and

(p) An out-of-state provider of services listed under subsection (1)(a) through (m) under this section subject to conditions specified under WAC 388-87-105.

(2) The department shall not pay for services performed by the following practitioners:

(a) Acupuncturists;

(b) Sanipractors;

(c) Naturopaths;

(d) Homeopaths;

(e) Herbalists;

(f) Masseurs or manipulators;

(g) Christian Science practitioners or theological healers; and

(h) 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 the department's 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 medical 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 United States Department of Health and Human Services (DHHS) until DHHS notifies the department 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. 90-18-092 (Order 3064), § 388-87-005, filed 9/5/90, effective 10/6/90; 89-18-033 (Order 2860), § 388-87-005, filed 8/29/89, effective 9/29/89; 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 388-87-008 Disclosure by providers--Information on ownership and control. (1) The department shall not approve a provider agreement or a contract and shall terminate an existing agreement or contract, if the provider fails to disclose ownership or control information as required by this section.

(2) A disclosing entity shall disclose the following information:

(a) The name and address of each person with an ownership or control interest in the disclosing entity or any subcontractor in which the disclosing entity has a direct or indirect ownership of five percent or more;

(b) Whether any of the persons named, in compliance with this subsection, is related to another as spouse, parent, child, or sibling; and

(c) The name of any other disclosing entity in which a person with an ownership or control interest in the disclosing entity also has an ownership or control interest.

(3) On request by the department the disclosing entity shall within thirty-five days submit full and complete information about:

(a) The ownership of any subcontractor with whom the provider has had business transactions totaling more than twenty-five thousand dollars during a twelve-month period ending on the date of request; and

(b) Any significant business transactions between the provider and any wholly owned supplier, or between the provider and any subcontractors, during the five-year period ending on the date of the request.

(4) The disclosing entity shall disclose the following information on persons convicted of crimes who:

(a) Has ownership or control interest in the provider, or is an agent or managing employee of the provider; and

(b) Has been convicted of a criminal offense related to that person's involvement in any program under Medicare, Medicaid, or the Title XX services program since the inception of those programs.

(5) "Disclosing entity" means a Medicaid provider (other than an individual practitioner or group of practitioners) that furnishes, or arranges for the furnishing of, health-related services for which it claims payment

under any plan or program administered by the department.

(6) "Group of practitioners" means two or more health care practitioners who practice their profession at a common location (whether or not they share common facilities, common supporting staff, or common equipment).

(7) "Person with an ownership or control interest" means a person or corporation that:

(a) Has an ownership interest totalling five percent or more in a disclosing entity;

(b) Has an indirect ownership interest equal to five percent or more in a disclosing entity;

(c) Has a combination of direct and indirect ownership interests equal to five percent or more in a disclosing entity;

(d) Owns an interest of five percent or more in any mortgage, deed of trust, note, or other obligation secured by the disclosing entity if that interest equals at least five percent of the value of the property or assets of the disclosing entity;

(e) Is an officer or director of a disclosing entity that is organized as a corporation; or

(f) Is a partner in a disclosing entity that is organized as a partnership.

[Statutory Authority: RCW 74.08.090. 83-10-077 (Order 1958), § 388-87-008, filed 5/4/83.]

WAC 388-87-010 Conditions of payment--General.

(1) The department shall be responsible for payment of service rendered to a recipient only when:

(a) The services are within the scope of care of the medical assistance program under chapter 388-86 WAC;

(b) The services are properly authorized;

(c) The services are billed properly;

(d) The services are timely billed as described under WAC 388-88-015;

(e) The recipient is certified as eligible; and

(f) Third-party payment procedures are followed.

(2) The fees and rates the department establishes shall constitute the maximum allowable payment for approved medical care and services provided to recipients by the providers.

(3) An "eligible recipient" shall mean a person the department finds eligible for any medical program. The provider is responsible for ascertaining whether a client has medical coverage for the dates of service.

(4) A provider shall not bill, demand, or otherwise collect reimbursement from an eligible recipient, or from other persons on behalf of the recipient, for any service included in the medical program's scope of benefits, and the recipient is not liable for payment for such services if the provider:

(a) Does not properly bill the department for services the department is responsible for payment; or

(b) Fails to satisfy department conditions of payment, including but not limited to:

(i) Prior approval when required;

(ii) Timely billing and billing according to department instructions;

(iii) Pursuit of third-party liability; or

(iv) Adequate documentation of medical necessity.

(5) The department shall not pay for services not included in the medical program's scope of benefits.

(6) A provider may bill an eligible recipient for services only when:

(a) The recipient signs a specific written agreement with the provider before receiving the services stating the:

(i) Specific service provided;

(ii) Service is not covered by the medical assistance program;

(iii) Recipient chooses to receive the specific service;

(iv) Agreement is to pay for the services; and

(v) Agreement is void and unenforceable and the recipient is under no obligation to pay the provider if the:

(A) Service is covered by the medical program; or

(B) Provider fails to satisfy department conditions of payment as described under WAC 388-87-010 (4)(b).

(b) The recipient received reimbursement directly from a third party for services the department has no payment responsibility for; or

(c) The bill counts toward a spenddown liability as described under WAC 388-99-030 and chapter 388-100 WAC.

(7) If a third party pays a provider the department rate, or more, for a covered service, the provider may not bill the department or the recipient for that service.

(8) The department shall not be responsible for payment of medical care or services if the third-party benefits are available to pay the recipient's medical expenses at the time the provider bills the department. The recipient shall not be responsible for payment except to the extent the recipient has directly received third-party reimbursement for such services.

(9) A provider shall not refuse to furnish covered services to an eligible recipient because of a third party's potential liability for the services.

(10) Payment for any service a provider furnishes to a recipient may not be made to or through a factor who advances money to that provider for accounts receivable.

(11) The department shall not be responsible for payment for medical care and goods and/or services provided to a recipient:

(a) Enrolled in a department-contracted, prepaid medical plan; and

(b) Failing to use the provider under contract unless:

(i) Emergency conditions exist; or

(ii) The department has approved payment to another provider for provision of a service not covered by the prepaid plan.

(12) Payment for care under the medical assistance or limited casualty-medically needy programs are retroactive for three months before the month of application provided the applicant was eligible when the care was received. The applicant need not be eligible at the time of actual application. The central authorization unit's (CAU) medical consultant shall approve medical services that require approval for the retroactive period.

(13) Payment for care under the limited casualty program-medically indigent may be retroactive for seven

days before the date of application if applicant is otherwise eligible. Medical services that require approval shall be approved by the CAU medical consultant for the retroactive period.

(14) The department may pay a claim a provider submits for payment for services rendered to a person subsequently determined ineligible at the time of service under the following conditions only:

(a) The ineligible person was certified at the time of service as both financially and medically eligible;

(b) Payment was not made from sources outside the department; and

(c) A request for such payment is submitted to and approved by the division of medical assistance.

(15) The department shall pay for medically necessary services on the basis of usual and customary charges or the rates the department establishes, whichever is lower.

(16) The department shall not authorize payment for well-baby care except as provided under the early periodic screening, diagnosis and treatment (EPSDT) program. See WAC 388-86-027.

(17) 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. See WAC 388-87-035 for transportation payment other than provided by a nonprofit organization.

[Statutory Authority: RCW 74.08.090. 89-22-036 (Order 2886), § 388-87-010, filed 10/27/89, effective 11/27/89; 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. (1) The department shall pay 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:

(a) Total combined reimbursement to the provider from Medicare and the department does not exceed the department's fee schedule as described under WAC 388-87-010; and

(b) Provider accepts assignment for Medicare payment.

(2) When the recipient has Part A of Medicare and has:

(a) Not exhausted lifetime reserve days, the department recognizes the Medicare diagnostic related group (DRG) as payment in full, except for deductible and coinsurance amounts; or

(b) Exhausted lifetime reserve days during an inpatient hospital stay, the department recognizes the Medicare DRG as payment in full, except coinsurance and deductible amounts until the Medicaid outlier threshold is reached. After the Medicaid outlier threshold is reached, the department pays an amount based on the policy described in Title XIX state plan.

(3) The department shall base its outlier policy on the methodology prescribed in the department's Title XIX state plan, methods, and standards used for establishing payment rates for hospital inpatient services.

(4) The department shall pay for Medicaid covered services when the recipient exhausts Medicare benefits.

[Statutory Authority: RCW 74.08.090. 90-12-047 (Order 2989), § 388-87-011, filed 5/31/90, effective 7/1/90; 89-11-004 (Order 2793), § 388-87-011, filed 5/4/89; 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 388-87-012 Conditions of payment--Consultant's and specialist's services and fees. (1) When services of a consultant or specialist are required, whether the patient has been referred by a physician or is being treated by the specialist as the attending physician, the prior approval is not necessary. This rule applies to consultation or treatment in the home, office, or medical institution.

(2) A copy of the consultation report may be requested.

(3) When a specialist treats a patient for minor conditions or for chronic conditions of long duration, the fee for initial and subsequent office calls is reimbursed at the department rate.

(4) Consultant's fees shall not be paid when the consulting physician specialist or other provider subsequently performs surgery or renders treatment for which flat fees are applicable, see WAC 388-86-095.

(5) If more than one specialist is called in to examine a patient during a spell of illness, billings are subject to review.

(6) Psychological evaluation is provided in connection with medical diagnosis and treatment. Treatment by a psychologist is not provided.

[Statutory Authority: RCW 74.08.090. 86-02-031 (Order 2321), § 388-87-012, filed 12/27/85; 85-13-061 (Order 2241), § 388-87-012, filed 6/18/85; 81-16-032 (Order 1684), § 388-87-012, filed 7/29/81; 81-10-016 (Order 1648), § 388-87-012, filed 4/27/81; 79-01-002 (Order 1359), § 388-87-012, filed 12/8/78; 81-10-016 (Order 1648), § 388-87-012, filed 4/27/81; 78-06-087 (Order 1301), § 388-87-012, filed 6/2/78; Order 1244, § 388-87-012, filed 10/10/77; Order 1098, § 388-87-012, filed 2/13/76; Order 1061, § 388-87-012, filed 10/8/75; Order 1015, § 388-87-012, filed 3/27/75.]

WAC 388-87-013 Conditions of payment--Hospital care. (1) All hospital admissions 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 388-87-019 Payment--Chiropractic services.

(1) The department shall pay for medically necessary services a licensed chiropractor provides as limited in chapter 388-86 WAC.

(2) The department shall not pay for:

(a) Modalities such as light, heat, hydrotherapy, and physiotherapy; or

(b) Any food supplement, medication, or drug.

[Statutory Authority: RCW 74.08.090. 90-17-122 (Order 3056), § 388-87-019, filed 8/21/90, effective 9/21/90.]

WAC 388-87-020 Subrogation. The department shall not be responsible to pay for medical care for an applicant or recipient whose personal injuries are occasioned by the negligence or wrongdoing of another: *Provided, however,* That the director of the department may in his discretion furnish the medical care required as a result of such injury(ies) and the department shall thereby be subrogated to the applicant's or recipient's right of recovery therefore to the extent of the cost of medical care paid for by the department.

[Order 264 (part), § 388-87-020, filed 11/24/67.]

WAC 388-87-025 Services requiring approval. All services to recipients on medical assistance, limited casualty program, and continuing general assistance are subject to review and approval.

[Statutory Authority: RCW 74.08.090. 86-02-031 (Order 2321), § 388-87-025, filed 12/27/85; 82-01-001 (Order 1725), § 388-87-025, filed 12/3/81; 81-16-032 (Order 1684), § 388-87-025, filed 7/29/81; 81-10-016 (Order 1648), § 388-87-025, filed 4/27/81; 80-15-034 (Order 1554), § 388-87-025, filed 10/9/80; 79-06-034 (Order 1402), § 388-87-025, filed 5/16/79; 79-01-002 (Order 1359), § 388-87-025, filed 12/8/78; 78-06-087 (Order 1301), § 388-87-025, filed 6/2/78; 78-02-024 (Order 1265), § 388-87-025, filed 1/13/78; Order 1244, § 388-87-025, filed 10/10/77; Order 1202, § 388-87-025, filed 4/1/77; Order 1196, § 388-87-025, filed 3/3/77; Order 1151, § 388-87-025, filed 9/8/76; Order 1098, § 388-87-025, filed 2/13/76; Order 1077, § 388-87-025, filed 12/24/75; Order 1019, § 388-87-025, filed 4/30/75; Order 1015, § 388-87-025, filed 3/27/75; Order 964, § 388-87-025, filed 8/19/74; Order 938, § 388-87-025, filed 5/23/74; Order 911, § 388-87-025, filed 3/1/74; Order 837, § 388-87-025, filed 7/26/73; Order 714, § 388-87-025, filed 9/14/72; Order 681, § 388-87-025, filed 5/10/72; Order 582, § 388-87-025, filed 7/20/71; Order 500, § 388-87-025, filed 12/2/70; Order 485, § 388-87-025, filed 10/13/70; Order 435, § 388-87-025, filed 3/31/70; Order 419, § 388-87-025, filed 12/31/69; Order 386, filed 8/27/69; Order 336, § 388-87-025, filed 2/3/69; Order 304, § 388-87-025, filed 9/6/68; Order 264 (part), § 388-87-025, filed 11/24/67.]

WAC 388-87-027 Services requiring prior approval.

(1) The following services require prior approval:

(a) Nonemergent surgical procedures as described under WAC 388-86-095;

(b) Prosthetic devices and durable medical equipment and nonreusable medical equipment as described under 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 a single prescription exceeding the maximum limits established as described under WAC 388-91-020;

(g) Home ventilator therapy;

(h) Medical eye care services;

(i) Nonemergent hospital admissions as described under WAC 388-86-050 and 388-87-070;

(j) Detoxification, medical stabilization, and drug treatment for the pregnant Medicaid recipient as described under WAC 388-86-050;

(k) Transportation (other than ambulance) as described under WAC 388-86-085;

(l) Orthodontic treatment as described under WAC 388-86-020;

(m) Out-of-state medical care not available within Washington state as described under WAC 388-86-115;

(n) Physical medicine, rehabilitation and treatment as described under WAC 388-86-112;

(o) Physical therapy services as described under WAC 388-86-090;

(p) Private duty nursing services as described under WAC 388-86-071;

(q) Speech therapy, both the initial evaluation and subsequent therapy as described under WAC 388-86-098;

(r) 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 or a replacement or both.

[Statutory Authority: RCW 74.08.090. 90-01-053 (Order 2916), § 388-87-027, filed 12/15/89, effective 1/15/90; 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 388-87-030 Responsibility of physician--Patient admitted to hospital. Admission to a hospital shall be requested by the attending physician. The signature of the attending physician on the department's hospital invoice is not required; however, the hospital must enter the diagnosis, justification for admission, and the physician's name.

[Statutory Authority: RCW 74.08.090. 81-16-032 (Order 1684), § 388-87-030, filed 7/29/81; 81-10-016 (Order 1648), § 388-87-030, filed 4/27/81; 80-13-020 (Order 1542), § 388-87-030, filed 9/9/80;

Order 1233, § 388-87-030, filed 8/31/77; Order 911, § 388-87-030, filed 3/1/74; Order 879, § 388-87-030, filed 11/29/73; Order 837, § 388-87-030, filed 7/26/73; Order 386, § 388-87-030, filed 8/27/69; Order 336, § 388-87-030, filed 2/3/69; Order 304, § 388-87-030, filed 9/6/68; Order 264 (part), § 388-87-030, filed 11/24/67.]

WAC 388-87-035 Payment--Transportation (other than ambulance). (1) The department shall pay for transportation services under WAC 388-86-085 for eligible recipients.

(2) The department shall reimburse for recipient transportation when provided as an administrative service according to the contracts between the department and the contractors/brokers.

(3) The department shall pay for transportation as a medical service when:

(a) Provided in a nonbrokered designated area;

(b) Payment is 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;

(c) Billing is submitted under the methods of reimbursement and required billing procedures for recipient transportation services published by the division of medical assistance;

(d) Providers of recipient transportation services shall show medical justification on the billing document for the type of transportation utilized as well as the need for medical care.

(4) Cabulances, taxi, public transportation, nonprofit vehicles, and commercial transportation shall be operated and equipped in accordance with applicable federal, state, and local statutes, ordinances, regulations, and rules established by the division of medical assistance.

[Statutory Authority: RCW 74.08.090. 89-23-081 (Order 2899), § 388-87-035, filed 11/17/89, effective 12/18/89; 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 388-87-045 Payment--Blood. (1) Payment shall be made for whole blood or blood derivatives only when it is not available to the patient from other sources.

(a) For persons eligible for Medicare benefits, the above applies only to the first three pints of blood or plasma in any spell of illness.

(b) Payment will not be made for blood or blood derivatives when the source is by donation.

(2) Payment will be made for the service charges necessary for handling and processing the blood or blood derivatives unless provided to an individual who is hospitalized. In the latter case, payment will be included in the total payment to the hospital.

(3) Administration of blood or blood derivatives on an outpatient basis in a hospital may be added to the total payment for outpatient service. Additional payments for blood bank service charges will be made when applicable.

[Statutory Authority: RCW 74.08.090. 82-01-001 (Order 1725), § 388-87-045, filed 12/3/81; Order 406, § 388-87-045, filed 11/24/69; Order 304, § 388-87-045, filed 9/6/68; Order 264 (part), § 388-87-045, filed 11/24/67.]

WAC 388-87-048 Payment-coordinated community aids service alternatives (CCSA) program. (1) The department shall establish payment rates for CCASA program services as defined under WAC 388-86-018.

(2) The department shall pay for services after the central authorization unit evaluates the recipient's application for medical appropriateness and the department of health has approved a plan of care.

[Statutory Authority: RCW 74.08.090. 90-21-124 (Order 3088), § 388-87-048, filed 10/23/90, effective 11/23/90.]

WAC 388-87-050 Payment--Dental services. (1) The participating dentist shall bill the department his usual and customary fee using the department approved examination and treatment form.

(2) Payment for dental services is based on the department schedule of maximum allowances.

(3) Fees listed are the maximum permitted. If the dentist's fee is less than the maximum fee, the program will pay the customary fee of the participating dentist.

(4) If a service is performed for which no fee is listed, the dental consultant of the department may fix the fee in accordance with recommendations of the dental advisory committee.

(5) Necessary x-rays for diagnostic purposes may be paid for as a part of basic dental services.

[Statutory Authority: RCW 74.08.090. 79-06-034 (Order 1402), § 388-87-050, filed 5/16/79; Order 1203, § 388-87-050, filed 4/1/77; Order 454, § 388-87-050, filed 5/20/70; Order 419, § 388-87-050, filed 12/31/69; Order 386, § 388-87-050, filed 8/27/69; Order 264 (part), § 388-87-050, filed 11/24/67.]

(1990 Ed.)

WAC 388-87-060 Payment--Extended care patient--Coinsurance. Effective January 1, 1990, a recipient, entitled to Medicare benefits may be eligible for a maximum of one hundred days of Medicare benefits for the same period of illness in a participating Medicare skilled nursing facility. The recipient shall pay the coinsurance from available resources and income, beginning the twenty-first day of the extended care. If the recipient has insufficient resources and income, according to department standards, the department shall pay the coinsurance for the remainder of the one hundred day period or until the recipient is no longer eligible for Medicare skilled nursing home benefits, whichever comes first.

[Statutory Authority: RCW 74.08.090. 90-12-047 (Order 2989), § 388-87-060, filed 5/31/90, effective 7/1/90; 89-11-003 (Order 2792), § 388-87-060, filed 5/4/89; Order 1112, § 388-87-060, filed 4/15/76; Order 336, § 388-87-060, filed 2/3/69; Order 264 (part), § 388-87-060, filed 11/24/67.]

WAC 388-87-062 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 388-87-065 Payment--Home health agency. Fees for home health services shall be paid within rates established by the division of medical assistance. The department will pay for the services of a home health agency certified under Title XVIII for an eligible recipient under age sixty-five and for those recipients sixty-five years of age and over who are in need of services of a type or degree for which Medicare does not pay. Approval by the office of the medical director is required for care which extends beyond the limits established by the division of medical assistance.

[Statutory Authority: RCW 74.08.090. 82-21-024 (Order 1891), § 388-87-065, filed 10/13/82; 80-13-020 (Order 1542), § 388-87-065, filed 9/9/80; Order 1112, § 388-87-065, filed 4/15/76; Order 593, § 388-87-065, filed 8/25/71; Order 264 (part), § 388-87-065, filed 11/24/67.]

WAC 388-87-067 Payment--Hospice services. (1) The department shall establish and pay the Medicaid reimbursement rate based on the methodology used in setting Medicare rates for daily care as:

- (a) Routine home;
- (b) Continuous home;
- (c) Inpatient respite; or
- (d) General inpatient.

(2) The department shall pay prospective rates that vary according to the level of care the individual is furnished.

(3) Payments to a hospice for inpatient care shall be limited, annually, according to the number of days of inpatient care the Medicaid patients are furnished.

(4) The department shall include in the reimbursement rates, to a hospice:

- (a) Cost of administrative or supervising physician services;

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(b) An additional usual Medicaid reimbursement amount for direct physician care to a hospice patient by an attending physician employed by hospice; and

(c) Nondirect patient care services.

(5) The department shall pay an attending physician not employed by the hospice the usual Medicaid reimbursement amount for direct physician care to a hospice patient.

(6) The department shall establish and pay to the hospice a room and board amount for SNF and ICF residents receiving hospice services within the SNF or ICF. The department shall discontinue Medicaid payments to the SNF or ICF for the hospice patient.

[Statutory Authority: 1989 c 427, 89-18-034 (Order 2853), § 388-87-067, filed 8/29/89, effective 9/29/89.]

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 payment 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 directly or indirectly by the contractor and constitutes the department's maximum financial obligation under the contract.

(4) Certain services are excluded from the DRG-based payment 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) Detoxification, medical stabilization, and drug treatment for the pregnant Medicaid recipient at the division of alcoholism and substance abuse certified hospitals;

(f) Neonates, DRGs 385-389;

(g) Long-term hospital level care services;

(h) Services provided to patients occupying beds utilized by the Fred Hutchinson Cancer Research Center bone marrow transplant program;

(i) Health maintenance organization (HMO) hospitals providing inpatient services to HMO enrollees; and

(j) 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) payment 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, 90-01-053 (Order 2916), § 388-87-070, filed 12/15/89, effective 1/15/90; 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 388-87-072 Payment—Hospital outpatient services. (1) Payment shall be made by the department for medically necessary hospital outpatient services.

(2) For hospital outpatient services provided prior to July 1, 1985, except for nonallowable revenue codes, reimbursable costs will be determined by the application of the ratio of hospital commission approved operating expenses and total rate setting revenue.

(3) For hospital outpatient services provided on or after July 1, 1985, payment shall be determined as follows:

(a) For hospital outpatient laboratory, x-ray, and allowable therapy (physical, speech and hearing) services payment will be the lesser of billed charges or the fee listed in the Division of Medical Assistance Schedule of Maximum Allowances.

(b) For all other hospital outpatient services, except for nonallowable revenue codes, reimbursable costs will be determined by the application of the ratio of hospital commission approved operating expenses and total rate setting revenue.

[Statutory Authority: RCW 74.08.090. 85-17-033 (Order 2266), § 388-87-072, filed 8/15/85.]

WAC 388-87-075 Payment--Laboratory services.

(1) A physician using his own laboratory to provide necessary laboratory services shall bill the department according to the schedule of maximum allowances.

(2) A physician using the services of an independent laboratory shall request services for a recipient in the same manner he requests services for his private patient.

(3) An independent laboratory must bill the department directly. No reimbursement will be made to a physician for services performed by an independent laboratory.

[Statutory Authority: RCW 74.08.090. 82-01-001 (Order 1725), § 388-87-075, filed 12/3/81; 81-16-032 (Order 1684), § 388-87-075, filed 7/29/81; 80-13-020 (Order 1542), § 388-87-075, filed 9/9/80; Order 995, § 388-87-075, filed 12/31/74; Order 485, § 388-87-075, filed 10/13/70; Order 406, § 388-87-075, filed 11/24/69; Order 264 (part), § 388-87-075, filed 11/24/67.]

WAC 388-87-077 Payment--Mental health center services. Payment for approved mental health center services to eligible recipients as defined in WAC 388-86-067 shall be on the basis of a contract between the department and participating mental health center. Medical consultant approval for these services is not required.

[Statutory Authority: RCW 74.08.090. 81-10-016 (Order 1648), § 388-87-077, filed 4/27/81; 79-06-034 (Order 1402), § 388-87-077, filed 5/16/79; Order 1067, § 388-87-077, filed 11/17/75; Order 924, § 388-87-077, filed 4/15/74; Order 778, § 388-87-077, filed 3/1/73; Order 582, § 388-87-077, filed 7/20/71; Order 502, § 388-87-077, filed 12/9/70.]

WAC 388-87-080 Payment--Oxygen. Payment shall be made by the department for medically necessary oxygen and related supplies according to WAC 388-86-080.

[Statutory Authority: RCW 74.08.090. 86-02-031 (Order 2321), § 388-87-080, filed 12/27/85; 82-01-001 (Order 1725), § 388-87-080, filed 12/3/81; 81-06-003 (Order 1610), § 388-87-080, filed 2/19/81; 78-02-024 (Order 1265), § 388-87-080, filed 1/13/78; Order 995, § 388-87-080, filed 12/31/74; Order 386, § 388-87-080, filed 8/27/69; Order 264 (part), § 388-87-080, filed 11/24/67.]

WAC 388-87-090 Payment--Physical therapy and related services. (1) The department will pay for the services of a registered physical therapist or a qualified speech pathologist or audiologist when all conditions outlined in WAC 388-86-012, 388-86-090 and 388-86-098 have been met.

(2) The department will not pay for physical therapy or speech therapy as a separate billing when provided as part of inpatient hospital services.

(3) The department will not pay for physical therapy or speech therapy as a separate billing when provided as part of the nursing home treatment program.

[Statutory Authority: RCW 74.08.090. 84-20-102 (Order 2159), § 388-87-090, filed 10/3/84; 78-02-024 (Order 1265), § 388-87-090, filed 1/13/78; Order 782, § 388-87-090, filed 3/16/73; Order 264 (part), § 388-87-090, filed 11/24/67.]

WAC 388-87-095 Payment--Physician service. (1) General provisions.

(a) Billing and payment for physician services will be made in accordance with divisional billing instructions and schedule of maximum allowances.

(b) The CSO may request a physician to complete a physical examination as described in WAC 388-86-095(2). In such cases, the local office requests the physician to arrange an appointment for the individual and provides the physician with a preapproved Form A-19 for billing. A predetermined fee has been established for the cost of such examination, plus necessary laboratory and x-ray procedures. If the physician completes Form 13-21, medical report, from available medical records without conducting an examination, an adjusted fee shall be paid.

(2) Exclusions and limitations.

(a) No payment is made to the physician for mileage.

(b) No payment is made to the physician for prescription refills.

(c) No payment is generally made for medical supplies used in conjunction with an office visit; however, payment may be made for items such as sling and swathe, clavicle and shoulder splints, cervical collars and ace bandages, subject to the limitations of the physician's acquisition cost.

(d) When it comes to the attention of the division of medical assistance that a physician bills the department for inpatient hospitalization visits and the period of hospitalization has been denied, no payment will be made.

(e) EPSDT screenings, as described in WAC 388-86-027, shall be limited to:

(i) A maximum of five screenings for children under the age of one year;

(ii) An average of one screening annually by a provider for children between the ages of one and twenty-one years.

[Statutory Authority: RCW 74.08.090. 84-07-017 (Order 2083), § 388-87-095, filed 3/14/84; 81-16-032 (Order 1684), § 388-87-095, filed 7/29/81; 80-13-020 (Order 1542), § 388-87-095, filed 9/9/80; 78-02-024 (Order 1265), § 388-87-095, filed 1/13/78; Order 1019, § 388-87-095, filed 4/30/75; Order 778, § 388-87-095, filed 3/1/73; Order 485, § 388-87-095, filed 10/13/70; Order 464, § 388-87-095, filed 6/23/70; Order 454, § 388-87-095, filed 5/20/70; Order 406, § 388-87-095, filed 11/24/69; Order 386, § 388-87-095, filed 8/27/69; Order 304, § 388-87-095, filed 9/6/68; Order 264 (part), § 388-87-095, filed 11/24/67.]

WAC 388-87-105 Payment--Medical care outside state of Washington. (1) Medical care furnished in designated bordering cities is not considered to be out-of-state care. Payment is made to the provider of service as

for care provided within the state of Washington. Provider licensure requirements 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 388-87-110 Durable medical equipment--Prosthetic devices. (1) Durable medical equipment is reimbursed using a fee schedule with maximums based on

manufacturer's suggested retail prices and, in certain instances, medicare maximums.

(2) The reimbursement for medical equipment and prosthetic devices that are purchased/rented shall include but not be limited to:

(a) The manufacturer's [manufacturer's] warranty; and

(b) Any adjustments and/or modifications required to the equipment within three months of the date of service (for purchases) or during the total rental period (for rentals), except those occasioned by changes in the patient's condition; and

(c) Instruction to the recipient in the safe usage of the equipment; and

(d) Cost of freight from the manufacturer and delivery to the recipient's residence and, when appropriate, to the room in which the equipment will be used.

[Statutory Authority: RCW 74.08.090, 86-03-047 (Order 2329), § 388-87-110, filed 1/15/86.]

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 cornea, heart, heart-lung, single lung, kidney, kidney-pancreas, pancreas, liver, and bone marrow.

[Statutory Authority: RCW 74.08.090, 90-23-070 (Order 3095), § 388-87-115, filed 11/20/90, effective 12/21/90; 87-12-050 (Order 2495), § 388-87-115, filed 6/1/87.]

Chapter 388-88 WAC

MEDICAL CARE--NURSING HOME CARE

WAC

| | |
|------------|--|
| 388-88-001 | Nursing home care. |
| 388-88-010 | Name of nursing home. |
| 388-88-050 | Adequate nursing home care. |
| 388-88-075 | Nursing home contract--Noncompliance. |
| 388-88-080 | Utilization review and classification of clients. |
| 388-88-081 | Skilled nursing care residents. |
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| 388-88-105 | Patient transfer from state hospital or school for retarded to nursing home. |
| 388-88-110 | Nursing home placement of public assistance recipient referred from Alaska. |
| 388-88-115 | Discharge or leave of nursing home resident. |
| 388-88-119 | Provider report of a disturbance. |

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 388-88-005 Nursing home care. [Order 342, § 388-88-005, filed 3/20/69; Order 264 (part), § 388-88-005, filed 11/24/67.] Repealed by Order 1168, filed 11/3/76.
- 388-88-007 IMR facilities. [Statutory Authority: RCW 74.08.090 and 74.09.120, 78-06-080 (Order 1300), § 388-88-007, filed 6/1/78.] Repealed by 82-18-064 (Order 1871), filed 9/1/82. Statutory Authority: RCW 74.42.620.
- 388-88-015 Classification of nursing home. [Order 342, § 388-88-015, filed 3/20/69; Order 264 (part), § 388-88-015, filed 11/24/67.] Repealed by Order 1168, filed 11/3/76.
- 388-88-020 Application for classification. [Order 342, § 388-88-020, filed 3/20/69; Order 264 (part), § 388-88-020, filed 11/24/67.] Repealed by Order 1168, filed 11/3/76.
- 388-88-025 Change in authorized manager. [Order 342, § 388-88-025, filed 3/20/69; Order 264 (part), § 388-88-025, filed 11/24/67.] Repealed by Order 1168, filed 11/3/76.
- 388-88-030 Change in business organization of home. [Order 342, § 388-88-030, filed 3/20/69; Order 264 (part), § 388-88-030, filed 11/24/67.] Repealed by Order 1168, filed 11/3/76.
- 388-88-035 Classification of nursing home—Change of ownership. [Order 342, § 388-88-035, filed 3/20/69; Order 264 (part), § 388-88-035, filed 11/24/67.] Repealed by Order 1168, filed 11/3/76.
- 388-88-040 Change in classification of nursing home—Application. [Order 342, § 388-88-040, filed 3/20/69; Order 264 (part), § 388-88-040, filed 11/24/67.] Repealed by Order 1168, filed 11/3/76.
- 388-88-045 Closure of nursing home. [Order 1257, § 388-88-045, filed 12/21/77; Order 1168, § 388-88-045, filed 11/3/76; Order 342, § 388-88-045, filed 3/20/69; Order 264 (part), § 388-88-045, filed 11/24/67.] Repealed by 82-18-064 (Order 1871), filed 9/1/82. Statutory Authority: RCW 74.42.620.
- 388-88-051 Additional services required for IMR residents. [Statutory Authority: RCW 74.08.090 and 74.09.120, 78-06-080 (Order 1300), § 388-88-051, filed 6/1/78.] Repealed by 82-18-064 (Order 1871), filed 9/1/82. Statutory Authority: RCW 74.42.620.
- 388-88-055 Grant for clothing and incidentals—Record keeping—Patient's money. [Order 930, § 388-88-055, filed 4/25/74; Order 342, § 388-88-055, filed 3/20/69; Order 264 (part), § 388-88-055, filed 11/24/67.] Repealed by Order 1168, filed 11/3/76.
- 388-88-060 Skilled nursing facility services in hospitals. [Order 1168, § 388-88-060, filed 11/3/76; Order 964, § 388-88-060, filed 8/19/74; Order 930, § 388-88-060, filed 4/25/74; Order 342, § 388-88-060, filed 3/20/69; Order 264 (part), § 388-88-060, filed 11/24/67.] Repealed by Order 1257, filed 12/21/77.
- 388-88-065 Continuity of patient care. [Order 342, § 388-88-065, filed 3/20/69; Order 264 (part), § 388-88-065, filed 11/24/67.] Repealed by 82-18-064 (Order 1871), filed 9/1/82. Statutory Authority: RCW 74.42.620.
- 388-88-070 Justification of rate payment. [Order 1168, § 388-88-070, filed 11/3/76; Order 342, § 388-88-070, filed 3/20/69; Order 264 (part), § 388-88-070, filed 11/24/67.] Repealed by Order 1262, filed 12/30/77.
- 388-88-085 Payment standards—Rates—Procedures. [Order 1168, § 388-88-085, filed 11/3/76; Order 879, § 388-88-085, filed 11/29/73; Order 342, § 388-88-085, filed 3/20/69; Order 264 (part), § 388-88-085, filed 11/24/67.] Repealed by Order 1262, filed 12/30/77.
- 388-88-086 Minimum staffing requirements—IMR. [Statutory Authority: RCW 74.08.090 and 74.09.120, 78-06-080 (Order 1300), § 388-88-086, filed 6/1/78.] Repealed by 82-18-064 (Order 1871), filed 9/1/82. Statutory Authority: RCW 74.42.620.

- 388-88-088 Classification of IMR clients. [Statutory Authority: RCW 74.08.090 and 74.09.120, 78-06-080 (Order 1300), § 388-88-088, filed 6/1/78.] Repealed by 82-18-064 (Order 1871), filed 9/1/82. Statutory Authority: RCW 74.42.620.
- 388-88-090 Receipt of supplemental compensation for nursing home care. [Order 1168, § 388-88-090, filed 11/3/76; Order 631, § 388-88-090, filed 11/24/71; Order 342, § 388-88-090, filed 3/20/69; Order 264 (part), § 388-88-090, filed 11/24/67.] Repealed by Order 1262, filed 12/30/77.
- 388-88-117 Social leave for IMR clients. [Statutory Authority: RCW 74.08.044, 79-01-084 (Order 1365), § 388-88-117, filed 1/3/79.] Repealed by 82-18-064 (Order 1871), filed 9/1/82. Statutory Authority: RCW 74.42.620.
- 388-88-120 Extended care facility—Payment for co-insurance. [Order 631, § 388-88-120, filed 11/24/71; Order 342, § 388-88-120, filed 3/20/69; Order 264 (part), § 388-88-120, filed 11/24/67.] Repealed by Order 1257, filed 12/21/77.

WAC 388-88-001 Nursing home care. (1) The department has the administrative and legal responsibility to purchase nursing home and nursing home based (out-patient services, WAC 248-14-295) care for eligible persons. The department has the responsibility to assure to the state that adequate care, service, and protection are provided through licensing, certification and utilization control activities.

(2) Each Title XIX nursing home will be certified as a skilled nursing facility, intermediate care facility, skilled nursing and intermediate care facility, and/or institution for the mentally retarded and residents with related conditions (IMR).

(3) A contract for the provision of care to medical assistance clients at an ICF facility will be for ICF care only. Except as provided in WAC 388-88-001(4) contracts for the provision of care at all other facilities will be dual (ICF/SNF). Medical assistance clients classified as requiring either intermediate level or skilled nursing care must be provided care only in a facility so certified.

(4) A hospital may elect to provide skilled nursing facility and/or intermediate care facility services to medical assistance clients. The hospital must be certified, and all rules and regulations relating to skilled nursing facilities and/or intermediate care facilities shall apply.

[Statutory Authority: RCW 74.42.620, 82-18-064 (Order 1871), § 388-88-001, filed 9/1/82. Statutory Authority: RCW 74.08.090 and 74.09.120, 78-06-080 (Order 1300), § 388-88-001, filed 6/1/78; Order 1257, § 388-88-001, filed 12/21/77.]

WAC 388-88-010 Name of nursing home. The department will recognize only the official name of a nursing home as shown on the nursing home license application or subsequent written notification of a name change.

[Statutory Authority: RCW 74.42.620, 82-18-064 (Order 1871), § 388-88-010, filed 9/1/82; Order 342, § 388-88-010, filed 3/20/69; Order 264 (part), § 388-88-010, filed 11/24/67.]

WAC 388-88-050 Adequate nursing home care. (1) Care and services rendered must be justified as essential to resident health care needs, with the overall goal of restoration, maintenance at the highest possible level of independence, and/or supportive care. The nursing home

is obligated to provide adequate nursing home care as defined in chapter 248-14 WAC and federal regulations.

(a) The facility 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 388-88-075 Nursing home contract--Non-compliance. (1) When a home is in violation of the terms of the contract, the department may temporarily suspend the referral of clients to the home. Whenever referral is suspended under this section, the home will immediately be notified by phone and confirmed in writing of the suspension and of the basis for the department's action. Suspension may continue until the department determines the infraction has been satisfactorily corrected.

(2) Referral of clients is suspended when a home fails to provide staffing commensurate with the terms of the contract. A home, unable to provide the level of care for

which a client is classified, shall not accept or retain clients whose unique needs cannot be met. Violations creating a health or safety hazard to individual residents shall constitute grounds for termination of the contract by the department (chapter 18.51 RCW).

(3) When the department terminates a contract, the home will be notified in writing of the contract termination and the basis for the department's action. The department will assist in the movement of medical assistance clients needing continued nursing care.

[Statutory Authority: RCW 74.42.620. 82-18-064 (Order 1871), § 388-88-075, filed 9/1/82; Order 1257, § 388-88-075, filed 12/21/77; Order 1168, § 388-88-075, filed 11/3/76; Order 342, § 388-88-075, filed 3/20/69; Order 264 (part), § 388-88-075, filed 11/24/67.]

WAC 388-88-080 Utilization review and classification of clients. (1) Nursing care consultants shall determine the level of care in skilled nursing and intermediate care facilities in accord with the nursing care consultants' professional judgment and as described under WAC 388-88-081 and 388-88-083.

(2) In making classification recommendations for nursing home placement, the department's personnel shall utilize the guidelines for skilled and intermediate nursing home care described under WAC 388-88-081 and 388-88-083.

(3) A department designee shall periodically review the classification of each individual nursing home client to assure appropriate use of Medicaid services by:

(a) Assessing client care needs and adequacy of services provided;

(b) Determining the need for continued stay; and

(c) Identifying the level of care required to meet the nursing care needs of the client.

(4) Classification changes shall be made in accordance with the needs of the clients and in accord with appeal and relocation procedures outlined under WAC 388-88-101.

(5) Residents determined by the department not to require the level of services provided by a nursing facility shall be discharged and relocated in accord with WAC 388-88-101, except as provided under subsection (6) of this section.

(6) When the department determines a resident requires active treatment and the resident has continuously resided in the nursing facility for thirty months or more, the department shall:

(a) Inform the resident of the institutional and noninstitutional alternatives available to the resident;

(b) Offer the resident the choice of remaining in the facility and receiving active treatment or of receiving covered services in an appropriate alternative institutional or noninstitutional setting;

(c) Clarify the effect on the eligibility for departmental services if the resident chooses to leave the facility; and

(d) Document the information given to the resident and the choice made by the resident in the resident's medical record.

(7) Residents sixty-five years of age and older, determined by the department to need nursing facility level of care and active treatment, may choose to:

(a) Decline active treatment and remain in a nursing facility; or

(b) Receive covered services in an appropriate alternative institutional or noninstitutional setting.

(8) Except as provided under subsections (6) and (7) of this section, residents determined under WAC 388-88-099 to need active treatment shall be required to relocate when the department determines an appropriate placement is available.

[Statutory Authority: RCW 74.42.620. 89-11-017 (Order 2797), § 388-88-080, filed 5/10/89; 82-18-064 (Order 1871), § 388-88-080, filed 9/1/82; Order 1257, § 388-88-080, filed 12/21/77; Order 1168, § 388-88-080, filed 11/3/76; Order 342, § 388-88-080, filed 3/20/69; Order 264 (part), § 388-88-080, filed 11/24/67.]

WAC 388-88-081 Skilled nursing care residents. Residents requiring skilled nursing care are residents whose condition, needs, and/or services are of such complexity and sophistication so as to require frequent or continuous observation and intervention of a registered nurse, and the supervision of a licensed physician. These residents require ongoing assessments of physiological and/or psychological needs, and the development and implementation of a comprehensive plan of care involving interdisciplinary planning input and coordination. Resident needs include ongoing evaluations, care plan revisions, and the teaching necessary to provide for residents whose condition is unstable and/or complex.

[Statutory Authority: RCW 74.42.620. 83-01-016 (Order 1921), § 388-88-081, filed 12/6/82; 82-18-064 (Order 1871), § 388-88-081, filed 9/1/82; Order 1257, § 388-88-081, filed 12/21/77.]

WAC 388-88-082 Minimum licensed personnel requirements for skilled nursing facilities. The facility shall meet all staffing requirements as defined in chapter 248-14 WAC.

[Statutory Authority: RCW 74.42.620. 82-18-064 (Order 1871), § 388-88-082, filed 9/1/82; Order 1257, § 388-88-082, filed 12/21/77.]

WAC 388-88-083 Intermediate nursing care residents. Residents requiring intermediate nursing care are residents whose physiological and/or psychological functioning is stable, but require individually planned treatment and services under the daily direction of a registered nurse or a licensed nurse with registered nurse consultation as provided by exemption and the supervision of a licensed physician. The program is directed toward maintenance of maximum independence and return to the community whenever possible. The program includes an established treatment regimen involving more than supervision, assistance with personal care, and protection.

[Statutory Authority: RCW 74.42.620. 83-01-016 (Order 1921), § 388-88-083, filed 12/6/82; 82-18-064 (Order 1871), § 388-88-083, filed 9/1/82; Order 1257, § 388-88-083, filed 12/21/77.]

WAC 388-88-084 Minimum licensed personnel requirements for intermediate care facilities. (1) A licensed

nurse shall be employed on day duty as health services supervisor. The licensed nurse shall direct all nursing care and coordinate personal care services given in the ICF, and shall be employed full time (minimum 8-hour day, 40-hour week). Sufficient licensed nursing staff shall be provided to meet necessary nursing care needs.

(2) A licensed nurse shall be available for relief of the health services supervisor.

(3) If any resident requires administration of medications or other services requiring a licensed nurse within the time periods of the evening and night shifts, there must be licensed nursing personnel available to ensure safe practice consistent with the Nurse Practice Act of the state of Washington.

(4) If the health services supervisor is not a registered nurse, at least four hours a week of registered nurse consultation must be provided in accordance with 45 CFR 249.12 (a)(9)(i).

(5) If the ICF is located within a SNF, the director of nursing services of the SNF may serve as health services supervisor of the ICF.

[Order 1257, § 388-88-084, filed 12/21/77.]

WAC 388-88-095 Placement of patient. (1) Nursing home care must be requested by the patient's attending physician or Christian Science practitioner prior to admission to a Medicaid certified facility.

(2) A Medicaid certified nursing home shall not admit a private paying individual unless, under WAC 388-88-097, an identification screen is completed and the individual is identified as:

(a) Having neither a mental illness nor a developmental disability; or

(b) Not requiring the pre-admission screening and annual resident review (PASARR) for any of the reasons listed under WAC 388-88-097 (3)(c); or

(c) Likely to have a mental illness or a developmental disability and a PASARR has been completed for the individual.

(3) A Medicaid certified nursing home shall not admit a Medicaid applicant or recipient until an identification screen has been completed, under WAC 388-88-097, and the individual has been identified as:

(a) Having neither a mental illness nor a developmental disability or is identified as not requiring PASARR for any of the reasons listed under WAC 388-88-097 (3)(c), and a department designee has classified the individual as requiring either intermediate nursing care or skilled nursing care, under WAC 388-88-080 and 388-88-083 or 388-88-081; or

(b) Likely to have a mental illness or developmental disability and a department designee has determined through the PASARR process the individual requires nursing home care and does not require active treatment; or

(c) Likely to have a mental illness or developmental disability, and is determined to require nursing home level of care and active treatment, but the individual is sixty-five years of age or older and chooses to be placed in a nursing home and not to have active treatment.

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(4) This section has no application to an individual readmitted to a nursing home after a short stay in an acute care hospital or transferring to a nursing home from another nursing home that is not an institution for the mentally retarded.

(5) There shall be no payment for nursing home services for a Medicaid applicant or recipient until the department has authorized such services.

(6) There shall be no retroactive payment authorized for any Medicaid applicant or recipient admitted to a nursing home in violation of this section.

[Statutory Authority: RCW 74.42.620. 89-06-050 (Order 2768), § 388-88-095, filed 2/28/89; Order 1257, § 388-88-095, filed 12/21/77; Order 1168, § 388-88-095, filed 11/3/76; Order 631, § 388-88-095, filed 11/24/71; Order 342, § 388-88-095, filed 3/20/69; Order 264 (part), § 388-88-095, filed 11/24/67.]

WAC 388-88-097 Preadmission screening. (1) All individuals requesting admission to a Medicaid-certified nursing facility shall be screened prior to admission to identify whether the individual may have a mental illness or developmental disability. The identification screen shall be performed by the referring hospital, physician, or other referral source or the nursing facility, using a standardized form specified by the department. A copy of the completed form shall be placed in each resident's clinical record.

(2) Any individual identified through the identification screen as likely to have a mental illness or developmental disability and who does not meet an exception as set forth in subsection (3)(c) of this section shall be assessed under the preadmission screening and annual resident review (PASARR).

(3) A Medicaid applicant or recipient shall not be admitted to a Medicaid-certified nursing facility unless:

(a) The individual is identified, through the identification screen, as not having a mental illness or developmental disability, and the department determines the applicant requires intermediate nursing care or skilled nursing care, under WAC 388-88-080 and 388-88-081 or 388-88-083;

(b) The individual is identified, through the identification screen, as likely to have a mental illness or developmental disability, but the department determines through PASARR the individual does not require active treatment; or

(c) The department determines the individual requires intermediate nursing care or skilled nursing care, under WAC 388-88-080 and 388-88-081 or 388-88-083, and the individual is identified as not requiring the PASARR, for one or more of the following reasons:

(i) The individual is discharged from an acute care hospital for convalescence in a nursing home for not more than one hundred twenty days;

(ii) The individual is certified by a physician to be terminally ill as defined under section 1861 (dd)(3)(A) of the Social Security Act;

(iii) The individual is comatose, ventilator dependent, functioning at the brain stem level, or has similar diagnoses significantly impacting the individual's level of functioning and ability to participate in active treatment, such as:

- (A) Chronic obstructive pulmonary disease;
 - (B) Severe Parkinson's disease;
 - (C) Huntington's Chorea;
 - (D) Amyotrophic lateral sclerosis; or
 - (E) Congestive heart failure; or
- (iv) The individual has a primary diagnosis of dementia, including Alzheimer's disease or a related disorder.

(d) The individual is identified as likely to have a mental illness or developmental disability, has been determined to require nursing home level of care and active treatment, but the individual is sixty-five years of age or older and chooses to be placed in a nursing home and not to have active treatment.

(4) No private paying individual shall be admitted to a Medicaid certified facility until an identification screen has been completed for the individual and the individual is identified as:

(a) Not having a mental illness or developmental disability;

(b) Not requiring PASARR review for reasons listed under subsection (3)(c) of this section; or

(c) Likely to have a mental illness or developmental disability and a PASARR has been completed.

(5) Under the PASARR, the department, through a designee, shall determine whether the individual needs active treatment. Need for nursing home care shall be determined under WAC 388-88-080, 388-88-081, and 388-88-083. Need for active treatment shall be determined as follows:

(a) For an individual likely to have a mental illness, a qualified mental health professional, under chapter 275-56 WAC, shall validate whether the individual has a mental illness and, if so, shall recommend whether or not the individual needs the implementation of psychiatric active treatment;

(b) For an individual likely to have a developmental disability, a psychologist, meeting the qualifications of a qualified mental retardation professional, shall validate whether the individual has a developmental disability. For any individual validated by a psychologist as having a developmental disability, the department shall assess and make a final determination as to whether the individual requires the implementation of a continuous active treatment program.

(6) For purposes of this regulation, the following definitions shall apply:

(a) "Mental illness" means an individual has a current primary or secondary diagnosis of a major mental disorder, as defined in the *Diagnostic and Statistical Manual of Mental Disorders*, third edition, and does not have a primary diagnosis of dementia, including Alzheimer's disease or a related disorder;

(b) "Developmental disability" means mental retardation or related conditions.

(i) "Mental retardation" means an individual has a level of mild, moderate, severe, or profound retardation as described in the *American Association of Mental Deficiency's Manual on Terminology and Classification*. Mental retardation refers to significantly subaverage general intellectual functioning existing concurrently

with deficits in adaptive behavior and manifested during the developmental period.

(ii) A person with "related conditions" means an individual having a severe, chronic disability meeting all of the following conditions:

(A) Related conditions attributable to:

(I) Cerebral palsy or epilepsy; or

(II) Any other condition other than mental illness found to be closely related to mental retardation because this condition results in impairment of general intellectual functioning or adaptive behavior similar to a mentally retarded person and requires treatment or services similar to those required for that person.

(B) It is manifested before the person reaches twenty-two years of age;

(C) It is likely to continue indefinitely; and

(D) It results in substantial functions limitations in three or more of the following areas of major life activity:

(I) Self-care,

(II) Understanding and use of language,

(III) Learning,

(IV) Mobility,

(V) Self-direction, and

(VI) Capacity for independent living.

(c) "Active treatment" for an individual with mental retardation or related conditions means a continuous program for each client which includes:

(i) Aggressive, consistent implementation of a program of specialized and generic training;

(ii) Treatment, health services, and related services directed toward the acquisition of the behaviors necessary for the client to function with as much self-determination and independence as possible; and

(iii) The prevention or deceleration of regression or loss of current optimal functional status.

Active treatment does not include services to maintain a generally independent client able to function with little supervision or in the absence of a continuous active treatment program; and

(d) "Active treatment" for an individual with mental illness means the implementation of an individualized plan of care, developed under and supervised by a physician and other qualified mental health professionals, prescribing specific therapies and activities for the treatment of a person experiencing an acute episode of severe mental illness necessitating supervision by trained mental health personnel.

[Statutory Authority: RCW 74.42.620. 89-06-050 (Order 2768), § 388-88-097, filed 2/28/89.]

WAC 388-88-098 Identification screening for current residents. (1) By July 1, 1989, every Medicaid certified nursing facility shall complete an identification screen, to identify residents likely to have a mental illness or developmental disability:

(a) On a form designated by the department;

(b) For every Medicaid, Medicare, or private-paying individual residing in the nursing facility, except for those individuals for whom a pre-admission screen has been completed under WAC 388-88-097.

(2) The original of the identification screen form shall be maintained in the individual resident's medical record. For those individuals identified through the identification screen as likely to have a mental illness or a developmental disability, the nursing facility shall forward a copy of the identification screen to the department's nursing care consultant assigned to the facility.

(3) The department shall deny payment to a nursing facility for any resident for whom an identification screen has not been completed as required under this section.

[Statutory Authority: RCW 74.42.620. 89-11-017 (Order 2797), § 388-88-098, filed 5/10/89.]

WAC 388-88-099 Active treatment assessments for current residents. (1) For all residents of nursing homes identified, through the identification screen under WAC 388-88-098, as likely to have a mental illness or a developmental disability, the department shall determine if the individual requires active treatment, using the procedures under subsection (3) of this section, unless one of the following exceptions apply:

(a) A physician certifies the individual is terminally ill, as defined under section 1861 (dd)(3)(A) of the Social Security Act;

(b) The individual has a primary diagnosis of dementia, including Alzheimer's disease or a related disorder; or

(c) The individual is comatose, functioning at the brain stem level, or has a diagnosis that, in fact, significantly impacts the individual's level of functioning and ability to participate in active treatment, such as:

- (i) Ventilator dependency;
- (ii) Chronic obstructive pulmonary disease;
- (iii) Severe Parkinson's disease;
- (iv) Huntington's chorea disease;
- (v) Amyotrophic lateral sclerosis; or
- (vi) Congestive heart failure.

(2) For an individual meeting the following conditions, the department shall determine if the individual requires active treatment:

(a) Was admitted to a Medicaid-certified nursing facility on or after January 1, 1989;

(b) Was identified, under WAC 388-88-097, as likely to have a mental illness or a developmental disability;

(c) Was admitted for a period of convalescence of not more than one hundred twenty days; and

(d) Is determined by the department's designee, after the individual has resided in the facility for approximately sixty days, as likely to need nursing facility care for more than one hundred twenty days.

The department shall follow the procedures under subsection (3) of this section in making determinations regarding the need for active treatment.

(3)(a) For an individual identified as likely to have a mental illness:

(i) A qualified mental health professional, under chapter 275-56 WAC, shall:

(A) Validate whether the individual has a mental illness; and

(B) If mental illness is validated, recommend whether the individual needs the implementation of psychiatric active treatment.

(ii) A department designee shall make the final determination of the individual's need for implementation of psychiatric active treatment.

(b) For an individual identified as likely to have a developmental disability:

(i) A psychologist, meeting the qualifications of a qualified mental retardation professional, shall validate whether the individual has a developmental disability; and

(ii) If a developmental disability is validated, the department shall assess and make a final determination of whether the individual requires a continuous active treatment program.

[Statutory Authority: RCW 74.42.620. 89-11-017 (Order 2797), § 388-88-099, filed 5/10/89.]

WAC 388-88-100 Transfer or relocation. (1) The department is responsible for ensuring that individual medical assistance client's needs are identified and met, as provided by state and federal regulations. The department is therefore responsible for ensuring each client is authorized to receive care in a facility certified and capable of meeting the needs of the individual client and for ensuring necessary transfers are accomplished to provide appropriate continuity of care.

(2) Each medical assistance client admitted to a facility is transferred or discharged only for medical reasons, or for his or her welfare or the welfare of other clients, or for nonpayment for his or her stay. The determination shall be made by the department based on an assessment of the client, consultation with the provider, and a review of relevant records.

(3) The department is responsible for initiating and facilitating client relocation if the services being provided are not commensurate with the client's needs. See WAC 388-88-075. This includes the following:

(a) Revocation or suspension of the nursing home license.

(i) Clients or next of kin, guardian or responsible party will be notified by letter from the department that thirty days after the mailing date of the letter, the facility will no longer be allowed to operate as a nursing home.

(ii) The client, therefore, will be required to relocate: *Provided*, That nothing in this section shall require a pretransfer notice be given when the secretary or his or her designee determines an immediate threat to health and/or safety exists.

(iii) Moves may be accomplished sooner at the request of the client or with the client's consent.

(b) Decertification, termination or nonrenewal of contract actions require stop payment of Title XIX funds.

(i) The decisions do not affect the provider's right to operate as a nursing home, but rather, the provider's eligibility to receive federal funds.

(ii) Clients must be informed in writing of provider's discontinued eligibility for Title XIX funds.

(c) Reclassifications requiring relocation are based on review and assessment by the designated representative of the department (WAC 388-88-080).

(i) The attending physician is informed of the classification determination and given an opportunity to provide additional information.

(ii) Prior to implementation of a change in the level of care, which will result in a transfer, the client or next of kin, guardian or responsible party shall be informed of relocation in writing. Written notification shall be thirty days prior to the effective date of the change pursuant to WAC 388-88-101.

(iii) The client will be informed of his or her right to request a fair hearing.

(4) A provider is responsible for initiating transfer or relocation of a client under the following circumstances:

(a) A provider may request a client be transferred or relocated only for medical reasons, or for his or her welfare or the welfare of other residents or for nonpayment of his or her stay. See WAC 388-88-075(2).

(i) The provider shall send a request in writing for relocation or discharge of a medical assistance client to the department. The request shall include the reason for the relocation or discharge.

(ii) The department shall approve or deny the request for relocation or discharge based on an on-site visit with the client and a review of his or her records, within thirty days following receipt of the request.

(iii) The facility administrator shall be informed of the department approval or denial of the request in writing.

(iv) If the provider's request is approved, the department shall notify the client and next of kin or guardian, or responsible party, in writing of the decision pursuant to WAC 388-88-101. The client and next of kin, guardian or responsible party will be informed of the right to request a fair hearing.

(v) The client and the department will be allowed thirty days from the date the client is notified by the department to facilitate discharge planning and accomplish relocation.

(vi) Arrangements for relocation will be the responsibility of the client or next of kin, guardian or responsible party.

(vii) The provider must notify the community services office and the nursing care consultant of the relocation arrangements.

(b) Closure of a nursing home.

(i) When a nursing home provider decides to cease operation, the provider must notify the bureau of nursing home affairs in writing, giving thirty days notice.

(ii) The nursing home provider is responsible for written notification to all residents.

(iii) The department may assist residents in transfer and relocation appropriate to the individual care needs.

(5) The medical assistance client has a right to seek relocation and to select the nursing home he or she desires for placement. If this selection is available and appropriate to the client's medical care needs, relocation shall be arranged by the client or next of kin, guardian or responsible party.

[Statutory Authority: RCW 74.42.620, 82-18-064 (Order 1871), § 388-88-100, filed 9/1/82; Order 1257, § 388-88-100, filed 12/21/77; Order 1197, § 388-88-100, filed 3/17/77; Order 631, § 388-88-100, filed 11/24/71; Order 342, § 388-88-100, filed 3/20/69; Order 264 (part), § 388-88-100, filed 11/24/67.]

WAC 388-88-101 Residents' rights. (1) The department shall notify the appropriate individual 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;

(b) The department determines, as required under WAC 388-88-080 and 388-88-099, the client:

(i) Requires active treatment; and

(ii) Must relocate to an available appropriate placement; or

(c) 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 client;

(b) The client's legal guardian;

(c) The 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 or relocation determination 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 or relocation;

(b) The client's right to a conference with departmental representatives 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; except, the request shall be made within thirty days to delay 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) If the client requests a fair hearing within thirty days of receipt of the reclassification or relocation notice, any proposed change 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 the secretary's designee finds a change in the level of care or relocation 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 the secretary's 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) Except as provided under subsection (6)(e) of this section, 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.

(e) A client who refuses to relocate when the department determines the client needs active treatment and that an appropriate placement is available, shall be ineligible for Medicaid nursing home payment thirty days following the department's determination that an appropriate placement is available, or thirty days following a fair hearing decision affirming the department's determinations that the client needs active treatment and an appropriate placement is available. This provision shall not apply to clients who meet the exceptions specified under WAC 388-88-080 (6) and (7).

(7) Advance notice is not required when:

(a) The 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, 89-11-017 (Order 2797), § 388-88-101, filed 5/10/89; 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.]

WAC 388-88-102 Discharge planning. A suitable discharge and transfer plan must be prepared for each medical care assistance client. Discharge or transfer shall be dependent on the client care needs, services provided, and the best resources available to provide an appropriate continuum of care. The plan shall include provisions for continuity of care and mitigation of potential transfer trauma:

(1) Coordination and active participation by the client and/or client's next of kin, guardian or responsible party in the transfer preparation program;

(2) Pretransfer visit to the new facility, when the client's condition permits, to familiarize the client with new surroundings, and other residents;

(3) Coordination and communication of essential information concerning the client shall be provided in writing from:

(a) Hospital to nursing home;

(b) Nursing home to hospital;

(c) One nursing home to another;

(d) Any other alternatives to nursing home care.

(4) The department will assume responsibility for assisting with relocation and post-transfer follow-up in the following circumstances:

(a) Reclassification requiring relocation;

(b) Decertification actions;

(c) Involuntary termination or nonrenewal of contract;

(d) Revocation or suspension of nursing home license.

(5) The department shall participate in planning and will specify the location of available beds at the appropriate level of care consistent with the needs of the client when discharge is necessitated by:

(a) Reclassification requiring relocation;

(b) Decertification actions;

(c) Involuntary termination or nonrenewal of contract;

(d) Revocation or suspension of nursing home license.

[Statutory Authority: RCW 74.42.620, 82-18-064 (Order 1871), § 388-88-102, filed 9/1/82; Order 1257, § 388-88-102, filed 12/21/77; Order 1197, § 388-88-102, filed 3/17/77.]

WAC 388-88-105 Patient transfer from state hospital or school for retarded to nursing home. The transfer of a patient, eligible for assistance, from a state hospital or school for the retarded to a licensed nursing home shall be effected through close coordination between units of the department.

[Order 631, § 388-88-105, filed 11/24/71; Order 342, § 388-88-105, filed 3/20/69; Order 264 (part), § 388-88-105, filed 11/24/67.]

WAC 388-88-110 Nursing home placement of public assistance recipient referred from Alaska. The department accepts responsibility for the nursing home placement of Alaskan recipients referred by the Alaska department of health and welfare.

[Order 342, § 388-88-110, filed 3/20/69; Order 264 (part), § 388-88-110, filed 11/24/67.]

WAC 388-88-115 Discharge or leave of nursing home resident. (1) A certified nursing home or hospital having a nursing home contract with the department shall send immediate written notification of the date of

discharge or death of a client to the community services office (CSO).

(2) Discharge and readmission notification is necessary for all medical assistance clients admitted as hospital inpatients.

(3) The provider shall also notify the CSO of social absences exceeding twenty-four hours. Social absences over thirty-six hours require CSO approval of the resident care plan.

(4) The department will not reimburse providers for the reservation of a bed for a single social absence exceeding seven days, unless written permission is received by the provider from the CSO. The department will reimburse providers for absences not to exceed a total per calendar year of eighteen days.

[Statutory Authority: RCW 74.42.620. 82-18-064 (Order 1871), § 388-88-115, filed 9/1/82; Order 1237, § 388-88-115, filed 8/31/77; Order 1168, § 388-88-115, filed 11/3/76; Order 879, § 388-88-115, filed 11/29/73; Order 631, § 388-88-115, filed 11/24/71; Order 342, § 388-88-115, filed 3/20/69; Order 264 (part), § 388-88-115, filed 11/24/67.]

WAC 388-88-119 Provider report of a disturbance.

(1) The provider will report to the local law enforcement agency any person including a client or next of kin, guardian or responsible party threatening bodily harm or causing a disturbance of such magnitude any individual's welfare and safety is threatened.

(2) Any event that requires or may require the evacuation to another address of all or part of the nursing home's residents shall be reported immediately to the licensing agency of the department.

[Statutory Authority: RCW 74.42.620. 82-18-064 (Order 1871), § 388-88-119, filed 9/1/82.]

Chapter 388-90 WAC

SKILLED NURSING HOME CARE IN STATE SCHOOLS FOR RETARDED PERSONS

WAC

388-90-010 Skilled nursing facility care in state school for retarded persons--Minimum requirements for licensure or approval of institution.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

388-90-005 Skilled nursing facility care in state school for retarded persons. [Order 1097, § 388-90-005, filed 2/13/76; Order 918, § 388-90-005, filed 3/14/74; Order 826, § 388-90-005, filed 7/26/73; Order 668, § 388-90-005, filed 3/23/72; Order 556, § 388-90-005, filed 4/1/71; Order 486, § 388-90-005, filed 10/13/70.] Repealed by 78-10-077 (Order 1346), filed 9/27/78. Statutory Authority: RCW 74.08.090.

WAC 388-90-010 Skilled nursing facility care in state school for retarded persons--Minimum requirements for licensure or approval of institution. The institution, or any part thereof, shall meet all applicable requirements for licensure or formal approval as a skilled nursing facility.

[Order 930, § 388-90-010, filed 4/25/74; Order 486, § 388-90-010, filed 10/13/70.]

(1990 Ed.)

**Chapter 388-91 WAC
MEDICAL CARE--DRUGS**

WAC

- 388-91-010 Drugs--Persons eligible.
- 388-91-013 Drugs--Physician's identification required on prescriptions.
- 388-91-016 Drugs--Limitations to payment.
- 388-91-020 Nonformulary prescription drugs.
- 388-91-030 Drugs--Prescription claim, Form 525-106 (pharmacy statement).
- 388-91-035 Drugs--Pharmacist's agreement.
- 388-91-040 Drugs--Pricing standards.
- 388-91-050 Out-of-state prescriptions.

WAC 388-91-010 Drugs--Persons eligible. (1) A drug formulary will list all drug preparations which may be provided without prior approval. It will include a description of program limitations, rules, policies, and penalties. The decision to place drugs in the division of medical assistance program drug formulary is based on these criteria:

- (a) The drug must be established as a part of necessary and essential care for the condition for which it is to be used.
- (b) The drug must be in general use by the physicians practicing in Washington.
- (c) The drug must be of moderate cost. Generic forms will be used when listed under DSHS or federal maximum allowable cost (MAC) programs. When two preparations of equal effectiveness but disparate costs are presented, the less expensive one will be selected for the formulary.
- (d) Drugs must not be classified "less than effective" by the food and drug administration.
- (e) The drug must not be experimental.

(2) The following process is used to determine the acceptability of a drug preparation for possible listing in the formulary:

(a) Objective, scientific information and utilization data is reviewed for appropriateness according to the criteria in subsection (1) of this section, or,

(b) The secretary may appoint an advisory committee in accordance with RCW 43.20A.360 to review and advise the division of medical assistance on the acceptability of the drug preparation.

(c) The division of medical assistance may make appropriate changes in the formulary consistent with subsection (1) of this section, and may accept recommendations of the advisory committee providing that action is in compliance with regulations governing the program and with acceptable management policies.

(d) Acceptable drugs will be included in the next subsequent edition of the formulary.

(3) In accordance with the department's rules and regulations drugs are provided for the necessary and essential medical care of recipients of medical assistance, medical care services and the limited casualty program.

[Statutory Authority: RCW 74.08.090. 86-01-080 (Order 2320), § 388-91-010, filed 12/18/85; 84-09-017 (Order 2090), § 388-91-010, filed 4/10/84; 81-16-032 (Order 1684), § 388-91-010, filed 7/29/81; 81-10-016 (Order 1648), § 388-91-010, filed 4/27/81; 80-15-034 (Order 1554), § 388-91-010, filed 10/9/80; 80-02-024 (Order 1473), § 388-91-010, filed 1/9/80; 79-06-034 (Order 1402), § 388-91-010,

filed 5/16/79; 78-10-077 (Order 1346), § 388-91-010, filed 9/27/78; Order 682, § 388-91-010, filed 5/10/72; Order 632, § 388-91-010, filed 11/24/71; Order 583, § 388-91-010, filed 7/20/71; Order 461, § 388-91-010, filed 6/17/70, effective 8/1/70; Order 387, § 388-91-010, filed 8/27/69; Order 316, § 388-91-010, filed 10/31/68.]

WAC 388-91-013 Drugs--Physician's identification required on prescriptions. The prescription claim, Form 525-106, must bear the prescribing physician's name or identification (provider) number.

[Statutory Authority: RCW 74.08.090. 85-11-034 (Order 2233), § 388-91-013, filed 5/15/85; 79-06-034 (Order 1402), § 388-91-013, filed 5/16/79; Order 1112, § 388-91-013, filed 4/15/76; Order 884, § 388-91-013, filed 12/17/73; Order 682, § 388-91-013, filed 5/10/72; Order 461, § 388-91-013, filed 6/17/70, effective 8/1/70.]

WAC 388-91-016 Drugs--Limitations to payment.

(1) The department does not provide:

(a) Any drug regularly supplied as an integral part of program activity by other public agencies such as the United States Veterans' Administration, United States Department of Health and Human Services, Division of Indian Health, local health department, etc.;

(b) Drugs, biologicals, supplies, appliances, and equipment furnished by an extended care facility under Title XVIII of the Social Security Act;

(c) Drugs ordered for a hospitalized patient. These are to be furnished by the hospital;

(d) Drugs to individuals who have elected to be enrolled in a special group medical coverage contract which includes the provision of drugs as a part of the contract.

(e) Drugs listed in the federal register as "less than effective." Payment will not be made for such prescriptions under any circumstances.

(2) Prescribed nonformulary drugs will be allowed for unusual conditions only when approved by the department see WAC 388-91-020.

(3) The physician who provides a drug (oral or by injection) incidental to an office call may include a fee established by the department on the basis of the acquisition cost of the drug in addition to his office call fee. In the event the cost of the drug given the patient exceeds this fee, the physician may include on his invoice for his professional services to the patient the actual cost of the drug indicating name of manufacturer and strength of dosage.

(4) Payment shall not be made for a prescription ordered for an individual recipient and used to replace drugs drawn from the doctor's stock for the treatment of such recipient. Payment shall not be allowed for experimental or controversial medications.

[Statutory Authority: RCW 74.08.090. 86-01-080 (Order 2320), § 388-91-016, filed 12/18/85; 85-11-034 (Order 2233), § 388-91-016, filed 5/15/85; 84-20-101 (Order 2158), § 388-91-016, filed 10/3/84; 81-10-016 (Order 1648), § 388-91-016, filed 4/27/81; 79-06-034 (Order 1402), § 388-91-016, filed 5/16/79; Order 1170, § 388-91-016, filed 11/24/76; Order 1154, § 388-91-016, filed 9/22/76; Order 884, § 388-91-016, filed 12/17/73; Order 682, § 388-91-016, filed 5/10/72; Order 487, § 388-91-016, filed 10/13/70; Order 461, § 388-91-016, filed 6/17/70, effective 8/1/70.]

WAC 388-91-020 Nonformulary prescription drugs.

(1) A request for nonformulary drugs must be submitted

by the attending physician to the department for prior approval. The request must be supported by the medical diagnosis and include proper justification for the nonformulary drug.

(2) Payment may be made for nonformulary drugs prescribed without prior approval only in an acute emergency, and if the physician can substantiate that a nonformulary drug is mandatory. Justification must be received by the department within seventy-two hours for consideration.

[Statutory Authority: RCW 74.08.090. 86-01-080 (Order 2320), § 388-91-020, filed 12/18/85; 85-11-034 (Order 2233), § 388-91-020, filed 5/15/85; 79-06-034 (Order 1402), § 388-91-020, filed 5/16/79; Order 1170, § 388-91-020, filed 11/24/76; Order 884, § 388-91-020, filed 12/17/73; Order 461, § 388-91-020, filed 6/17/70, effective 8/1/70; Order 316, § 388-91-020, filed 10/31/68.]

WAC 388-91-030 Drugs--Prescription claim, Form 525-106 (pharmacy statement). (1) The department's official prescription claim, Form 525-106, must be used by the pharmacist. A supply may be obtained from provider services, division of medical assistance.

(2) Only four prescriptions may be entered on Form 525-106. Each prescription must bear specified unit and interval dosage.

(3) Only prescriptions for formulary drugs may be refilled at the discretion and choice of the prescribing physician. The use of presigned prescription blanks to be filled out by the nursing home operators or pharmacists is prohibited. This practice shall be considered sufficient grounds for cancelling the vendor agreement of participating providers involved.

(4) To assure prompt payment, a coupon from the recipient's medical care identification booklet, Form DSHS 13-30, should be attached by the pharmacist to the individual's prescriptions. When a coupon is not available the provider may submit a billing without this coupon although the processing by the department may be somewhat slower. Payment will be made for all appropriate goods and/or services provided to eligible recipients.

(5) Accurate recording of all data on the pharmacy statement is essential. Any error or lack of clarity in the prescription national drug code (NDC) number or number of units dispensed will delay payment. Typed prescriptions are preferred and expedite payment.

[Statutory Authority: RCW 74.08.090. 86-01-080 (Order 2320), § 388-91-030, filed 12/18/85; 85-11-034 (Order 2233), § 388-91-030, filed 5/15/85; 79-06-034 (Order 1402), § 388-91-030, filed 5/16/79; Order 884, § 388-91-030, filed 12/17/73; Order 461, § 388-91-030, filed 6/17/70, effective 8/1/70; Order 316, § 388-91-030, filed 10/31/68.]

WAC 388-91-035 Drugs--Pharmacist's agreement.

(1) Core Provider Agreement, Form DSHS 9-48 must be filed with Department of Social and Health Services, Olympia, Washington 98504. Forms may be obtained from the department's Office of Provider Services LG 11, Olympia, WA 98504.

(2) To participate in this program, a licensed pharmacy must agree to furnish goods and services in accordance with the department's rules, regulations and payment procedures. Fees and rates established by the

department according to WAC 388-91-020(3) shall constitute the full and complete charge for approved medical care and goods and services provided to recipients by the vendor or providers.

(3) All pharmacists and pharmacies agreeing to render goods and services to eligible persons shall submit such charges as agreed upon between the department and the individual or firm monthly and shall present their final charges not more than one hundred twenty days after the termination of their service or as otherwise provided by state law. Bills presented after the required one hundred twenty-day period shall be a charge against the state only when a written extension has been given by the division of medical assistance before the one hundred twenty-day period ends.

(4) Sale or transfer of ownership will automatically cancel this agreement. New application should indicate whether "high," "mid," or "low" volume provider in accordance with previous owner's volume.

[Statutory Authority: RCW 74.08.090, 85-11-034 (Order 2233), § 388-91-035, filed 5/15/85; 81-10-016 (Order 1648), § 388-91-035, filed 4/27/81; 80-13-020 (Order 1542), § 388-91-035, filed 9/9/80; 79-06-034 (Order 1402), § 388-91-035, filed 5/16/79; Order 1170, § 388-91-035, filed 11/24/76; Order 884, § 388-91-035, filed 12/17/73; Order 461, § 388-91-035, filed 6/17/70, effective 8/1/70.]

WAC 388-91-040 Drugs—Pricing standards. (1) Maximum cost allowed for all drugs, including generic drugs, will be determined by the department.

(2) The department shall not be charged more than the general public. Pricing practices such as granting discounts, special commissions, fees, etc., to patients, institutions, or corporations shall be taken into account by the department and the pharmacist in defining the charge to the general public.

(3) There shall be no differential in pricing prescriptions issued in less than manufacturer's size.

(4) The department will not pay more than the lower of ingredient cost plus a dispensing fee or the provider's usual and customary charge to the public. Ingredient cost will be set at the estimated acquisition cost, which is the department's best estimate of the price providers generally are paying for a drug. The dispensing fee will be set by taking into account the results of surveys and the costs of pharmacy operation. Reimbursement may also be made through exclusive service contracts for the provision of prescription drugs for nursing home patients.

(5) True unit dose systems recognized by the department require each patient's medication to be delivered to the facility a minimum of five days a week or delivery of medical carts every other day with daily service available.

(6) Modified unit dose systems (also known as blister packs, "bingo" or punch cards) recognized by the department require each patient's medication be delivered in individually sealed single or multiple dose packages, and in quantities sufficient to meet specified minimums or one month's supply. Providers shall be paid a special dispensing fee per prescription. This special fee shall not apply to creams, ointments, ophthalmic preparations, and oral liquids.

[Statutory Authority: RCW 74.08.090, 86-01-080 (Order 2320), § 388-91-040, filed 12/18/85; 82-01-001 (Order 1725), § 388-91-040, filed 12/3/81; 79-06-034 (Order 1402), § 388-91-040, filed 5/16/79; Order 1154, § 388-91-040, filed 9/22/76; Order 970, § 388-91-040, filed 9/13/74; Order 884, § 388-91-040, filed 12/17/73; Order 461, § 388-91-040, filed 6/17/70, effective 8/1/70; Order 316, § 388-91-040, filed 10/31/68.]

WAC 388-91-050 Out-of-state prescriptions. (1) Drugs provided residents of the state of Washington who are temporarily out of the state as defined in WAC 388-26-060 and 388-30-055 shall be authorized as part of medical care within the scope of WAC 388-86-115. Border situations as described by WAC 388-82-130 are not subject to out-of-state rules and are to be considered as care provided in the state of Washington.

(2) Drugs provided by out-of-state pharmacists (bordering cities excepted) shall require the approval of the department before payment can be made.

[Statutory Authority: RCW 74.08.090, 86-01-080 (Order 2320), § 388-91-050, filed 12/18/85; 81-16-032 (Order 1684), § 388-91-050, filed 7/29/81; Order 475, § 388-91-050, filed 9/8/70; Order 316, § 388-91-050, filed 10/31/68.]

Chapter 388-92 WAC

MEDICAL CARE FOR PERSONS RECEIVING BENEFITS UNDER TITLE XVI OF SOCIAL SECURITY ACT—ELIGIBILITY—INCOME AND RESOURCE STANDARDS FOR APPLICANTS IN OWN HOME

WAC

- 388-92-005 Definitions.
- 388-92-015 Eligibility determination—SSI.
- 388-92-025 Financial responsibility of relatives.
- 388-92-030 Monthly standard.
- 388-92-034 Availability of income.
- 388-92-036 SSI-related income exclusions/exemptions.
- 388-92-040 Availability of resources.
- 388-92-041 Medicaid qualifying trusts.
- 388-92-043 Transfer of resources without adequate consideration.
- 388-92-045 Excluded resources.
- 388-92-050 Limitation of resources.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 388-92-010 Description of program. [Order 996, § 388-92-010, filed 12/31/74; Order 898, § 388-92-010, filed 1/25/74.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.
- 388-92-020 Application for medical care. [Statutory Authority: RCW 74.08.090, 80-02-050 (Order 1476), § 388-92-020, filed 1/16/80; Order 1111, § 388-92-020, filed 4/15/76; Order 898, § 388-92-020, filed 1/25/74.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.
- 388-92-035 Monthly personal needs allowance—Person in institution. [Statutory Authority: RCW 74.08.090, 80-13-020 (Order 1542), § 388-92-035, filed 9/9/80; 80-02-062 (Order 1478), § 388-92-035, filed 1/18/80; 78-10-077 (Order 1346), § 388-92-035, filed 9/27/78; Order 898, § 388-92-035, filed 1/25/74.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.
- 388-92-055 Allocation of income and resources. [Statutory Authority: RCW 74.08.090, 80-02-061 (Order 1479), § 388-92-055, filed 1/18/80; Order 1227, § 388-92-055, filed 8/8/77; Order 996, § 388-92-055, filed 12/31/74; Order 960, § 388-92-055, filed 8/13/74;

- Order 898, § 388-92-055, filed 1/25/74.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.
- 388-92-060 Authorization. [Statutory Authority: RCW 74.08.090. 78-10-077 (Order 1346), § 388-92-060, filed 9/27/78; Order 1111, § 388-92-060, filed 4/15/76; Order 898, § 388-92-060, filed 1/25/74.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.
- 388-92-065 Termination of SSI beneficiary. [Order 898, § 388-92-065, filed 1/25/74.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.
- 388-92-070 Person converted into Title XVI. [Statutory Authority: RCW 74.08.090. 78-02-024 (Order 1265), § 388-92-070, filed 1/13/78; Order 1196, § 388-92-070, filed 3/3/77; Order 996, § 388-92-070, filed 12/31/74; Order 960, § 388-92-070, filed 8/13/74; Order 898, § 388-92-070, filed 1/25/74.] Repealed by 81-10-014 (Order 1646), filed 4/27/81. Statutory Authority: RCW 74.08.090.

WAC 388-92-005 Definitions. The definitions in this section apply only to SSI related applicants.

(1) **Beneficiary** – A person who receives a cash benefit under Title XVI and/or state supplement.

(2) **Couple** – If an SSI related individual is living with another individual of the opposite sex and they both present themselves to the community as husband and wife they are treated as a couple. If the other individual is not SSI related, that individual is treated as a spouse in considering availability of income and resources for the applicant.

(3) **SSI related** – An aged, blind, or disabled person who meets the Title XIX resource standards.

(4) **Income** – The receipt by an individual of any property or service which he can apply either directly, by sale, or conversion to meet his basic needs for food, clothing, and shelter.

(a) **Earned income** means gross wages for services rendered and/or net earnings from self-employment. Earned income received at predictable intervals other than monthly or in unequal amounts will be converted to a monthly basis. If income is weekly, the amount is multiplied by 4.3 to arrive at a monthly figure.

(b) **Unearned income** means all other income.

(5) **Resources** – Cash or other liquid assets or any real or personal property that an individual or spouse, if any, owns and could convert to cash to be used for support or maintenance.

(a) If an individual can reduce a liquid asset to cash, it is a resource.

(b) If an individual cannot reduce an asset to cash, it is not considered an available resource.

(c) **Liquid** – Properties that are in cash or are financial instruments which are convertible to cash such as, but not limited to, cash in hand, stocks, savings, checking accounts, mutual fund shares, mortgage, promissory notes.

(d) **Nonliquid** – All other property both real and personal shall be evaluated according to the price the item can reasonably be expected to sell for on the open market in the particular geographical area involved.

(6) **Fair market value** – The current market value of a resource at the time of transfer or contract for sale, if earlier.

(a) **Uncompensated value** means the fair market value of a resource minus the amount of compensation received in exchange for the resource.

(b) **Value of compensation received** means the gross amount paid or agreed to be paid by the purchaser.

[Statutory Authority: RCW 74.08.090. 84-02-051 (Order 2059), § 388-92-005, filed 1/4/84; 82-10-062 (Order 1801), § 388-92-005, filed 5/5/82; 81-10-014 (Order 1646), § 388-92-005, filed 4/27/81; 79-06-034 (Order 1402), § 388-92-005, filed 5/16/79; Order 996, § 388-92-005, filed 12/31/74; Order 930, § 388-92-005, filed 4/25/74; Order 898, § 388-92-005, filed 1/25/74.]

WAC 388-92-015 Eligibility determination--SSI.

(1) For the purposes of medical assistance related to SSI, the applicant shall be:

(a) Sixty-five years of age or over; or

(b) Blind with:

(i) Central visual acuity of 20/200 degrees or less in the better eye with the use of a correcting lens; or

(ii) A limitation in the fields of vision so the widest diameter of the visual field subtends an angle no greater than 20 degrees; or

(c) Disabled, that is, unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve months or, in the case of a child under the age of eighteen, if the child suffers from any medically determinable physical or mental impairment of comparable severity. Decisions on SSI related disability are the responsibility of the division of medical assistance and shall be subject to the authority of federal statutes and regulations codified at 42 U.S.C. Sec. 1382c and 20 C.F.R. Parts 404 and 416, as amended, as well as controlling federal court decisions, which define the OASDI and SSI disability standard and determination process.

(d) The ineligible spouse of an SSI beneficiary receiving a state supplement payment for the ineligible spouse is not eligible for Medicaid as categorically needy.

(2) A resident of Washington requiring medical assistance outside the United States shall be provided care according to chapter 388-82 WAC.

(3) The applicant or recipient shall be resource eligible under WAC 388-92-050 on the first day of the month to be eligible for any day or days of that month. The resource determination is made as of the first moment of the first day of the month. Changes in the amount of countable resources during a month do not affect eligibility or ineligibility for that month.

[Statutory Authority: RCW 74.08.090. 90-06-036 (Order 2948), § 388-92-015, filed 3/1/90, effective 4/1/90; 86-03-045 (Order 2326), § 388-92-015, filed 1/15/86; 85-07-049 (Order 2218), § 388-92-015, filed 3/20/85; 84-04-068 (Order 2073), § 388-92-015, filed 2/1/84; 83-02-026 (Order 1929), § 388-92-015, filed 12/29/82; 82-21-024 (Order 1891), § 388-92-015, filed 10/13/82; 81-10-014 (Order 1646), § 388-92-015, filed 4/27/81; 80-02-050 (Order 1476), § 388-92-015, filed 1/16/80; 78-02-024 (Order 1265), § 388-92-015, filed 1/13/78; Order 1196, § 388-92-015, filed 3/3/77; Order 967, § 388-92-015, filed 8/29/74; Order 898, § 388-92-015, filed 1/25/74.]

WAC 388-92-025 Financial responsibility of relatives. (1) In determining SSI-related eligibility, the department shall consider income and resources jointly for:

- (a) Spouses who reside in the same household; and
- (b) The blind or disabled child or children who reside with their parent or parents.

(2) When computing available income for a family of three or more, the department shall apply the relative responsibility requirement of the appropriate cash assistance program. The department shall limit relative responsibility to one spouse for the other spouse and the parent or parents for the minor child or children.

(3) The department shall consider the financial responsibility of spouses as follows:

(a) When the spouse of an SSI-related applicant is ineligible or does not apply, the department shall apply the exclusions under WAC 388-92-035 (1) and (3) to the spouse's income in determining the amount to be deemed to the applicant. If the remaining income of the ineligible spouse exceeds the monthly state supplement benefit standard, the department shall deem the remaining income to the applicant; and

(b) If both spouses apply or are eligible as aged, blind, or disabled and cease to reside in the same household, the department shall consider the spouses' income and resources available to each other for the time periods specified. After the appropriate time period, the department shall consider available only the income and resources one spouse contributes to the other spouse.

(i) If spouses cease to reside in the same household because of institutionalization of one spouse, the department shall consider:

(A) The institutionalized spouse's income and resources under chapter 388-95 WAC; and

(B) The community spouse's:

(I) Income as available to each other through the month in which they cease to reside in the same household. The department shall consider the income of each spouse as separate beginning the first of the month after the spouse is institutionalized;

(II) Resources as available to each other for the month the spouses cease to reside in the same household and for six months following that month.

(ii) If spouses cease to reside in the same household for any reason other than institutionalization of one spouse, the department shall consider the spouses' income and resources available to each other for the month the spouses cease to reside in the same household and for six months following that month. If the mutual consideration of both spouses' income and resources causes the spouses to lose eligibility as a couple, the department shall determine if either spouse is eligible in accordance with subsection (3)(c) of this section.

(c) If the spouses cease to reside in the same household, and only one spouse in a couple applies or is eligible, or both spouses apply and are not eligible as a couple, the department shall consider only the income and resources the ineligible spouse contributes to the eligible spouse beginning the month after the spouses separate;

(d) When both spouses are eligible and institutionalized, the department shall consider income and resources separately even if the spouses share the same room; and

(e) When only one spouse is eligible and both are institutionalized, the department shall consider only the income and resources the ineligible spouse contributes to the eligible spouse, even if they share the same room.

(4) The department shall consider the financial responsibility of the parent or parents as follows:

(a) For SSI-related individuals, eighteen to twenty-one years of age, the department shall not consider the parent or parents' income available unless contributed; and

(b) For SSI-related individuals seventeen years of age and under, the department shall consider the parent or parents' income available when the individual resides in the same household.

(5) The department shall determine income for FIP or AFDC-related assistance unit according to FIP or AFDC grant regulations, where more than one assistance unit exists, limiting relative responsibility to subsection (2) of this section.

[Statutory Authority: RCW 74.08.090. 89-24-036 (Order 2907), § 388-92-025, filed 12/1/89, effective 1/1/90; 84-17-012 (Order 2132), § 388-92-025, filed 8/3/84; 84-02-056 (Order 2064), § 388-92-025, filed 1/4/84; 82-10-062 (Order 1801), § 388-92-025, filed 5/5/82; 82-01-001 (Order 1725), § 388-92-025, filed 12/3/81; 81-16-032 (Order 1684), § 388-92-025, filed 7/29/81; 81-10-014 (Order 1646), § 388-92-025, filed 4/27/81; 80-13-020 (Order 1542), § 388-92-025, filed 9/9/80; 79-09-053 (Order 1427), § 388-92-025, filed 8/24/79; 79-06-034 (Order 1402), § 388-92-025, filed 5/16/79; 78-10-077 (Order 1346), § 388-92-025, filed 9/27/78; Order 1227, § 388-92-025, filed 8/8/77; Order 1158, § 388-92-025, filed 10/6/76; Order 1112, § 388-92-025, filed 4/15/76; Order 1067, § 388-92-025, filed 11/17/75; Order 1061, § 388-92-025, filed 10/8/75; Order 996, § 388-92-025, filed 12/31/74; Order 967, § 388-92-025, filed 8/29/74; Order 960, § 388-92-025, filed 8/13/74; Order 898, § 388-92-025, filed 1/25/74.]

WAC 388-92-030 Monthly standard. (1) After computing available income according to WAC 388-92-025 for SSI related individuals, the monthly standard shall be the state supplement standard. (See chapter 388-59 WAC.)

(2) The monthly maintenance standard for SSI related couples (both applying) shall be the state supplement standard for a couple.

(3) Applicants and/or recipients eligible for limited casualty program--medically needy will have the monthly standard applied as in WAC 388-99-020.

(4) When one or both of the applicants is SSI related in a medical facility, a full calendar month standards defined in WAC 388-95-340 and 388-95-360 must be used.

[Statutory Authority: RCW 74.08.090. 84-02-055 (Order 2063), § 388-92-030, filed 1/4/84; 83-12-059 (Order 1964), § 388-92-030, filed 6/1/83; 82-01-001 (Order 1725), § 388-92-030, filed 12/3/81; 81-16-032 (Order 1684), § 388-92-030, filed 7/29/81; 81-10-014 (Order 1646), § 388-92-030, filed 4/27/81; 80-12-012 (Order 1537), § 388-92-030, filed 8/25/80; 79-09-032 (Order 1424), § 388-92-030, filed 8/15/79; 78-10-059 (Order 1339), § 388-92-030, filed 9/22/78; Order 1246, § 388-92-030, filed 10/11/77; Order 1144, § 388-92-030, filed 8/26/76; Order 1040, § 388-92-030, filed 8/7/75; Order 996, § 388-92-030, filed 12/31/74; Order 952, § 388-92-030, filed 7/16/74; Order 930, § 388-92-030, filed 4/25/74; Order 898, § 388-92-030, filed 1/25/74.]

WAC 388-92-034 Availability of income. (1) The department shall consider client checks received in advance of the month the checks are normally received as income in the month of normal receipt.

(2) The department shall consider electronically transferred client funds available as income in the month of normal receipt, regardless of whether the banking institution posted the funds to the client's bank account before or after the month the funds are payable. Such payments become subject to counting as a resource in the month following the month of normal receipt.

(3) The department shall exclude as unearned income the unearned income amounts withheld due to garnishment pursuant to a court, administrative, or agency order.

(4) The department shall include as earned income the earned income amounts withheld due to garnishment.

[Statutory Authority: RCW 74.08.090. 90-24-089 (Order 3108), § 388-92-034, filed 12/5/90, effective 1/5/91.]

WAC 388-92-036 SSI-related income exclusions/exemptions. (1) The department shall exclude the following from income in the order listed:

(a) Any amount a client receives from any public agency as a return or refund of taxes paid on real property or on food purchased by such client or spouse;

(b) State public assistance and supplemental security income (SSI) based on financial need;

(c) Any portion of any grant, scholarship, or fellowship received by a client for use in paying the cost of tuition and fees at any educational institution;

(d) Income that a client does not reasonably anticipate, or may receive infrequently or irregularly, and such income does not exceed twenty dollars per month if unearned, or ten dollars per month if earned;

(e) Any amounts a client receives for the foster care of a child who lives in the same household, if the child is not eligible and was placed in such home by a public or nonprofit private child-placement or child-care agency;

(f) One-third of any payment for child support an individual receives from an absent parent;

(g) The first twenty dollars per month of earned or unearned income, not otherwise excluded in subsection (1)(a) through (f) of this section, for a client at home. The department shall consider the exclusion only once for a husband and wife. The department shall apply no exclusion on income paid on the basis of an eligible individual needs, such as VA pension and cash from private charitable organizations;

(h) Tax exempt payments Alaska natives receive under the Alaska Native Claims Settlement Act;

(i) Tax rebates or special payments excluded by other statutes. When necessary, the department shall publicize these exclusions;

(j) Compensation provided to volunteers in ACTION programs established by Public Law 93-113, the Domestic Volunteer Service Act of 1973;

(k) An amount to meet the needs of an ineligible minor child residing in the household of an SSI applicant.

The exclusion is the difference between the SSI couple cash benefit and the SSI individual cash benefit;

(l) The following portions of veteran's benefits:

(i) The veteran's aid and attendance/housebound allowance. For institutionalized clients, the department shall consider the amount subsequently in the cost of the client's institutional care; and

(ii) The portion attributable to the veteran's dependent.

(m) Title II Social Security Administration benefits:

(i) The department shall determine current client eligibility for categorically needy medical assistance under WAC 388-82-115(4), including all Title II cost of living adjustment (COLA) benefit increases received:

(A) By the client since termination from SSI/SSP; or

(B) By the client's spouse and/or other financially responsible family member living in the same household during the time period under subsection (m)(i) of this section; and

(ii) The department shall consider the total of the COLA benefit increases and the Title II Social Security Administration benefits in the cost of the institutionalized client's care.

(n) A reimbursable fee a guardian charges for services provided;

(o) Income an ineligible or nonapplying spouse receives from a governmental agency for services provided to an eligible client (e.g. chore services);

(p) Certain cash payments a client receives from a governmental or nongovernmental medical or social service agency to pay for medical or social services;

(q) Restitution payment to a civilian of Japanese or Aleut ancestry under P.L. 100-383;

(r) The amount of the expenses directly related to a client's impairment that allows the permanently and totally disabled client to continue to work;

(s) The amount of the blindness-related work expenses of a blind client; and

(t) Interest earned on excluded burial funds and any appreciation in the value of an excluded burial arrangement which are left to accumulate and become part of the separately identified burial funds set aside on or after November 1, 1982.

(2) Unless income is contributed to the applicant, the department shall exclude all earned income of an ineligible or nonapplying individual twenty years of age and under who is a student regularly attending a school, college or university, or pursuing a vocational or technical training designed to prepare the student for gainful employment.

(3) For the SSI-related individual, the department shall exclude the first sixty-five dollars per month of earned income not excluded according to subsection (1) of this section, plus one-half of the remainder.

[Statutory Authority: RCW 74.08.090. 89-24-036 (Order 2907), § 388-92-036, filed 12/1/89, effective 1/1/90.]

WAC 388-92-040 Availability of resources. In establishing eligibility for medical assistance, the department shall consider resources as described under WAC 388-83-026.

[Statutory Authority: RCW 74.08.090, 91-01-121 (Order 3119), § 388-92-040, filed 12/19/90, effective 1/19/91; 81-16-032 (Order 1684), § 388-92-040, filed 7/29/81; 81-10-014 (Order 1646), § 388-92-040, filed 4/27/81; Order 1233, § 388-92-040, filed 8/31/77; Order 930, § 388-92-040, filed 4/25/74; Order 898, § 388-92-040, filed 1/25/74.]

WAC 388-92-041 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 388-92-043 Transfer of resources without adequate consideration. (1) This section shall implement Second Substitute House Bill No. 557 effective December 1, 1981.

(2) The department shall find an individual ineligible for Title XVI categorical medical assistance or the medically needy component of the limited casualty program for a period determined under this section if:

(a) The person knowingly and willfully assigns or transfers nonexempt resources at less than fair market value after December 1, 1981;

(b) The individual's purpose of qualifying or continuing to qualify for medical care within two years precedes the date of application for care; and

(c) Transfer occurred before July 1, 1989.

(3) For transfers made after June 30, 1989, the department shall not impose a penalty under this section. The department shall evaluate transfers for institutionalized individuals under WAC 388-95-395.

(4) Definitions:

(a) Transfer means any act or omission to act whereby title to or any interest in property is assigned, set over, or otherwise vested or allowed to vest in another person.

(i) Transferring property includes delivery of personal property, bills of sale, deeds, mortgages, pledges, or any other instrument conveying or relinquishing an interest in property.

(ii) Transfer of title to a resource occurs by:

(A) An intentional act or transfer; or

(B) Failure to act to preserve title to the resource.

(b) Fair market value means the reasonable value of a resource at the time of transfer or assignment.

(c) Uncompensated value means the fair market value of a resource at the time of transfer minus the amount of compensation received in exchange for the resource.

(d) Value of compensation received means the consideration paid or agreed to be paid by the purchaser.

(e) Compensation includes:

(i) All money, real or personal property, food, shelter, or services received by the individual:

(A) At or after the time of transfer in exchange for the resource if the compensation was provided pursuant to a binding (legally enforceable) agreement in effect at the time of transfer; or

(B) Before the actual transfer if compensation was provided pursuant to a binding (legally enforceable) agreement whereby the eligible individual would transfer the resource or otherwise pay for such item.

(ii) The payment or assumption of a legal debt owed by the individual in exchange for the resource.

(5) WAC 388-28-461, 388-28-462, and 388-28-465 shall be incorporated by reference and apply to this section, with the exception to the reference described under WAC 388-28-460.

(6) The voluntary transfer or assignment of resources between spouses is permitted without affecting eligibility or continued eligibility of the spouse transferring or assigning the resources.

(7) The uncompensated fair market value of the assigned or transferred resource and the corresponding ineligibility periods from the date of transfer shall be as follows:

| (a) Dollar Amount of Uncompensated Value | Months of Ineligibility |
|--|-------------------------|
| \$ 0 - \$ 1,000 | 1 |
| 1,001 - 2,000 | 2 |
| 2,001 - 3,000 | 3 |
| 3,001 - 4,000 | 4 |
| 4,001 - 5,000 | 5 |
| 5,001 - 6,000 | 6 |
| 6,001 - 7,000 | 7 |
| 7,001 - 8,000 | 8 |
| 8,001 - 9,000 | 9 |

| Dollar Amount of Uncompensated Value | Months of Ineligibility |
|--------------------------------------|-------------------------|
| 9,001 - 10,000 | 10 |
| 10,001 - 11,000 | 11 |
| 11,001 - 12,000 | 12 |
| 12,001 - 13,500 | 13 |
| 13,501 - 15,000 | 14 |
| 15,001 - 16,500 | 15 |
| 16,501 - 18,000 | 16 |
| 18,001 - 19,500 | 17 |
| 19,501 - 21,000 | 18 |
| 21,001 - 22,500 | 19 |
| 22,501 - 24,000 | 20 |
| 24,001 - 25,500 | 21 |
| 25,501 - 27,000 | 22 |
| 27,001 - 28,500 | 23 |
| 28,501 - 30,000 | 24 |
| 30,001 - 31,667 | 25 |
| 31,668 - 33,333 | 26 |
| 33,334 - 35,000 | 27 |
| 35,001 - 36,667 | 28 |
| 36,668 - 38,333 | 29 |
| 38,334 - 40,000 | 30 |
| 40,001 - 41,667 | 31 |
| 41,668 - 41,333 | 32 |
| 41,334 - 45,000 | 33 |
| 45,001 - 46,667 | 34 |
| 46,668 - 48,333 | 35 |
| 48,334 - 50,000 | 36 |
| Over \$ 50,000 | 48 |

(b) The period of ineligibility shall not include partial months.

(8) If a transferred resource is returned to the individual, the uncompensated value shall no longer be counted as of the date of return. The returned asset shall be treated as a resource as of the first day of the following month.

(9) If the individual receives additional compensation in the form of cash for the transferred resource, the uncompensated value shall be reduced by the amount of the additional compensation as of the date the additional compensation is received. The additional compensation shall be treated as a resource as of the first day of the following month.

(10) The period of ineligibility may be waived if the department determines the application of the period of ineligibility shall cause undue hardship.

(11) The department determines a person is ineligible for medical care under this section and shall have the right to request a hearing to appeal the determination, except as modified by this section. The procedure for the hearing is described under chapter 388-08 WAC.

(a) At a hearing, the department shall have the burden of proving the:

(i) Person knowingly and willfully assigns or transfers cash or other resource at less than fair market value for the purpose of qualifying or continuing to qualify for assistance; and

(ii) Burden of proof is a preponderance of the evidence.

(b) When the appellant is the prevailing party in the hearing, the appellant shall be awarded reasonable attorney fees.

(12) See WAC 388-81-052 for civil penalties:

(a) Applying to persons receiving nonexempt resources; and

(b) Not giving the recipient adequate consideration.

[Statutory Authority: 1989 c 87. 89-18-032 (Order 2859), § 388-92-043, filed 8/29/89, effective 9/29/89. Statutory Authority: RCW 74-.08.090. 84-04-068 (Order 2073), § 388-92-043, filed 2/1/84; 82-23-002 (Order 1897), § 388-92-043, filed 11/4/82; 82-10-017 (Order 1776), § 388-92-043, filed 4/28/82.]

WAC 388-92-045 Excluded resources. The department shall exclude the following resources:

(1) A home.

(a) A home means any shelter:

(i) In which the client or clients has ownership interest; and

(ii) Used by the client or clients as the principal place of residence. The department shall consider only one home the principal place of residence.

(b) Client or clients absence from the home shall not affect the home exclusion. The home remains the principal place of residence as long as:

(i) The client or clients intends to return home. The department shall accept the client's statement of intent without challenge; or

(ii) A spouse or dependent relative uses the home during the client's absence. The department shall consider an individual a dependent relative when such individual is either financially or medically dependent on the client. The department shall accept the client's or dependent relative's written allegation of dependency or relationship unless the department has reason to question it.

(c) The department shall exclude the client's proceeds from the sale of the excluded home providing the proceeds 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 produced.

(d) The department shall evaluate transfers of the home by an institutional client under WAC 388-95-395.

(2) Household goods and personal effects.

(3) Automobile or automobiles.

(a) The department shall 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 client; or

(iv) Necessary due to climate, terrain, distance, or similar factors to provide the client transportation to perform essential daily activities.

(b) The department shall:

(i) Exclude one automobile to the extent its current market value does not exceed four thousand five hundred dollars;

(ii) Count any excess against the resource limit; and

(iii) Exclude an automobile under this subdivision only if no automobile is excluded under subsection (3)(a) of this section.

(c) The department shall treat the client's ownership of other automobiles as nonexempt resources and count the client's automobile equity value toward the resource limit.

(4) Trade or business property.

(a) The department shall exclude:

(i) Property of a trade or business which is essential to self-support; and

(ii) Liquid resources as defined under WAC 388-92-005 even though such liquid resource may produce income.

(b) 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.; and

(c) The current market value shall not exceed six thousand dollars with a minimum annual rate of return of six percent.

(5) Nonbusiness property. The department shall exclude nonbusiness property essential to the client's self-support. This exclusion shall include:

(a) Nonliquid (see WAC 388-92-005), nonbusiness property if the individual:

(i) Relies on the nonbusiness property as a significant factor in producing income on which the client can live; or

(ii) Uses the nonbusiness property 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; and

(d) The exclusion may include an additional automobile or other motor vehicle (truck, tractor, trailer, etc.) if the vehicle excluded under subsection (3) of this section is not used for self support functions.

(6) Resources of a blind or disabled individual. The department shall exclude resources necessary to fulfill an approved plan for a client to achieve self-support as long as such plan remains in effect.

(7) Alaska Native Claims Settlement Act stock. The department shall exclude 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 under the Alaska Native Claims Settlement Act.

(8) Life insurance.

(a) The department shall exclude the total cash surrender value if the total face value of the policy or policies held by each individual is one thousand five hundred dollars or less.

(b) The cash surrender value applies to the resource limit if the face value of policy or policies held by each individual is over one thousand five hundred dollars.

(c) When determining total face value in subdivision (a) of this subsection, the department shall exclude term or burial insurance with no cash surrender value.

(9) Restricted allotted land. The department shall exclude restricted allotted land owned by an enrolled tribal member and spouse, if married, if such land cannot be sold, transferred, or otherwise disposed of without permission of other individuals, the tribe or an agency of the federal government.

(10) Insurance settlements. The department shall exclude cash the client receives from an insurance company for purposes of repairing or replacing an excluded resource that is lost, damaged, or stolen, etc., providing the client uses the total amount of the cash to repair or replace such excluded resource within nine months. The department may extend the nine-month period based on circumstances beyond the control of the applicant to a maximum of nine additional months. The department shall consider any cash not used within the time period as an available resource.

(11) Burial spaces. The department shall exclude the value of burial spaces for the client, the client's spouse, or any member of the client's immediate family.

(a) Burial spaces shall include conventional gravesites, crypts, mausoleums, urns, and other repositories customarily and traditionally used for the remains of deceased persons.

(b) For purposes of this subsection immediate family means a client's minor and adult children, including adopted children and step-children; a client's brothers, sisters, parents, adoptive parents, and the spouses of those individuals. The department shall consider neither dependency nor living-in-the-same-household as factors in determining whether a person is an immediate family member.

(12) Burial funds.

(a) Funds specifically set aside for the burial arrangements of a client or the client's spouse not to exceed one thousand five hundred dollars for each spouse. The department shall count burial funds in excess of this limit toward the resource limit in WAC 388-92-050.

(b) The department shall require funds set aside for burial expenses be separately identified and designated as set aside for burial. The department may exclude designated burial funds retroactively back to the first day of the month in which the individual intended the funds to be set aside for burial or to November 1, 1982, whichever is later.

(c) Funds set aside for burial include revocable burial contracts, burial trusts, other burial arrangements, or any other separately identifiable resources the individual clearly designates as set aside for the individual's (or spouse's, if any) burial expenses.

(d) The department shall reduce the one thousand five hundred dollars exclusion by:

(i) The face value of the client's 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.

(e) The department shall exclude interest earned on excluded burial funds and appreciation on the value of excluded burial arrangements if the excluded interest and appreciation are left to accumulate and become part of the separately identified burial fund.

(f) When used for other purposes, the department shall consider any excluded burial funds, interest, or appreciated values set aside for burial expenses as an available resource if, when added to other nonexempt resources, the total exceeds the resource limit.

(13) Other resources excluded by federal statute.

(14) Retroactive payments. The department shall exclude retroactive SSI or OASDI payments from resources:

(a) For six months following the month of receipt this exclusion applies to:

(i) Payments the client received from October 1, 1984 through September 30, 1987;

(ii) Payments received by the client, spouse, and/or any other person whose income the department considers available to meet the applicant's or recipient's needs;

(iii) SSI payments made to the client for benefits due for a month prior to the month of payment;

(iv) OASDI payments made to the client for benefits due for a month that is two or more months prior to the month of payment; and

(v) 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.

(b) For nine months following the month of receipt if:

(i) Subsection (1)(a)(ii), (iii), (iv), and (v) of this section is met; and

(ii) The payment is received during the period beginning October 1, 1987, and ending September 30, 1989.

(15) Payments for medical or social services. The department shall exclude, from resources for the one-calendar month following the month of receipt, certain cash payments an SSI individual receives from a governmental or nongovernmental medical or social service agency to pay for medical or social services.

(16) Restitution to civilians relocated and interned during war time. The department shall exclude payments to persons of Japanese or Aleut ancestry under P.L. 100-383.

[Statutory Authority: RCW 74.08.090. 89-24-036 (Order 2907), § 388-92-045, filed 12/1/89, effective 1/1/90; 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.]

WAC 388-92-050 Limitation of resources. The total value of resources allowed and not otherwise excluded shall not exceed the dollar amount in subsection (1) of this section for a single individual or the dollar amount in subsection (2) of this section for a couple.

[Title 388 WAC—p 412]

(1) The resource limitation for a single individual shall be \$1,500 prior to January 1, 1985 and shall be increased to \$1,600 on January 1, 1985, to \$1,700 on January 1, 1986, to \$1,800 on January 1, 1987, to \$1,900 on January 1, 1988 and to \$2,000 on January 1, 1989.

(2) The resource limitation for a couple shall be \$2,250 prior to January 1, 1985, and shall be increased to \$2,400 on January 1, 1985, to \$2,550 on January 1, 1986, to \$2,700 on January 1, 1987, to \$2,850 on January 1, 1988, and to \$3,000 on January 1, 1989.

[Statutory Authority: RCW 74.08.090. 85-03-072 (Order 2194), § 388-92-050, filed 1/17/85; 81-10-014 (Order 1646), § 388-92-050, filed 4/27/81; Order 898, § 388-92-050, filed 1/25/74.]

Chapter 388-93 WAC

MEDICAL CARE FOR GRANDFATHERED RECIPIENTS

WAC

| | |
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| 388-93-005 | Definitions. |
| 388-93-010 | Description of program. |
| 388-93-015 | Eligibility—General. |
| 388-93-020 | Eligibility—Blindness defined. |
| 388-93-025 | Eligibility—Permanently and totally disabled defined. |
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| 388-93-040 | Computation of available income. |
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| 388-93-055 | Allocation of available income and nonexempt resources. |
| 388-93-060 | Exempt resources. |
| 388-93-065 | Nonexempt resources. |
| 388-93-075 | Continuing certification. |
| 388-93-080 | Application following termination of eligibility. |

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

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|------------|--|
| 388-93-070 | Transfer of resources within two years prior to application. [Statutory Authority: RCW 74.08.090. 79-06-034 (Order 1402), § 388-93-070, filed 5/16/79; Order 996, § 388-93-070, filed 12/31/74.] Repealed by 89-18-032 (Order 2859), filed 8/29/89, effective 9/29/89. Statutory Authority: 1989 c 87. |
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WAC 388-93-005 Definitions. A "grandfathered" recipient of Title XIX is an individual who

(1) Had been determined eligible for nongrant and medical assistance related to old age assistance (OAA), aid to the blind (AB), or disability assistance (DA) as of December 31, 1973, and

(2) Continues to satisfy the criteria for the related categories as defined in WAC 388-93-020 or 388-93-025, and

(3) Meets the financial standards as defined in WAC 388-93-040 through 388-93-055, and

(4) Has a medical need.

[Order 996, § 388-93-005, filed 12/31/74.]

WAC 388-93-010 Description of program. The department shall provide medical assistance within the limitations set forth in these rules and regulations to an individual who is a grandfathered recipient as defined in WAC 388-93-005.

[Order 996, § 388-93-010, filed 12/31/74.]

WAC 388-93-015 Eligibility--General. (1) There is no requirement of citizenship imposed as a condition of eligibility for benefits under the medical care program.

(2) Residence - see WAC 388-83-025.

(3) Medical need - The grandfathered recipient must have a medical need to remain eligible for medical assistance under Title XIX of the social security act. For example, disability per se does not constitute a medical need; treatment of disability does.

(4) To continue to be eligible the grandfathered recipient shall be

(a) Age 65 or older, or

(b) Disabled as defined in WAC 388-93-025, or

(c) Blind as defined in WAC 388-93-020 and not publicly soliciting alms by wearing, carrying or exhibiting signs denoting blindness, carrying receptacles for the reception of alms or doing the same by proxy or by begging.

(i) It shall be assumed that a blind person is not soliciting alms unless there is evidence to the contrary.

[Statutory Authority: RCW 74.08.090. 83-10-077 (Order 1958), § 388-93-015, filed 5/4/83; Order 996, § 388-93-015, filed 12/31/74.]

WAC 388-93-020 Eligibility--Blindness defined. Blindness is defined in terms of ophthalmic measurements as

(1) Central visual acuity of 20/200 or less in the better eye with the best possible corrective glasses, or

(2) Contraction of the peripheral field of vision to within twenty degrees of the fixation point in all quadrants as determined by standard perimetric testing, or

(3) Muscle function, measured in all parts of the motor field and charted upon 20 rectangles, 4 x 5 degrees in size, equal to 18/20 binocular or monocular.

[Order 996, § 388-93-020, filed 12/31/74.]

WAC 388-93-025 Eligibility--Permanently and totally disabled defined. (1) In general, "permanently and totally disabled" means that the individual has some permanent physical or mental impairment, disease or loss that substantially precludes him from engaging in a useful occupation within his competence, such as holding a substantially gainful job or homemaking. The impairment may be physical or mental, organic or functional, and of such degree as to interfere with the individual's faculties, such as senses, reasoning, mobility. It may exist from birth, be acquired during the lifetime of the individual, or result from accident. It may be obvious, such as loss of a limb, or it may be such that it can be revealed only by medical examination. It may exist singly or in combinations.

(2) The term "permanently disabled" refers to the existence of a physiological, anatomical, emotional and/or mental impairment verified by medical findings, which is

of major importance, and is a condition not likely to improve, but will continue throughout the lifetime of the individual. Any condition which is considered by the medical reviewer as not likely to respond to any known therapeutic procedure shall be deemed to be a permanent impairment. Furthermore, any condition which is considered as likely to remain static or to become worse unless certain therapeutic measures are carried out shall be deemed to be permanent so long as treatment is unavailable, inadvisable, or the individual refuses treatment and his decision is reasonable - see WAC 388-93-030.

(a) Decision that an impairment is permanent can be made even though recovery from the impairment is possible. The discovery of new drugs or other advances in medical treatment is always a potential which may change a permanent "situation"; pending the actual physical improvement, the classification is proper. Therefore, the term "permanent" need not be everlasting or unchangeable, but is used in the sense of continuing indefinitely as distinct from temporary or transient.

(b) A physician's medical report must be used to establish the existence of an impairment and its permanency.

(3) The term "totally disabled" refers to an individual's ability to perform those activities necessary to carry out specified responsibilities such as those necessary to employment or homemaking. Totality involves considerations in addition to those verified through the medical findings such as age, training, skills and work experience, and the functioning of the individual in his particular situation in light of his impairment. Such social data will describe the individual's education and work history, the activities required of him in his home or in his job, living conditions, interests, his capacity and limitations, and the extent to which he has adjusted to his impairment.

(a) Job training may enable a permanently and totally disabled person to acquire a new skill in spite of his impairment. However, during a reasonable period of training and until he acquires job competence, he continues to be totally disabled.

(b) The social summary must show how the person reacts in social situations in order to illustrate that his disability substantially precludes him from engaging in employment or homemaking in the foreseeable future. The social worker carries the major responsibility for providing the state office review team with the recorded objective social information bearing on the totality factor.

(4) The term "substantially precludes" relates to the extent to which an individual's permanent impairment has left him unable to engage in those activities necessary to carry on specified responsibilities such as employment and homemaking. If an individual is able to perform such activities well enough and with sufficient regularity to receive substantial payment for his effort or to carry on homemaking responsibilities on a continuing basis, he is not considered as precluded from engaging in "useful occupations" and cannot be found to be permanently and totally disabled.

(5) The term "useful occupations" means productive activities which add to the economic wealth, or produce goods or services to which the public attaches a money value. However, the person whose impairment is so severe that it results in his being unable to leave his bed, leave his home or maintain body hygiene without help of another person, and for whom the assumption would commonly be made that he could not engage in any useful occupation, but in fact, through supreme effort he does some work shall have his ability evaluated in light of

(a) The extent to which sympathy or compassion enters into the opportunity to engage in remunerative work. In other words, is the individual able to do something because family, friends, or neighbors help more than is usual — for example, running errands, bringing him materials, "engineering" the job, helping devise and create special tools, creating a market based more on sympathy than intrinsic value received, selling through church or other organization without charging the usual commission, etc., and

(b) The extent to which the energy which must be discharged by the person is far beyond that which is ordinarily required for that activity. For example, does it take him six or seven hours to do what most workers could do in an hour?

(c) If through careful consideration of such facts, in addition to the medical and social reports, it can be reasonably concluded that this individual is doing more than can ordinarily be expected from individuals with the impairments of similar severity, but his activity is not substantially gainful, a finding of permanent and total disability may be reached.

(6) The term "homemaking" involves the ability to carry the home management and decision-making responsibilities and provide essential services within the home for at least one person in addition to oneself. This may be either a man or a woman. If homemaking is such that children are neglected or the other person receives practically no benefit from her efforts, these facts should be clearly shown in the social summary. If she must have the help of other persons to complete the essential household tasks, it may be shown that she is not actually able to perform as a homemaker. The following activities are important to successful performance of the occupation of homemaking — shopping for food and supplies; planning and preparing meals; washing dishes; cleaning house; making beds; washing and ironing clothes and, if the care of young children is within the homemaking responsibility — lifting and carrying infants; bathing and dressing young children; training and supervising children; accompanying children to community activities and to sources of medical care.

A finding that a person is unable to perform the occupation of homemaking would require that the individual is unable to perform a significant combination or grouping of these activities because of his permanent impairment. When homemaking is the responsibility of the applicant, determination shall be made as to whether a permanent impairment prevents the applicant from totally meeting such responsibility.

(7) Special emotional problems

(a) Alcoholism. For alcoholism to be considered permanently and totally disabling, since there is such variation in the severity of alcoholism, at least one of the following criteria are required for approval of permanent and total disability:

(i) Evidence that a pathological or demonstrable organic damage has resulted from chronic alcoholism, such as neuritis or cirrhosis of the liver;

(ii) Evidence that the alcoholism has reached the addiction state as shown by marked ethical deterioration, the obsessive character of the drinking, the approaching loss of alcohol tolerance, prolonged bouts, and a breakdown of the rationalization pattern;

(iii) A history of several years of excessive drinking to the extent that it has adversely affected his interpersonal relationships and his social and economic functioning — loss of employment and inability to sustain employment because of excessive drinking.

(b) Personality inadequacy. Even though the medical report does not show a physical ailment which of itself is permanently disabling, a person may be found to be permanently and totally disabled if the medical or psychiatric report together with the social report supplemented with a psychological report, if indicated, shows an extended history of a combination of personality problems, character disorders or social inadequacies including unusual behavior, which prevents the person from making the adjustment required for an employable person or a homemaker.

(i) This would include the person whose responses to his environment are habitually inadequate and who seems to have limited or no voluntary control over his reactions. The symptoms of this emotionally unstable personality usually are demonstrated in antisocial or unconventional behavior of one kind or another, for example, drug addiction or alcoholism. The person does not get along with other people and may break many of society's rules. Most of these persons have had one difficulty after another since childhood with the typical lack of awareness and lack of remorse that is associated with this kind of behavior. The repetitive nature of their problems coupled with the lack of motivation for change produces an individual whose pattern provides a serious permanent impairment that can be totally disabling. Examples of this kind of personality inadequacy might be

(A) a patient returning from a mental hospital who is no longer psychotic but whose behavior would be unacceptable to a prospective employer or to his family;

(B) The person who has never been able to hold a job due to a pattern of emotional instability, or other unusual behavior which shows that the individual is unable, for an extended period, to substantially engage in any gainful occupation or homemaking;

(C) Drug addiction over an extended period of time.

(ii) In all cases of personality inadequacy, the reports specified in subsection (7)(b) are required.

[Order 996, § 388-93-025, filed 12/31/74.]

WAC 388-93-030 Refusal of disabled recipient to accept available and recommended medical treatment—

Effect on eligibility. (1) A disabled recipient who refuses without good cause to accept available medical treatment which can reasonably be expected to render him able to work or do homemaking shall become ineligible.

(2) "Available medical treatment" shall mean and include medical, surgical, or psychiatric therapy, or any combination thereof.

(3) "Reasonably be expected to render him able to work or do homemaking" shall mean that, in the opinion of the state office review team, the recommended medical, surgical, or psychiatric therapy or any combination thereof, is of such a nature and prognosis that, in the specific instance of the individual involved, medical experience indicates that the recommended treatment will restore or substantially improve the individual's ability to work for pay in a regular and predictable manner or to engage in homemaking.

(4) For the purposes of this section, a recipient has good cause to refuse recommended medical treatment when, according to the best objective judgment of the state office review team, such refusal is based upon one or more of the following conditions:

(a) The individual is genuinely fearful of undergoing recommended treatment. Such fear may appear to be unrealistic, or entirely emotional in origin, or irrational; however, fear exists in such a degree that treatment would be adversely affected and the doctor may therefore be dubious about undertaking to treat the individual, or

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

(c) Because of his definitely stated religious scruples, the individual will not accept recommended medical treatment.

(5) The controlling principle in determining whether refusal was for or without good cause rests with the state office review team which will be guided by whether a reasonable, prudent man under similar circumstances would accept the recommended treatment. The determination will be made only after considering all social and medical evidence, including that furnished by the individual himself, who will be provided with an opportunity to set forth in writing his objective reasons for declining recommended treatment. A determination that a refusal to accept treatment is without good cause is a decision which the recipient may appeal according to chapter 388-08 WAC.

[Order 996, § 388-93-030, filed 12/31/74.]

WAC 388-93-035 Refusal of disabled recipient to accept available and recommended medical treatment--Review for disability or blindness. (1) The grandfathered recipient's blindness or permanent and total disability shall be reviewed when a significant change has occurred.

(2) If a change in blindness has occurred, an eye examination shall be secured from an ophthalmologist or optometrist and evaluated by the department's ophthalmological consultant. The ophthalmological consultant

shall determine and certify whether legal blindness continues to exist.

(3) If a change in disability has occurred, a medical examination shall be secured. The medical reports shall be evaluated by the office of personal health services to determine whether permanent and total disability continues to exist.

[Statutory Authority: RCW 74.08.090. 83-10-077 (Order 1958), § 388-93-035, filed 5/4/83; Order 996, § 388-93-035, filed 12/31/74.]

WAC 388-93-040 Computation of available income. (1) Income and net income shall be as defined in WAC 388-22-030. Total income of a beneficiary of supplementary security income is not considered an available resource except for institutionalized recipients.

(2) To arrive at available income, the following items shall be deducted from net income:

(a) Support payments being paid by the recipient under court order;

(b) Special nonmedical needs, such as payment to a wage earner's plan (specified by the court in a bankruptcy proceeding), or previously contracted major household repairs if failure to make such payments would result in garnishment of wages or loss of employment;

(c) Tax rebates or special payments exempted by federal regulations and publicized by numbered memoranda from the state office.

(3) The exempt earned income shall be:

(a) For a former recipient of old age assistance or of disability assistance - the first \$20 plus one-half of the next \$60;

(b) For a former recipient of aid to the blind - the first \$85 plus one-half of the amount over \$85.

(4) Personal and nonpersonal work expense shall be deducted from earned income as follows:

(a) Mandatory deductions as required by law or as a condition of employment;

(b) Necessary cost of public transportation or eight cents a mile for private car to and from place of employment;

(c) Expenses of employment which are necessary to that employment such as tools, materials, union dues;

(d) Additional clothing costs: for an individual doing clerical work, \$5.70; for an individual doing manual work, \$3.60; for persons enrolled in a remedial education or vocational training course, the actual cost of uniforms and/or special clothing;

(e) The cost of child care necessary to employment if not provided without cost or as departmental service. The actual expense shall be deducted but not to exceed standard in WAC 388-16-215.

[Statutory Authority: RCW 74.08.090. 78-02-024 (Order 1265), § 388-93-040, filed 1/13/78; Order 1067, § 388-93-040, filed 11/17/75; Order 996, § 388-93-040, filed 12/31/74.]

WAC 388-93-045 Monthly maintenance standard--Individual living in own home. (1) The following monthly standards of available income for maintenance in dollar amounts shall apply when determining financial eligibility.

| FAMILY SIZE | STANDARD | FAMILY SIZE | STANDARD |
|-------------|----------|-------------|----------|
| 1 | \$195 | 10 | \$591 |
| 2 | 237 | 11 | 635 |
| 3 | 282 | 12 | 679 |
| 4 | 327 | 13 | 723 |
| 5 | 371 | 14 | 768 |
| 6 | 415 | 15 | 812 |
| 7 | 459 | 16 | 856 |
| 8 | 503 | 17 | 900 |
| 9 | 547 | 18 | 944 |

(2) \$44 shall be added for each additional member.

[Order 996, § 388-93-045, filed 12/31/74.]

WAC 388-93-050 Monthly maintenance standard—Individual in institution. (1) The monthly standard for clothing and personal maintenance for an individual in a skilled nursing facility or general hospital shall be \$25.

(2) The monthly standard for clothing and personal maintenance for an individual in an intermediate care facility shall be \$27.30.

[Order 996, § 388-93-050, filed 12/31/74.]

WAC 388-93-055 Allocation of available income and nonexempt resources. (1) The individual's available income determined according to WAC 388-93-040 and nonexempt resources determined according to WAC 388-93-060 and 388-93-065 shall be allocated for the purposes and in the order specified in this section.

(2) Maintenance needs of the individual living in his own home, or of legal dependents living in the family home if the individual is in an institution;

(a) The maintenance standards in WAC 388-93-045 shall apply unless the legal dependents are applying for or receive public assistance when the appropriate grant standards shall apply.

(3) Maintenance needs according to WAC 388-93-050 for an individual in an institution;

(4) Supplementary medical insurance premiums for an individual not in a nursing home who is eligible for medicare during the month of authorization and the month following if not withheld from the RDSI or RR benefit (see WAC 388-81-060);

(5) Health and accident insurance premiums for policies continued in force from time of application;

(6) Costs not covered under this program for medical or remedial care as determined necessary by eligible providers according to WAC 388-87-005 (2)(a) and (h) initiated during a period of certification. (See WAC 388-91-016 (1)(a).)

(7) Participation in cost of care provided under this program except as provided in subsection (8); however, participation may not exceed:

(a) The excess regular income multiplied by six or the anticipated excess income that will be available within a six-month period, whichever is greater,

(b) The resources in excess of those listed in WAC 388-28-430 (2)(a) - (see WAC 388-93-060),

(c) Additional cash resources that come into possession of the individual during a period of certification.

[Title 388 WAC—p 416]

(8) The twenty percent increase in social security benefits shall be considered exempt income when determining eligibility and participation for persons who in August 1972 received OAA, AFDC, AB or DA and also received RDSI benefits and who became ineligible for OAA, AFDC, AB or DA solely because of the twenty percent increase in social security benefits under Public Law 92-366.

[Order 1061, § 388-93-055, filed 10/8/75; Order 996, § 388-93-055, filed 12/31/74.]

WAC 388-93-060 Exempt resources. In determining the eligibility of the grandfathered recipient the rules for exempt resources in WAC 388-28-420, 388-28-430, and 388-28-580 shall apply. When separate property is a consideration, see WAC 388-28-365 and 388-28-370.

[Statutory Authority: RCW 74.08.090. 83-10-077 (Order 1958), § 388-93-060, filed 5/4/83; Order 996, § 388-93-060, filed 12/31/74.]

WAC 388-93-065 Nonexempt resources. (1) All resources not specifically exempted in WAC 388-93-060 shall be considered available for medical and nonmedical needs following priorities set forth in WAC 388-93-045 through 388-93-055. Value shall be assigned resources according to WAC 388-28-450 and 388-28-455.

(2) The possession of a nonexempt resource affects eligibility for medical care. Except for nonexempt real property, the value assigned to such resources shall be the "fair market value." The "fair market value" of the resource is considered available toward the cost of medical care. Such amount is considered at the time of each review for as long as the resource is possessed by the applicant. See WAC 388-85-020.

(3) In assigning value to nonexempt real property as described in WAC 388-28-055 for sequence followed shall be:

(a) First consideration shall be given to the sale of nonexempt real property based on the "quick sale value."

(b) If sale is not possible, rental or lease must be considered with the income derived from such rental or lease being considered available to meet the cost of medical care.

(c) If the property cannot be sold, rented, or leased and if the applicant has used reasonable diligence in seeking a purchaser, renter, or leasee, then no resource value for this property shall be considered to exist for the purpose of determining eligibility. The property shall remain on the market for as long as the applicant is certified for medical care.

(4) An application for medical assistance from a person who refuses to dispose of his property or refuses to attempt to dispose of his property as provided in subsection (2)(a), (b) and (c) shall be denied.

[Order 996, § 388-93-065, filed 12/31/74.]

WAC 388-93-075 Continuing certification. (1) A grandfathered recipient who continues to meet requirements of WAC 388-93-015, 388-93-045, 388-93-060, 388-93-065 and 388-93-070 may be recertified for medical assistance.

(2) A grandfathered recipient who does not continue to meet requirements in subsection (1) shall be terminated. See WAC 388-93-080.

[Order 996, § 388-93-075, filed 12/31/74.]

WAC 388-93-080 Application following termination of eligibility. The eligibility of an individual applying for medical care after termination of his eligibility as a grandfathered recipient shall be determined according to chapter 388-92 WAC.

[Statutory Authority: RCW 74.08.090, 83-10-077 (Order 1958), § 388-93-080, filed 5/4/83; Order 996, § 388-93-080, filed 12/31/74.]

Chapter 388-95 WAC

**INSTITUTIONAL--MEDICAL ASSISTANCE--
ELIGIBILITY**

WAC

- 388-95-300 Recipients in medical institutions eligible under Title XIX.
- 388-95-320 Eligibility determination--Institutional.
- 388-95-335 Availability of income.
- 388-95-337 Availability of resources.
- 388-95-340 Computation of available income and resources.
- 388-95-360 Allocation of income--Institutionalized recipient.
- 388-95-380 Excluded resources.
- 388-95-390 Limitation of resources.
- 388-95-395 Transfer of resources.
- 388-95-400 Medically needy--Eligibility determination--Institutional.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 388-95-005 Definitions. [Statutory Authority: RCW 74.08.090, 78-09-052 (Order 1328), § 388-95-005, filed 8/22/78; Order 1233, § 388-95-005, filed 8/31/77; Order 1044, § 388-95-005, filed 8/14/75.] Repealed by 83-12-059 (Order 1964), filed 6/1/83. Statutory Authority: RCW 74.08.090.
- 388-95-010 Eligibility for aged person. [Statutory Authority: RCW 74.08.090, 78-09-052 (Order 1328), § 388-95-010, filed 8/22/78; Order 1044, § 388-95-010, filed 8/14/75.] Repealed by 83-12-059 (Order 1964), filed 6/1/83. Statutory Authority: RCW 74.08.090.
- 388-95-025 Notification and application process. [Statutory Authority: RCW 74.08.090, 78-09-052 (Order 1328), § 388-95-025, filed 8/22/78; Order 1044, § 388-95-025, filed 8/14/75.] Repealed by 83-12-059 (Order 1964), filed 6/1/83. Statutory Authority: RCW 74.08.090.
- 388-95-030 Certification of eligibility. [Statutory Authority: RCW 74.08.090, 78-09-052 (Order 1328), § 388-95-030, filed 8/22/78; Order 1044, § 388-95-030, filed 8/14/75.] Repealed by 83-12-059 (Order 1964), filed 6/1/83. Statutory Authority: RCW 74.08.090.
- 388-95-035 Effective date of authorization. [Order 1044, § 388-95-035, filed 8/14/75.] Repealed by 83-12-059 (Order 1964), filed 6/1/83. Statutory Authority: RCW 74.08.090.
- 388-95-040 Duration of certification. [Order 1044, § 388-95-040, filed 8/14/75.] Repealed by 83-12-059 (Order 1964), filed 6/1/83. Statutory Authority: RCW 74.08.090.
- 388-95-045 Medical consultant approval for hospitalization or medical care--When required. [Order 1044, § 388-95-045, filed 8/14/75.] Repealed by 83-12-059 (Order 1964), filed 6/1/83. Statutory Authority: RCW 74.08.090.

- 388-95-050 Time-limited visit. [Order 1044, § 388-95-050, filed 8/14/75.] Repealed by 78-09-052 (Order 1328), filed 8/22/78. Statutory Authority: RCW 74.08.090.
- 388-95-055 Department responsibilities for patient/recipient entering psychiatric facility. [Statutory Authority: RCW 74.08.090, 78-09-052 (Order 1328), § 388-95-055, filed 8/22/78; Order 1044, § 388-95-055, filed 8/14/75.] Repealed by 83-12-059 (Order 1964), filed 6/1/83. Statutory Authority: RCW 74.08.090.
- 388-95-060 Services to patient/recipient in psychiatric facility. [Statutory Authority: RCW 74.08.090, 78-09-052 (Order 1328), § 388-95-060, filed 8/22/78; Order 1044, § 388-95-060, filed 8/14/75.] Repealed by 83-12-059 (Order 1964), filed 6/1/83. Statutory Authority: RCW 74.08.090.
- 388-95-065 Coordination of services for patient/recipient. [Statutory Authority: RCW 74.08.090, 78-09-052 (Order 1328), § 388-95-065, filed 8/22/78; Order 1044, § 388-95-065, filed 8/14/75.] Repealed by 83-12-059 (Order 1964), filed 6/1/83. Statutory Authority: RCW 74.08.090.
- 388-95-070 Department responsibilities--Patient/recipient scheduled for release. [Statutory Authority: RCW 74.08.090, 78-09-052 (Order 1328), § 388-95-070, filed 8/22/78; Order 1044, § 388-95-070, filed 8/14/75.] Repealed by 83-12-059 (Order 1964), filed 6/1/83. Statutory Authority: RCW 74.08.090.
- 388-95-075 ESSO responsibility for social services. [Statutory Authority: RCW 74.08.090, 78-09-052 (Order 1328), § 388-95-075, filed 8/22/78; Order 1044, § 388-95-075, filed 8/14/75.] Repealed by 83-12-059 (Order 1964), filed 6/1/83. Statutory Authority: RCW 74.08.090.
- 388-95-080 Payment for care. [Order 1044, § 388-95-080, filed 8/14/75.] Repealed by 83-12-059 (Order 1964), filed 6/1/83. Statutory Authority: RCW 74.08.090.
- 388-95-210 Eligibility for person under age 21. [Statutory Authority: RCW 74.08.090, 78-09-052 (Order 1328), § 388-95-210, filed 8/22/78; Order 1044, § 388-95-210, filed 8/14/75.] Repealed by 83-12-059 (Order 1964), filed 6/1/83. Statutory Authority: RCW 74.08.090.
- 388-95-215 Scope of care. [Order 1044, § 388-95-215, filed 8/14/75.] Repealed by 83-12-059 (Order 1964), filed 6/1/83. Statutory Authority: RCW 74.08.090.
- 388-95-225 Notification process. [Statutory Authority: RCW 74.08.090, 78-09-052 (Order 1328), § 388-95-225, filed 8/22/78; Order 1044, § 388-95-225, filed 8/14/75.] Repealed by 83-12-059 (Order 1964), filed 6/1/83. Statutory Authority: RCW 74.08.090.
- 388-95-235 Effective date of Title XIX coverage. [Order 1044, § 388-95-235, filed 8/14/75.] Repealed by 83-12-059 (Order 1964), filed 6/1/83. Statutory Authority: RCW 74.08.090.
- 388-95-250 Therapeutic visit. [Order 1044, § 388-95-250, filed 8/14/75.] Repealed by 78-09-052 (Order 1328), filed 8/22/78. Statutory Authority: RCW 74.08.090.
- 388-95-255 Department responsibility--Admission. [Statutory Authority: RCW 74.08.090, 78-09-052 (Order 1328), § 388-95-255, filed 8/22/78; Order 1044, § 388-95-255, filed 8/14/75.] Repealed by 83-12-059 (Order 1964), filed 6/1/83. Statutory Authority: RCW 74.08.090.
- 388-95-260 Services in facility. [Statutory Authority: RCW 74.08.090, 78-09-052 (Order 1328), § 388-95-260, filed 8/22/78; Order 1044, § 388-95-260, filed 8/14/75.] Repealed by 83-12-059 (Order 1964), filed 6/1/83. Statutory Authority: RCW 74.08.090.
- 388-95-265 Coordination of services. [Statutory Authority: RCW 74.08.090, 78-09-052 (Order 1328), § 388-95-265, filed 8/22/78; Order 1044, § 388-95-265, filed 8/14/75.] Repealed by 83-12-059 (Order 1964), filed 6/1/83. Statutory Authority: RCW 74.08.090.
- 388-95-270 Department responsibilities--Release. [Statutory Authority: RCW 74.08.090, 78-09-052 (Order 1328), §

- 388-95-270, filed 8/22/78; Order 1044, § 388-95-270, filed 8/14/75.] Repealed by 83-12-059 (Order 1964), filed 6/1/83. Statutory Authority: RCW 74.08.090.
- 388-95-275 Supportive social service by ESSO. [Statutory Authority: RCW 74.08.090. 78-09-052 (Order 1328), § 388-95-275, filed 8/22/78; Order 1044, § 388-95-275, filed 8/14/75.] Repealed by 82-01-042 (Order 1734), filed 12/16/81. Statutory Authority: RCW 74.08.090.
- 388-95-280 Conditions for payment. [Statutory Authority: RCW 74.08.090. 78-09-052 (Order 1328), § 388-95-280, filed 8/22/78; Order 1044, § 388-95-280, filed 8/14/75.] Repealed by 83-12-059 (Order 1964), filed 6/1/83. Statutory Authority: RCW 74.08.090.

WAC 388-95-300 Recipients in medical institutions eligible under Title XIX. Medical assistance is available to an otherwise eligible individual who is in a Title XIX certified medical facility defined as:

- (1) A general hospital;
- (2) A skilled nursing home;
- (3) An intermediate care facility;
- (4) An intermediate care facility for mentally retarded;
- (5) In state mental institutions, only eligible individuals age sixty-five and over and under age twenty-one;
- (6) An approved inpatient psychiatric facility for eligible individuals under age twenty-one.

[Statutory Authority: RCW 74.08.090. 83-12-059 (Order 1964), § 388-95-300, filed 6/1/83. Formerly WAC 388-82-125.]

WAC 388-95-320 Eligibility determination--Institutional. (1) Individuals are considered institutionalized if they reside or are expected to reside in a medical facility for thirty consecutive days.

(a) Title XVI-related individuals in medical facilities shall have their eligibility determined by comparing their gross income to three hundred percent of the SSI federal benefit amount payable under section 1611 (b)(1) of the Social Security Act to an individual residing in their own home who has no income or resources (SSI cap).

(b) If gross income is greater than three hundred percent of SSI cap, the individual's eligibility shall be determined under the limited casualty program--medically needy in chapter 388-99 WAC.

(c) Allocation of recipient income is defined in WAC 388-95-360.

(d) Consideration of resources is described under WAC 388-95-380 and 388-95-390.

(e) Transferring of resources is described under WAC 388-95-395.

(2) Individuals residing or are expected to reside in a medical facility less than thirty consecutive days shall have their eligibility determined as for a noninstitutionalized person.

(3) Individuals seventeen years of age or under residing in an approved inpatient psychiatric facility shall have their eligibility determined as follows:

(a) If the individual's absence from the home is temporary, the income and resources of the parents are considered available whether income and resources are actually contributed. Absence is considered temporary if

the individual is placed in an acute care facility and return to the home is expected within ninety days.

(b) If the individual's absence from the home is other than temporary, the income and resources of the parents are not considered available unless income and resources are actually contributed. Absence is considered other than temporary if the individual is:

(i) Placed in an acute care facility and return to the home is not expected within ninety days, i.e., following discharge, placement will be other than in the home; or

(ii) Placed in an approved inpatient psychiatric long-term care facility.

(4) For individuals eighteen through twenty years of age residing in an approved inpatient psychiatric facility, the department shall not consider the income and resources of the parents available unless the income and resources are actually contributed.

[Statutory Authority: RCW 74.08.090. 90-12-062 (Order 3020), § 388-95-320, filed 5/31/90, effective 7/1/90; 86-08-005 (Order 2351), § 388-95-320, filed 3/20/86; 83-12-059 (Order 1964), § 388-95-320, filed 6/1/83. Formerly WAC 388-83-135.]

WAC 388-95-335 Availability of income. (1) Income is defined under WAC 388-92-005 for a supplemental security income (SSI)-related applicant or recipient and under WAC 388-22-030 for an aid to families with dependent children (AFDC)-related applicant or recipient.

(2) The methodology and standards for determining and evaluating income are defined under WAC 388-95-320 and 388-95-340.

(3) After September 30, 1989, the department shall consider the following income, less veteran's aid and attendance allowance, available to an institutionalized person when determining income eligibility unless the criteria in subsection (4) of this section is met:

(a) Income the institutionalized spouse receives in the institutionalized spouse's name;

(b) Income paid on behalf of the institutionalized spouse, but received in the name of the institutionalized spouse's representative;

(c) One-half of the income the community and institutionalized spouses receive in both names; and

(d) Income in a trust as provided by the trust.

(4) After September 30, 1989, the department shall consider the following income as available to an institutionalized person when:

(a) Both spouses are institutionalized; or

(b) The income in subsection (3) of this section, plus recurring medical costs is above the private rate of the facility; and

(c) The use of the income, in this subdivision, less veteran's aid and attendance allowance shall cause the institutionalized person's income, plus recurring medical costs, to be under the private rate of the facility. The department shall:

(i) Use community property law in determining ownership of income for purposes of Medicaid eligibility;

(ii) Presume all income received after marriage by either husband or wife or both to be community income;

(iii) Divide the total of the community income, received by the husband and the wife, by two with one-half of the total assigned to each person as their income; and

(iv) Consider if the community income received in the name of the nonapplicant spouse exceeds the community income received in the name of the applicant spouse, the applicant's interest in that excess shall be unavailable to the applicant.

(5) The department shall consider income the community spouse receives in the community spouse's name as not available to the institutionalized spouse.

(6) An agreement between spouses transferring or assigning rights to future income from one spouse to the other is invalid in determining eligibility for medical assistance or the limited casualty program for the medically needy.

(7) The department recognizes income produced by transferred or assigned resources as the separate income of the transferee.

(8) If an institutionalized spouse establishes the unavailability of income by a preponderance of evidence through a fair hearing, subsection (3) of this section shall not apply.

(9) See WAC 388-92-035 for treatment of advance dated checks, electronically transferred funds and garnished income.

[Statutory Authority: RCW 74.08.090. 90-24-089 (Order 3108), § 388-95-335, filed 12/5/90, effective 1/5/91; 89-23-080 (Order 2898), § 388-95-335, filed 11/17/89, effective 12/18/89. Statutory Authority: 1989 [1st ex.s.] c 5352 [19]. 89-18-056 (Order 2864), § 388-95-335, filed 9/1/89, effective 10/2/89. Statutory Authority: RCW 74.08.090. 86-18-005 (Order 2411), § 388-95-335, filed 8/21/86; 85-09-024 (Order 2224), § 388-95-335, filed 4/10/85.]

WAC 388-95-337 Availability of resources.

(1) Resources are defined under WAC 388-92-005 for the SSI-related applicant or recipient and under WAC 388-22-030 for an AFDC-related applicant or recipient.

(2) The methodology and standards for determining and evaluating resources are under WAC 388-95-340, 388-95-380, and 388-95-390. Transfers of resources are evaluated under WAC 388-95-395.

(3) The department shall follow Washington state community property principles in determining the ownership of resources:

(a) For persons whose most recent period of institutionalization:

(i) Began before October 1, 1989; and

(ii) Remains continuously institutionalized.

(b) For purposes of Medicaid eligibility, the department shall presume all resources are:

(i) Community resources if jointly held in the names of both the husband and wife, or in the name of the applicant/recipient only;

(ii) The separate property of the nonapplicant spouse if:

(A) Held in the separate name of the nonapplicant spouse; or

(B) Transferred between spouses as described under WAC 388-92-043(6).

(c) The department shall divide by two, the total value of the community resources the husband and wife own and assign one-half of the total value to each spouse.

(4) A person is no longer continuously institutionalized if, for thirty consecutive days, the person:

(a) Is absent from an institution; or

(b) Does not receive COPES/CAP waived services.

(5) The department shall use the following criteria for the purpose of determining Medicaid eligibility of a person, whose most recent continuous period of institutionalization starts on or after October 1, 1989:

(a) The department shall exclude resources in WAC 388-95-380 with the exception of subsection (3) under WAC 388-95-380. One automobile per couple is totally excluded without regard to use;

(b) The department shall consider available to the community spouse, resources in the names of either the community spouse or the institutionalized spouse, except resources exceeding the greater of:

(i) Sixty-two thousand five hundred eighty dollars;

(ii) An amount established by a fair hearing under chapter 388-08 WAC if the community spouse's resource allowance is inadequate to provide a minimum monthly maintenance needs allowance; or

(iii) An amount ordered transferred to the community spouse by the court.

(c) The resources available to the community spouse shall be in the name of the community spouse or transferred to the community spouse or to another for sole benefit of the community spouse before the first regularly scheduled eligibility review after the initial eligibility determination is completed; and

(d) The department shall consider resources greater than such resources in subsection (5)(b) of this section available to the institutional spouse.

(6) The department shall consider resources of the community spouse:

(a) Unavailable to the institutionalized spouse during a continuous period of institutionalization; or

(b) When the institutionalized spouse acquires resources in excess of the one-person resource maximum, if the most recent period of institutionalization began after September 30, 1989.

[Statutory Authority: RCW 74.08.090. 90-12-049 (Order 3007), § 388-95-337, filed 5/31/90, effective 7/1/90; 89-23-080 (Order 2898), § 388-95-337, filed 11/17/89, effective 12/18/89. Statutory Authority: 1989 [1st ex.s.] c 5352 [19]. 89-18-056 (Order 2864), § 388-95-337, filed 9/1/89, effective 10/2/89. Statutory Authority: RCW 74.08.090. 88-01-042 (Order 2567), § 388-95-337, filed 12/11/87.]

WAC 388-95-340 Computation of available income and resources. (1) Financial responsibility of spouses.

(a) If both spouses apply or are eligible as aged, blind, or disabled and cease to live together their income and resources are considered available to each other for the time periods considered below. After the appropriate time period only the income and resources that are actually contributed by one spouse to the other are considered available.

(i) If spouses cease to live together because of the institutionalization of one spouse—

(A) Consider their income as available to each other through the month in which they cease to live together. Mutual consideration of income ceases with the month after the month in which separation occurs.

(B) Consider their resources as available to each other for the month during which they cease to live together and the six months following that month.

(ii) If spouses cease to live together for any reason other than institutionalization consider their income and resources as available to each other for the month during which they cease to live together and the six months following that month. If the mutual consideration of income and resources causes the individuals to lose eligibility as a couple, the agency will determine if an individual is eligible in accordance with subsection (b) of this section.

(b) If only one spouse in a couple applies or is eligible, or both spouses apply and are not eligible as a couple, and they cease to live together consider only the income and resources of the ineligible spouse that are actually contributed to the eligible spouse beginning with the month after the month in which they cease to live together.

(c) When both spouses are eligible and institutionalized income and resources are considered separately even if they share the same room.

(d) When only one spouse is eligible and both are institutionalized consider only the income and resources of the ineligible spouse that are actually contributed to the eligible spouse, even if they share the same room.

(e) If the community income received in the name of the nonapplicant spouse exceeds the community income received in the name of the applicant spouse, the applicant's interest in that excess is considered unavailable to the applicant.

(2) Relative responsibility shall be limited to spouse for spouse and parent for child.

(3) For children age eighteen to twenty-one the parents' income is not deemed to the child. Count only the income that is actually contributed to the child.

(4) Exclusions from income. The following shall be excluded sequentially from income:

(a) Any amount received from any public agency as a return or refund of taxes paid on real property or on food purchased by such individual or spouse;

(b) Supplemental security income and state public assistance based on financial need;

(c) Any portion of any grant, scholarship, or fellowship received for use in paying the cost of tuition and fees at any educational institution;

(d) Income that is not reasonably anticipated, or received infrequently or irregularly, if such income does not exceed twenty dollars per month if unearned, or ten dollars per month if earned;

(e) One-third of any payment for child support received from an absent parent;

(f) The first twenty dollars per month of earned or unearned income. There is no exclusion on income which

is paid on the basis of need and is totally or partially funded by the federal government or by a private agency;

(g) Tax exempt payments received by Alaska natives under the Alaska Native Claims Settlement Act;

(h) Tax rebates or special payments excluded by other statutes;

(i) Compensation provided to volunteers in ACTION programs established by Public Law 93-113, the Domestic Volunteer Service Act of 1973;

(j) Veteran's benefits, only the following portions are excluded.

(i) The veteran's aid and attendance/house bound allowance.

(ii) The portion attributable to the dependent.

(k) A fee charged by a guardian to reimburse himself or herself for services provided.

(l) Income received by an ineligible or nonapplying spouse from a governmental agency for services provided to an eligible recipient (e.g. chore services).

(5) Earned income exclusions for SSI related individuals shall be the first sixty-five dollars per month of earned income not excluded according to subsection (4) of this section, plus one-half of the remainder.

(6) Money voluntarily withheld from SSA Title II benefits by the Social Security Administration (for the recovery of SSI overpayments) is considered as available income for the institutionalized individual's contribution toward the cost of care.

[Statutory Authority: RCW 74.08.090, 86-18-005 (Order 2411), § 388-95-340, filed 8/21/86; 84-17-012 (Order 2132), § 388-95-340, filed 8/3/84; 84-02-056 (Order 2064), § 388-95-340, filed 1/4/84; 83-12-059 (Order 1964), § 388-95-340, filed 6/1/83.]

WAC 388-95-360 Allocation of income—Institutionalized recipient. (1) In reducing payment to the institution, the department shall consider the institutionalized recipient's income under WAC 388-95-335 (3)(a), (b), (c), and (d).

(2) The department shall deduct the following amounts, in the following order, from the institutionalized recipient's total income, including amounts excluded in determining eligibility:

(a) Specified personal needs allowance;

(b) An amount an SSI, AFDC, or FIP-related client in a medical facility receives as a cash assistance payment sufficient to bring the client's income up to the personal needs allowance;

(c) The current personal needs allowance plus wages the SSI-related client receives 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 the total wages received plus the personal needs allowance do not exceed the one-person medically needy income level:

(i) No deductions are allowed for expenses of employment; and

(ii) 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.

(d) An amount for the community spouse equal to the standard maintenance need of one thousand two hundred fifty-eight dollars less the separate income of the community spouse. The department shall increase the standard need maintenance amount by:

(i) Shelter expenses exceeding two hundred fifty-six dollars and eighty cents. The department shall calculate actual expenses for the community spouse's principal residence for:

- (A) Rent;
- (B) Mortgage;
- (C) Taxes and insurance;
- (D) Any maintenance charge for a condominium or cooperative; and
- (E) A food stamp standard allowance for utilities provided the utilities are not included in the maintenance charges for a condominium or cooperative.

(ii) The total of the standard maintenance need amount and the shelter expenses shall not exceed one thousand five hundred sixty-five dollars, unless:

(A) A court enters an order against the institutionalized client for the community spouse support in excess of this amount; or

(B) A hearings officer determines a greater amount is needed because of exceptional circumstances resulting in extreme financial duress.

(e) An amount for the maintenance needs of a family member residing with the community spouse equal to one-third of the amount eight hundred fifty-six dollars exceeds the family member's income for each:

- (i) Dependent or minor child;
- (ii) Dependent parent; or
- (iii) Dependent sibling of the institutionalized or community spouse;

(f) If an institutional recipient does not have a community spouse, an amount for the maintenance needs of family members residing in the recipient's home is equal to the medically needy income level for the number of legal dependents in the home less the income of the dependents;

(g) 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; and
- (ii) Necessary medical care recognized under state law, but not covered under Medicaid.

(h) Maintenance of the home of a single person or couple:

- (i) Up to one hundred eighty dollars per month; and
- (ii) Limited to a six-month period; and
- (iii) A physician has certified that either of the individuals 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 person's circumstances after ninety days.

(3) The department shall not deduct specified personal needs allowance, community spouse, needy dependent maintenance needs, or home maintenance needs from a veteran's aid and attendance allowance.

(4) The recipient shall use the income remaining after allocations specified in subsection (2) of this section, toward payment of the recipient's cost of care at the department rate.

(5)(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 the:

(i) Stay in the institution or facility is not expected to exceed three months; and

(ii) SSI-related clients plan to return to their former living arrangements.

(b) The department shall not consider the SSI payment when computing the participation amount.

[Statutory Authority: RCW 74.08.090. 90-12-049 (Order 3007), § 388-95-360, filed 5/31/90, effective 7/1/90; 89-23-080 (Order 2898), § 388-95-360, filed 11/17/89, effective 12/18/89. Statutory Authority: 1989 [1st ex.s.] c 5352 [19]. 89-18-056 (Order 2864), § 388-95-360, filed 9/1/89, effective 10/2/89. 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 388-95-390 Limitation of resources. The total value of resources allowed and not otherwise excluded shall not exceed the dollar amount in subsection (1) of this section for a single individual or the dollar amount in subsection (2) of this section for a couple.

(1) The resource limitation for a single individual shall be \$1,500 prior to January 1, 1985 and shall be increased to \$1,600 on January 1, 1985, to \$1,700 on January 1, 1986, to \$1,800 on January 1, 1987, to \$1,900 on January 1, 1988 and to \$2,000 on January 1, 1989.

(2) The resource limitation for a couple shall be \$2,250 prior to January 1, 1985, and shall be increased to \$2,400 on January 1, 1985, to \$2,550 on January 1, 1986, to \$2,700 on January 1, 1987, to \$2,850 on January 1, 1988, and to \$3,000 on January 1, 1989.

[Statutory Authority: RCW 74.08.090. 85-03-072 (Order 2194), § 388-95-390, filed 1/17/85; 83-12-059 (Order 1964), § 388-95-390, filed 6/1/83.]

WAC 388-95-395 Transfer of resources. (1) The terms in this section shall have the following definitions:

(a) "Institutionalized individual" means an individual who is:

- (i) An inpatient in a nursing facility;
- (ii) An inpatient in a medical institution where the payment is made for a level of care provided in a nursing facility; or
- (iii) In need of the level of care provided in a nursing facility or medical institution, but receiving home or community-based services under WAC 388-83-200 and 388-83-210; and
- (iv) Expected to be in the nursing facility, medical institution, or receiving home or community-based services under WAC 388-83-200 and 388-83-210 for thirty consecutive days or more.

(b) "Community spouse" means the person married to an institutionalized individual;

(c) "Transfer" means any act or an omission to act whereby title to or any interest in property is assigned, set over, or otherwise vested or allowed to vest in another person, including but not limited to delivery of personal property, bills of sale, deeds, mortgages,

pledges, or any other instrument conveying or relinquishing an interest in property;

(d) "Fair market value" means the price the resource may reasonably sell for on the open market at the time of transfer or assignment;

(e) "Uncompensated value" means the fair market value of a resource at the time of transfer minus the value of compensation the individual receives in exchange for the resource;

(f) "Value of compensation received" means the consideration the purchaser pays or agrees to pay. Compensation includes:

(i) All money, real or personal property, food, shelter, or services the individual receives under a legally enforceable agreement whereby the eligible individual shall transfer the resource; and

(ii) The payment or assumption of a legal debt the individual owes in exchange for the resource.

(g) "Undue hardship" means the client's inability to meet shelter, food, clothing, and health care needs.

(2) The department shall consider resource transfers made on or before June 30, 1989 under WAC 388-92-043.

(3) The department shall consider resource transfers made on or after July 1, 1989 under WAC 388-95-395 and shall consider interspousal transfers made on or after October 1, 1989, under subsection (8)(d) of this section.

(4) The department shall not impose any penalty for transfer for less than fair market value of any exempt resource except for the home as provided under subsections (7) and (8) of this section.

(5) The department shall calculate a period of ineligibility for nursing facility services, equivalent nursing facility services in a medical institution, and services described under WAC 388-83-200 and 388-83-210, for the individual transferring a home or nonexempt resource for less than fair market value at any time during or after the thirty-month period immediately before the date:

(a) The individual becomes an institutionalized individual, if eligible for medical assistance on such date; or

(b) If not eligible as of the date of institutionalization, the date an institutionalized individual applies for such services.

(6) The department shall establish a period of ineligibility beginning on the first day of the month in which the individual transfers the home or nonexempt resource. The number of months of ineligibility shall equal the lesser of:

(a) Thirty months; or

(b) The number of months found by dividing the total uncompensated value of the transferred resource by the statewide average monthly cost of nursing facility services to a private patient at the time of the application; and

(c) The period of ineligibility shall not include a partial month.

(7) The department shall not find the individual ineligible for medical assistance if the resource transferred

was a home and the home was transferred to the individual's:

- (a) Spouse; or
- (b) Child who is:
 - (i) Blind or permanently and totally disabled; or
 - (ii) Twenty years of age or under.
- (c) Sibling who has:
 - (i) Equity in the home; and
 - (ii) Lived in the home for one year immediately before the individual became institutionalized.
- (d) Child, other than described under subsection (7)(b) of this section, who:
 - (i) Lived in the home for two years or more immediately before the individual became institutionalized; and
 - (ii) Provided care to the individual to permit the individual to remain at home.
- (8) The department shall not find the individual ineligible for medical assistance if the nonexempt resource other than the home was transferred to:
 - (a) The community spouse; or
 - (b) Another person for the sole benefit of the community spouse; or
 - (c) The individual's blind or permanently and totally disabled child; or
 - (d) The individual's spouse unless such spouse transfers the resource to another person for less than fair market value at any time during the thirty-month period defined under subsection (5) of this section.
- (9) The department shall not find the individual ineligible if the individual can satisfactorily show the department that:
 - (a) He or she intended to transfer the home or nonexempt resource at fair market value or other valuable consideration; or
 - (b) He or she transferred the home or nonexempt resource exclusively for a purpose other than to qualify for medical assistance; or
 - (c) The denial of eligibility would cause an undue hardship.
- (10) A person or the spouse of such a person, the department determines ineligible under this section, has the right to request a hearing to appeal the determination. The procedure for the hearing is under chapter 388-08 WAC.

[Statutory Authority: RCW 74.08.090, 89-12-037 (Order 2806), § 388-95-395, filed 6/1/89.]

WAC 388-95-400 Medically needy—Eligibility determination—Institutional. (1) The department shall consider persons institutionalized when the persons reside in or are expected to reside in a medical facility for thirty consecutive days or more.

(a) SSI/SSP-related persons in medical facilities are medically needy if the person's 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.

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(b) The department shall determine applicants for the medically needy program ineligible when countable income is more than the private nursing home rate plus verifiable recurring medical expenses.

(c) 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.

(d) The department shall determine nursing home residents eligible when the nursing home resident's countable income is less than the department's contracted rate plus verifiable recurring medical expenses. These residents shall:

(i) Participate in the cost of nursing home care per WAC 388-95-360 for post-eligibility allocation of income; and

(ii) Be certified for six months.

(e) The department shall determine applicants with countable income less than the private nursing home rate plus recurring medical expenses, but more than the department's contracted rate eligible for nursing home care. These recipients shall:

(i) Participate in the cost of their nursing home care. See WAC 388-95-360 for post-eligibility allocation of income;

(ii) Spenddown all income remaining after allocating income to the department's contracted rate to be eligible for nonnursing home medical care. Medical assistance shall be certified for noninstitutional eligibility only after spenddown has been met; and

(iii) Be certified for nursing home care on a three- or six-month basis. Spenddown of a person's nonnursing home medical expenses shall be on a three- or six-month basis.

(f) For the effect of a social absence from an institutional living arrangement, see WAC 388-88-115.

(g) A transfer between institutions shall not change 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.

[Statutory Authority: RCW 74.08.090, 90-06-037 (Order 2949), § 388-95-400, filed 3/1/90, effective 4/1/90; 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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| 388-96-010 | Terms. |
| 388-96-020 | Prospective cost-related reimbursement. |
| 388-96-023 | Conditions of participation. |
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- 388-96-118 Exception to dual contract. [Order 1168, § 388-96-118, filed 11/3/76.] Repealed by Order 1257, filed 12/21/77.
- 388-96-125 Reporting for an abbreviated period. [Statutory Authority: RCW 74.09.120. 79-04-102 (Order 1387), § 388-96-125, filed 4/4/79; Order 1262, § 388-96-125, filed 12/30/77.] Repealed by 83-19-047 (Order 2025), filed 9/16/83. Statutory Authority: RCW 74.09.120.
- 388-96-200 Condition of qualification for participation in the Washington state cost-related reimbursement system. [Order 1168, § 388-96-200, filed 11/3/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-201 Desk review. [Order 1262, § 388-96-201, filed 12/30/77.] Repealed by 83-19-047 (Order 2025), filed 9/16/83. Statutory Authority: RCW 74.09.120.
- 388-96-203 Initial financial survey report and budgetary report for new providers. [Order 1168, § 388-96-203, filed 11/3/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-206 Prospective daily payment. [Order 1168, § 388-96-206, filed 11/3/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-209 Flat rate payment system option. [Order 1168, § 388-96-209, filed 11/3/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-219 Disclosure of audit narratives and summaries. [Order 1262, § 388-96-219, filed 12/30/77.] Repealed by 83-19-047 (Order 2025), filed 9/16/83. Statutory Authority: RCW 74.09.120.
- 388-96-222 Settlement. [Statutory Authority: RCW 74.09.120. 83-05-007 (Order 1944), § 388-96-222, filed 2/4/83; 81-22-080 (Order 1716), § 388-96-222, filed 11/4/81. Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-222, filed 2/25/81. Statutory Authority: RCW 74.09.120. 79-12-085 (Order 1461), § 388-96-222, filed 11/30/79; 79-04-059 (Order 1382), § 388-96-222, filed 3/28/79. Statutory Authority: RCW 74.08.090 and 74.09.120. 78-06-080 (Order 1300), § 388-96-222, filed 6/1/78; Order 1262, § 388-96-222, filed 12/30/77.] Repealed by 83-19-047 (Order 2025), filed 9/16/83. Statutory Authority: RCW 74.09.120.
- 388-96-223 Shifting. [Statutory Authority: RCW 74.09.120. 81-15-049 (Order 1669), § 388-96-223, filed 7/15/81; 80-15-114 (Order 1561), § 388-96-223, filed 10/22/80; Order 1262, § 388-96-223, filed 12/30/77.] Repealed by 83-19-047 (Order 2025), filed 9/16/83. Statutory Authority: RCW 74.09.120.
- 388-96-225 Date settlement becomes final. [Statutory Authority: RCW 74.09.120. 83-05-007 (Order 1944), § 388-96-225, filed 2/4/83; 81-22-080 (Order 1716), § 388-96-225, filed 11/4/81. Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-225, filed 2/25/81; Order 1262, § 388-96-225, filed 12/30/77.] Repealed by 83-19-047 (Order 2025), filed 9/16/83. Statutory Authority: RCW 74.09.120.
- 388-96-227 Interest on settlements. [Statutory Authority: RCW 74.09.120. 83-05-007 (Order 1944), § 388-96-227, filed 2/4/83; 81-22-080 (Order 1716), § 388-96-227, filed 11/4/81.] Repealed by 83-19-047 (Order 2025), filed 9/16/83. Statutory Authority: RCW 74.09.120.
- 388-96-300 Required reports. [Order 1205, § 388-96-300, filed 4/13/77; Order 1114, § 388-96-300, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-302 Report dates. [Order 1205, § 388-96-302, filed 4/13/77.] Repealed by Order 1262, filed 12/30/77.
- 388-96-303 Uniform reporting forms. [Order 1169, § 388-96-303, filed 11/10/76; Order 1114, § 388-96-303, filed 4/21/76.] Repealed by Order 1205, filed 4/13/77.
- 388-96-305 Approval required for extensions. [Order 1205, § 388-96-305, filed 4/13/77.] Repealed by Order 1262, filed 12/30/77.
- 388-96-306 Short-period report procedure. [Order 1114, § 388-96-306, filed 4/21/76.] Repealed by Order 1205, filed 4/13/77.
- 388-96-308 Late reports. [Order 1205, § 388-96-308, filed 4/13/77.] Repealed by Order 1262, filed 12/30/77.
- 388-96-309 Incorrect or false report. [Order 1114, § 388-96-309, filed 4/21/76.] Repealed by Order 1205, filed 4/13/77.
- 388-96-311 Forms. [Order 1205, § 388-96-311, filed 4/13/77.] Repealed by Order 1262, filed 12/30/77.
- 388-96-312 Amended annual or semiannual report. [Order 1114, § 388-96-312, filed 4/21/76.] Repealed by Order 1205, filed 4/13/77.
- 388-96-314 Completion of reports. [Order 1205, § 388-96-314, filed 4/13/77.] Repealed by Order 1262, filed 12/30/77.
- 388-96-315 Flat rate option for providers (flat rate system). [Order 1114, § 388-96-315, filed 4/21/76.] Repealed by Order 1205, filed 4/13/77.
- 388-96-317 Certification of reports. [Order 1205, § 388-96-317, filed 4/13/77.] Repealed by Order 1262, filed 12/30/77.
- 388-96-318 Reporting requirements. [Order 1114, § 388-96-318, filed 4/21/76.] Repealed by Order 1205, filed 4/13/77.
- 388-96-320 False reports. [Order 1205, § 388-96-320, filed 4/13/77.] Repealed by Order 1262, filed 12/30/77.
- 388-96-321 Extensions. [Order 1114, § 388-96-321, filed 4/21/76.] Repealed by Order 1205, filed 4/13/77.
- 388-96-323 Amendments. [Order 1205, § 388-96-323, filed 4/13/77.] Repealed by Order 1262, filed 12/30/77.
- 388-96-324 Delinquent semiannual or annual reports. [Order 1114, § 388-96-324, filed 4/21/76.] Repealed by Order 1205, filed 4/13/77.
- 388-96-325 Abbreviated reporting period. [Order 1205, § 388-96-325, filed 4/13/77.] Repealed by Order 1262, filed 12/30/77.
- 388-96-326 Retention of records. [Order 1205, § 388-96-326, filed 4/13/77.] Repealed by Order 1262, filed 12/30/77.
- 388-96-327 Determination of prospective daily payment rate. [Order 1114, § 388-96-327, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-330 Rate adjustments and payments. [Order 1114, § 388-96-330, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-333 Annual report settlement. [Order 1114, § 388-96-333, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-336 Contested annual settlement. [Order 1114, § 388-96-336, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-339 Final settlement date. [Order 1114, § 388-96-339, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-342 Uniform system of accounting and reporting. [Order 1169, § 388-96-342, filed 11/10/76; Order 1114, § 388-96-342, filed 4/21/76.] Repealed by Order 1205, filed 4/13/77.
- 388-96-345 Uniform statistical reporting. [Order 1114, § 388-96-345, filed 4/21/76.] Repealed by Order 1205, filed 4/13/77.
- 388-96-348 Method of accounting. [Order 1114, § 388-96-348, filed 4/21/76.] Repealed by Order 1205, filed 4/13/77.
- 388-96-351 Nursing home reports. [Order 1239, § 388-96-351, filed 8/23/77; Order 1205, § 388-96-351, filed 4/13/77; Order 1114, § 388-96-351, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-354 Final settlement report. [Order 1114, § 388-96-354, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-357 Provider records. [Order 1114, § 388-96-357, filed 4/21/76.] Repealed by Order 1205, filed 4/13/77.

- 388-96-360 Audits by the department. [Order 1114, § 388-96-360, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-363 Report certification. [Order 1114, § 388-96-363, filed 4/21/76.] Repealed by Order 1205, filed 4/13/77.
- 388-96-387 Illustration of final settlement form. [Order 1114, § 388-96-387, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-400 The prospective cost-related reimbursement system. [Order 1168, § 388-96-400, filed 11/3/76; Order 1114, § 388-96-400, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-403 Control areas and associated cost centers. [Order 1168, § 388-96-403, filed 11/3/76; Order 1114, § 388-96-403, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-406 Payment of the actual allowable costs by cost center. [Order 1168, § 388-96-406, filed 11/3/76; Order 1114, § 388-96-406, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-409 Discretionary allowance. [Order 1114, § 388-96-409, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-412 Expense allocation procedures. [Order 1114, § 388-96-412, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-415 Expense identification. [Order 1114, § 388-96-415, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-418 Expense recoveries and adjustments. [Order 1114, § 388-96-418, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-421 Allocation of expenses. [Order 1114, § 388-96-421, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-424 Multifacility provider. [Order 1114, § 388-96-424, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-427 Uniform system of accounting. [Order 1114, § 388-96-427, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-430 Separate and distinct SNF and/or ICF. [Order 1114, § 388-96-430, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-433 Combined multifacility. [Order 1114, § 388-96-433, 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-436 Prospective cost reimbursement for combined multifacility. [Order 1114, § 388-96-436, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-439 Payment of the lower of actual costs or prospective per diem rates. [Order 1114, § 388-96-439, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-442 Multifacility flat rate option for providers (flat rate system). [Order 1114, § 388-96-442, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-445 Medical recipient rates. [Order 1114, § 388-96-445, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-448 Medical recipient rates by level of care. [Order 1114, § 388-96-448, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-451 Prospective daily payment rate. [Order 1114, § 388-96-451, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-454 Prospective rate—Inadequate data. [Order 1114, § 388-96-454, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-457 Prospective rate revision. [Order 1114, § 388-96-457, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-458 Prospective rate—Projected (budgeted) cost increases. [Order 1114, § 388-96-458, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-460 Prospective rate—New facility. [Order 1114, § 388-96-460, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-463 Prospective rate—Change in ownership—New provider. [Order 1114, § 388-96-463, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-466 Prospective rate—Change in ownership—Nonarmslength transaction. [Order 1114, § 388-96-466, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-470 Prospective rate—Change in ownership—Armslength transaction. [Order 1114, § 388-96-470, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-473 Final daily settlement rate. [Order 1114, § 388-96-473, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-476 Notification of prospective and final rates. [Order 1114, § 388-96-476, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-479 Adjustments, errors, or omissions. [Order 1114, § 388-96-479, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-500 Provider billing instructions—Nursing home statement. [Order 1114, § 388-96-500, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-510 Billing period. [Order 1114, § 388-96-510, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-520 Suspension of reimbursement formula. [Order 1114, § 388-96-520, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-537 Temporary contract labor. [Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-537, filed 2/25/81.] Repealed by 81-22-081 (Order 1712), filed 11/4/81. Statutory Authority: RCW 74.09.120.
- 388-96-539 Allowable interest. [Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-539, filed 9/16/83; 83-05-007 (Order 1944), § 388-96-539, filed 2/4/83; 81-22-081 (Order 1712), § 388-96-539, filed 11/4/81. Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-539, filed 2/25/81. Statutory Authority: RCW 74.08.090 and 74.09.120. 78-06-080 (Order 1300), § 388-96-539, filed 6/1/78; Order 1262, § 388-96-539, filed 12/30/77.] Repealed by 84-24-050 (Order 2172), filed 12/4/84. Statutory Authority: RCW 74.09.120.
- 388-96-541 Offset of interest income. [Statutory Authority: RCW 74.09.120. 81-22-081 (Order 1712), § 388-96-541, filed 11/4/81. Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-541, filed 2/25/81; Order 1262, § 388-96-541, filed 12/30/77.] Repealed by 84-24-050 (Order 2172), filed 12/4/84. Statutory Authority: RCW 74.09.120.
- 388-96-545 Operating leases of equipment. [Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-545, filed 2/25/81.] Repealed by 81-22-081 (Order 1712), filed 11/4/81. Statutory Authority: RCW 74.09.120.
- 388-96-547 Operating leases of facilities and equipment. [Statutory Authority: RCW 74.09.120. 81-22-081 (Order 1712), § 388-96-547, filed 11/4/81. Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-547, filed 2/25/81; Order 1262, § 388-96-547, filed 12/30/77.] Repealed by 84-24-050 (Order 2172), filed 12/4/84. Statutory Authority: RCW 74.09.120.
- 388-96-549 Rental expense paid to related organizations. [Order 1262, § 388-96-549, filed 12/30/77.] Repealed by 84-24-050 (Order 2172), filed 12/4/84. Statutory Authority: RCW 74.09.120.
- 388-96-563 Depreciation base of assets previously used in medical care program. [Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-563, filed 2/25/81.] Repealed by 81-22-081 (Order

- 1712), filed 11/4/81. Statutory Authority: RCW 74.09.120.
- 388-96-587 Phase-in of other unallowable costs. [Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-587, filed 2/25/81.] Repealed by 81-22-081 (Order 1712), filed 11/4/81. Statutory Authority: RCW 74.09.120.
- 388-96-600 Reasonable costs. [Order 1114, § 388-96-600, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-602 Substance of recoverable cost transactions. [Order 1114, § 388-96-602, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-604 Costs due to changes imposed by regulatory agencies. [Order 1114, § 388-96-604, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-606 Nonreimbursable services and expenses. [Order 1114, § 388-96-606, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-608 Recovery of expenses. [Order 1114, § 388-96-608, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-610 Physical property. [Order 1114, § 388-96-610, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-612 Depreciation. [Order 1114, § 388-96-612, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-614 Historical cost depreciation for new providers and for depreciable assets purchased subsequent to July 1, 1974. [Order 1114, § 388-96-614, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-616 Election of depreciation method for depreciable assets purchased prior to July 1, 1974, by providers entering cost reimbursement at its inception. [Order 1169, § 388-96-616, filed 11/10/76; Order 1114, § 388-96-616, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-618 Guideline lives and methods of depreciation. [Order 1114, § 388-96-618, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-620 Disposal of depreciable assets. [Order 1114, § 388-96-620, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-622 Gains or losses on disposition of major-minor equipment. [Order 1114, § 388-96-622, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-624 Historical cost trade-ins. [Order 1114, § 388-96-624, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-626 Purchase of facility as an ongoing operations. [Order 1114, § 388-96-626, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-628 Partial change of ownership interest. [Order 1114, § 388-96-628, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-630 Donated assets. [Order 1114, § 388-96-630, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-632 Capitalization vs. expense. [Order 1114, § 388-96-632, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-634 Construction in process. [Order 1114, § 388-96-634, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-636 Amortization expense of leasehold improvements. [Order 1114, § 388-96-636, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-638 Leased facilities and equipment. [Order 1114, § 388-96-638, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-640 Interest expense. [Order 1114, § 388-96-640, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-642 Interest rate. [Order 1114, § 388-96-642, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-644 Recovery of interest income. [Order 1114, § 388-96-644, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-646 Interest expense—Related organization. [Order 1114, § 388-96-646, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-648 Construction interest expense. [Order 1114, § 388-96-648, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-650 In-service educational activities. [Order 1114, § 388-96-650, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-652 Owner-administrator compensation and/or allowances. [Order 1114, § 388-96-652, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-654 Relatives of owner compensation and/or allowances. [Order 1114, § 388-96-654, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-656 Owner-administrator of multiple facilities (groups). [Order 1114, § 388-96-656, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-658 Owner allowances. [Order 1114, § 388-96-658, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-660 Preopening expenses. [Order 1114, § 388-96-660, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-662 Discretionary allowance. [Order 1114, § 388-96-662, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-664 Costs of related organization. [Order 1114, § 388-96-664, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-666 Rentals or leases from related organization. [Order 1114, § 388-96-666, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-668 Service charges from related organization. [Order 1114, § 388-96-668, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-700 Appeals [Order 1114, § 388-96-700, filed 4/21/76.] Repealed by Order 1262, filed 12/30/77.
- 388-96-701 Reimbursement principles. [Statutory Authority: RCW 74.09.120. 78-02-013 (Order 1264), § 388-96-701, filed 1/9/78.] Repealed by 81-15-049 (Order 1669), filed 7/15/81. Statutory Authority: RCW 74.09.120.
- 388-96-720 Redistribution pool. [Statutory Authority: RCW 74.09.120. 82-11-065 (Order 1808), § 388-96-720, filed 5/14/82.] Repealed by 83-19-047 (Order 2025), filed 9/16/83. Statutory Authority: RCW 74.09.120.
- 388-96-743 Property cost area rate. [Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-743, filed 9/16/83; 82-21-025 (Order 1892), § 388-96-743, filed 10/13/82; 81-15-049 (Order 1669), § 388-96-743, filed 7/15/81; 80-06-122 (Order 1510), § 388-96-743, filed 5/30/80, effective 7/1/80; 79-12-085 (Order 1461), § 388-96-743, filed 11/30/79; 78-02-013 (Order 1264), § 388-96-743, filed 1/9/78.] Repealed by 84-24-050 (Order 2172), filed 12/4/84. Statutory Authority: RCW 74.09.120.
- 388-96-750 Return on investment. [Statutory Authority: RCW 74.46.800. 84-12-039 (Order 2105), § 388-96-750, filed 5/30/84. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-750, filed 9/16/83; 81-22-080 (Order 1716), § 388-96-750, filed 11/4/81; 80-15-114 (Order 1561), § 388-96-750, filed 10/22/80; 80-06-122 (Order 1510), § 388-96-750, filed 5/30/80, effective 7/1/80; 79-04-061 (Order 1381), § 388-96-750, filed 3/28/79.] Repealed by 84-24-050 (Order 2172), filed 12/4/84. Statutory Authority: RCW 74.09.120.
- 388-96-772 Requests for revision of a prospective rate. [Statutory Authority: RCW 74.09.120. 81-22-081 (Order 1712), § 388-96-772, filed 11/4/81; 78-02-013 (Order 1264), § 388-96-772, filed 1/9/78.] Repealed by 83-19-047 (Order 2025), filed 9/16/83. Statutory Authority: RCW 74.09.120.

- 388-96-773 Adjustments to prospective rates. [Statutory Authority: RCW 74.09.120 and 74.46.800. 85-13-065 (Order 2245), § 388-96-773, filed 6/18/85. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-773, filed 9/16/83.] Repealed by 90-09-061 (Order 2970), filed 4/17/90, effective 5/18/90. Statutory Authority: RCW 79.09.120 [74.09.120] and 74.46.800.
- 388-96-900 Definitions. [Order 1169, § 388-96-900, filed 11/10/76.] Repealed by Order 1262, filed 12/30/77.

WAC 388-96-010 Terms. Unless the context clearly requires otherwise, the following terms shall have the meaning set forth in this section when used in this chapter.

(1) "Accounting" means activities providing information, usually quantitative and often expressed in monetary units, for:

- (a) Decision-making;
- (b) Planning;
- (c) Evaluating performance;
- (d) Controlling resources and operations; and
- (e) 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.

(a) 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.

(b) 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) In the ordinary course of business, is a pledgee of ownership interest under a written pledge agreement and shall not be deemed the beneficial owner of such pledged ownership interest until the pledgee takes:

(i) Formal steps necessary required to declare a default; and

[(ii)] Determines 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 the pledge agreement:

(A) 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

(B) Prior to default, does not grant the pledgee the power to:

(I) Vote or direct the vote of the pledged ownership interest; or

(II) 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 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 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. The 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 the contractor acquired without making any payment for the asset in the form of cash, property, or services.

(a) An asset is not a donated asset if the contractor made even a nominal payment in acquiring the asset.

(b) 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:

(a) 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; or

(b) Beginning January 1, 1985, the replacement cost of an asset, less observed physical depreciation, on the date the fair market value is 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:

(a) Balance sheet;

(b) Statement of operations;

(c) Statement of changes in financial position; and

(d) 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 (GAAP)" means accounting principles approved by the Financial Accounting Standards Board (FASB).

(31) "Generally accepted auditing standards (GAAS)" means auditing standards approved by the American Institute of Certified Public Accountants (AICPA).

(32) "Goodwill" means the excess of the price paid for:

(a) A business over the fair market value of all other identifiable, tangible, and intangible assets acquired; and

(b) 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:

(a) An intermediate care facility when referring to a nursing home;

(b) When referring to a level of care, intermediate care; and

(c) 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 and not in excess of any limits or reimbursement limits set forth in this chapter, 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 under chapter 18.51 RCW, where 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 the 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 the patient 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:

(a) Regularly engaged in the business of providing real estate valuation services for a fee;

(b) Qualified by a nationally recognized real estate appraisal educational organization on the basis of extensive practical appraisal experience, including the:

(i) Writing of real estate valuation reports;

(ii) Passing of written examination on valuation practice and theory; and

(iii) Requirement to subscribe and adhere to certain standards of professional practice as the 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 education or training, and meeting all requirements of state law.

(58) "Recipient" means a medical care recipient.

(59) "Records" means data supporting all financial statements and cost reports including, but not limited to:

(a) All general and subsidiary ledgers;

(b) Books of original entry;

(c) Invoices;

(d) Schedules;

(e) Summaries; and

(f) Transaction documentation, however 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" includes:

(a) The director of nursing services;

(b) Activities and social services programs;

(c) Medical and medical records specialists; and

(d) Consultation provided by:

(i) Medical directors;

(ii) Pharmacists;

(iii) Occupational therapists;

(iv) Physical therapists;

(v) Speech therapists; and

(vi) Other therapists; and

(vii) Mental health professionals as defined in law and regulation.

(62) "Related organization" means an entity under common ownership and/or control, 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" includes:

(a) Spouse;

(b) Natural parent, child, or sibling;

(c) Adopted child or adoptive parent;

(d) Stepparent, stepchild, stepbrother, stepsister;

(e) Father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law;

(f) Grandparent or grandchild; and

(g) 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 of the donor to a specific purpose, in contrast to a fund over which the contractor has complete control. Restricted funds 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:

(a) When referring to a facility, a skilled nursing facility;

(b) When referring to a level of care, skilled nursing care; and

(c) 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:

(a) Administrative and nursing salaries;

(b) Utility costs;

(c) Taxes;

(d) Insurance;

(e) Repairs and maintenance; and

(f) Training costs.

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: RCW 79.09.120 [74.09.120] and 74.46.800. 90-09-061 (Order 2970), § 388-96-010, filed 4/17/90, effective 5/18/90. 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.]

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

WAC 388-96-020 Prospective cost-related reimbursement. The prospective cost-related reimbursement system is the system used by the department to pay for skilled nursing facility services and intermediate care facility services provided to medical care recipients. Reimbursement rates for such services will be determined in accordance with the principles, methods, and standards contained in this chapter and in chapter 74.46 RCW as set forth in this chapter.

[Statutory Authority: RCW 74.09.120 and 74.46.800. 85-13-065 (Order 2245), § 388-96-020, filed 6/18/85. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-020, filed 9/16/83; 82-21-025 (Order 1892), § 388-96-020, filed 10/13/82. Statutory Authority: RCW 74.08.090 and 74.09.120. 78-06-080 (Order 1300), § 388-96-020, filed 6/1/78; Order 1262, § 388-96-020, filed 12/30/77.]

WAC 388-96-023 Conditions of participation. In order to participate in the prospective cost-related reimbursement system, the person or legal organization responsible for operation of a nursing home or multiservice facility shall:

- (1) Obtain a state certificate of need approval pursuant to chapter 70.38 RCW where required;
- (2) Hold the appropriate current license (e.g., nursing home license, hospital license);
- (3) Hold current Title XIX certification to provide SNF and/or ICF services;
- (4) Hold a current contract to provide SNF and/or ICF services; and
- (5) Comply with all provisions of the contract, chapter 74.46 RCW, and all applicable regulations, including but not limited to the provisions of this chapter and of chapter 388-88 WAC.

[Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-023, filed 9/16/83; 82-21-025 (Order 1892), § 388-96-023, filed 10/13/82. Statutory Authority: RCW 74.08.090 and 74.09.120. 78-06-080 (Order 1300), § 388-96-023, filed 6/1/78; Order 1262, § 388-96-023, filed 12/30/77.]

WAC 388-96-026 Projected budget for new contractors. (1) Each new contractor shall submit a projected budget to the department at least sixty days before its contract 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 388-96-029 Change of ownership. (1) On the effective date of a change of ownership, as that term is defined in WAC 388-96-010, the department's contract with the old owner shall be terminated. The old owner shall give the department sixty days' written notice of such termination in accordance with the terms of the contract. When certificate of need approval is required for the new owner to acquire the facility, and the new owner wishes to continue to provide service to recipients without interruption, certificate of need approval shall be obtained before the old owner submits a notice of termination.

(2) If the new owner desires to participate in the cost-related reimbursement system, it shall meet the conditions specified in WAC 388-96-023, and shall submit a projected budget in accordance with WAC 388-96-026 no later than sixty days before the date of the change of ownership. The nursing home contract with the new owner shall be effective as of the date of the change of ownership.

[Statutory Authority: RCW 74.09.120, 74.46.840 and 74.46.800. 85-17-052 (Order 2270), § 388-96-029, filed 8/19/85. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-029, filed 9/16/83; Order 1262, § 388-96-029, filed 12/30/77.]

WAC 388-96-032 Termination of contract. (1) When a contract is terminated for any reason, the old contractor shall submit final reports in accordance with WAC 388-96-104.

(2) Upon notification of a contract termination, the department shall determine by preliminary or final settlement calculations the amount of any overpayments

made to the contractor, including overpayments disputed by the contractor. If preliminary or final settlements are unavailable for any period up to the date of contract termination, the department shall make a reasonable estimate of any overpayment or underpayments for such periods. The reasonable estimate shall be based upon prior period settlements, available audit findings, the projected impact of prospective rates, and other information available to the department.

(3) The old contractor shall provide security, in a form deemed adequate by the department, in the amount of determined and estimated overpayments, whether or not the overpayments are the subject of good-faith dispute. Security shall consist of:

(a) Withheld payments for one or more months of service due the contractor; or

(b) A surety bond issued by a bonding company acceptable to the department; or

(c) An assignment of funds to the department; or

(d) Collateral acceptable to the department; or

(e) A purchaser's assumption of liability for the prior contractor's overpayment; or

(f) Any combination of (a), (b), (c), (d), or (e) of this subsection.

(4) A surety bond or assignment of funds shall:

(a) Be at least equal in amount to determined or estimated overpayments, whether or not the subject of good-faith dispute, minus withheld payments;

(b) Be issued or accepted by a bonding company or financial institution licensed to transact business in Washington state;

(c) Be for a term sufficient to ensure effectiveness after final settlement and the exhaustion of administrative and judicial remedies: *Provided*, That the bond or assignment shall initially be for a term of five years, and shall be forfeited if not renewed thereafter in an amount equal to any remaining overpayment in dispute.

(d) Provide the full amount of the bond or assignment, or both, shall be paid to the department if a properly completed final cost report is not filed in accordance with this chapter, or if financial records supporting this report are not preserved and made available to the auditor; and

(e) Provide that an amount equal to any recovery the department determines is due from the contractor at settlement, but not exceeding the amount of the bond and assignment, shall be paid to the department if the contractor does not pay the refund within sixty days following receipt of written demand or the conclusion of administrative or judicial proceedings to contest settlement issues.

(5) The department shall release any payment withheld as security if alternate security is provided under subsection (3) of this section in an amount equivalent to determined and estimated overpayments.

(6) If the total of withheld payments, bonds, and assignments is less than the total of determined and estimated overpayments, the unsecured amount of such overpayments shall be a debt due the state and shall become a lien against the real and personal property of the

contractor from the time of filing by the department with the county auditor of the county where the contractor resides or owns property, and the lien claim has preference over the claims of all unsecured creditors.

(7) The contractor shall file a properly completed final cost report in accordance with the requirements of this chapter, which shall be audited by the department. A final settlement shall be determined within ninety days following completion of the audit process, including any administrative review of the audit requested by the contractor.

(8) Following determination of settlement for all periods, security held pursuant to this section shall be released to the contractor after overpayments determined in connection with final settlement have been paid by the contractor. If the contractor contests the settlement determination in accordance with WAC 388-96-224, the department shall hold the security, not to exceed the amount of estimated unrecovered overpayments being contested, pending completion of the administrative appeal process.

(9) If, after calculation of settlements for any periods, it is determined that overpayments exist in excess of the value of security held by the state, the department may seek recovery of these additional overpayments as provided by law.

(10) The department may accept an assignment of funds if the assignment meets the requirements of subsection (3) of this section.

(11) If a contract is terminated solely in order for the same owner to contract with the department to deliver SNF or ICF services to a different class of medical care recipients at the same nursing home, the contractor is not required to submit final reports, and security shall not be required.

(12) When a contract is terminated, any accumulated liabilities which are assumed by a new owner shall be reversed against the appropriate accounts by the contractor.

[Statutory Authority: RCW 74.09.120, 74.46.840 and 74.46.800. 85-17-052 (Order 2270), § 388-96-032, filed 8/19/85. Statutory Authority: RCW 74.46.800. 84-12-039 (Order 2105), § 388-96-032, filed 5/30/84. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-032, filed 9/16/83; 82-21-025 (Order 1892), § 388-96-032, filed 10/13/82. Statutory Authority: RCW 74.08.090 and 74.09.120. 78-06-080 (Order 1300), § 388-96-032, filed 6/1/78; Order 1262, § 388-96-032, filed 12/30/77.]

WAC 388-96-101 Reports. Each contractor shall submit to the department an annual cost report for the period from January 1st through December 31st of the preceding year. The department, when it deems necessary to assure the accuracy of cost reports, may require a contractor to submit to the department and may review any underlying financial statements or other records, including income tax returns, which relate to the cost report directly or indirectly.

[Statutory Authority: RCW 74.09.120, 74.46.840 and 74.46.800. 85-17-052 (Order 2270), § 388-96-101, filed 8/19/85. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-101, filed 9/16/83; 79-03-021 (Order 1370), § 388-96-101, filed 2/21/79; Order 1262, § 388-96-101, filed 12/30/77.]

WAC 388-96-104 Due dates for reports. (1) Annual cost reports for a calendar year shall be submitted by March 31st of the following year.

(2) If a contract is terminated for any reason, the old contractor shall submit a final cost report within one hundred twenty days after the effective date of termination for the period January 1st of the year of termination through the effective date of termination.

(3) A new contractor shall submit, by March 31st of the following year, a cost report for the period from the effective date of the contract through December 31st of the year the contract was made effective.

[Statutory Authority: RCW 74.09.120, 74.46.840 and 74.46.800. 85-17-052 (Order 2270), § 388-96-104, filed 8/19/85. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-104, filed 9/16/83; 79-03-021 (Order 1370), § 388-96-104, filed 2/21/79; Order 1262, § 388-96-104, filed 12/30/77.]

WAC 388-96-107 Requests for extensions. (1) 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 388-96-108 Failure to submit final reports.

(1) If a contract is terminated, the old contractor shall submit a final report as required by WAC 388-96-032(1) and 388-96-104(2). Such final reports must be received by the department within one hundred twenty days after the contract is terminated or prior to the expiration of any department-approved extension granted pursuant to WAC 388-96-107. If a final report is not submitted, all payments made to the contractor relating to the period for which a report has not been received shall be returned to the department within thirty days after receiving written demand from the department.

(2) Effective thirty days after written demand for payment is received by the contractor, interest will begin to accrue payable to the department on any unpaid balance at the rate of one percent per month.

[Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-108, filed 9/16/83. Statutory Authority: RCW 74.08.090. 82-21-025 (Order 1892), § 388-96-108, filed 10/13/82.]

WAC 388-96-110 Improperly completed or late reports. (1) For 1981 and subsequent annual cost reporting periods, an annual report, including the proposed settlement computed by cost center pursuant to regulation, must be completed in accordance with applicable statutes, departmental regulations, and instructions. An annual cost report deficient in any of these respects may be returned in whole or in part to the contractor for proper completion. Annual reports must be submitted by the due date determined in accordance with WAC 388-96-104.

(2) If a cost report is not properly completed or is not received by the department on or before the due date of the report, including any approved extensions, all or a part of any payments due under the contract may be held by the department until the improperly completed or delinquent report is properly completed and received by the department.

[Statutory Authority: RCW 74.09.120, 74.46.840 and 74.46.800. 85-17-052 (Order 2270), § 388-96-110, filed 8/19/85. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-110, filed 9/16/83; 82-09-033 (Order 1791), § 388-96-110, filed 4/14/82; 80-06-122 (Order 1510), § 388-96-110, filed 5/30/80, effective 7/1/80; Order 1262, § 388-96-110, filed 12/30/77.]

WAC 388-96-113 Completing reports and maintaining records. (1) All reports shall be legible and reproducible. All entries must be typed, completed in black or dark blue ink, or provided in an acceptable, indelible copy.

(2) Reports shall be completed in accordance with the provisions of this chapter, the state of Washington nursing home accounting and reporting manual, and such instructions as may be issued by the department from time to time. If no specific regulation, manual provision, or instruction covers a situation, generally accepted accounting principles shall be followed.

(3) The accrual method of accounting shall be used. All revenue and expense accruals shall be reversed against the appropriate accounts if not received or paid within one hundred twenty days after the accrual is made, unless special circumstances are documented justifying continuing to carry all or part of the accrual (e.g., contested billings). Accruals for vacation, holiday, sick pay, and taxes may be carried for longer periods, provided the contractor's usual policy and generally accepted accounting principles are followed.

(4) Methods of allocating costs, including indirect or overhead costs, shall be consistently applied. Written approval must be obtained from the department if a contractor wishes to change an allocation method. Contractors operating multiservice facilities or facilities incurring joint facility costs shall allocate costs using the methods approved by the department under WAC 388-96-534.

(5) The contractor's records relating to a nursing home shall be maintained so reported data can be audited for compliance with generally accepted accounting principles and the department's reimbursement principles and reporting instructions. If a contractor maintains records utilizing a chart of accounts other than that established by the department, the contractor shall provide

to the department a written schedule specifying the way in which the contractor's individual account numbers correspond to the department's chart of accounts. Records shall be available for review by authorized personnel of the department and of the United States Department of Health and Human Services during normal business hours at a location in the state of Washington specified by the contractor.

(6) If a contractor fails to maintain records adequate for audit purposes as provided in subsection (5) of this section or fails to allow inspection of such records by authorized personnel as provided in subsection (5) of this section, the department may suspend all or part of subsequent reimbursement payments due under the contract until compliance is forthcoming. Upon compliance, the department shall resume current contract payments and shall release payments suspended pursuant to subsection (6) of this section.

[Statutory Authority: RCW 74.09.120, 74.46.840 and 74.46.800. 85-17-052 (Order 2270), § 388-96-113, filed 8/19/85. Statutory Authority: RCW 74.46.800. 84-12-039 (Order 2105), § 388-96-113, filed 5/30/84. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-113, filed 9/16/83; 83-05-007 (Order 1944), § 388-96-113, filed 2/4/83; 82-11-065 (Order 1808), § 388-96-113, filed 5/14/82; 80-09-083 (Order 1527), § 388-96-113, filed 7/22/80; Order 1262, § 388-96-113, filed 12/30/77.]

WAC 388-96-117 Certification requirement. Each required report shall be accompanied by a certification signed on behalf of the contractor responsible to the department during the report period. If the contractor files a federal income tax return, the certification shall be executed by the person normally signing this return. The certification shall also be signed by the licensed administrator of the nursing home. If the report is prepared by someone other than an employee of the contractor, a separate statement shall be included with the certification signed by the individual preparing the report and indicating his or her status with the contractor. The certification of the cost report shall be submitted in original.

[Statutory Authority: RCW 74.09.120, 74.46.840 and 74.46.800. 85-17-052 (Order 2270), § 388-96-117, filed 8/19/85; Order 1262, § 388-96-117, filed 12/30/77.]

WAC 388-96-119 Reports--False information. (1) If a contractor knowingly or with reason to know files a report containing false information, such action constitutes cause for termination of its contract with the department.

(2) Adjustments to reimbursement rates required because a false report was filed will be made in accordance with WAC 388-96-769.

(3) Contractors filing false reports may be referred for prosecution under applicable statutes.

[Order 1262, § 388-96-119, filed 12/30/77.]

WAC 388-96-122 Amendments to reports. (1) For the purpose of determining audited allowable costs in computing a final settlement, an amendment to an annual report shall be considered only if filed by the provider prior to receipt by the provider of the notification

scheduling the department's field audit, except that an amendment may be filed subsequent to such notification and pursuant to the provisions of WAC 388-96-769 solely for the purpose of adjusting reimbursement rates. In order to determine the date of receipt, all notifications scheduling field audits shall be sent by registered mail, return receipt requested. Amendments may be filed by the provider and considered by the department only if errors or omissions are discovered which are significant. Errors or omissions shall be deemed "significant" if the errors or omissions would mean a net difference of two cents or more per patient day or one thousand dollars or more in reported costs, whichever is higher, in any cost area. To file an amendment, only those pages where changes appear need to be filed, together with the certification required by WAC 388-96-117.

(2) If an amendment is filed, a contractor shall also submit with the amendment an account of the circumstances relating to and the reasons for the amendment, along with supporting documentation. The department shall refuse to consider an amendment resulting in a more favorable settlement or rate to a contractor if the amendment is not the result of circumstances beyond the control of the contractor or the result of good-faith error under the system of cost allocation and accounting in effect during the reporting period in question.

(3) Acceptance or use by the department of an amendment to a cost report shall in no way be construed as a release of applicable civil or criminal liability.

[Statutory Authority: RCW 74.46.800. 86-10-055 (Order 2372), § 388-96-122, filed 5/7/86, effective 7/1/86; 84-12-039 (Order 2105), § 388-96-122, filed 5/30/84. Statutory Authority: RCW 74.09.120. 82-11-065 (Order 1808), § 388-96-122, filed 5/14/82; 79-03-021 (Order 1370), § 388-96-122, filed 2/21/79; Order 1262, § 388-96-122, filed 12/30/77.]

WAC 388-96-128 Requirements for retention of records by the contractor. All records supporting the required reports shall be retained for a period of four years subsequent to filing at a location in the state of Washington specified by the contractor. If at the end of four years there are unresolved audit questions, the records shall be retained until these questions are resolved. All such data shall be made available upon demand to authorized representatives of the department and of the United States Department of Health and Human Services. When a contract is terminated, final settlement will not be made and all payments due will be withheld until accessibility to and preservation of the records within the state of Washington are assured.

[Statutory Authority: RCW 74.09.120, 74.46.840 and 74.46.800. 85-17-052 (Order 2270), § 388-96-128, filed 8/19/85. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-128, filed 9/16/83; Order 1262, § 388-96-128, filed 12/30/77.]

WAC 388-96-131 Requirement for retention of reports by the department. The department will retain each required report for a period of four years following the date the report was submitted. If at the end of four years there are unresolved audit questions, the report will be retained until such questions are resolved.

[Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-131, filed 9/16/83; Order 1262, § 388-96-131, filed 12/30/77.]

WAC 388-96-134 Disclosure of nursing home reports. (1) Cost reports and final audit reports will be made available for public disclosure. Cost report schedules showing information on rental or lease of assets, the facility or corporate balance sheet, schedule of changes in financial position, statement of changes in equity-fund balance notes to financial statements, schedules summarizing adjustments to cost reports, reports or reviews of internal control and accounting procedures, and letters containing comments or recommendations relating to suggested improvements in internal control or accounting procedures shall be exempt from public disclosure.

(2) Whether or not subject to public disclosure, all documents shall be provided by the secretary, upon written request, to the legislature and to state agencies or state and local law enforcement officials having an official interest in the requested documents. A contractor or an authorized agent or designee may have access to nondisclosable information from its own records.

[Statutory Authority: RCW 74.09.120, 74.46.840 and 74.46.800. 85-17-052 (Order 2270), § 388-96-134, filed 8/19/85. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-134, filed 9/16/83; Order 1262, § 388-96-134, filed 12/30/77.]

WAC 388-96-204 Field audits. (1) 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) When an audit discloses material discrepancies, undocumented costs, or mishandling of patient trust funds, the department auditors may re-open a maximum of two prior unaudited cost reporting or trust fund periods and/or select future periods for audit in order to discover similar problems, if any, and take appropriate action.

(10) The department may select for audit on a random or other basis reported costs and trust fund accounts of facilities.

[Statutory Authority: RCW 79.09.120 [74.09.120] and 74.46.800. 90-09-061 (Order 2970), § 388-96-204, filed 4/17/90, effective 5/18/90. 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 388-96-207 Preparation for audit by the contractor. (1) The department will notify the contractor at least ten working days in advance of a field audit.

(2) The contractor shall provide the auditors with access to the nursing home records, and to all work papers and documentation supporting the data in the cost report or relating to patient trust funds. Such records shall be made available at a location in the state of Washington specified by the contractor.

(3) The contractor shall reconcile reported data with applicable federal income and payroll tax returns and with the records for the period covered by the report. Such reconciliation shall be in suitable form for verification by the auditors.

(4) The contractor shall designate and make available one or more individuals familiar with the internal operations of a facility being audited in order to respond to questions and requests for information and documentation from auditors. If the individual or individuals designated cannot answer all questions and respond to all requests, an alternate individual with sufficient knowledge and access to records and information must be provided by the contractor.

[Statutory Authority: RCW 74.09.120, 74.46.840 and 74.46.800. 85-17-052 (Order 2270), § 388-96-207, filed 8/19/85. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-207, filed 9/16/83; Order 1262, § 388-96-207, filed 12/30/77.]

WAC 388-96-210 Scope of field audits. (1) Auditors will review the contractor's recordkeeping and accounting practices and, where appropriate, make written recommendations for improvements.

(2) The audit will result in a schedule summarizing adjustments to the contractor's cost report whether such adjustments eliminate costs reported or include costs not reported. These adjustments shall include an explanation for the adjustment, the general ledger account or account group, and the dollar amount. Auditors will examine the contractor's financial and statistical records to verify that:

(a) Supporting records are in agreement with reported data;

(b) Only those assets, liabilities, and revenue and expense items the department has specified as allowable have been included by the contractor in computing the costs of services provided under its contract;

(c) Allowable costs have been accurately determined and are necessary, ordinary, and related to patient care;

(d) Related organizations and beneficial ownerships or interests have been correctly disclosed;

(e) Recipient trust funds have been properly maintained; and

(f) The contractor is otherwise in compliance with provisions of this chapter and chapter 74.46 RCW.

(3) In determining allowable costs for each contractor for each cost report year selected for field audit, auditors shall consider and include in their adjustments, as appropriate, all lid adjustments and other desk review adjustments previously made to the reported costs being audited, that is, made to such costs for the purpose of establishing a contractor's July 1 Medicaid rate following the cost report period under audit.

(4) Auditors will prepare draft audit narratives and summaries and provide them to the contractor before final narratives and summaries are prepared.

[Statutory Authority: RCW 74.09.120 and 74.46.800. 89-11-100 (Order 2799), § 388-96-210, filed 5/24/89. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-210, filed 9/16/83; Order 1262, § 388-96-210, filed 12/30/77.]

WAC 388-96-213 Inadequate documentation. The auditors will disallow any assets, liabilities, revenues, or expenses reported as allowable which are not supported by adequate documentation in the contractor's records. Documentation must show both that costs reported were incurred during the period covered by the report and

were related to patient care, and that assets reported were used in the provision of patient care.

[Statutory Authority: RCW 74.09.120, 74.46.840 and 74.46.800. 85-17-052 (Order 2270), § 388-96-213, filed 8/19/85. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-213, filed 9/16/83; Order 1262, § 388-96-213, filed 12/30/77.]

WAC 388-96-216 Deadline for completion of audits. (1) Provided auditors are given prompt and timely access to the nursing home and to all records necessary to audit the report, field audits will be completed within one year after a properly completed annual cost report is received by the department or, beginning with audits of 1983 cost reports, within one year after a nursing home is notified it has been selected for audit.

(2) The department will give priority to field audits of final annual reports and whenever possible will begin such field audits within ninety days after a properly completed final annual report is received.

[Statutory Authority: RCW 74.09.120, 74.46.840 and 74.46.800. 85-17-052 (Order 2270), § 388-96-216, filed 8/19/85. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-216, filed 9/16/83; Order 1262, § 388-96-216, filed 12/30/77.]

WAC 388-96-217 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 388-96-220 Principles of settlement. (1) For each cost center, a settlement shall be calculated at the lower of prospective reimbursement rate or audited allowable costs, except as otherwise provided in this chapter.

(2) Each contractor shall complete a proposed preliminary settlement by cost center as part of the annual cost report and submit it by the due date of the annual cost report. After review of the proposed preliminary settlement, the department shall issue by cost center a preliminary settlement report to the contractor.

(3) If a field audit is conducted, the audit findings shall be evaluated by the department after completion of the audit and a final settlement by cost center, including any allowable shifting or cost savings, shall be issued which takes account of such findings and evaluations.

(4) Pursuant to preliminary or final settlement and the procedures set forth in this chapter, the contractor shall refund overpayments to the department and the department shall pay underpayments to the contractor.

[Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-220, filed 9/16/83.]

WAC 388-96-221 Preliminary settlement. (1) In the proposed preliminary settlement submitted under 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 under WAC 388-96-901 and 388-96-904. Upon expiration of the thirty-day period, the department shall not review or adjust 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.

(5) Beginning with preliminary settlements for report year 1988, if the department intends to field audit a facility's reported costs, the department shall issue the facility's preliminary settlement report based upon reported costs. If the department does not intend to field audit a facility's reported costs, the department shall issue the facility's preliminary settlement report based upon desk-reviewed costs utilizing the procedure under subsection (4) of this section.

(6) If the facility prevents, hinders, or otherwise delays completion of a full field audit, that facility's preliminary settlement issued on reported costs may be reopened to substitute desk-reviewed costs.

[Statutory Authority: RCW 74.09.120 and 74.46.800. 89-11-100 (Order 2799), § 388-96-221, filed 5/24/89. 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 388-96-310 Interest on other excess payments. (1) Any contractor obtaining benefits or payments under the medical assistance program to which such contractor is not entitled or in an amount to which such contractor is not entitled, shall be liable for such benefits or payments received and for interest on the amount of benefits or payments from the date of receipt until repayment is made to the department at the rate of one percent per month, unless the contractor establishes the overpayment was the result of errors made by the department.

(2) Interest charged by the department or interest expense incurred by the contractor, from whatever source, in making refund to the department shall not be reimbursable by the department as an allowable cost. The contractor may, by payment of a disputed settlement in whole or in part, stop accrual of interest on the amount paid. Such payment will be without prejudice to obtain review of a settlement determination.

[Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-310, filed 9/16/83.]

WAC 388-96-366 Facility records and handling of resident moneys. (1) A nursing facility may not require residents to deposit personal funds with the facility. A facility may hold a resident's personal funds only if the resident or resident's guardian provides written authorization.

(2) Once a nursing facility accepts the written authorization of the resident or resident's guardian, the facility shall hold, safeguard, and account for such

personal funds under an established system in accordance with this chapter. The nursing facility shall establish and maintain as a service to the residents a bookkeeping system, incorporated in the business records and adequate for audit, for all resident moneys received by the facility.

(3) The nursing facility shall maintain the resident's or guardian's written authorization in the resident's file. The facility shall deposit any resident's personal funds in excess of fifty dollars in an interest-bearing resident personal fund account or accounts, separate from any of the facility's operating accounts, and credit all interest earned on an account to the account. With respect to any other personal funds, the facility shall keep such funds in a noninterest-bearing account or petty cash fund maintained for residents.

(4) The facility shall give the resident at least a quarterly reporting of all financial transactions involving personal funds held for the resident by the facility. The facility shall send the representative payee, the guardian, or other designated agents of the resident a copy of the quarterly accounting report.

(5) The nursing facility shall further maintain a written record of all personal property deposited with the facility for safekeeping by or for the resident. The facility shall issue or obtain written receipts upon taking possession or disposing of such property and retain copies and/or originals of such receipts. The facility shall maintain records adequate for audit.

(6) The facility shall purchase a surety bond, or otherwise provide assurances or security satisfactory to the department, to assure the security of all personal funds of residents deposited with the facility.

[Statutory Authority: RCW 74.46.800, 74.42.620 and 74.09.120. 90-20-075 (Order 3070), § 388-96-366, filed 9/28/90, effective 10/1/90. 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 388-96-369 The nursing facility shall maintain a subsidiary ledger with an account for each resident for whom the facility holds money. (1) The facility shall assure a full and complete separate accounting of each resident's personal funds. Each account record and related supporting information and documentation shall:

(a) Be maintained at the facility;

(b) Be kept current;

(c) Be balanced each month; and

(d) Show in writing and in detail, with supporting verification, all moneys received on behalf of the individual resident and the disposition of all moneys so received.

(2) Each account shall be reasonably accessible to the resident or the resident's guardian or legal representative and shall be available for audit and inspection by a department representative. Each account shall be maintained for a minimum of four years. A Medicaid provider shall notify each Title XIX Medicaid recipient or guardian and the community services office of the department when the amount in the account of any Title XIX Medicaid recipient reaches two hundred dollars less

than the applicable dollar resource limit for supplemental security income (SSI) eligibility set forth in Title XVI of the Social Security Act.

(3) When notice is given under subsection (2) of this section, the facility shall notify the recipient or guardian that if the amount in the account, in addition to the value of the recipient's other nonexempt resources, reaches the dollar resource limit determined under Title XVI, the recipient may lose eligibility for SSI medical assistance or benefits under Title XVI.

(4) Accumulation toward the Title XVI limit, after the recipient's admission to the facility, is permitted only from savings from the clothing and personal incidentals allowance and other income which the department specifically designates as exempt income.

(5) No resident funds may be overdrawn (show a debit balance). If a resident wants to spend an amount greater than the facility is holding for the resident, the home may provide money from its own funds and collect the debt by installments from that portion of the resident's allowance remaining at the end of each month. No interest may be charged to residents for such loans.

(6) The facility may not impose a charge against the personal funds of a Medicare or Medicaid recipient for any item or service for which payment is made under the Title XVIII Medicare program or the Title XIX Medicaid program. In order to ensure that Medicaid recipients are not charged for services provided under the Title XIX program, any charge for medical services otherwise properly made to a recipient's personal funds shall be supported by a written denial from the department.

(a) Mobility aids including walkers, wheelchairs, or crutches requested for the exclusive use by a Medicaid recipient shall have a written denial from the department of social and health services before a recipient's personal funds may be charged.

(b) Requests for medically necessary services and supplies not funded under the provisions of chapter 388-96 WAC or chapter 388-86 WAC (reimbursement rate or coupon system) shall have a written denial from the department before a Medicaid recipient's personal funds may be charged.

(c) A written denial from the department is not required when the pharmacist verifies that a drug is not covered by the program, e.g., items on the FDA list of ineffective or possible effective drugs, nonformulary over-the-counter (OTC) medications. The pharmacist's notation to this effect is sufficient.

[Statutory Authority: RCW 74.46.800, 74.42.620 and 74.09.120. 90-20-075 (Order 3070), § 388-96-369, filed 9/28/90, effective 10/1/90. Statutory Authority: RCW 74.42.620 and 74.46.800. 85-17-070 (Order 2275), § 388-96-369, filed 8/21/85. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-369, filed 9/16/83; 82-21-025 (Order 1892), § 388-96-369, filed 10/13/82; Order 1168, § 388-96-369, filed 11/3/76; Order 1114, § 388-96-369, filed 4/21/76.]

WAC 388-96-372 The nursing facility may maintain a petty cash fund originating from resident personal funds of an amount reasonable and necessary for the size

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of the facility and the needs of the residents, not to exceed \$500.00. (1) This petty cash fund shall be an imprest fund. All moneys over and above the petty cash limit of 500.00 shall be deposited intact in an interest bearing account or accounts maintained for resident personal funds, separate and apart from any other bank account of the facility or other facilities. All interest earned on an account containing resident personal funds shall be credited to such account.

(2) Cash deposits of recipient allowances must be made intact to the resident personal fund account within one week from the time that payment is received from the department, Social Security Administration, or other payor.

(3) Any related bankbooks, bank statements, checkbook, check register, and all voided and cancelled checks, shall be made available for audit and inspection by a department representative, and shall be maintained by the home for not less than four years.

(4) No service charges for such checking account shall be paid by residents or deducted from resident personal funds.

(5) The resident personal fund account or accounts per bank shall be reconciled monthly to the resident personal funds per resident ledgers.

[Statutory Authority: RCW 74.46.800, 74.42.620 and 74.09.120. 90-20-075 (Order 3070), § 388-96-372, filed 9/28/90, effective 10/1/90. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-372, filed 9/16/83; Order 1114, § 388-96-372, filed 4/21/76.]

WAC 388-96-375 Resident personal funds control/disbursement. Personal funds shall be held and used for the benefit of the resident and are not to be turned over to anyone other than the resident or the resident's guardian without the written consent of the resident, the resident's designated agent as appointed by power of attorney, or appropriate department of social and health services personnel as designated by the CSO administrator.

(1) When money is received, a receipt shall be filled out in duplicate:

(a) One copy shall be given to the person making payment or deposit; and

(b) The other copy shall be retained in the receipt book for easy reference.

(2) Checks received by residents shall be endorsed by the resident. Schedule I-A(6e) of the agreement states in part: "Each patient receiving a check or state warrant is responsible for endorsement by his own signature. Only when the patient is incapable of signing his name may the Provider assume the responsibility of securing the patient's mark "X" followed by the name of the patient and the signature of two witnesses."

(3) If both a facility operating account and a resident personal fund account are at the same bank, the resident portion of checks which include care payments can be deposited directly to the resident account by including a resident account deposit slip for the correct amount with the checks and the operating account deposit slip.

(4) The resident's ledger sheet shall be credited with the allowance received. This shall be referenced with the

receipt number and shall be supported by a copy of the deposit slip (one copy for all deposits made).

[Statutory Authority: RCW 74.46.800, 74.42.620 and 74.09.120. 90-20-075 (Order 3070), § 388-96-375, filed 9/28/90, effective 10/1/90. Statutory Authority: RCW 74.09.120. 82-21-025 (Order 1892), § 388-96-375, filed 10/13/82; Order 1168, § 388-96-375, filed 11/3/76; Order 1114, § 388-96-375, filed 4/21/76.]

WAC 388-96-378 Resident personal funds availability. Funds held for any resident shall be available for the resident's personal and incidental needs when requested by the resident or one of the individuals designated in WAC 388-96-375.

[Statutory Authority: RCW 74.46.800, 74.42.620 and 74.09.120. 90-20-075 (Order 3070), § 388-96-378, filed 9/28/90, effective 10/1/90; Order 1114, § 388-96-378, filed 4/21/76.]

WAC 388-96-381 Procedure for refunding resident personal funds. (1) When a resident is discharged or transferred, the balance of the resident's personal funds shall be returned to the individual designated in WAC 388-96-375 within one week and a receipt obtained. In some cases it may be advisable to mail the refund to the resident's new residence.

[Statutory Authority: RCW 74.46.800, 74.42.620 and 74.09.120. 90-20-075 (Order 3070), § 388-96-381, filed 9/28/90, effective 10/1/90; Order 1114, § 388-96-381, filed 4/21/76.]

WAC 388-96-384 Liquidation or transfer of resident personal funds. (1) Upon the death of a resident, the facility shall promptly convey the resident's personal funds held by the facility with a final accounting of such funds to the individual administering the resident's estate.

(2) In situations where the resident leaves the nursing home without authorization and the resident's whereabouts is unknown:

(a) The nursing facility shall make a reasonable attempt to locate the missing resident. This includes contacting:

- (i) Friends,
- (ii) Relatives,
- (iii) Police,
- (iv) The guardian, and
- (v) The community services office in the area.

(b) If the resident cannot be located after ninety days, the nursing facility shall notify the department of revenue of the existence of "abandoned property," outlined in chapter 63.29 RCW. The nursing facility shall deliver to the department of revenue the balance of the resident's personal funds within twenty days following such notification.

(3) Prior to the sale or other transfer of ownership of the nursing facility business, the facility operator shall:

(a) Provide each resident or resident representative with a written accounting of any personal funds held by the facility;

(b) Provide the new operator with a written accounting of all resident funds being transferred; and

(c) Obtain a written receipt for those funds from the new operator.

[Statutory Authority: RCW 74.46.800, 74.42.620 and 74.09.120. 90-20-075 (Order 3070), § 388-96-384, filed 9/28/90, effective 10/1/90. 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 388-96-501 Allowable costs. Allowable costs are documented costs which are necessary, ordinary and related to the care of medical care recipients, and are not expressly declared nonallowable by applicable statutes or regulations. Costs are ordinary if they are of the nature and magnitude which prudent and cost-conscious management would pay.

[Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-501, filed 2/25/81. Statutory Authority: RCW 74.08.090 and 74.09.120. 78-06-080 (Order 1300), § 388-96-501, filed 6/1/78; Order 1262, § 388-96-501, filed 12/30/77.]

WAC 388-96-502 Indirect and overhead costs. If a contractor provides goods or services not reimbursable under this chapter, any indirect or overhead costs associated with their provision must be allocated to such goods or services on a reasonable basis approved by the department and must not be reported as allowable costs. 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 388-96-503 Substance prevails over form. (1) In determining allowable costs, the substance of a transaction will prevail over the form of the transaction. Accordingly, allowable costs will not include increased costs resulting from transactions or the application of accounting methods which circumvent the principles of the prospective cost-related reimbursement system.

(2) Increased costs resulting from a series of transactions between the same parties and involving the same assets (e.g., sale, and leaseback, successive sales or leases of a single facility or piece of equipment) will not be allowed.

[Statutory Authority: RCW 74.09.120. 81-22-081 (Order 1712), § 388-96-503, filed 11/4/81. Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-503, filed 2/25/81; Order 1262, § 388-96-503, filed 12/30/77.]

WAC 388-96-505 Offset of miscellaneous revenues.

(1) 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 388-96-507 Costs of meeting standards. All necessary and ordinary expenses a contractor incurs in providing care services meeting all applicable standards will be allowable costs. The expenses include necessary and ordinary costs of:

- (1) Meeting licensing and certification standards;
- (2) Meeting standards of providing regular room, nursing, ancillary, and dietary services, in accordance with WAC 388-88-050 and 388-88-051;
- (3) Fulfilling accounting and reporting requirements imposed by this chapter; and
- (4) Performing any patient assessment activity required by the department.

[Statutory Authority: RCW 74.09.120. 81-22-081 (Order 1712), § 388-96-507, filed 11/4/81. Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-507, filed 2/25/81. Statutory Authority: RCW 74.08.090 and 74.09.120. 78-06-080 (Order 1300), § 388-96-507, filed 6/1/78; Order 1262, § 388-96-507, filed 12/30/77.]

WAC 388-96-508 Travel expenses for members of trade association boards of directors. Travel expenses for members of trade association boards of directors otherwise meeting the requirements of this chapter will be allowable for twelve meetings per calendar year.

[Statutory Authority: RCW 74.46.800. 84-12-039 (Order 2105), § 388-96-508, filed 5/30/84.]

WAC 388-96-509 Boards of directors fees. Fees paid to members of boards of directors of corporations operating nursing homes shall be included in any tests or

limits on management or administrative compensation or expense.

[Statutory Authority: RCW 74.46.800. 84-12-039 (Order 2105), § 388-96-509, filed 5/30/84.]

WAC 388-96-513 Limit on costs to related organizations. (1) Costs applicable to services, facilities and supplies furnished by organizations related to the contractor shall be allowable only to the extent they do not exceed the lower of the cost to the related organization or the price of comparable services, facilities or supplies purchased elsewhere. The term "related organization" is defined in WAC 388-96-010.

(2) Documentation of costs to related organizations shall be made available to the auditor at the time and place the financial records relating to the entity are audited. Payments to or for the benefit of the related organization will be disallowed where the cost to the related organization cannot be documented.

[Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-513, filed 2/25/81; Order 1262, § 388-96-513, filed 12/30/77.]

WAC 388-96-521 Start-up costs. Necessary and ordinary start-up costs, as defined in WAC 388-96-010, will be allowable in the administration and operations cost area if they are amortized over not less than sixty consecutive months beginning with the month in which the first patient is admitted for care.

[Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-521, filed 9/16/83; Order 1262, § 388-96-521, filed 12/30/77.]

WAC 388-96-523 Organization costs. (1) Necessary and ordinary costs which are directly incident to the creation of a corporation or other form of business of the contractor and that are incurred prior to the admission of the first patient, will be allowable in the administration and operations cost area if they are amortized over not less than sixty consecutive months beginning with the month in which the first patient is admitted for care.

(2) Allowable organization costs include but are not limited to legal fees incurred in establishing the corporation or other organization and fees paid to states for incorporation. They do not include costs relating to the issuance and sale of shares of capital stock or other securities.

[Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-523, filed 9/16/83. Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-523, filed 2/25/81; Order 1262, § 388-96-523, filed 12/30/77.]

WAC 388-96-525 Education and training. (1) Necessary and ordinary expenses of on-the-job training and in-service training required for employee orientation and certification training directly related to the performance of duties assigned will be allowable costs.

(2) Ordinary expenses of nursing assistant training conducted pursuant to chapter 18.52A RCW will be allowable costs.

(3) Necessary and ordinary expenses of recreational and social activity training conducted by the contractor

for volunteers will be allowable costs. Expenses of training programs for other nonemployees will not be allowable costs.

(4) Expenses for travel in the states of Idaho, Oregon, and Washington and the province of British Columbia associated with education and training will be allowable if the expenses meet the requirements of this chapter.

[Statutory Authority: RCW 74.46.800. 84-12-039 (Order 2105), § 388-96-525, filed 5/30/84. Statutory Authority: RCW 74.09.120. 81-22-081 (Order 1712), § 388-96-525, filed 11/4/81. Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-525, filed 2/25/81. Statutory Authority: RCW 74.09.120. 80-06-122 (Order 1510), § 388-96-525, filed 5/30/80, effective 7/1/80; Order 1262, § 388-96-525, filed 12/30/77.]

WAC 388-96-529 Total compensation--Owners, relatives, and certain administrative personnel. For purposes of the tests in WAC 388-96-531, 388-96-533, and 388-96-535, total compensation shall be as provided in the employment contract, including benefits, whether such contract is written, verbal, or inferred from the acts of the parties. In the absence of a contract, total compensation shall include gross salary or wages and benefits (e.g., health insurance) made available to all employees, but excluding payroll taxes paid by the contractor.

[Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-529, filed 9/16/83; 81-22-081 (Order 1712), § 388-96-529, filed 11/4/81. Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-529, filed 2/25/81; Order 1262, § 388-96-529, filed 12/30/77.]

WAC 388-96-531 Owner or relative--Compensation. (1) Total compensation of an owner or relative of an owner shall be limited to ordinary compensation for necessary services actually performed.

(a) Compensation is ordinary if it is the amount usually paid for comparable services in a comparable facility to an unrelated employee, and does not exceed limits set out in this chapter.

(b) A service is necessary if it is related to patient care and would have had to be performed by another person if the owner or relative had not done it.

(2) The contractor, in maintaining customary time records adequate for audit, shall include such records for owners and relatives who receive compensation. Such records shall document compensated time was spent in provision of necessary services actually performed.

(3) For purposes of this section, if the contractor with the department is a corporation, "owner" includes all corporate officers and directors.

[Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-531, filed 9/16/83. Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-531, filed 2/25/81; Order 1262, § 388-96-531, filed 12/30/77.]

WAC 388-96-533 Maximum allowable compensation of certain administrative personnel. (1) 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 nonduplicative; 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, nonduplicative 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 388-96-543 Expense for construction interest. Interest expense and loan origination fees relating to construction of a nursing home incurred during the period of construction shall be capitalized and amortized over the life of the facility from the date the first patient is admitted. The period of construction shall extend from the date of the construction loan to the date the facility is put into service for patient care, not to exceed the project certificate of need time period.

[Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-543, filed 9/16/83; 81-22-081 (Order 1712), § 388-96-543, filed 11/4/81. Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-543, filed 2/25/81; Order 1262, § 388-96-543, filed 12/30/77.]

WAC 388-96-553 Capitalization. The following costs shall be capitalized:

(1) Expenditures for and costs of equipment, including furniture and furnishings, with historical cost in excess of one hundred fifty dollars per unit and a useful life of more than one year from the date of purchase;

(2) Expenditures and costs for equipment, including furniture and furnishings, with historical cost of one hundred fifty dollars or less per unit if either:

(a) The item of equipment was acquired in a group purchase where the total cost exceeded one hundred fifty dollars; or

(b) The item of equipment was part of the initial equipment or stock of the nursing home.

(3) Effective January 1, 1981, for settlement purposes for periods subsequent to that date, and for purposes of setting rates for periods beginning July 1, 1982, and subsequently, subsections (1) and (2) of this section shall be applied with the sum of five hundred dollars replacing the sum of one hundred fifty dollars.

(4) Effective January 1, 1983, for settlement purposes for periods subsequent to that date, and for purposes of setting rates for periods beginning July 1, 1984, and subsequently subsections (1) and (2) of this section shall be applied with the sum of seven hundred fifty dollars replacing the sum of one hundred fifty dollars.

(5) Expenditures for and costs of building, and other real property items, components, and improvements, whether for leased or owner-operated facilities, in excess of five hundred dollars and involving one or more of the following:

(a) Increase of the interior floor space of the structure;

(b) Increase or renewal of paved areas outside the structure;

(c) Exterior or interior remodeling of the structure;

(d) Installation of additional heating, cooling, electrical, water-related, or similar fixed equipment;

(e) Landscaping or redecorating;

(f) Any change, including repairs, which increases the useful life of the structure or item if not a part of the structure by two years or more;

(g) Any replacement or renewal of a real property item, component or improvement, whether structural or nonstructural.

(6) For a leasehold improvement, the asset shall be amortized over the asset's useful life in accordance with Internal Revenue Service class life ADR system guidelines or in accordance with American Hospital Association guidelines.

[Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-553, filed 9/16/83; 83-05-007 (Order 1944), § 388-96-553, filed 2/4/83; 82-11-065 (Order 1808), § 388-96-553, filed 5/14/82. Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-553, filed 2/25/81; Order 1262, § 388-96-553, filed 12/30/77.]

WAC 388-96-554 Expensing. The following costs shall be expensed:

(1) Expenditures for and costs of equipment, including furniture and furnishings, with historical cost of one hundred fifty dollars or less per unit or a useful life of one year or less from the date of purchase.

(2) Subsection (1) of this section shall not apply if:

(a) The item of equipment was acquired in a group purchase where the total cost exceeded one hundred fifty dollars; or

(b) The item of equipment was part of the initial equipment or stock of the nursing home.

(3) Effective January 1, 1981, for settlement purposes for periods subsequent to that date, and for purposes of setting rates for periods beginning July 1, 1982, and subsequently, subsections (1) and (2) of this section shall be applied with the sum of five hundred dollars replacing the sum of one hundred fifty dollars.

(4) Effective January 1, 1983, for settlement purposes for periods subsequent to that date, and for purposes of setting rates for periods beginning July 1, 1984, and subsequently subsections (1) and (2) of this section shall be applied with the sum of seven hundred fifty dollars replacing the sum of one hundred fifty dollars.

(5) Expenditures for and costs of building and other real property items, components and improvements, whether for leased or owner-operated facilities, of five hundred dollars or less.

(6) Expenditures for and costs of repairs necessary to maintain the useful life of equipment, including furniture and furnishings, and real property items, components or improvements which do not increase the useful life of the asset by two years or more. If a repair is to the interior or exterior of the structure, the term "asset" shall refer to the structure.

(7) Remaining undepreciated cost of equipment, including furniture or furnishings or real property items, components, or improvements which are retired and not replaced, provided such cost shall be offset by any proceeds or compensations received for such assets, and such cost shall be expensed only if the contractor has made a reasonable effort to recover at least the outstanding book value of such assets. If a retired asset is replaced, WAC 388-96-572(3) shall apply and the replacement or renewal shall be capitalized if required by WAC 388-96-553.

[Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-554, filed 9/16/83; 83-05-007 (Order 1944), § 388-96-554, filed 2/4/83.]

WAC 388-96-555 Depreciation expense. Depreciation expense on depreciable assets which are required in the regular course of providing patient care will be an allowable cost. It shall be (1) identifiable and recorded in the contractor's accounting records and (2) computed using the depreciation base, lives and methods specified below.

[Order 1262, § 388-96-555, filed 12/30/77.]

WAC 388-96-557 Depreciable assets. (1) Tangible assets of the following types in which a contractor has

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an economic interest through ownership or lease agreement are subject to depreciation:

(a) Building – The basic structure or shell and additions thereto.

(b) Building fixed equipment – Attachments to buildings, such as wiring, electrical fixtures, plumbing, elevators, heating system, and air conditioning system. The general characteristics of this equipment are:

(i) Affixed to the building and not subject to transfer; and

(ii) A fairly long life, but shorter than the life of the building to which affixed.

(c) Major movable equipment – Such items as beds, wheelchairs, desks, and x-ray machines. The general characteristics of this equipment are:

(i) A relatively fixed location in the building;

(ii) Capable of being moved as distinguished from building equipment;

(iii) A unit cost sufficient to justify ledger control;

(iv) Sufficient size and identity to make control feasible by means of identification tags; and

(v) A minimum life of approximately three years. Effective January 1, 1981, for settlement purposes for periods subsequent to that date, and for purposes of setting rates for periods beginning July 1, 1982, and subsequently, this equipment shall be characterized by a minimum life of greater than one year.

(d) Minor equipment – Such items as wastebaskets, bedpans, syringes, catheters, silverware, mops, and buckets which are properly capitalized. No depreciation shall be taken on items which are not properly capitalized (see WAC 388-96-553). The general characteristics of minor equipment are:

(i) In general, no fixed location and subject to use by various departments;

(ii) Small in size and unit cost;

(iii) Subject to inventory control;

(iv) Large number in use; and

(v) Generally, a useful life of one to three years.

(e) Land improvements – Such items as paving, tunnels, underpasses, on-site sewer and water lines, parking lots, shrubbery, fences, walls, etc., where replacement is the responsibility of the contractor.

(f) Leasehold improvements – Betterments and additions made by the lessee to the leased property, which become the property of the lessor after the expiration of the lease.

(2) Land is not depreciable. The cost of land includes, but is not limited to, the cost of such items as off-site sewer and water lines, public utility charges necessary to service the land, governmental assessments for street paving and sewers, the cost of permanent roadways and grading of a nondepreciable nature, and the cost of curbs and sidewalks, replacement of which is not the responsibility of the contractor.

[Statutory Authority: RCW 74.09.120. 84-24-050 (Order 2172), § 388-96-557, filed 12/4/84; 83-19-047 (Order 2025), § 388-96-557, filed 9/16/83; 81-22-081 (Order 1712), § 388-96-557, filed 11/4/81. Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-557, filed 2/25/81; Order 1262, § 388-96-557, filed 12/30/77.]

WAC 388-96-559 Cost basis of land and depreciation base. (1) For all rates effective on or after January 1, 1985, the total depreciation base of depreciable assets and the cost basis of land 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 and all contractors. 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 and cost basis of land 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) For all rates effective on or after January 1, 1985, where depreciable assets or land are acquired from a related organization, the contractor's depreciation base and land cost basis shall not exceed the base and basis 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, under 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) For all rates effective on or after January 1, 1985, if depreciable assets or land are acquired by purchase which were used in the medical care program on or after January 1, 1980, the depreciation base or cost basis 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 ten years or more 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 before January 1, 1980. The depreciation base or cost basis 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 reevaluation 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 under RCW 74.46.840 for all rates after July 17, 1984, this subsection is inoperative for any transfer of ownership of any asset, including land and all depreciable assets, 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) For all rates after July 17, 1984, subsection (8)(a) shall apply, however, to transfers of ownership of assets:

(i) Occurring before 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) Under written and enforceable purchase and sale agreements dated before July 18, 1984, which are documented and submitted to the department before January 1, 1988.

(c) For purposes of Medicaid cost reimbursement under this chapter, an otherwise enforceable agreement to purchase a nursing home dated before July 18, 1984, shall be considered enforceable even though the agreement contains:

(i) No legal description of the real property involved; or

(ii) An inaccurate legal description, notwithstanding the statute of frauds or any other provision of law.

(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 under 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 when the purchase date meets one of the following criteria. The purchase date is:

(i) After the lessor has declared bankruptcy or has defaulted in any loan or mortgage held against the leased property;

(ii) Within one year of the lease expiration or renewal date contained in the lease;

(iii) After a rate setting for the facility in which the reimbursement rate set, under this chapter and under chapter 74.46 RCW, no longer is equal to or greater than the actual cost of the lease; or

(iv) 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 79.09.120 [74.09.120] and 74.46.800. 09-09-061 (Order 2970), § 388-96-559, filed 4/17/90, effective 5/18/90. 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 388-96-561 Cost basis of land and depreciation base—Donated or inherited assets. (1) The cost basis or depreciation base of land or depreciable assets, either donated[,] or received through testate or intestate distribution, will be the lesser of:

(a) Fair market value at the date of donation or death, less goodwill, provided the estimated salvage value shall be deducted from fair market value where the straight-line or sum-of-the-years digits method of depreciation is used; or

(b) The historical cost of the owner last contracting with the department, if any.

(2) When the donation or distribution is between related organizations, the base shall be the lesser of:

(a) Fair market value, less goodwill and, where appropriate, salvage value; or

(b) The depreciation base or cost basis the related organization had or would have had for the asset under a contract with the department.

(3) Notwithstanding the provisions of subsections (1) and (2) of this section, for all rates after July 17, 1984, neither the depreciation base of depreciable assets nor the cost basis of land shall increase for reimbursement purposes if the asset is donated or acquired through testate or intestate distribution on or after July 18, 1984, the enactment date of the Deficit Reduction Act of 1984.

[Statutory Authority: RCW 79.09.120 [74.09.120] and 74.46.800. 09-09-061 (Order 2970), § 388-96-561, filed 4/17/90, effective 5/18/90. Statutory Authority: RCW 74.09.120. 84-24-050 (Order 2172), § 388-96-561, filed 12/4/84; 83-19-047 (Order 2025), § 388-96-561, filed 9/16/83. Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-561, filed 2/25/81; Order 1262, § 388-96-561, filed 12/30/77.]

WAC 388-96-565 Lives. (1) The contractor shall use lives reflecting the estimated actual useful life of assets, for example, land improvements, buildings, equipment, leasehold improvements, and other assets. 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 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 arms-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 388-96-567 Methods of depreciation. (1) Buildings, building improvements, land improvements, leasehold improvements, and fixed equipment shall be depreciated using the straight-line method. Major-minor equipment shall be depreciated using either the straight-line method, the sum-of-the-years digits method, or declining balance method not to exceed one hundred fifty percent of the straight-line rate. Contractors which have elected to take either the sum-of-the-years digits method or the declining balance method of depreciation on major-minor equipment may change to the straight-line method without permission of the department.

(2) The annual provision for depreciation shall be reduced by the portion allocable to use of the asset for purposes not both necessary and related to patient care.

(3) No further depreciation shall be claimed after an asset has been fully depreciated unless a new depreciation base is established pursuant to WAC 388-96-559.

[Statutory Authority: RCW 74.46.800. 86-10-055 (Order 2372), § 388-96-567, filed 5/7/86, effective 7/1/86. Statutory Authority: RCW 74.09.120, 74.46.840 and 74.46.800. 85-17-052 (Order 2270), § 388-96-567, filed 8/19/85. Statutory Authority: RCW 74.09.120. 81-22-081 (Order 1712), § 388-96-567, filed 11/4/81. Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-567, filed 2/25/81; Order 1262, § 388-96-567, filed 12/30/77.]

WAC 388-96-569 Retirement of depreciable assets.

(1) Where depreciable assets are disposed of through sale, trade-in, scrapping, exchange, theft, wrecking, or fire or other casualty, depreciation shall no longer be taken on the assets. No further depreciation shall be taken on permanently abandoned assets.

(2) Where an asset has been retired from active use but is being held for stand-by or emergency service, and the department has determined that it is needed and can be effectively used in the future, depreciation may be taken.

[Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-569, filed 2/25/81; Order 1262, § 388-96-569, filed 12/30/77.]

WAC 388-96-571 Handling of gains and losses upon retirement of depreciable assets settlement periods prior to 1/1/81 and rate periods prior to 7/1/82.

(1) For settlement purposes for periods prior to January 1, 1981, and for rate-setting purposes for periods prior to July 1, 1982, gains and losses on the retirement of depreciable assets either during the period of participation in the program or within twelve months following termination, shall be treated in accordance with this section.

(2) A gain or loss on the retirement of an asset shall be the difference between the remaining undepreciated base and any proceeds received for, or to compensate for loss of, the asset. For purposes of subsections (3) and (4) of this section, the total gain shall be reduced by one percent for each month of ownership of an asset with an expected useful life of one hundred months or longer. For an asset with an expected useful life of less than one hundred months, total gain shall be reduced by the portion thereof equal to the ratio of the actual life of the asset from its most recent arms-length acquisition up to the date of retirement to its expected useful life.

(3) If the retired asset is replaced, the gain or loss shall be applied against or added to the cost of the replacement asset, provided that a loss will only be so applied if the contractor has made a reasonable effort to recover at least the outstanding book value of the asset.

(4) If the retired asset is not replaced, or if the contractor is terminating its contract, the gain or loss shall be spread over the actual life of the asset up to the date of retirement, provided that a loss will only be so spread if the contractor has made a reasonable effort to recover at least the outstanding book value of the asset. The difference between reimbursement actually paid for depreciation in any period beginning on or after January 1, 1978, and the reimbursement for depreciation which would have been paid with the base adjusted to reflect the gain or loss, will be computed. Where the difference results from a gain, it shall be recovered by the department. Where the difference results from a loss, it will be added to allowable costs for purposes of determining settlement.

[Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-571, filed 2/25/81. Statutory Authority: RCW 74.08.090 and 74.09.120. 78-06-080 (Order 1300), § 388-96-571, filed 6/1/78; Order 1262, § 388-96-571, filed 12/30/77.]

WAC 388-96-572 Handling of gains and losses upon retirement of depreciable assets--Other periods. (1) This section shall apply in the place of WAC 388-96-571 effective January 1, 1981, for purposes of settlement for settlement periods subsequent to that date, and for purposes of setting rates for rate periods beginning July 1, 1982, and subsequently.

(2) A gain or loss on the retirement of an asset shall be the difference between the remaining undepreciated base and any proceeds received for, or to compensate for loss of, the asset.

(3) If the retired asset is replaced, the gain or loss shall be applied against or added to the cost of the replacement asset, provided that a loss will only be so applied if the contractor has made a reasonable effort to recover at least the outstanding book value of the asset.

(4) If the retired asset is not replaced, any gain shall be offset against property expense for the period during which it is retired and any loss shall be expensed subject to the provisions of WAC 388-96-554(6).

[Statutory Authority: RCW 74.09.120, 83-19-047 (Order 2025), § 388-96-572, filed 9/16/83. Statutory Authority: RCW 74.09.120 and 74.46.800, 81-06-024 (Order 1613), § 388-96-572, filed 2/25/81.]

WAC 388-96-573 Recovery of excess over straight-line depreciation. This section shall apply to settlement periods prior to January 1, 1981, only. If a contractor terminates its contract without selling or otherwise retiring equipment which was depreciated using an accelerated method, depreciation schedules relating to these assets for periods during which the contractor participated in the program shall be adjusted. The difference between reimbursement actually paid for depreciation in any period beginning on or after January 1, 1978, and the reimbursement which would have been paid for depreciation if the straight-line method had been used, will be recovered by the department.

[Statutory Authority: RCW 74.09.120, 83-05-007 (Order 1944), § 388-96-573, filed 2/4/83; Order 1262, § 388-96-573, filed 12/30/77.]

WAC 388-96-580 Operating leases of office equipment. Rental costs of office equipment under arm's-length operating leases shall be allowable to the extent such costs are necessary, ordinary, and related to patient care. Beginning January 1, 1985, office equipment rental costs shall be reimbursed in the administration and operations cost center. Office equipment may include items typically used in administrative or clerical functions such as telephones or PBX equipment, copy machines, desks and chairs, calculators and adding machines, file cabinets, typewriters, and computers. However, expenses of leasing computers may not be reimbursed in excess of ten cents per patient day.

[Statutory Authority: RCW 74.09.120, 74.46.840 and 74.46.800, 85-17-052 (Order 2270), § 388-96-580, filed 8/19/85. Statutory Authority: RCW 74.09.120, 84-24-050 (Order 2172), § 388-96-580, filed 12/4/84. Statutory Authority: RCW 74.46.800, 84-12-039 (Order 2105), § 388-96-580, filed 5/30/84.]

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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 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 owners, relatives, and administrative personnel;

(qq) Department-imposed postsurvey charges incurred by the facility as a result of subsequent inspections which occur beyond the first postsurvey visit during the certification survey calendar year;

(rr) Costs and fees otherwise allowable for legal services, whether purchased, allocated by a home office, regional office or management company, or performed

by the contractor or employees of the contractor, in excess of the eighty-fifth percentile of such costs, measured on a total cost basis, reported by all contractors for the most recent cost report period: *Provided*, That this limit shall not apply to a contractor unless the contractor has exceeded this percentile for each of the three years preceding the most recent cost report year;

(ss) Costs and fees otherwise allowable for accounting and bookkeeping services, whether purchased, allocated by a home office, regional office or management company, or performed by the contractor or employees of the contractor, in excess of the eighty-fifth percentile of such costs, measured on a per patient-day cost basis, reported by all contractors for the most recent cost report period, provided this limit shall not apply to a contractor unless the contractor has exceeded this percentile for each of the three years preceding the most recent cost report year; and

(tt) After July 17, 1984, costs of assets, including all depreciable assets and land, which cannot be reimbursed under the provisions of the Deficit Reduction Act of 1984 (DEFRA) and state statutes and regulations implementing DEFRA.

[Statutory Authority: RCW 79.09.120 [74.09.120] and 74.46.800. 90-09-061 (Order 2970), § 388-96-585, filed 4/17/90, effective 5/18/90. Statutory Authority: RCW 74.46.800. 89-17-030 (Order 2847), § 388-96-585, filed 8/8/89, effective 9/8/89. 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 388-96-704 Prospective reimbursement rates.

(1) The department will determine prospective reimbursement rates for SNF and ICF services provided to recipients. Each rate represents the contractor's maximum compensation for one patient day of care of a recipient determined by the department to require SNF or ICF care.

(2) A contractor may also be assigned an individual prospective rate for a specific recipient determined by the department to require exceptional care.

[Statutory Authority: RCW 74.09.120. 82-21-025 (Order 1892), § 388-96-704, filed 10/13/82. Statutory Authority: RCW 74.08.090 and 74.09.120. 78-06-080 (Order 1300), § 388-96-704, filed 6/1/78. Statutory Authority: RCW 74.09.120. 78-02-013 (Order 1264), § 388-96-704, filed 1/9/78.]

WAC 388-96-705 Payment for services after settlement. When payment for services is first made following preliminary or final settlement for the period during which the services were provided, payment will be at the most recent available settlement rate.

[Statutory Authority: RCW 74.09.120. 81-22-081 (Order 1712), § 388-96-705, filed 11/4/81.]

WAC 388-96-707 Program services not covered by the reimbursement rate. Medical services which are part of the department's medical care program but not included in SNF or ICF services are not covered by the prospective reimbursement rate. Payment is made directly to the provider of service in accordance with chapter 388-87 WAC. Items and services covered by the medical care program are listed in chapter 388-86 WAC.

[Statutory Authority: RCW 74.09.120. 82-21-025 (Order 1892), § 388-96-707, filed 10/13/82. Statutory Authority: RCW 74.08.090 and 74.09.120. 78-06-080 (Order 1300), § 388-96-707, filed 6/1/78. Statutory Authority: RCW 74.09.120. 78-02-013 (Order 1264), § 388-96-707, filed 1/9/78.]

WAC 388-96-710 Prospective reimbursement rate for new contractors. (1) 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 388-96-713 Rate determination. (1) Each contractor's reimbursement rate will be determined prospectively once each calendar year to be effective July 1. Rates may be adjusted more frequently to take into account program changes.

(2) If the contractor participated in the program for at least six months of the prior calendar year, its nursing services, administration and operations, property and return on investment rates will be determined based on the contractor's allowable costs in the prior period. If the contractor participated in the program for less than six months of the prior calendar year, its rates will be determined by procedures set forth in WAC 388-96-710.

(3) Beginning with rates effective July 1, 1984, contractors submitting correct and complete cost reports by March 31st, shall be notified of their rates by July 1st, unless circumstances beyond the control of the department interfere.

[Statutory Authority: RCW 79.09.120 [74.09.120] and 74.46.800, 90-09-061 (Order 2970), § 388-96-713, filed 4/17/90, effective 5/18/90. Statutory Authority: RCW 74.09.120, 83-19-047 (Order 2025), § 388-96-713, filed 9/16/83; 81-15-049 (Order 1669), § 388-96-713, filed 7/15/81; 80-06-122 (Order 1510), § 388-96-713, filed 5/30/80, effective 7/1/80; 78-02-013 (Order 1264), § 388-96-713, filed 1/9/78.]

WAC 388-96-716 Cost areas. A contractor's overall reimbursement rate for medical care recipients 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 388-96-717 Desk review adjustments. (1) The department shall analyze each annual cost report to determine if the information is correct, complete, and reported in conformity with generally accepted accounting principles, the nursing home accounting and reporting manual, and instructions issued by the department. An analysis by the department to determine whether reported information is correct and complete may include, but is not limited to:

- (a) An examination of reported costs for prior years;
- (b) An examination of desk review adjustments made in prior years and their final disposition; and
- (c) An examination of findings, if any, from field audits of cost reports from prior years and findings, if any, from the field audit of the cost report under analysis.

(2) If it appears from this analysis a contractor has not correctly determined or reported its costs, the department may make adjustments to the reported information for the purpose of establishing reimbursement rates. A schedule of such adjustments shall be provided to contractors and shall include an explanation of the adjustment and the dollar amount of the adjustment for each adjustment made. If a contractor believes an adjustment is in error, the adjustment shall be subject to review pursuant to WAC 388-96-769 and, if a satisfactory resolution of issues is not reached, to further review pursuant to WAC 388-96-901 and 388-96-904.

(3) The department shall accumulate data from properly completed cost reports for use in exception profiling and establishing rates.

(4) The department may further utilize such accumulated data for analytical, statistical, or informational purposes as deemed necessary by the department.

[Statutory Authority: RCW 74.09.120, 74.46.840 and 74.46.800, 85-17-052 (Order 2270), § 388-96-717, filed 8/19/85. Statutory Authority: RCW 74.09.120, 83-19-047 (Order 2025), § 388-96-717, filed 9/16/83.]

WAC 388-96-719 Method of rate determination.

(1) 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 increase property, return on investment, or enhancement rates for inflation adjustments determined by the legislature in biennial budget acts.

(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, return on investment, property and administration and operations 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: RCW 79.09.120 [74.09.120] and 74.46.800, 90-09-061 (Order 2970), § 388-96-719, filed 4/17/90, effective 5/18/90. 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 388-96-721 Priorities in establishing rates and responding to appeals of desk-review adjustments. Consistent with other provisions of this chapter, the following priorities shall apply in calculating rates, issuing

rates, and responding to appeals of desk-review adjustments:

(1) First priority shall be given to contractors submitting correct and complete cost reports postmarked no later than March 31st;

(2) Second priority shall be given to contractors submitting correct and complete cost reports by May 15th;

(3) Third priority shall be given to contractors submitting correct and complete cost reports after May 15th; and

(4) For the purposes of responding to appeals of desk-review adjustments within each of the foregoing priority groups, contractors will receive a priority determined by the proportion of Medicaid patient days of service to total patient days of service reflected in the latest cost report and by the rate change at July 1st rate setting relative to other facilities in the priority group.

[Statutory Authority: RCW 74.46.800. 84-12-039 (Order 2105), § 388-96-721, filed 5/30/84.]

WAC 388-96-722 Nursing services cost area rate.

(1) The 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 388-96-727 Food cost area rate. (1) The food cost area rate will reimburse for the necessary and ordinary costs of procuring food, dietary supplements, and beverages for meals and between-meal nourishment for recipients.

(2) Reimbursement for the food cost center shall be at the January 1, 1983, rate, adjusted for inflation utilizing the inflation factor specified in WAC 388-96-719 (3)(b).

[Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-727, filed 9/16/83; 81-15-049 (Order 1669), § 388-96-727, filed 7/15/81; 79-12-085 (Order 1461), § 388-96-727, filed 11/30/79; 78-02-013 (Order 1264), § 388-96-727, filed 1/9/78.]

WAC 388-96-735 Administration and operations cost area rate. (1) The administration and operations cost area reimbursement rate will reimburse for the necessary and ordinary costs of overall management of the facility, operation and maintenance of the physical plant, and providing dietary service (other than the cost of food and beverages), medical supplies, taxes, and insurance.

(2) Each contractor's allowable, inflation adjusted, per patient day administration and operations cost shall be determined.

(3) Costs for contractors having submitted correct and complete cost reports by the time July rates are initially to be established shall be ranked from highest to lowest. The eighty-fifth percentile of the ranking shall be determined.

(4) Administration and operations rates for individual providers shall be the lower of the provider's allowable cost or the eighty-fifth percentile.

(5) Beginning July 1, 1984, allowable costs for administration and operations for rate setting purposes shall include allowable retained savings for the preceding report year.

(6) Beginning January 1, 1985, the administration and operations cost area rate will include reimbursement for the necessary and ordinary lease costs of office equipment as specified in WAC 388-96-580.

[Statutory Authority: RCW 74.09.120. 84-24-050 (Order 2172), § 388-96-735, filed 12/4/84; 83-19-047 (Order 2025), § 388-96-735, filed 9/16/83; 82-11-065 (Order 1808), § 388-96-735, filed 5/14/82; 81-15-049 (Order 1669), § 388-96-735, filed 7/15/81; 80-06-122 (Order 1510), § 388-96-735, filed 5/30/80, effective 7/1/80; 79-12-085 (Order 1461), § 388-96-735, filed 11/30/79; 78-02-013 (Order 1264), § 388-96-735, filed 1/9/78.]

WAC 388-96-745 Property cost area reimbursement rate. (1) The 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), (5), and (6) 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 and Swift Valuation Service* published by the Marshall and 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 and Swift Valuation Service* when deriving the calculator method costs.

(5) The department shall allow such construction costs, at the lower of actual costs or the maximums shown in the following tables, adjusted forward from May 1, 1987, to the average date of construction for any changes in construction costs shown by relevant cost indexes published by Marshall and Swift Publication Company. 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 |

(6) 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.

(7) If allowable costs for construction or land are determined to be less than actual costs pursuant to subsection (3), (4), and (5) 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), (4), and (5) 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: RCW 79.09.120 [74.09.120] and 74.46.800. 90-09-061 (Order 2970), § 388-96-745, filed 4/17/90, effective 5/18/90. 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 388-96-752 Documentation of leased assets.

If the department challenges the historical cost of a leased asset or if the contractor cannot or will not provide the lessor's acquisition cost of an asset, the asset will be excluded from reimbursement until a department of general administration appraisal is prepared for the asset.

[Statutory Authority: RCW 74.09.120. 84-24-050 (Order 2172), § 388-96-752, filed 12/4/84.]

WAC 388-96-754 A contractor's return on investment. (1) The department shall establish for individual Medicaid facilities return on investment allowances composed of a financing allowance and a variable return allowance.

(2) 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. Subject to provisions contained in this chapter, for land purchases before July 18, 1984 (the enactment date of the Deficit Reduction Act of 1984 (DEFRA)), capitalized cost of land shall be the buyer's capitalized cost. For land purchases on or after July 18, 1984, capitalized cost shall be that of the owner of record on July 17, 1984, or buyer's capitalized cost, whichever is lower. 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, except the adjustments shall reflect a minimum bed occupancy level of eighty-five percent. 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 79.09.120 [74.09.120] and 74.46.800. 90-09-061 (Order 2970), § 388-96-754, filed 4/17/90, effective 5/18/90. 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 388-96-760 Upper limits to reimbursement rate. The reimbursement rate shall not exceed the contractor's customary charges to the general public for the services covered by the rate, except that public facilities

rendering such services free of charge or at a nominal charge will be reimbursed according to the methods and standards set out in this chapter. The contractor shall provide as part of the annual cost report a statement of the average charges for the cost report year for services covered by the rate and supporting computations and documentation. The contractor shall immediately inform the department if its reimbursement rate does exceed customary charges for comparable services. If necessary, the rate will be adjusted in accordance with WAC 388-96-769.

[Statutory Authority: RCW 74.09.120. 84-24-050 (Order 2172), § 388-96-760, filed 12/4/84; 83-19-047 (Order 2025), § 388-96-760, filed 9/16/83; 81-22-081 (Order 1712), § 388-96-760, filed 11/4/81. Statutory Authority: RCW 74.08.090 and 74.09.120. 78-06-080 (Order 1300), § 388-96-760, filed 6/1/78. Statutory Authority: RCW 74.09.120. 78-02-013 (Order 1264), § 388-96-760, filed 1/9/78.]

WAC 388-96-761 Home office, central office, and other off-premises assets. Assets used in the provision of services by or to a nursing home, but not located on the premises of the nursing home, shall not be included in net invested funds or in the calculation of property reimbursement for the nursing facility. Depreciation, interest expense, and operating lease expense for home office, central office, and other off-premises assets may be allocated to the cost of services provided to or by the facility on a reasonable statistical basis approved by the department and included in the costs of services in cost centers where such services and related costs are appropriately reported.

[Statutory Authority: RCW 74.46.800. 84-12-039 (Order 2105), § 388-96-761, filed 5/30/84.]

WAC 388-96-762 Allowable land. (1) Beginning January 1, 1985, land associated with a nursing home which is eligible for inclusion in net invested funds shall not exceed two acres for facilities located in a standard metropolitan statistical area, as defined by the United States Bureau of the Census, and three acres for nursing homes located outside such an area.

(2) The department may grant an exception to these limits if a contractor presents documentation deemed adequate by the department establishing a larger area of land is directly related to patient care. Requests for exceptions and any exceptions granted must be in writing.

(3) Requests for exceptions may be granted in the following cases:

(a) The area occupied by the nursing home building exceeds the allowable land area specified in subsection (1) of this section;

(b) The land is used directly in the provision of patient care;

(c) The land is maintained;

(d) The land is not subdivided or eligible for subdivision;

(e) The land is zoned for nursing home or similar use; or

(f) Other reasons exist which are deemed sufficient by the department.

[Statutory Authority: RCW 74.46.800. 84-12-039 (Order 2105), § 388-96-762, filed 5/30/84.]

WAC 388-96-763 Rates for recipients requiring exceptionally heavy care. (1) A contractor certified to provide skilled nursing services may apply for an individual prospective reimbursement rate for a Medicaid recipient whose special nursing and direct care-related service needs are such that the hours of nursing services needed are twice or more the contractor's current reimbursed per patient day average of nursing services hours.

(2) When application for an exceptional care rate is made before determining where the recipient will be placed, pre-admission qualification may be granted when the recipient's special nursing and direct care needs require hours of nursing services twice or more the current statewide per patient day average. For reviews, to determine continued qualification only for such recipients, conducted during the first year after placement, the department will continue to utilize the most current statewide average available to the department. For subsequent reviews to determine continued qualification, the contractor's average, set forth under subsection (1) of this section, shall be substituted for the statewide average.

(3) The contractor or other applicant shall apply for exceptional care rate qualification for an exceptionally heavy care recipient in accordance with instructions furnished by the department. The facility shall bill the department at the authorized exceptional care rate within one hundred twenty days from the exceptional care rate's effective date. Bills for services submitted after one hundred twenty days shall be denied as untimely.

(4) When the department grants an individual rate for an exceptionally heavy care recipient, it shall be for a specified period of time the department determines, subject to extension, revision, or termination depending on the recipient's care requirements at the end of such period. Discharge or transfer of the recipient, permanently or temporarily, shall terminate an exceptional care rate which shall be nontransferable to a different facility. Qualification upon re-admission shall require re-application. Regardless of whether statewide average nursing hours or facility average nursing hours are used for qualification, the exceptional care rate for a recipient shall be calculated by:

(a) Deriving a ratio equivalent to actual or projected nursing hours per patient day needed by the recipient in excess of the facility-specific reimbursed average nursing hours per patient day divided by the facility-specific reimbursed average nursing hours per patient day;

(b) Multiplying the ratio by the facility-specific nursing services rate; and

(c) Adding the result of subsection (4)(b) of this section to the total facility-specific reimbursement rate.

(5) Factors used in the calculation process set forth under subsection (4) of this section shall be the most current and available factors from department records at the time the calculation is performed.

(6) A pre-admission exceptional care qualification shall be effective for only thirty days. The contractor shall notify the department, in writing, as soon as the recipient is admitted to the contractor's facility. When

placement with a long-term care contractor has not occurred within thirty days after the qualification effective date, an updated plan of care shall be submitted.

(7) Unless the department establishes a different timetable for review, an updated plan of care shall be completed and submitted every ninety days for each exceptional care recipient, including documentation supporting the need for services identified in the plan of care. A decision to continue, revise, or terminate an exceptional care rate shall be based on review of the updated plan of care and supporting documentation, a current care need assessment and other information available to the department.

(8) An exceptional care rate shall not be revised during the period the exceptional care rate is in effect because the facility-specific nursing services or total rate is revised or re-set; however, when an exceptional care rate is continued or revised as authorized in this section, the facility rate in place at the time of continuation or revision shall be used in the calculation process. An exceptional care rate shall be revised during the period the rate is in effect only when:

(a) An updated plan of care indicates a significant change in care needs; or

(b) Funded services are not fully delivered.

(9) No retroactive revision shall be made to an exceptional care rate, provided that:

(a) When application is made within thirty days after the recipient is admitted to the contractor's facility, an approved rate shall be effective the date of admission; and

(b) When an exceptional care rate is revised due to a significant change, the revised rate will be effective on the date the department receives the updated plan of care and supporting documentation.

(10) 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 79.09.120 [74.09.120] and 74.46.800. 90-09-061 (Order 2970), § 388-96-763, filed 4/17/90, effective 5/18/90. 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 388-96-764 Activities assistants. Costs associated with the employment of activities assistants working under the direction of a qualified activities specialist are allowable in the nursing services cost center.

[Statutory Authority: RCW 74.46.800. 84-12-039 (Order 2105), § 388-96-764, filed 5/30/84.]

WAC 388-96-765 Ancillary care. Beginning July 1, 1984, costs of providing ancillary care are allowable provided documentation establishes the costs were incurred for medical care recipients and other sources of payment to which patients may be legally entitled, such

as private insurance or Medicare, were first fully utilized.

[Statutory Authority: RCW 74.46.800. 84-12-039 (Order 2105), § 388-96-765, filed 5/30/84.]

WAC 388-96-766 Notification of rates. The department will notify each contractor in writing of its prospective reimbursement rate. Unless otherwise specified at the time it is issued, the rate will be effective from the first day of the month in which it is issued until a new rate becomes effective. If a rate is changed as the result of an appeal in accordance with WAC 388-96-904, it will be effective as of the date the rate appealed from became effective.

[Statutory Authority: RCW 74.09.120. 78-02-013 (Order 1264), § 388-96-766, filed 1/9/78.]

WAC 388-96-767 Appraisal values. If a contractor is unwilling or unable to provide and document the lessor's historical cost of leased assets, the department shall arrange for an appraisal of such assets to be conducted by the state of Washington department of general administration. If such an appraisal is conducted, it shall be the basis for all property and return on investment reimbursement, except that: If documentation subsequently becomes available to the department establishing the lessor's historical cost is less than the appraisal value, the historical cost shall be the basis for all property and return on investment reimbursement.

[Statutory Authority: RCW 74.46.800. 84-12-039 (Order 2105), § 388-96-767, filed 5/30/84.]

WAC 388-96-768 Minimum wage. (1) 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.

(2) Minimum wage requirements set forth in this section shall not apply to an employee who:

(a) The department of labor and industries determines is entitled to payments for temporary and total disability; and

(b) A physician authorizes to return to available work other than the employee's usual work.

(3) The employee shall be paid the minimum wage or more when resuming usual work.

[Statutory Authority: RCW 79.09.120 [74.09.120] and 74.46.800. 90-09-061 (Order 2970), § 388-96-768, filed 4/17/90, effective 5/18/90. Statutory Authority: 1987 c 476. 88-01-126 (Order 2573), § 388-96-768, filed 12/23/87.]

WAC 388-96-769 Adjustments required due to errors or omissions. (1) Prospective rates are subject to adjustment by the department in accordance with this section and subject to WAC 388-96-122 as a result of errors or omissions by the department or by the contractor. The department will notify the contractor in writing

of each adjustment and of the effective date of the adjustment, and of any amount due to the department or to the contractor as a result of the rate adjustment. Rates adjusted in accordance with this section will be effective as of the effective date of the original rate whether the adjustment is solely for computing a preliminary or final settlement or for the purpose of modifying past or future rate payments as well.

(2) If a contractor claims an error or omission based upon incorrect cost reporting, amended cost report pages shall be prepared and submitted by the contractor. Amended pages shall be accompanied by the certification required by WAC 388-96-117 and a written justification explaining why the amendment is necessary. Such amendments shall not be accepted unless the amendments meet the requirements of WAC 388-96-122. If changes made by the amendments are determined to be material by the department according to standards established by the department, such amended pages shall be subject to field audit. If a field audit or other information available to the department determines the amendments are incorrect or otherwise unacceptable, any rate adjustment based on the amendment shall be null and void and future rate payment increases, if any, scheduled as a result of such an adjustment shall be cancelled immediately. Payments made based upon the rate adjustment shall be subject to repayment as provided in subsection (3) of this section.

(3) The contractor shall pay an amount owed the department resulting from an error or omission or from an improper adjustment, or commence repayment in accordance with a schedule determined by the department, within sixty days after receipt of notification of the rate adjustment or rate adjustment cancellation, unless the contractor contests the department's determination in accordance with the procedures set forth in WAC 388-96-904. If the determination is contested, the contractor shall pay or commence repayment within sixty days after completion of these proceedings. If a refund is not paid when due, the amount thereof may be deducted from current payments by the department.

(4) If a cost report amendment is accepted for rate adjustment and was received by the department prior to the end of the period to which the rate is assigned, the department shall make any retroactive payment to which the contractor may be entitled within thirty days after the contractor is notified of the rate adjustment and shall increase future rate payments for the rate period, as appropriate.

(5) If a cost report amendment is received by the department subsequent to the rate period, notification of an adjustment or other disposition shall be made at preliminary or final settlement. Adjustments resulting from amendments received after the rate period shall be for the sole purpose of computing the preliminary or final settlement and no retroactive payment shall be made to the contractor. In accordance with WAC 388-96-229(1), any amount due a contractor as determined at preliminary or final settlement shall be paid within thirty days after the preliminary or final settlement report is submitted to the contractor.

(6) No adjustments for any purpose will be made to a rate more than one hundred twenty days after the final audit narrative and summary for the period the rate was effective is sent to the contractor or more than one hundred twenty days after the preliminary settlement becomes the final settlement. A final settlement within this one hundred twenty-day time limit may be reopened for the limited purpose of making an adjustment to a prospective rate in accordance with this section. However, only the adjustment and related computation will be subject to review if timely contested pursuant to WAC 388-96-901 and 388-96-904. Other actions relating to a settlement reopened shall not be subject to review unless previously contested in a timely manner.

[Statutory Authority: RCW 74.46.800. 86-10-055 (Order 2372), § 388-96-769, filed 5/7/86, effective 7/1/86. Statutory Authority: RCW 74.09.120. 82-11-065 (Order 1808), § 388-96-769, filed 5/14/82; 81-22-081 (Order 1712), § 388-96-769, filed 11/4/81; 78-02-013 (Order 1264), § 388-96-769, filed 1/9/78.]

WAC 388-96-771 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 made by the department on behalf of a nursing home not certified to participate in the Medicaid Title XIX program from revenue generated by the facility which is not obligated to the operation of the facility.

(c) In order to help recover an emergency or transitional expenditure, regardless of whether the facility is

certified to participate in the Medicaid Title XIX program or not, the department may:

(i) File an action against the former licensee or owner at the time the expenditure is made 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. The Medicaid reimbursement rate for:

(a) The former owner or licensee shall be what it was before receivership, unless the former owner or licensee requests prospective rate revisions from the department as set forth in this chapter; and

(b) 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 79.09.120 [74.09.120] and 74.46.800. 90-09-061 (Order 2970), § 388-96-771, filed 4/17/90, effective 5/18/90. 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 any of 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; and
(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, positions, and scheduling of existing staff;

(g) Increases in acuity (debility) levels of contractors' residents;

(h) Survey, inspection of care, and department consultation results; and

(i) The facility's ability to fund its staffing request through the facility's existing total Medicaid reimbursement rate.

(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 79.09.120 [74.09.120] and 74.46.800. 90-09-061 (Order 2970), § 388-96-774, filed 4/17/90, effective 5/18/90. 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 388-96-775 Public review of rate-setting methods and standards. The department will provide all interested members of the public with an opportunity to review and comment on proposed rate-setting methods and standards each year before they are used to set rates.

[Statutory Authority: RCW 74.09.120. 78-02-013 (Order 1264), § 388-96-775, filed 1/9/78.]

WAC 388-96-778 Public disclosure of rate-setting methodology. Without identifying individual nursing homes, the department will make available to the public full information regarding its rate-setting methodology.

[Statutory Authority: RCW 74.09.120. 78-02-013 (Order 1264), § 388-96-778, filed 1/9/78.]

WAC 388-96-801 Billing period. A contractor shall bill the department for care provided to medical care recipients from the first through the last day of each calendar month.

[Order 1262, § 388-96-801, filed 12/30/77.]

WAC 388-96-804 Billing procedures. (1) A contractor shall bill the department each month by completing and returning the nursing home statement provided by the department. This form shall be completed and filed in accordance with instructions issued by the department.

(2) A contractor shall not bill the department for service provided to a recipient until an award letter relating to the recipient has been received except in accordance with department policies and procedures. At that time it may bill for service provided back through the date the recipient was admitted or became eligible.

(3) Billing shall not cover the day of a recipient's death, discharge or transfer from the nursing home.

[Statutory Authority: RCW 74.09.120. 82-20-024 and 82-20-036 (Orders 1883 and 1883A), § 388-96-804, filed 9/29/82 and 9/30/82; Order 1262, § 388-96-804, filed 12/30/77.]

WAC 388-96-807 Charges to patients. (1) The department 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 388-96-810 Payment. (1) The department will reimburse a contractor for service rendered under the nursing home contract and billed for in accordance with WAC 388-96-804.

(2) The amount paid will be computed using the appropriate rate assigned to the contractor.

(3) The special rate assigned to a contractor by the department for the care of an exceptional care recipient will be used in computing the amount paid for care of such recipient.

(4) For each recipient, the department will pay an amount equal to the appropriate rate or rates, multiplied by the number of patient days each rate was in effect, less the amount the recipient is required to pay for his or her care (see WAC 388-96-807).

[Order 1262, § 388-96-810, filed 12/30/77.]

WAC 388-96-813 Suspension of payment. (1) Payments to a contractor may be withheld by the department in each of the following circumstances:

(a) A required report is not properly completed and filed by the contractor within the appropriate time period, including any approved extensions. Payments will be released as soon as a properly completed report is received.

(b) Auditors or other authorized department personnel in the course of their duties are refused access to a nursing home or are not provided with existing appropriate records. Payments will be released as soon as such access or records are provided.

(c) A refund in connection with a settlement or rate adjustment is not paid by the contractor when due. The amount withheld will be limited to the unpaid amount of the refund.

(d) Payment for the final thirty days of service under a contract will be held pending final settlement when the contract is terminated.

(2) No payment will be withheld until written notification of the suspension is given to the contractor, stating the reason therefor.

[Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-813, filed 9/16/83; Order 1262, § 388-96-813, filed 12/30/77.]

WAC 388-96-816 Termination of payments. All payments to a contractor will end no later than sixty days after any of the following occurs:

- (1) A contract expires, is terminated, or is not renewed;
- (2) A facility license is revoked; or
- (3) A facility is decertified as a Title XIX facility.

[Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-816, filed 9/16/83; Order 1262, § 388-96-816, filed 12/30/77.]

WAC 388-96-901 Disputes. (1) If a reimbursement rate issued to a contractor is believed to be incorrect because it is based on errors or omissions by the contractor or department, the contractor may request an adjustment pursuant to WAC 388-96-769. Pursuant to WAC 388-96-904(1) a contractor may within thirty days request an administrative review after notification of an adjustment or refusal to adjust.

(2) If a contractor wishes to contest the way in which a rule, contract provision, or policy statement relating to the prospective cost-related reimbursement system was applied to the contractor by the department, e.g., in setting a reimbursement rate or determining a disallowance at audit, it shall first pursue the administrative review process set out in WAC 388-96-904.

(3) The administrative review and fair hearing process set out in WAC 388-96-904 need not be exhausted if a contractor wishes to challenge the legal validity of a statute, rule, contract provision or policy statement.

[Statutory Authority: RCW 74.09.120. 82-21-025 (Order 1892), § 388-96-901, filed 10/13/82; Order 1262, § 388-96-901, filed 12/30/77.]

WAC 388-96-902 Recoupment of undisputed overpayments. The department is authorized to withhold from the nursing home current payment all amounts found by preliminary or final settlement to be overpayments not identified by the nursing home and challenged as overpayments as part of a good-faith administrative or judicial review. Contested amounts retained by the nursing home pursuant to this section may be subject to

recoupment by the department from the nursing home current payment upon completion of judicial and administrative review procedures to the extent the department's position or claims are upheld.

[Statutory Authority: RCW 74.09.120. 82-11-065 (Order 1808), § 388-96-902, filed 5/14/82.]

WAC 388-96-904 Administrative review—Adjudicative proceeding. (1) Within twenty-eight days after a contractor is notified of an action or determination it wishes to challenge, the contractor shall request, in writing, the appropriate director or the director's 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;
- (c) State as specifically as practicable the issues and regulations involved and the grounds for contending the determination is erroneous; and
- (d) Attach to the request copies of any documentation the contractor intends to rely on to support the contractor's 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 under WAC 388-96-113; and

(b) Any documentation the contractor intends to rely on to support the contractor's 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 the contractor a written decision within sixty days after the conclusion of the conference.

(5) A contractor has the right to an adjudicative proceeding to contest the director's administrative review decision.

(a) A contractor contesting the director's decision shall within twenty-eight days of receipt of the decision:

(i) File a written application for an adjudicative proceeding with the office of appeals;

(ii) Sign the application or have the licensed administrator of the facility sign it;

(iii) State as specifically as practicable the issues and law involved;

(iv) State the grounds for contesting the director's decision; and

(v) Attach to the application a copy of the director's decision being contested and copies of any documentation the contractor intends to rely on to support its position.

(b) The proceeding shall be governed by the Administrative Procedure Act (chapter 34.05 RCW), this chapter, and chapter 388-08 WAC. If any provision in this chapter conflicts with chapter 388-08 WAC, the provision in this chapter governs.

[Statutory Authority: RCW 34.05.220 (1)(a) and 74.09.120. 90-04-071 (Order 3003), § 388-96-904, filed 2/5/90, effective 3/1/90. 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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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

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|------------|---|
| 388-98-005 | Receivership. [Statutory Authority: Chapter 18.51 RCW. 88-06-086 (Order 2603), § 388-98-005, filed 3/2/88.] Repealed by 90-01-052 (Order 2917), filed 12/15/89, effective 1/15/90. Statutory Authority: 1989 c 372 § 8. |
| 388-98-800 | Applicability of civil fines. [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.] Repealed by 90-01-052 (Order 2917), filed 12/15/89, effective 1/15/90. Statutory Authority: 1989 c 372 § 8.

388-98-850 Imposition and payment of fines. [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.] Repealed by 90-01-052 (Order 2917), filed 12/15/89, effective 1/15/90. Statutory Authority: 1989 c 372 § 8.

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 a finding by the department of a violation of professional standards of practice, the requirements of chapters 18.51 or 74.42 RCW, or the standards, rules, and regulations established under them or in the case of a Medicaid contractor, violation of Medicaid requirements of Title XIX of the Social Security Act, as amended, and regulations promulgated thereunder.

(4) "Denial of payment" means a department decision not to pay for new Medicaid admissions to a nursing home.

(5) "Department" means the nursing home licensing agency of the state department of social and health services.

(6) "Director" means an individual elected or appointed as director of a corporation.

(7) "Emergency closure" means a department order to immediately close a nursing home.

(8) "Emergency transfer" means a department order to immediately transfer specified residents or all residents from a nursing home to safe settings.

(9) "Highest practicable physical, mental, or psychosocial well being" means the highest level of functioning and well being possible to be achieved for a resident limited by the resident's presenting functional status and potential for improvement or reduced rate of degeneration. Highest practicable is not a diagnostic, prospective, delineating determination made without aggressive, competent efforts to halt degenerative processes and to achieve or restore independent free choice functioning. It is achieved through functional assessment and aggressive, competent addressing of the individual's physical, mental, and psychosocial needs.

(10) "Licensed nursing home" means a nursing home licensed under chapter 18.51 RCW.

(11) "Licensee" means an individual, partnership, corporation, or other legal entity licensed to operate a nursing home or a person subject to licensure as determined by the department. This does not include an employee of a licensee or person unless that employee is an owner of five percent or more of the licensed entity assets.

(12) "Licensee's agent" means the designated nursing home administrator, or an individual designated to perform managerial functions in the administrator's absence.

(13) "Officer" means an individual appointed as an officer of a corporation.

(14) "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 owner's spouse;

(b) In the case of a corporation, the owner of at least five percent of the capital stock of a corporation; or

(c) In the case of other types of business entities, the owner of a beneficial interest in at least five percent of the capital assets of an entity.

(15) "Partner" means an individual in a partnership owning or operating a nursing home.

(16) "Plan of correction" means a written statement specifying:

(a) How the nursing home will correct the cited deficiencies;

(b) The date by which the correction will be made; and

(c) Who is responsible for assuring the correction.

(17) "Reasonable time" means a period of time determined by the department and noted in the plan of correction. In determining the length of time for correction of each deficiency, the department considers:

(a) The gravity of the deficiency, including the severity and immediacy of the actual or potential harm to residents;

(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.

(18) "Receivership" means a court action resulting in the removal of a nursing home's current operator and the appointment of a substitute operator to temporarily manage and operate the nursing home.

(19) "Retaliate":

(a) Retaliate against a resident means an 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) Infringement on a resident's rights as described in WAC 248-14-247 and chapter 74.42 RCW.

(b) Retaliate against an employee means an 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 section 220, chapter 18.51 RCW.

(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).

(20) "Severity" means the seriousness of a deficiency as determined by the:

(a) Actual or potential negative outcomes for residents or resident rights violations; or

(b) Extent to which the resident's highest practicable physical, mental, or psychosocial well being is compromised or threatened.

(21) "Scope" means the frequency, incidence, or extent of the occurrence of a deficiency.

(22) "Stop placement" means action instituted by the department prohibiting nursing home admissions, readmissions, and transfers of patients.

(23) "Temporary management" means the department temporarily appoints a substitute manager or operator with authority to hire, terminate, or reassign staff, obligate current facility revenues, alter procedures as appropriate, or otherwise manage the facility as necessary to:

(a) Correct deficiencies; or

(b) Close the facility in a safe and orderly manner.

(24) "Termination" means a department decision to:

(a) Terminate or not renew a nursing home's Medicaid certification and contract; or

(b) Recommend the federal Health Care Financing Administration terminate or not renew a nursing home's Medicaid and/or Medicare certification and contracts.

[Statutory Authority: 1989 c 372 § 8. 90-01-052 (Order 2917), § 388-98-001, filed 12/15/89, effective 1/15/90. 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 388-98-003 Remedies. (1) The department may suspend, revoke, or refuse to renew a license, and/or assess civil monetary penalties when the department finds the licensee or partner, officer, director, or owner of five percent or more of the assets of the nursing home, licensee's agent, employee or individual providing nursing home care or services:

(a) Operates or operated a nursing home without a license or under a revoked or suspended license;

(b) Knowingly or with reason to know makes a false statement of a material fact in the application for license, in attached data, or in matters under department investigation;

(c) Refuses to allow department representatives or agents to inspect required books, records, and files or portions of the nursing home premises;

(d) Willfully prevents, interferes with, or attempts to impede the work of authorized department representatives and the lawful enforcement under provisions of this chapter or chapter 74.42 RCW;

(e) Willfully prevents or interferes with department representatives in the preservation of evidence of violations of provisions under this chapter or chapter 74.42 RCW;

(f) Fails to report patient abuse or neglect in violation of chapter 70.124 RCW;

(g) Fails to pay a civil monetary penalty the department assesses under this chapter within ten days after assessment becomes final;

(h) Retaliates against a patient or employee participating in proceedings specified under RCW 18.51.220; or

(i) Discriminates against Medicaid recipients as prohibited under RCW 74.42.055.

(2) When the department finds:

(a) A licensee or partner, officer, director, or owner of five percent or more of the assets of the nursing home, licensee's agent, employee, or individual providing nursing home care or services fails or refuses to comply with the requirements under chapter 18.51 or 74.42 RCW; or

(b) A Medicaid contractor licensee fails or refuses to comply with the Medicaid requirements of Title XIX of the Social Security Act, as amended; then

(c) The department may impose any or all of the following remedies:

(i) Suspend, revoke, or refuse to renew a license;

(ii) Order stop placement;

(iii) Assess civil monetary penalties;

(iv) Deny payment to a nursing home for Medicaid residents admitted after notice to deny payment. Medicaid recipient residents shall not assume responsibility for payment when the department takes action under this subsection;

(v) Appoint temporary management as provided under section 300 of this chapter; and

(vi) Petition the court to establish receivership.

(3) The criteria set forth in this subsection implement the requirement under section 8, chapter 372, Laws of 1989, that the department establish criteria for the imposition of remedies. These criteria apply to the imposition of remedies under subsection (2) of this section for deficiencies directly impacting a nursing home resident's well being. The criteria do not substitute for standards set forth in section 8, chapter 372, Laws of 1989 for the mandatory imposition of stop placement and denial of payment.

CRITERIA

Deficiency

(a) Actual or threatened harm or injury exists which minimally compromises or could compromise resident well being:

(i) Limited or isolated in scope

Required Remedy

Plan of Correction

Optional Remedy

Civil fine of \$500-\$1000

(ii) Moderate to systemic in scope

Required Remedy

Plan of Correction

Optional Remedy

Civil fine of \$500-\$1500

CRITERIA

Deficiency

(b) Actual or threatened harm or injury exists which moderately compromises or could compromise resident well being:

(i) Limited or isolated in scope

Required Remedy

Plan of Correction

Optional Remedy

Civil fine of \$1000-\$2000

(ii) Moderate in scope

Required Remedy

Civil fine of \$1000-\$3000

(iii) Systemic in scope

Required Remedies

Stop Placement

Termination

Optional Remedies

Civil fine of \$1000-\$3000 per day

License Revocation

Denial of payment for new Medicaid admissions

Dept. on-site monitoring

(iv) Uncorrected; or repeated after correction within 15-months:

(A) Limited or isolated in scope

Required Remedy

Civil fine of \$1500-\$2000

Optional Remedy

Civil fine of \$1500-\$2000 per day

(B) Moderate in scope

Required Remedy

Civil fine of \$2000-\$3000

Optional Remedies

Stop Placement

Termination

Denial of payment for new Medicaid admissions

Civil fine of \$1000 per day

Dept. on-site monitoring

(C) Systemic in scope

Required Remedies

Stop Placement

Termination

Civil fine of \$2000-\$3000

Optional Remedies

Civil fine of \$2000-\$3000 per day

License Revocation

| CRITERIA | CRITERIA |
|---|---|
| <p><u>Deficiency</u></p> <p>(c) Actual or threatened harm or injury existed which seriously compromised resident well being. The threat has been removed.</p> <p>(d) Actual or threatened harm or injury exists which seriously compromises or could compromise resident well being:</p> <p>(i) Limited or isolated in scope</p> <p>(ii) Moderate to systemic in scope</p> | <p><u>Deficiency</u></p> <p>(iii) Uncorrected; or repeated after correction within 15 months:</p> <p>(A) Limited or isolated in scope</p> <p>(B) Moderate to systemic in scope</p> <p>(e) <u>Emergency Crisis</u></p> <p>Health and safety of a large percentage of the population is imminently threatened due to events such as:</p> <p>Structural damage Staff Walkout Natural disaster (not subject to optional remedies)</p> |
| <p>Denial of payment for new Medicaid admissions</p> <p>Dept. on-site monitoring</p> <p><u>Required Remedy</u></p> <p>Civil fine of \$1500-3000</p> <p><u>Optional Remedy</u></p> <p>Civil fine of \$1500-\$3000 per day</p> <p><u>Required Remedies</u></p> <p>Termination</p> <p>Stop Placement</p> <p><u>Optional Remedies</u></p> <p>Civil fine of \$1500-\$3000 per day</p> <p>Denial of payment for new Medicaid admissions</p> <p>Emergency transfer of individual residents</p> <p>Temporary management or receivership</p> <p>Dept. on-site monitoring</p> <p>License Revocation</p> <p><u>Required Remedies</u></p> <p>Termination</p> <p>Stop Placement</p> <p>License Revocation</p> <p><u>Optional Remedies</u></p> <p>Civil fine of \$2500-\$3000 per day</p> <p>License Suspension</p> <p>Emergency closure or patient transfer</p> <p>Temporary management or receivership</p> <p>Denial of payment for new Medicaid admissions</p> <p>Dept. on-site monitoring</p> | <p><u>Required Remedies</u></p> <p>Termination</p> <p>Stop Placement</p> <p>License Revocation</p> <p>Civil fine of \$2000-\$3000</p> <p><u>Optional Remedies</u></p> <p>Civil fine of \$2000-\$3000 per day</p> <p>More severe optional remedies listed in (d)(i) may also be selected.</p> <p><u>Required Remedies</u></p> <p>Termination</p> <p>Stop Placement</p> <p>License Revocation</p> <p>Civil fine of \$3000</p> <p><u>Optional Remedies</u></p> <p>Civil fine of \$3000 per day</p> <p>More severe optional remedies listed in (d)(ii) may also be selected.</p> <p><u>Required Remedies</u></p> <p>Emergency closure or emergency resident transfer</p> <p><u>Optional Remedies</u></p> <p>A civil fine of \$3000 per day</p> <p>Termination</p> <p>License Revocation or suspension</p> |

(4) Civil monetary penalties shall become due twenty days after the licensee is served with a notice of the penalty, unless the licensee requests a hearing. If a hearing is requested, the penalty becomes due ten days after a final decision in the department's favor is issued. Interest accrues beginning thirty days after the department serves the licensee with notice of the penalty.

[Statutory Authority: 1989 c 372. 90-06-031 (Order 2943), § 388-98-003, filed 3/1/90, effective 4/1/90.]

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 by personal letters, telephone, radio or television announcements, or advertisements in publications determined suitable by the department.

(2) Individuals, partnerships, or corporations interested in being appointed as a receiver shall complete

designated sections of a nursing home license application.

(3) Individuals, partnerships, or corporations with experience in providing long-term health care and a history of satisfactory nursing home operation may submit a receiver application to the department at any time. Applicants shall be subject to the criteria established for licensees found in WAC 248-14-080, except the department may waive the requirement for having sixty days to review the application.

(4) The department shall maintain a list of potential receivers. The department shall add names of applicants to the list upon receipt of applications properly completed by applicants.

(5) 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;

(b) Is affiliated with the nursing home subject to receivership;

(c) Has a financial interest in the nursing home before the time of appointment; or

(d) Has owned or operated a nursing home ordered into receivership or temporary management in any state.

(6) The department may recommend a receiver to the court. In making the recommendation, one or more of the following factors may be considered:

(a) Potential receiver's willingness to serve as a receiver for the nursing home in question;

(b) Amount and quality of the potential receiver's experience in long term care;

(c) Quality of care, as determined by prior survey reports, provided under the potential receiver's supervision or management;

(d) Potential receiver's prior performance as a receiver;

(e) How soon potential receiver is available to act as a receiver;

(f) Potential receiver's familiarity and past compliance with state and federal regulations applicable to nursing homes;

(g) Potential receiver's economic potential and interest in operating the nursing home on a permanent basis; and

(h) Preference may be given to potential receivers expressing an interest in the permanent operation of the nursing home.

[Statutory Authority: 1989 c 372 § 8. 90-01-052 (Order 2917), § 388-98-010, filed 12/15/89, effective 1/15/90. 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*, 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, required relocation;

(h) Meeting regularly with staff, residents, and residents' families to inform them of:

(i) Plans for correcting the deficiencies;

(ii) Progress achieved in correction;

(iii) Plans for facility closure and relocation; or

(iv) 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 of the nursing home's assets without prior court approval.

(3) The receiver shall comply with 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.

[Statutory Authority: 1989 c 372 § 8. 90-01-052 (Order 2917), § 388-98-015, filed 12/15/89, effective 1/15/90. 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) After receivership is established, the department may 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 ensuring 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.

(2) 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: 1989 c 372 § 8. 90-01-052 (Order 2917), § 388-98-020, filed 12/15/89, effective 1/15/90. Statutory Authority: Chapter 18.51 RCW. 88-06-086 (Order 2603), § 388-98-020, filed 3/2/88.]

WAC 388-98-300 Temporary management. (1) When the department appoints a temporary manager, the:

(a) Department shall order the licensee to cease operating the nursing home;

(b) Department shall order the licensee to turn over to the temporary manager possession and control of the nursing home including, but not limited to, all patient care records, financial records, and other records necessary for continued operation of the nursing home while temporary management is in effect; and

(c) Temporary manager shall have authority to temporarily relocate some or all residents if the:

(i) Temporary manager determines the resident's health, security, or welfare is jeopardized; and

(ii) Department concurs with the temporary manager's determination that relocation is necessary.

(2) The department's authority to order temporary management is discretionary in all cases.

[Statutory Authority: 1989 c 372 § 8. 90-01-052 (Order 2917), § 388-98-300, filed 12/15/89, effective 1/15/90.]

WAC 388-98-320 Temporary managers--Application. (1) The department may recruit individuals, partnerships, and corporations interested in serving as a temporary nursing home manager.

(2) Individuals, partnerships, or corporations interested in being appointed as a temporary manager shall complete and submit to the department designated sections of a nursing home license application.

(3) Individuals, partnerships, or corporations with experience in providing long-term health care and a history of satisfactory nursing home operation may submit an application to the department at any time. Applicants shall be subject to the criteria established for licensees found in WAC 248-14-080, except the department may waive the requirement for having sixty days to review the application.

(4) The department shall not consider as a temporary manager a 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 temporary management;

(b) Is affiliated with the nursing home subject to temporary management; or

(c) Has owned or operated a nursing home ordered into temporary management or receivership in any state.

(5) The department, in appointing a temporary manager, may consider one or more of the following factors:

(a) Potential temporary manager's willingness to serve as a temporary manager for the nursing home in question;

(b) Amount and quality of the potential temporary manager's experience in long-term care;

(c) Quality of care, as determined by prior survey reports, provided under the potential temporary manager's supervision or management;

(d) Potential temporary manager's prior performance as a temporary manager or receiver;

(e) How soon the potential temporary manager is available to act as a temporary manager;

(f) Potential temporary manager's familiarity and past compliance with state and federal regulations applicable to nursing homes.

[Statutory Authority: 1989 c 372 § 8. 90-01-052 (Order 2917), § 388-98-320, filed 12/15/89, effective 1/15/90.]

WAC 388-98-330 Duties and powers of temporary manager. (1) The temporary manager shall protect the health, security, and welfare of the residents for the duration of the temporary management. The temporary manager shall perform all acts reasonably necessary to ensure residents' needs are met. Such acts may include, but are not limited to:

(a) Correcting department-cited deficiencies;

(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 business-like manner all current revenues of the home provided 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 such expenditures in excess of five thousand dollars are approved by the department;

(e) Entering into contracts necessary for the operation of the nursing home;

(f) Preparing all department-required reports;

(g) Planning required relocation with residents and residents' guardians, family, or significant others;

(h) Meeting regularly with and informing staff, residents, and residents' families of:

(i) Plans for correcting the deficiencies;

(ii) Progress achieved in correction;

(iii) Plans for facility closure and relocation; or

(iv) Plans for continued operation of the nursing home including the identity of the permanent operator.

(2) The temporary manager shall make a detailed monthly accounting of all expenditures and liabilities to the department and to the owner of the nursing home.

(3) The temporary manager 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 temporary manager shall become the Medicaid contractor for the duration of the temporary management period.

(4) The temporary manager shall be responsible and liable only for the temporary manager's gross negligence, intentional wrongdoing, or breach of fiduciary duty to either the nursing home residents or the current or former licensee or nursing home owner.

[Statutory Authority: 1989 c 372 § 8. 90-01-052 (Order 2917), § 388-98-330, filed 12/15/89, effective 1/15/90.]

WAC 388-98-340 Termination of temporary management. (1) The department shall terminate temporary management:

(a) After three months unless good cause is shown to continue the temporary management. Good cause for continuing the temporary management exists when returning the nursing home to its former operator would subject residents to a threat to health, safety, or welfare;

(b) When all residents are transferred and the nursing home is closed;

(c) When deficiencies threatening residents' health, safety, or welfare are eliminated and the former operator or owner agrees to department-specified conditions regarding the continued facility operation; or

(d) When a new, licensed operator assumes control of the nursing home.

(2) The department may appoint an alternate temporary manager:

(a) When the temporary manager is no longer willing to serve as a temporary manager;

(b) If a temporary manager is not making acceptable progress in correcting the nursing home deficiencies or in closing the nursing home; or

(c) If the department determines the temporary manager is not operating the nursing home in a financially responsible manner.

[Statutory Authority: 1989 c 372 § 8. 90-01-052 (Order 2917), § 388-98-340, filed 12/15/89, effective 1/15/90.]

WAC 388-98-700 Stop placement--Informal review. A nursing home licensee shall have the right to an informal review to present written evidence refuting the deficiencies cited as the basis for a 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, nursing home services, aging and adult services administration. The right to an informal review is in addition to the licensee's right to a hearing, as provided in section 750.

[Statutory Authority: 1989 c 372 § 8. 90-01-052 (Order 2917), § 388-98-700, filed 12/15/89, effective 1/15/90. 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 388-98-750 Notice and hearing rights. (1) This subsection shall apply to the department's imposition of the following remedies:

- (a) License suspension, revocation, or nonrenewal;
- (b) Stop placement;
- (c) Civil monetary penalty;
- (d) Denial of payment;

(e) Appointment of a temporary manager;

(f) Emergency transfer of residents; and

(g) Emergency closure.

(2) The department's notice of a decision to impose a remedy is governed by RCW 18.51.065 and 43.20A.XXX and section 96, chapter 175, laws of 1989. The licensee's or agent's right to an adjudicative proceeding is in the same law.

(a) A person contesting any decision described in subsection (1) of this section shall within twenty days of receipt of the decision:

(i) File a written application for an adjudicative proceeding by a method showing proof of receipt with the Office of Appeals, P.O. Box 2465, Olympia, WA 98504; and

(ii) Include in or with the application:

(A) A specific statement of the issue and law involved;

(B) The grounds for contesting the department decision; and

(C) A copy of the contested department decision.

(b) The proceeding shall be governed by the Administrative Procedure Act (chapter 34.05 RCW); RCW 18.51.065 and 43.20A.XXX; and section 96, chapter 175, Laws of 1989; this section; and chapter 388-08 WAC. If any provision in this section conflicts with chapter 388-08 WAC, the provision in this section governs.

(3) When a licensee fails to pay a fine when due under this chapter, the department may:

(a) Withhold an amount equal to the fine plus interest, if any, from the licensee's Medicaid payment;

(b) Suspend the licensee's nursing home license. Such license suspension shall continue until the fine is paid; or

(c) Impose an additional civil monetary penalty, under WAC 388-98-003 (1)(g).

[Statutory Authority: 1989 c 372 § 8. 90-01-052 (Order 2917), § 388-98-750, filed 12/15/89, effective 1/15/90.]

WAC 388-98-810 Civil penalty fund. The department shall use civil penalties, collected under RCW 18.51.060 (4)(a) or chapter 74.42 RCW, for the following purposes listed in order of priority:

(1) Issue a relocation allowance to the Medicaid-funded nursing home resident who must relocate because the department finds the resident's nursing home deficient to the point decertification occurs. The department may issue the resident a relocation allowance for the following purposes:

(a) Transportation to review potential relocation sites, including a nursing home, a congregate care facility, an adult family home, or independent housing;

(b) Cost of sending personal belongings to the resident's new location, including a residential setting or the resident's own residence; and

(c) Cost of obtaining or reestablishing independent housing when the resident is able to relocate to the resident's own residence. The department shall issue a relocation allowance if the resident meets the conditions for issuing a nursing home discharge allowance, as described under WAC 388-15-145. If the discharge allowance maximum of four hundred dollars does not sufficiently

cover relocation costs, the department shall issue the relocation allowance in addition to the discharge allowance.

(2) Reimburse the Medicaid-funded nursing home resident for personal funds lost due to negligence or malfeasance by nursing home staff where the resident resides. The department shall use the civil penalty fund only if the resident's personal funds cannot be recovered from the nursing home or other responsible party; and

(3) Pay the cost of maintaining the Medicaid-funded nursing home resident in the resident's nursing home which lost its Medicaid certification until the:

(a) Resident is relocated; or

(b) Nursing home corrects the deficiencies causing the facility's decertification; and

(c) Department reinstates the nursing home Medicaid certification.

[Statutory Authority: RCW 18.51.070. 90-12-048 (Order 2990), § 388-98-810, filed 5/31/90, effective 7/1/90.]

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 388-98-870 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.]

WAC 388-98-890 Reporting. All civil fines assessed against a nursing home which relate to the activities and responsibilities of a licensed nursing home administrator as defined in WAC 248-14-235 shall be reported to the professional licensing division, business and professions administration. The report shall include the name of the person, name of the facility, amount of fine, and date of fine.

[Statutory Authority: RCW 18.51.310. 80-08-027 (Order 1515), § 388-98-890, filed 6/25/80.]

Chapter 388-99 WAC

LIMITED CASUALTY PROGRAM--MEDICALLY NEEDY

WAC

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| 388-99-005 | Limited casualty program—Medically needy. |
| 388-99-010 | Persons eligible for medically needy assistance. |
| 388-99-011 | Continuation of eligibility for pregnant women. |
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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

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| 388-99-045 | Medically needy—Eligibility determination—Institutional. [Statutory Authority: RCW 74.08.090. 82-01- |
|------------|--|

001 (Order 1725), § 388-99-045, filed 12/3/81; 81-16-032 (Order 1684), § 388-99-045, filed 7/29/81.] Repealed by 83-12-059 (Order 1964), filed 6/1/83. Statutory Authority: RCW 74.08.090. Later promulgation, see WAC 388-95-400.

WAC 388-99-005 Limited casualty program--Medically needy. (1) The department of social and health services provides a limited casualty program of medical care, administered through the division of medical assistance, designed to meet the health care needs of persons not categorically needy for medical assistance.

(2) A medically needy individual is defined as a person who is aged, blind, or disabled, or families and children whose income and/or resources are above the limits prescribed for the categorically needy but are within limits set for the medically needy program.

[Statutory Authority: RCW 74.08.090. 82-01-001 (Order 1725), § 388-99-005, filed 12/3/81; 81-16-032 (Order 1684), § 388-99-005, filed 7/29/81.]

WAC 388-99-010 Persons eligible for medically needy assistance. The department shall determine as medically needy a resident of the state of Washington who meets the income and resource levels 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 aged, blind, or disabled ineligible spouse of an SSI beneficiary; or

(3) A child seventeen years of age and under as defined under WAC 388-83-033(1) but for income and resources; or

(4) A pregnant woman who the department considers categorically needy but for income and resource requirements. For the purposes of this subsection, the department shall increase the number in the household by the number of unborns before comparing the pregnant woman's:

(a) Income to the medically needy income level in WAC 388-99-020; and

(b) Resources to the resource level in WAC 388-99-035.

(5) Not an inmate of a public institution.

[Statutory Authority: RCW 74.08.090. 90-24-027 (Order 3105), § 388-99-010, filed 11/30/90, effective 1/1/91; 90-04-033 (Order 2938), § 388-99-010, filed 1/31/90, effective 3/3/90; 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 388-99-015 Eligibility--General. All applicants for the limited casualty program--medically needy are required to meet the requirements of WAC 388-83-010 through 388-83-025.

[Statutory Authority: RCW 74.08.090. 81-16-032 (Order 1684), § 388-99-015, filed 7/29/81.]

WAC 388-99-020 Eligibility determination--Medically needy in own home. (1) Effective January 1, 1990, the department shall set the medically needy income level (MNIL) at:

| | |
|------------------------------|----------|
| (a) One person | \$ 414 |
| (b) Two persons | \$ 542 |
| (c) Three persons | \$ 612 |
| (d) Four persons | \$ 683 |
| (e) Five persons | \$ 783 |
| (f) Six persons | \$ 892 |
| (g) Seven persons | \$ 1,025 |
| (h) Eight persons | \$ 1,133 |
| (i) Nine persons | \$ 1,250 |
| (j) Ten persons and above | \$ 1,358 |

(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, except Medicare, 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.

(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;

(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. 90-06-034 (Order 2946), § 388-99-020, filed 3/1/90, effective 4/1/90; 89-05-029 (Order 2758), § 388-99-020, filed 2/13/89; 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—Spendedown. (1) On initial or subsequent applications, the department shall deduct previously incurred medical expenses from the applicant's excess countable income subject to the following restrictions:

(a) The medical expense shall be a current liability:

(i) Of the applicant or financially responsible relative in the same household; or

(ii) Subject to payment during or after the base period, 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 for the first time in a calendar year and the client still owes the bill, the department shall allow the Medicare deductible toward the spenddown.

(d) The department shall consider toward spenddown a medical expense incurred and paid for:

(i) By the applicant during the base period; or

(ii) Subject to payment 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. For base periods beginning on or after February 1, 1990, 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 a public program of the state, county, or city other than Medicaid has paid;

(d) Inpatient or outpatient hospital expenses for necessary medical and remedial care covered by the limited casualty program, but remaining an applicant's liability; and

(e) Expenses for necessary medical and remedial care other than inpatient or outpatient hospital expenses covered by the limited casualty program.

(4) The applicant shall provide the department with complete documentation of incurred medical expenses within thirty days of the end of the base period. Once the applicant's medical eligibility is approved, the department shall not consider expenses either not listed or omitted by the applicant. The applicant may use such expenses to reduce excess countable income on a subsequent application provided:

(a) The expenses incurred before the certification date meet 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 before receiving medical coupons, meet the conditions in subsections (1)(b), (c), (d), and (e) of this section.

(5) The applicant is liable for any expenses incurred before the date the applicant is eligible.

[Statutory Authority: RCW 74.08.090. 90-04-034 (Order 2929), § 388-99-030, filed 1/31/90, effective 3/3/90; 89-11-057 (Order 2798), § 388-99-030, filed 5/17/89; 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 388-99-035 Resource standards. (1) The total value of resources allowed and not otherwise excluded shall not exceed the dollar amount in (a) of this subsection for a single individual or the dollar amount in (b) of this subsection for a couple. This amount is increased by \$50 for each additional family member in the

household. If applicant has resources in excess of the standards the individual is not eligible and the application is denied.

(a) The resource limitation for a single individual shall be \$1,500 prior to January 1, 1985 and shall be increased to \$1,600 on January 1, 1985, to \$1,700 on January 1, 1986, to \$1,800 on January 1, 1987, to \$1,900 on January 1, 1988 and to \$2,000 on January 1, 1989.

(b) The resource limitation for a couple shall be \$2,250 prior to January 1, 1985, and shall be increased to \$2,400 on January 1, 1985, to \$2,550 on January 1, 1986, to \$2,700 on January 1, 1987, to \$2,850 on January 1, 1988, and to \$3,000 on January 1, 1989.

(2) See WAC 388-92-043 for regulations on transfer of resources without adequate consideration.

[Statutory Authority: RCW 74.08.090. 85-03-072 (Order 2194), § 388-99-035, filed 1/17/85; 83-13-071 (Order 1972), § 388-99-035, filed 6/16/83; 82-10-062 (Order 1801) and 82-11-034 (Order 1809), § 388-99-035, filed 5/5/82 and 5/11/82; 82-10-017 (Order 1776), § 388-99-035, filed 4/28/82; 81-16-032 (Order 1684), § 388-99-035, filed 7/29/81.]

WAC 388-99-040 Availability of resources. (1) 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 388-99-050 Limited casualty program--Medically needy--Application process. (1) Applications will be disposed of according to WAC 388-84-105 and 388-84-110.

(2) The effective date shall be as in chapter 388-84 WAC, except that:

(a) The effective date for LCP-MN in own home shall be the date spenddown, if any, has been met, and

(b) Denials based upon failure to meet spenddown shall not be made until at least thirty days after the end of the base period.

(3) Following a spenddown denial the CSO will reopen and process the case when:

(a) The conditions in WAC 388-84-110 are met; or

(b) An applicant, more than thirty days after the denial:

(i) Presents bills sufficient to meet spenddown and shows reasonable cause for the delay in providing the bills; and

(ii) Timely requests a fair hearing to appeal the denial.

[Statutory Authority: RCW 74.08.090. 86-17-022 (Order 2409), § 388-99-050, filed 8/12/86; 81-16-032 (Order 1684), § 388-99-050, filed 7/29/81.]

WAC 388-99-055 Certification. (1) Applicants in their own homes shall have a choice of a three-month or a six-month certification period. Once certified the applicant may not change the chosen certification period.

(2) An applicant shall be certified for no more than six months.

(3) An applicant who is required to spenddown shall be certified from the day the spenddown requirement is met through the last day of the three-month or six-month period which began with the month of application.

(4) If retroactive coverage is requested at the time of application, a spenddown applicant shall be certified from the day the spenddown requirement was met through the last day of the three-month period which began up to three months prior to the month of application.

(5) An application is required for any subsequent period of eligibility for LCP-MN.

(6) Full-month coverage is not available during the first month of eligibility for persons who must establish eligibility by deducting incurred medical expense from countable income.

(7) All medically needy applicants shall receive individual notification of the disposition of their application.

(8) Any change in circumstances shall be reported within twenty days to the local community service office.

(9) Any recipient, aged, blind or disabled who has been terminated from SSI/SSP shall have their eligibility for LCP-MN determined in accordance with chapter 388-85 WAC.

[Statutory Authority: RCW 74.08.090. 85-05-016 (Order 2206), § 388-99-055, filed 2/13/85; 83-01-058 (Order 1925), § 388-99-055, filed 12/15/82; 82-14-050 (Order 1841), § 388-99-055, filed 6/30/82; 82-01-001 (Order 1725), § 388-99-055, filed 12/3/81; 81-16-032 (Order 1684), § 388-99-055, filed 7/29/81.]

WAC 388-99-060 Scope of care for medically needy. (1) The medical coverage under the limited casualty-medically needy program 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

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|-------------|--|
| 388-100-001 | Effective dates. |
| 388-100-005 | Limited casualty program--Medically indigent. |
| 388-100-010 | Limited casualty program--Medically indigent--Eligibility determination. |
| 388-100-015 | Allocation of excess income and nonexempted resource. |
| 388-100-020 | Limited casualty program--Medically indigent--Application process. |
| 388-100-025 | Certification. |
| 388-100-030 | Deductible. |
| 388-100-035 | Scope of care for medically indigent. |

WAC 388-100-001 Effective dates. Regulations contained in chapter 388-100 WAC, WAC 388-100-005 through 388-100-035, shall be limited to:

(1) Individuals whose applications for medical care are received by the department during the period beginning June 1, 1981, and ending April 30, 1985 and who have met the certification requirements of WAC 388-100-025(1) on or before April 30, 1985. Applications or reapplications, for medical care under this chapter, received on or after May 1, 1985, and prior to July 11, 1985, shall be denied, except as specified in subsection (2) of this section.

(2) Individuals whose applications are received on or after July 11, 1985. For the purpose of this subsection applications delivered to the department prior to July 11, 1985, for medical care received on or after July 1, 1985, shall be considered to have been received on July 11, 1985.

[Statutory Authority: RCW 74.08.090, 85-17-034 (Order 2267), § 388-100-001, filed 8/15/85.]

WAC 388-100-005 Limited casualty program--Medically indigent. (1) The department of social and health services 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 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 emergent medical conditions.

(b) Meets the financial eligibility requirements under chapter 388-100 WAC; and

(c) Is not an inmate of a federal or state prison.

[Statutory Authority: RCW 74.08.090, 89-22-037 (Order 2887), § 388-100-005, filed 10/27/89, effective 11/27/89; 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]

WAC 388-100-010 Limited casualty program--Medically indigent--Eligibility determination. (1) Citizenship and residency are not requirements for eligibility. However, an individual shall not be eligible for LCP-MI when the individual:

(a) Is eligible for medical care from another state; or

(b) Enters Washington state specifically for the purpose of obtaining medical care.

(2) Persons receiving LCP-MI shall meet the following eligibility standards:

(a) The individual is not receiving continuing cash assistance or eligible for any other medical program;

(b) Income shall:

(i) Not exceed the medically needy income level in WAC 388-99-020; or

(ii) Be spent down to that level according to procedures in WAC 388-99-030.

(c) Nonexempt resources shall not exceed the resource standard for SSI or shall be spent down to that level according to procedures in WAC 388-100-015;

(d) The applicant who transferred resources within two years before the date of application but after July 1, 1981, shall spenddown the uncompensated value of the resource as described in WAC 388-100-015. See WAC 388-92-043 for determining the uncompensated value of the transferred resource; and

(e) For a pregnant woman, the department shall increase the number in the household by the number of unborns before comparing the pregnant woman's income to the:

(i) Income requirements of subdivision (b) of this subsection; and

(ii) Resource requirements of subdivision (c) of this subsection.

(3) The department shall use AFDC income guidelines in chapter 388-28 WAC to determine treatment of income, except:

(a) The AFDC earned income exemption of thirty dollars plus one-third of the remainder does not apply to individuals applying for LCP-MI; and

(b) Deduct health insurance premiums expected to be paid during the base period.

(4) The department shall use AFDC resource guidelines in chapter 388-28 WAC to determine resources, except for provisions under WAC 388-28-425.

(5) The applicant shall satisfy the deductible requirement in WAC 388-100-030.

[Statutory Authority: RCW 74.08.090. 90-24-027 (Order 3105), § 388-100-010, filed 11/30/90, effective 1/1/91; 90-12-053 (Order 3011), § 388-100-010, filed 5/31/90, effective 7/1/90; 86-11-025 (Order 2378), § 388-100-010, filed 5/14/86; 84-02-054 (Order 2062), § 388-100-010, filed 1/4/84; 82-17-072 (Order 1868), § 388-100-010, filed 8/18/82; 82-01-001 (Order 1725), § 388-100-010, filed 12/3/81; 81-16-032 (Order 1684), § 388-100-010, filed 7/29/81.]

WAC 388-100-015 Allocation of excess income and nonexempted resource. (1) All excess income and non-exempted resources shall be allocated toward the cost of medical care.

(2) On initial or subsequent applications all previously incurred medical expenses are deducted from excess countable income as described in WAC 388-99-030. These expenses cannot have been used toward a previous spenddown or deductible requirement.

[Statutory Authority: RCW 74.08.090. 82-01-001 (Order 1725), § 388-100-015, filed 12/3/81; 81-16-032 (Order 1684), § 388-100-015, filed 7/29/81.]

WAC 388-100-020 Limited casualty program--Medically indigent--Application process. (1) Applications will be disposed of according to WAC 388-84-105 and 388-84-110.

(2) The effective date shall be the date spenddown, if any, has been met.

(3) Medical care received within seven working days prior to the date of application shall be provided when:

(a) The condition was acute and emergent, and

(b) The individual was otherwise eligible.

[Statutory Authority: RCW 74.08.090. 81-16-032 (Order 1684), § 388-100-020, filed 7/29/81.]

WAC 388-100-025 Certification. (1) An applicant shall be certified from the date spenddown and deductible requirements are met through the duration of treatment for the acute and emergent medical condition not to exceed the three calendar month period which begins with the month of application.

(2) An applicant who has been medically determined to be pregnant may apply and be certified for separate three-month periods through the duration of the pregnancy. The three-month limitation in subsection (1) of this section may be extended up to six weeks after delivery to cover the post partum care, which includes routine care for the newborn. Beyond this period of time eligibility for the mother or the newborn shall be determined separately.

(3) All medically indigent applicants shall be individually notified in writing of the disposition of their application.

(4) Any change in circumstances shall be promptly reported to the local community services office.

(5) Certification may be up to seven working days prior to the date of receipt of a written request for assistance. The department may waive the seven-day rule if a person fails to apply for medical reasons or other good cause. Except that for applications received on or after July 11, 1985, certification cannot be made for any days during the period prior to July 1, 1985.

[Statutory Authority: RCW 74.08.090. 85-17-034 (Order 2267), § 388-100-025, filed 8/15/85; 83-13-071 (Order 1972), § 388-100-025, filed 6/16/83; 82-17-072 (Order 1868), § 388-100-025, filed 8/18/82; 82-10-062 (Order 1801), § 388-100-025, filed 5/5/82; 81-16-032 (Order 1684), § 388-100-025, filed 7/29/81.]

WAC 388-100-030 Deductible. A deductible of five hundred dollars per family over a twelve-month period is required.

(1) Only family members that meet the eligibility requirements in WAC 388-100-010 (1) through (4) can accumulate expenses against the deductible.

(2) The accumulation of the deductible may begin up to seven working days prior to the date of application. The department may waive the seven-day rule if a person fails to apply for medical reasons or other good cause.

(3) Only medical services as specified in WAC 388-100-035 are countable toward meeting the deductible requirement.

(4) The expenses incurred against the deductible are the liability of the applicant/recipient.

(5) If the deductible has not been satisfied during the three-month base period beginning with the month of application, the remaining amount is applied to any subsequent applications within twelve months of the initial application.

[Statutory Authority: RCW 74.08.090. 83-17-071 (Order 2009), § 388-100-030, filed 8/19/83; 82-20-039 (Order 1880), § 388-100-030, filed 10/1/82; 82-13-079 (Order 1828), § 388-100-030, filed 6/21/82; 81-16-032 (Order 1684), § 388-100-030, filed 7/29/81.]

WAC 388-100-035 Scope of care for medically indigent. (1) The medical coverage under the limited casualty program--medically indigent shall be available to an eligible individual for treatment of acute and emergent conditions only. Services available are limited to the following: Inpatient hospital services; outpatient hospital and rural health clinic services; physical medicine and rehabilitation services; physician and clinic services; prescribed drugs; dentures; prosthetic devices; eyeglasses,

SNF, ICF, ICF/MR; home health services; laboratory and x-ray services; and medically necessary transportation.

(2) Payment by the department will not be made until expenses are incurred by the recipient equal to the deductible amount.

(3) The deductible in WAC 388-100-030 does not apply for treatment under the Involuntary Treatment Act (ITA). When any other medical need is identified for recipients undergoing treatment under the Involuntary Treatment Act the requirements for the deductible shall apply to the services other than ITA.

(4) When an applicant indicates that an urgent undefined medical illness exists, the condition will be regarded as acute and emergent and one office visit for diagnosis may be allowed, provided all financial eligibility criteria have been met. Treatment will be contingent upon the criteria for acute and emergent having also been met.

(5) For other conditions and limitations under which these services may be provided refer to appropriate service in chapter 388-86 WAC.

(6) No out-of-state care is provided except in the designated bordering cities.

[Statutory Authority: RCW 74.08.090, 86-02-031 (Order 2321), § 388-100-035, filed 12/27/85; 85-17-035 (Order 2268), § 388-100-035, filed 8/15/85; 84-02-054 (Order 2062), § 388-100-035, filed 1/4/84; 83-17-071 (Order 2009), § 388-100-035, filed 8/19/83; 82-17-072 (Order 1868), § 388-100-035, filed 8/18/82; 82-04-071 (Order 1754), § 388-100-035, filed 2/3/82; 81-16-032 (Order 1684), § 388-100-035, filed 7/29/81.]

Chapter 388-150 WAC

MINIMUM LICENSING REQUIREMENTS FOR CHILD DAY CARE CENTERS

WAC

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WAC 388-150-005 Licensing. Authority. The following rules are adopted under chapter 74.15 RCW.

[Statutory Authority: RCW 74.15.030, 90-23-078 (Order 3103), § 388-150-005, filed 11/20/90, effective 12/21/90.]

WAC 388-150-010 Definitions. As used and defined under this chapter:

(1) "Capacity" means the maximum number of children the licensee is authorized to have on the premises at a given time.

(2) "Center" means the same as "child day care center."

(3) "Child abuse or neglect" means the injury, sexual abuse, sexual exploitation, or negligent treatment or maltreatment of a child by any person under circumstances indicating the child's health, welfare, and safety is harmed thereby.

(4) "Child day care center" means a facility providing regularly scheduled care for a group of thirteen or more children, within a one month of age through twelve years of age range exclusively, for periods less than twenty-four hours.

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

(6) "Department of health" means the state department of health.

(7) "Infant" means a child eleven months of age and under.

(8) "License" means a permit issued by the department authorizing by law the licensee to operate a child day care center and certifying the licensee meets minimum requirements under licensure.

(9) "Licensee" means the person, organization, or legal entity responsible for operating the center.

(10) "Premises" means the building where the center is located and the adjoining grounds over which the licensee has control.

(11) "Preschool age child" means a child thirty months of age through five years of age not enrolled in kindergarten or an elementary school.

(12) "School-age child" means a child five years of age through twelve years of age enrolled in kindergarten or an elementary school.

(13) "Staff" means a child care giver or a group of child care givers employed by the licensee to supervise a child served at the center.

(14) "Toddler" means a child twelve months of age through twenty-nine months of age.

[Statutory Authority: RCW 74.15.030. 90-23-078 (Order 3103), § 388-150-010, filed 11/20/90, effective 12/21/90.]

WAC 388-150-020 Scope of licensing. (1) The person or organization operating a child day care center shall be subject to licensing by authority under chapter 74.15 RCW, unless specifically exempted by RCW 74.15.020(4).

(2) The person or organization operating a child day care center and qualifying for exemption from requirements of this chapter under RCW 74.15.020(4) shall not be subject to licensure. The person or organization claiming an exemption shall provide the department proof of entitlement to the exemption on the department's request.

(3) The department shall not license the center legally exempt from licensing. However, at the applicant's request, the department shall investigate and may certify the center as meeting licensing and other pertinent requirements. In such cases, the department's requirements and procedures for licensure shall apply equally to certification.

(4) The department shall not license the department employee or the member of the department employee's household when such person is involved directly, or in an administrative or supervisory capacity, in the:

- (a) Licensing or certification process;
- (b) Placement of a child in a licensed or certified center; or
- (c) Authorization of payment for the child in care.

(5) The department may license the center located in a private family residence when the portion of the residence accessible to the child is:

- (a) Used exclusively for the child during the center's operating hours or while the child is in care; or
- (b) Separate from the family living quarters.

[Statutory Authority: RCW 74.15.030. 90-23-078 (Order 3103), § 388-150-020, filed 11/20/90, effective 12/21/90.]

WAC 388-150-040 Local ordinances and codes. The department shall issue or deny a license on the basis of the applicant's compliance with minimum licensing and procedural requirements. The department shall notify the local planning office of the applicant's intention to operate a child care center within the local jurisdiction. Local officials shall be responsible for enforcing city ordinances and county codes, such as zoning and building regulations.

[Statutory Authority: RCW 74.15.030. 90-23-078 (Order 3103), § 388-150-040, filed 11/20/90, effective 12/21/90.]

(1990 Ed.)

WAC 388-150-050 Waivers. (1) In an individual case, the department, for good cause, may waive a specific requirement and may approve an alternate method for the licensee or applicant to achieve the specific requirement's intent if the:

(a) Licensee or applicant submits to the department a written waiver request fully explaining the circumstances necessitating the waiver; and

(b) Department determines waiver approval will not jeopardize the safety or welfare of the child in care or detract from the quality of licensee-delivered services.

(2) The department may approve a waiver request only for a specific purpose or child and for a specific period of time not exceeding the expiration date of the license.

(3) The department may limit or restrict a license issued to a licensee or an applicant in conjunction with a waiver.

(4) The licensee shall maintain on the premises a copy of the department's written waiver approval.

(5) The department's denial of a licensee's or applicant's waiver request shall not be subject to appeal under chapter 34.05 RCW.

[Statutory Authority: RCW 74.15.030. 90-23-078 (Order 3103), § 388-150-050, filed 11/20/90, effective 12/21/90.]

WAC 388-150-060 Dual licensure. The department may either:

(1) Issue a child day care center license to the applicant having a foster home license or other license involving full-time care; or

(2) Permit simultaneous care for the child and adolescent or adult on the same premises if the applicant or licensee:

- (a) Demonstrates evidence that care of one client category will not interfere with the quality of services provided to another category of clients;
- (b) Maintains the most stringent maximum capacity limitation for the client categories concerned;
- (c) Requests and obtains a waiver permitting dual licensure; and
- (d) Requests and obtains a waiver to subsection (2)(b) of this section, if applicable.

[Statutory Authority: RCW 74.15.030. 90-23-078 (Order 3103), § 388-150-060, filed 11/20/90, effective 12/21/90.]

WAC 388-150-070 Application and reapplication for licensing—Investigation. (1) The person or organization applying for a license or relicensure under this chapter and responsible for operating the center shall comply with application procedures the department prescribes and submit to the department:

(a) A completed department-supplied application for child care agency form, including required attachments, ninety or more days before the:

- (i) Expiration of a current license;
- (ii) Opening date of a new center;
- (iii) Relocation of a center;
- (iv) Change of the licensee; or
- (v) Change of license category.

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(b) A completed criminal history and background inquiry form for each staff person or volunteer having unsupervised or regular access to the child in care; and

(c) The licensing fee.

(2) In addition to the required application materials specified under subsection (1) of this section, the applicant for initial licensure shall submit to the department:

(a) An employment and education resume of the person responsible for the active management of the center and the program supervisor;

(b) Diploma or education transcript copies of the program supervisor; and

(c) Three professional references each for the licensee, director, and program supervisor.

(3) The applicant for a license under this chapter shall be twenty-one years of age or older.

(4) The applicant, licensee, and director shall attend department-provided orientation training.

(5) The department may, at any time, require additional information from the applicant, licensee, staff person, volunteer, member of their households, and other person having access to the child in care as the department deems necessary, including, but not limited to:

(a) Sexual deviancy evaluations;

(b) Substance and alcohol abuse evaluations;

(c) Psychiatric evaluations;

(d) Psychological evaluations; and

(e) Medical evaluations.

(6) The department may perform investigations of the applicant, licensee, staff person, volunteer, member of their households, and other person having access to the child in care as the department deems necessary, including accessing criminal histories and law enforcement files.

(7) The applicant shall conform to rules and regulations approved or adopted by the:

(a) Department of health, promoting the health of the child in care, contained in this chapter; and

(b) State fire marshal's office, establishing standards for fire prevention and protection of life and property from fire, under chapter 212-54 WAC, "Day care centers and day treatment centers, standards for fire protection."

(8) The department shall not issue a license to the applicant until the department of health and the state fire marshal's office have certified or inspected and approved the center.

[Statutory Authority: RCW 74.15.030, 90-23-078 (Order 3103), § 388-150-070, filed 11/20/90, effective 12/21/90.]

WAC 388-150-080 Licensed capacity. (1) The department shall issue the applicant or licensee a license for a specific number of children dependent on the:

(a) Department's evaluation of the center's premises, equipment, and physical accommodations;

(b) Number and skills of the licensee, staff, and volunteers; and

(c) Ages and characteristics of the children served.

(2) The department:

(a) Shall not issue the applicant or licensee a license to care for more children than permitted under this chapter; and

(b) May issue the applicant or licensee a license to care for fewer children than the center's maximum capacity.

[Statutory Authority: RCW 74.15.030, 90-23-078 (Order 3103), § 388-150-080, filed 11/20/90, effective 12/21/90.]

WAC 388-150-090 License denial, suspension, or revocation. (1) Before granting a license and as a condition for continuance of a license, the department shall consider the ability of the applicant and licensee to meet the requirements of this chapter. If more than one person is the applicant or licensee, the department shall consider their qualifications separately and jointly, and may deny, suspend, revoke, or not renew the license based on the failure of one of the persons to meet the requirements.

(2) The department shall deny, suspend, revoke, or not renew the license of a person who:

(a) Is a perpetrator of child abuse, or has been convicted of a crime involving child abuse or physical harm to another person, or allows such a person on the premises;

(b) Commits or was convicted of a felony reasonably related to the competency of the person to meet the requirements of this chapter;

(c) Engages in illegal use of a drug or excessive use of alcohol;

(d) Commits, permits, aids, or abets the commission of an illegal act on the premises;

(e) Commits, permits, aids, or abets the abuse, neglect, exploitation, or cruel or indifferent care to a child in care;

(f) Refuses to permit an authorized representative of the department, state fire marshal, or department of health to inspect the premises; or

(g) Refuses to permit an authorized representative of the department or the department of health access to records related to operation of the center or to interview staff or a child in care;

(3) The department may deny, suspend, revoke, or not renew a license of a person who:

(a) Seeks to obtain or retain a license by fraudulent means or misrepresentation, including, but not limited to:

(i) Making a materially false statement on the application; or

(ii) Omitting material information on the application.

(b) Provides insufficient staff in relation to the number, ages, or characteristics of children in care;

(c) Allows a person unqualified by training, experience or temperament to care for or be in contact with a child in care;

(d) Violates any condition or limitation on licensure including, but not limited to;

(i) Permitting more children on the premises than the number for which the center is licensed; or

(ii) Permitting on the premises a child of an age different from the ages for which the center is licensed.

(e) Fails to provide adequate supervision to a child in care;

(f) Demonstrates an inability to exercise fiscal responsibility and accountability with respect to operation of the center;

(g) Misappropriates property of a child in care;

(h) Knowingly permits on the premises an employee or volunteer who has made a material misrepresentation on an application for employment or volunteer service;

(i) Refuses or fails to supply necessary, additional department-requested information; or

(j) Fails to comply with any provision of chapter 74.15 RCW or this chapter.

(4) The department shall not issue a license to a person who has had denied, suspended, revoked, or not renewed a license to operate a facility for the care of children or adults, in this state or elsewhere, unless the person demonstrates by clear, cogent, and convincing evidence the person has undertaken sufficient corrective action or rehabilitation to warrant public trust and to operate the center in accordance with the rules of this chapter.

(5) The department's notice of a denial, revocation, suspension, or modification of a license and the applicant's or licensee's right to a hearing, is governed under RCW 43.20A.205.

[Statutory Authority: RCW 74.15.030, 90-23-078 (Order 3103), § 388-150-090, filed 11/20/90, effective 12/21/90.]

WAC 388-150-100 Program. (1) Activity program. The licensee shall implement an activity program designed to meet the developmental, cultural, and individual needs of the child served. The licensee shall ensure the program contains a range of learning experiences for the child to:

(a) Gain self-esteem, self-awareness, self-control, and decision making abilities;

(b) Develop socially, emotionally, intellectually, and physically;

(c) Learn about nutrition, health, and personal safety; and

(d) Experiment, create, and explore.

(2) The licensee shall ensure the center's program offers variety and options, including a balance between:

(a) Child-initiated and staff-initiated activities;

(b) Free play and organized events;

(c) Individual and group activities; and

(d) Quiet and active experiences.

(3) The licensee shall ensure the center's program affords the child daily opportunities for small and large muscle activities and outdoor play.

(4) The licensee shall operate the center's program under a regular schedule of activities with allowances for a variety of special events. The licensee shall implement a planned program of activities as evidenced by a current, written activity schedule, and afford staff classroom planning time.

(5) The licensee shall manage child and staff movements from one planned activity or care area to another to achieve smooth, unregimented transitions by:

(a) Establishing familiar routines;

(b) Contributing to learning experiences; and

(c) Maintaining staff-to-child ratio and group size guidelines.

(6) The child may remain in care only ten hours or less per day except as necessitated by the parent's working hours and travel time from and to the center.

[Statutory Authority: RCW 74.15.030, 90-23-078 (Order 3103), § 388-150-100, filed 11/20/90, effective 12/21/90.]

WAC 388-150-110 Learning and play materials. The licensee shall provide the child a variety of easily accessible, developmentally appropriate learning and play materials of sufficient quantity to implement the center's program. The licensee shall ensure material is culturally relevant and promotes:

(1) Social development;

(2) Intellectual ability;

(3) Language development and communication;

(4) Self-help skills;

(5) Sensory stimulation;

(6) Large and small muscle development; and

(7) Creative expression.

[Statutory Authority: RCW 74.15.030, 90-23-078 (Order 3103), § 388-150-110, filed 11/20/90, effective 12/21/90.]

WAC 388-150-120 Staff-child interactions. (1) The licensee shall furnish the child a nurturing, respectful, supportive, and responsive environment through frequent interactions between the child and staff:

(a) Supporting the child in developing an understanding of self and others by assisting the child to share ideas, experiences, and feelings;

(b) Providing age-appropriate opportunities for intellectual growth and development of the child's social and language skills, including encouraging the child to ask questions;

(c) Helping the child solve problems;

(d) Fostering creativity and independence in routine activities, including showing tolerance for mistakes; and

(e) Treating equally all children in care regardless of race, religion, culture, sex, and handicapping condition.

(2) The licensee shall furnish the child a pleasant and educational environment at meal and snack times. Staff shall provide good models for nutrition habits and social behavior by:

(a) Sitting and eating with children, when possible; and

(b) Encouraging conversation among children.

[Statutory Authority: RCW 74.15.030, 90-23-078 (Order 3103), § 388-150-120, filed 11/20/90, effective 12/21/90.]

WAC 388-150-130 Behavior management and discipline. (1) The licensee shall guide the child's behavior based on an understanding of the individual child's needs and stage of development. The licensee shall promote the child's developmentally appropriate social behavior, self-control, and respect for the rights of others.

(2) The licensee shall ensure behavior management and discipline practices are fair, reasonable, consistent,

and related to the child's behavior. Staff shall not administer cruel, unusual, hazardous, frightening, or humiliating discipline.

(3) The licensee shall be responsible for implementing the behavior management and discipline practices of the center. The child in care shall not determine or administer behavior management or discipline.

(4) The licensee shall prohibit and prevent:

(a) Corporal punishment by any person on the premises, including biting, jerking, shaking, spanking, slapping, hitting, striking, or kicking the child, or other means of inflicting physical pain or causing bodily harm;

(b) The use of a physical restraint method injurious to the child;

(c) The use of a mechanical restraint for disciplinary purposes, locked time-out room, or closet; or

(d) The withholding of food as a punishment.

(5) In emergency situations, the staff person competent to use restraint methods may use limited physical restraint when:

(a) Protecting a person on the premises from physical injury;

(b) Obtaining possession of a weapon or other dangerous object; or

(c) Protecting property from serious damage.

(6) The licensee shall document any incident involving the use of physical restraint.

[Statutory Authority: RCW 74.15.030. 90-23-078 (Order 3103), § 388-150-130, filed 11/20/90, effective 12/21/90.]

WAC 388-150-140 Rest periods. (1) The licensee shall offer a supervised rest period to the child:

(a) Five years of age and under remaining in care more than six hours; or

(b) Showing a need for rest.

(2) The licensee shall plan quiet activities for the child not needing rest.

(3) The licensee shall allow the child twenty-nine months of age or younger to follow an individual sleep schedule.

[Statutory Authority: RCW 74.15.030. 90-23-078 (Order 3103), § 388-150-140, filed 11/20/90, effective 12/21/90.]

WAC 388-150-150 Evening and nighttime care. (1) For the center offering child care during evening and nighttime hours, the licensee shall adapt the program, equipment, and staffing pattern to meet the physical and emotional needs of the child away from home at night.

(2) The licensee shall maintain the same staff-to-child ratio in effect during daytime care. At all times, including sleeping hours, staff shall keep the child within continuous visual or auditory range.

(3) The licensee shall arrange child grouping so the sleeping child remains asleep during the arrival or departure of another child.

[Statutory Authority: RCW 74.15.030. 90-23-078 (Order 3103), § 388-150-150, filed 11/20/90, effective 12/21/90.]

WAC 388-150-160 Off-site trips. (1) The licensee may transport or permit the off-site travel of the child

to attend school, participate in field trips, or engage in other off-site activities only with written parent consent.

(2) The parent's consent may be:

(a) For a specific date and trip; or

(b) A blanket authorization describing the full range of trips the child may take. In such case, the licensee shall notify the parent in advance about the trip.

[Statutory Authority: RCW 74.15.030. 90-23-078 (Order 3103), § 388-150-160, filed 11/20/90, effective 12/21/90.]

WAC 388-150-165 Transportation. When the licensee provides transportation for the child in care:

(1) The licensee shall ensure the motor vehicle is maintained in a safe operating condition;

(2) The licensee shall ensure the motor vehicle is equipped with appropriate safety devices and individual seat belts or safety seats for each child to use when the vehicle is in motion. An individual safety seat is required for the child eleven months of age and younger. Seat belts are not required for buses approved by the state patrol;

(3) The licensee shall ensure the number of passengers does not exceed the seating capacity of the motor vehicle;

(4) The licensee or driver shall carry liability and medical insurance. The driver shall have a current Washington driver's license, valid for the classification of motor vehicle operated;

(5) The driver or staff supervising the child in the motor vehicle shall have current first aid and cardiopulmonary resuscitation training;

(6) The licensee shall ensure a minimum of one staff person, other than the driver, is present in the motor vehicle when:

(a) Seven or more preschool age and younger children are present; or

(b) Staff-to-child ratio guidelines require a second staff person.

(7) Staff or driver shall not leave the child unattended in the motor vehicle.

[Statutory Authority: RCW 74.15.030. 90-23-078 (Order 3103), § 388-150-165, filed 11/20/90, effective 12/21/90.]

WAC 388-150-170 Parent communication. (1) The licensee shall:

(a) Explain to the parent the center's policies and procedures;

(b) Orient the parent to the center's philosophy, program, and facilities;

(c) Advise the parent of the child's progress and issues relating to the child's care and individual practices concerning the child's special needs; and

(d) Encourage parent participation in center activities;

(2) The licensee shall give the parent the following written policy and procedure information:

(a) Enrollment and admission requirements;

(b) The fee and payment plan;

(c) A typical activity schedule, including hours of operation;

(d) Meals and snacks served, including guidelines on food brought from the child's home;

- (e) Permission for free access by the child's parent to all center areas used by the child;
- (f) Signing in and signing out requirements;
- (g) Child abuse reporting law requirements;
- (h) Behavior management and discipline;
- (i) Nondiscrimination statement;
- (j) Religious activities, if any;
- (k) Transportation and field trip arrangements;
- (l) Practices concerning an ill child;
- (m) Medication management;
- (n) Medical emergencies; and
- (o) If licensed for the care of an infant or toddler:
 - (i) Diapering;
 - (ii) Toilet training; and
 - (iii) Feeding.

[Statutory Authority: RCW 74.15.030. 90-23-078 (Order 3103), § 388-150-170, filed 11/20/90, effective 12/21/90.]

WAC 388-150-180 Staffing--Staff pattern and qualifications. (1) General qualifications. The licensee, staff, volunteer, and other person associated with the operation of the center who has access to the child in care shall:

- (a) Be of good character;
 - (b) Demonstrate the understanding, ability, personality, emotional stability, and physical health suited to meet the cultural, emotional, mental, physical, and social needs of the child in care; and
 - (c) Not have committed or been convicted of child abuse or any crime involving physical harm to another person.
- (2) Center management. The licensee shall serve as or employ a director, responsible for the overall management of the center's facility and operation. The director shall:
- (a) Be twenty-one years of age or older;
 - (b) Serve as administrator of the center, ensuring compliance with minimum licensing requirements;
 - (c) Have knowledge of child development as evidenced by professional references, education, experience, and on-the-job performance;
 - (d) Have the management and supervisory skills necessary for the proper administration of the center, including:
 - (i) Record maintenance;
 - (ii) Financial management; and
 - (iii) Maintenance of positive relationships with staff, children, parents, and the community;
 - (e) Have completed forty-five or more college quarter credits in early childhood education/child development, or possess an equivalent educational background, or be a certified child development associate;
 - (f) Have two or more years successful experience working with children of the same age level as those served by the center as evidenced by professional references and on-the-job performance;
 - (g) Have planning, coordination, and supervisory skills to implement a high quality, developmentally appropriate program; and
 - (h) Have knowledge of children and how to meet children's needs.

(3) When the director does not meet the qualifications specified in subsections (2)(e), (f), (g), and (h) of this section, the director or licensee shall employ a program supervisor, responsible for planning and supervising the center's learning and activity program. The program supervisor shall:

- (a) Be twenty-one years of age or older;
 - (b) Meet the education, experience, and competency qualifications specified in subsections (2)(e), (f), (g), and (h) of this section; and
 - (c) Discharge on-site program supervisory duties a minimum of twenty hours weekly.
- (4) For the center serving the school age child only, the program supervisor may substitute equivalent courses in education, recreation, or physical education for required education.

(5) The director and program supervisor may be one and the same person when qualified for both positions. The director or program supervisor shall normally be on the premises while the child is in care. If temporarily absent from the center, the director and program supervisor shall leave a competent, designated staff person in charge.

(6) The director and program supervisor may also serve as child care staff when such role does not interfere with the director's or program supervisor's management and supervisory responsibilities.

(7) Center staffing. The licensee shall ensure the lead child care staff person in charge of a child or a group of children implementing the activity program:

- (a) Is eighteen years of age or older; and
 - (b) Possesses a high school education or equivalent; or
 - (c) Has child development knowledge and experience.
- (8) The licensee may assign a child care assistant or aide to support lead child care staff. The child care assistant or aide shall be sixteen years of age or older. The child care assistant or aide shall care for the child under the direct supervision of the lead child care staff person. The licensee shall ensure no person under eighteen years of age is assigned sole responsibility for a group of children. The assistant or aide, eighteen years of age or older, may care for a child or group of children without direct supervision by a superior for a brief period time.

(9) The licensee may arrange for a volunteer to support lead child care staff. The volunteer shall be sixteen years of age or older. The volunteer shall care for the child under the direct supervision of the lead child care staff person. The licensee may count the volunteer in the staff-to-child ratio when the volunteer meets staff qualification requirements.

(10) Support service personnel. The licensee shall provide or arrange for fulfillment of administrative, clerical, accounting, maintenance, transportation, and food service responsibilities so the child care staff is free to concentrate on program implementation.

(11) The licensee shall ensure completion of support service duties occurs in a manner allowing the center to maintain required staff-to-child ratios.

[Statutory Authority: RCW 74.15.030. 90-23-078 (Order 3103), § 388-150-180, filed 11/20/90, effective 12/21/90.]

WAC 388-150-190 Group size and staff-child ratios. (1) The licensee shall conduct group activities within the following group size and staff-to-child ratio requirements, according to the age of the child:

| AGE OF CHILDREN | STAFF-CHILD RATIO | MAXIMUM GROUP SIZE |
|---------------------------------------|-------------------|--------------------|
| 1 mo. through 11 mos. (infant) | 1:4 | 8 |
| 12 mos. through 29 mos. (toddler) | 1:7 | 14 |
| 30 mos. through 5 years (preschooler) | 1:10 | 20 |
| 5 years and older (school-age child) | 1:15 | 30 |

(2) The licensee shall conduct activities for each group in a specific classroom or other defined space within a larger area.

(3) The licensee shall ensure each group is under the direct supervision of a qualified staff person or team of staff involved in directing the child's activities.

(4) The department may approve reasonable variations to group size limitations if the licensee maintains required staff-to-child ratios, dependent on:

- (a) Staff qualifications;
- (b) Program structure; and
- (c) Usable square footage.

(5) After consulting with the child's parent, the licensee may place the individual child in a different age group and serve the child within the different age group's required staff-to-child ratio based on the child's:

- (a) Developmental level; and
- (b) Individual needs.

(6) During opening and closing periods, the licensee may briefly combine children of different age groups provided the licensee maintains the staff-to-child ratio designated for the youngest child in the mixed group.

(7) The licensee may group ambulatory children between one year, and two and one-half years of age with older children, provided:

(a) The total number of children in the group does not exceed ten; and

(b) Two staff are assigned to the group.

(8) The licensee shall ensure the staff person providing direct care and supervision of the child is free of other duties at the time of care.

(9) The licensee shall maintain required staff-to-child ratios indoors, outdoors, on field trips, and during rest periods. During rest periods, staff may be involved in other activities if staff remain on the premises and each child is within continuous visual and auditory range of a staff person.

(10) The licensee shall ensure staff:

(a) Attend the child or group of children at all times; and

(b) Keep each child within continuous visual and auditory range, except when a toilet-trained child uses the toilet.

(11) When only one staff person is present, the licensee shall ensure a second staff person is readily available in case of an emergency.

[Statutory Authority: RCW 74.15.030, 90-23-078 (Order 3103), § 388-150-190, filed 11/20/90, effective 12/21/90.]

WAC 388-150-200 Staff development and training. (1) The licensee shall have an orientation system making the employee and volunteer aware of program policies and practices. The licensee shall provide staff an orientation including, but not limited to:

(a) Minimum licensing rules required under this chapter;

(b) Goals and philosophy of the center;

(c) Planned daily activities and routines;

(d) Child guidance and behavior management methods;

(e) Child abuse and neglect prevention, detection, and reporting policies and procedures;

(f) Special health and developmental needs of the individual child;

(g) The health care plan;

(h) Fire prevention and safety procedures; and

(i) Personnel policies, when applicable.

(2) The licensee shall provide or arrange for regular training opportunities for the child care staff to promote ongoing employee education and enhance practice skills.

(3) The licensee shall conduct periodic staff meetings for planning and coordination purposes.

(4) The licensee shall ensure:

(a) A staff person with basic, standard, current first aid and cardiopulmonary resuscitation (CPR) training, or department of health approved training, is present at all times and in all areas the child is in care; and

(b) Staff's CPR training includes methods appropriate for child age groups in care.

(5) The licensee shall provide or arrange appropriate education and training for child care staff on the prevention and transmission of human immunodeficiency virus/acquired immunodeficiency syndrome (HIV/AIDS).

(6) The licensee shall ensure the staff person preparing full meals has a valid food handler permit.

[Statutory Authority: RCW 74.15.030, 90-23-078 (Order 3103), § 388-150-200, filed 11/20/90, effective 12/21/90.]

WAC 388-150-210 Health and nutrition. (1) Health care plan. The licensee shall maintain current written health policies and procedures for staff orientation and use, and for the parent. The health care plan shall include, but not be limited to, information about the center's procedures concerning:

(a) Communicable disease prevention, reporting, and management;

(b) Action taken for medical emergencies;

(c) First aid;

(d) Care of minor illnesses;

(e) Medication management;

(f) General hygiene practices;

(g) Handwashing practices;

(h) Food and food services; and

(i) Infant care procedures and nursing consultation, where applicable.

(2) The licensee shall use the services of an advisory physician, physician's assistant, or registered nurse to assist in the development, approval, and periodic review of the center's health care plan.

[Statutory Authority: RCW 74.15.030, 90-23-078 (Order 3103), § 388-150-210, filed 11/20/90, effective 12/21/90.]

WAC 388-150-220 Health supervision and infectious disease prevention. (1) Child. The licensee shall encourage the parent to arrange a physical examination for the child who has not had regular health care or a physical examination within one year before enrollment.

(2) The licensee shall encourage the parent to obtain health care for the child when necessary. The licensee shall not be responsible for providing or paying for the child's health care.

(3) Before or on the child's first day of attendance, the licensee shall have on file a certificate of immunization status form prescribed by the department of health proving the child's full immunization for:

- (a) Diphtheria;
- (b) Tetanus;
- (c) Pertussis (whooping cough);
- (d) Poliomyelitis;
- (e) Measles (rubeola);
- (f) Rubella (German measles);
- (g) Mumps; and
- (h) Other diseases prescribed by the department of health.

(4) The licensee may accept the child without all required immunizations on a conditional basis if immunizations are:

- (a) Initiated before or on enrollment; and
- (b) Completed as rapidly as medically possible.

(5) The licensee may exempt the immunization requirement for the child if the parent or guardian:

- (a) Signs a statement expressing a religious, philosophical, or personal objection; or
- (b) Furnishes a physician's statement of a valid medical reason for the exemption.

(6) Program. Staff shall daily observe and screen the child for signs of illness. The licensee shall care for or discharge home the ill child based on the center's policies concerning the ill child.

(a) When the child has a severe illness or is injured, tired, or upset, staff shall separate the child from other children and attend the child continuously until:

- (i) The child is able to rejoin the group;
- (ii) Staff return the child to the parent; or
- (iii) Staff secures appropriate health care for the child.

(b) The licensee shall provide a quiet, separate care room or area allowing the child requiring separate care an opportunity to rest.

(c) Staff shall sanitize equipment used by the child if staff suspects the child has a communicable disease.

(d) The licensee may use the separate care room or area for other purposes when not needed for separation of the child.

- (7) Staff shall wash, or assist the child to wash hands:
 - (a) After the child's toileting or diapering;
 - (b) Before the child eats; and
 - (c) Before the child participates in food activities.

(8) Staff shall clean and disinfect toys, equipment, furnishings, and facilities according to the center's cleaning and disinfecting policies, as needed.

(9) The licensee shall have appropriate extra clothing available for the child who wets or soils clothes.

(10) Staff shall ensure the child does not share personal hygiene or grooming items.

(11) Staff. Each center employee, volunteer, and other person having regular contact with the child in care shall have a tuberculin (TB) skin test, by the Mantoux method, upon employment or licensure, unless against medical advice.

(a) The person whose TB skin test is positive (ten millimeters or more induration) shall have a chest x-ray within thirty days following the skin test.

(b) The licensee shall not require the person to obtain routine periodic TB retesting or x-ray (biennial or otherwise) after entry testing unless directed to obtain retesting by the person's health care provider or the local health department.

(12) The licensee shall not permit the person with a reportable communicable disease to be on duty in the center or have contact with the child in care unless approved in writing by a health care provider.

(13) Staff shall wash hands:

- (a) After toileting and diapering the child;
- (b) After personal toileting;
- (c) After attending to an ill child; and
- (d) Before serving or preparing food.

[Statutory Authority: RCW 74.15.030, 90-23-078 (Order 3103), § 388-150-220, filed 11/20/90, effective 12/21/90.]

WAC 388-150-230 Medication management. The center may have a policy of not giving medication to the child in care. If the center's health care plan includes giving medication to the child in care, the licensee:

(1) Shall give medications, prescription and nonprescription, only on the written approval of a parent, person, or agency having authority by court order to approve medical care;

(2) Shall give prescription medications:

- (a) Only as specified on the prescription label; or
- (b) As authorized, in writing, by a physician or other person legally authorized to prescribe medication.

(3) Shall give the following classifications of nonprescription medications, with written parent authorization, only at the dose, duration, and method of administration specified on the manufacturer's label for the age or weight of the child needing the medication:

- (a) Antihistamines;
 - (b) Nonaspirin fever reducers/pain relievers;
 - (c) Nonnarcotic cough suppressants;
 - (d) Decongestants;
 - (e) Anti-itching ointments or lotions, intended specifically to relieve itching;
 - (f) Diaper ointments and powders, intended specifically for use in the diaper area of the child; and
 - (g) Sun screen.
- (4) Shall give other nonprescription medication:
- (a) Not included in the categories listed in subsection (3) of this section; or

(b) Taken differently than indicated on the manufacturer's label; or

(c) Lacking labeled instructions, only when disbursement of the nonprescription medication is as required under subsection (4)(a), (b), and (c):

(i) Authorized, in writing, by a physician; or

(ii) Based on established medical policy approved, in writing, by a physician or other person legally authorized to prescribe medication.

(5) Shall accept from the child's parent, guardian, or responsible relative only medicine in the original container, labeled with:

(a) The child's first and last names;

(b) The date the prescription was filled; or

(c) The medication's expiration date; and

(d) Legible instructions for administration, such as manufacturer's instructions or prescription label.

(6) Shall keep medication, refrigerated or nonrefrigerated, in an orderly fashion, inaccessible to the child;

(7) Shall store external medication in a compartment separate from internal medication;

(8) Shall keep a record of medication disbursed;

(9) Shall return to the parent or other responsible party, or shall dispose of medications no longer being taken; and

(10) May, at the licensee's option, permit self-administration of medication by a child in care if the:

(a) Child is physically and mentally capable of properly taking medication without assistance;

(b) Licensee includes in the child's file a parental or physician's written statement of the child's capacity to take medication without assistance; and

(c) Licensee ensures the child's medications and other medical supplies are stored so the medications and medical supplies are inaccessible to another child in care.

[Statutory Authority: RCW 74.15.030, 90-23-078 (Order 3103), § 388-150-230, filed 11/20/90, effective 12/21/90.]

WAC 388-150-240 Nutrition. (1) The licensee shall provide food meeting the nutritional needs of the child in care, taking into consideration the:

(a) Number of children in care;

(b) Child's age and developmental level;

(c) Child's cultural background;

(d) Child's handicapping condition; and

(e) Hours of care on the premises.

(2) The licensee shall provide only pasteurized milk or a pasteurized milk product.

(3) The licensee shall provide only whole milk to the child twenty-three months of age or younger except with written permission of the child's parent.

(4) The licensee may serve the child twenty-four months of age or older powdered Grade A milk mixed in the center provided the licensee completes the dry milk mixture, service, and storage in a safe and sanitary manner.

(5) The licensee may provide the child nutrient concentrates, nutrient supplements, a modified diet, or an allergy diet only with written permission of the child's health care provider. The licensee shall obtain from the

parent or child's health care provider a written list of foods the child cannot consume.

(6) The licensee shall:

(a) Record food and portion sizes planned and served;

(b) Prepare and date menus one week or more in advance, containing meals and snacks to be served, including parent-provided snacks; and

(c) Specify on the menu a variety of foods enabling the child to consume adequate nutrients.

(7) The licensee shall provide two weeks or more of meal and snack menu variety before repeating the menu.

(8) The licensee shall only make nutrition substitutions of comparable nutrient value and record changes on the menu.

(9) The licensee shall use the following meal pattern to provide food to the child in care in age-appropriate servings:

(a) Providing the child in care for nine or less hours:

(i) Two or more snacks and one meal; or

(ii) Two meals and one snack.

(b) Providing the child in care for nine or more hours:

(i) Two or more meals and two snacks; or

(ii) One meal and three snacks.

(c) Providing the child arriving after school a snack;

(d) Providing the child food at intervals not less than two hours and not more than three and one-half hours apart; and

(e) Allowing the occasional serving of party foods not meeting nutritional requirements.

(10) When serving food, the licensee shall provide the child the following:

(a) At a minimum, the child's breakfast must contain:

(i) A dairy product, including fluid milk, cheese, yogurt, or cottage cheese;

(ii) Cereal or bread, whole grain or enriched; and

(iii) Fruit or vegetable or juice containing a minimum of fifty percent real juice.

(b) At a minimum, the child's lunch or dinner must contain:

(i) A dairy product;

(ii) A protein food including lean meat, fish, poultry, egg, legumes, nut butters, or cheese;

(iii) Bread or bread alternate, whole grain or enriched; and

(iv) Fruit or vegetable, two total servings.

(c) The child's snacks must include one or more dairy or protein source provided daily, and contain a minimum of two of the following four components at each snack:

(i) A dairy product;

(ii) A protein food;

(iii) Bread or bread alternate; or

(iv) Fruit or vegetable or juice containing a minimum of fifty percent real juice.

(d) The child's food must contain:

(i) A minimum of one serving of Vitamin C fruit, vegetable, or juice, provided daily; and

(ii) Servings of food high in Vitamin A, provided three or more times weekly.

(11) The licensee shall provide:

(a) Dinner to the child in evening care when the child did not receive dinner at home before arriving at the center;

(b) A bedtime snack to the child in nighttime care; and

(c) Breakfast to the child in nighttime care if the child remains at the center after the child's usual breakfast time.

(12) The licensee shall monitor sack lunches, snacks, and other foods brought from the child's home for consumption by the child, all children, or a group of children in care, ensuring safe preparation, storage, and serving and nutritional adequacy.

(13) For the center permitting sack lunches, the licensee shall have available food supplies to supplement food deficient in meeting nutrition requirements brought from the child's home and to nourish the child arriving without home-supplied food.

[Statutory Authority: RCW 74.15.030. 90-23-078 (Order 3103), § 388-150-240, filed 11/20/90, effective 12/21/90.]

WAC 388-150-250 Kitchen and food service. (1) The licensee shall provide equipment for the proper storage, preparation, and service of food to meet program needs.

(2) The licensee shall meet food service standards by requiring:

(a) The staff person preparing full meals have a valid food handler permit;

(b) The staff person preparing and serving meals wash hands before handling food;

(c) Handwashing facilities be located in or adjacent to food preparation areas;

(d) Food be stored in a sanitary manner, especially milk, shellfish, meat, poultry, eggs, and other protein food sources;

(e) Food requiring refrigeration be stored at a temperature no warmer than forty-five degrees fahrenheit;

(f) Frozen food be stored at a maximum temperature of zero degrees Fahrenheit;

(g) Refrigerators and freezers be equipped with thermometers and be regularly cleaned and defrosted;

(h) Food be cooked to correct temperatures;

(i) Raw food be washed thoroughly with clean running water;

(j) Cooked food to be stored be rapidly cooled and refrigerated after preparation;

(k) Food be kept in original containers or in clean, labeled containers and stored off the floor;

(l) Packaged, canned, and bottled food with a past expiration date be discarded;

(m) Food in dented cans or torn packages be discarded; and

(n) When food containing sulfiting agents is served, parents be notified.

(3) The child may participate in food preparation as an education activity. The licensee shall supervise the child when the child is in the kitchen or food preparation area.

(4) The licensee shall make kitchen equipment inaccessible to the child, except during planned and supervised kitchen activities. Staff shall supervise food preparation activities. The licensee shall make potentially hazardous appliances and sharp or pointed utensils inaccessible to the child when the child is not under direct supervision.

(5) The licensee shall install and maintain kitchen equipment and clean re-usable utensils in a safe and sanitary manner by:

(a) Sanitizing reusable utensils in a dishwasher or through use of a three-compartment dishwashing procedure; and

(b) Using only single-use or clean cloths, used solely for wiping food service, preparation, and eating surfaces.

[Statutory Authority: RCW 74.15.030. 90-23-078 (Order 3103), § 388-150-250, filed 11/20/90, effective 12/21/90.]

WAC 388-150-260 Drinking and eating equipment.

(1) The licensee shall provide the child disposable single-use cups, individual drinking cups or glasses, or inclined jet-type drinking fountains.

(2) The department shall prohibit the center from using bubbler-type drinking fountains and common drinking cups or glasses.

(3) The licensee shall provide the child durable eating utensils appropriate in size and shape for the child in care.

[Statutory Authority: RCW 74.15.030. 90-23-078 (Order 3103), § 388-150-260, filed 11/20/90, effective 12/21/90.]

WAC 388-150-270 Care of young children. (1) The licensee shall not accept for care a child under one month of age.

(2) Facility. The licensee shall:

(a) Provide a separate, safe play area for the child under one year of age, or the child not walking;

(b) Care for the child under one year of age in rooms or areas separate from older children, with:

(i) Not more than eight children under one year of age to a room or area; and

(ii) Handwashing facilities in or adjacent to each such room or area.

(3) Diapering and toileting. The licensee shall ensure:

(a) The diaper changing area is:

(i) Separate from food preparation areas;

(ii) Adjacent to a handwashing sink; and

(iii) Sanitized between use for different children; or

(iv) Protected by a disposable covering discarded after each use.

(b) The designated change area is impervious to moisture and washable;

(c) Diaper changing procedures are posted at the changing area;

(d) Disposable towels or clean, reusable towels, laundered between usage for different children, are used for cleaning the child;

(e) Staff wash hands after diapering the child or helping the child with toileting;

(f) Disposable diapers, a commercial diaper service, or reusable diapers supplied by the child's family are used;

(g) Soiled diapers are placed without rinsing into a separate, cleanable, covered container provided with a waterproof liner before transporting to the laundry, parent, or acceptable disposal;

(h) Soiled diapers are removed from the facility daily or more often unless the licensee uses a commercial diaper service;

(i) Toilet training is initiated when the child indicates readiness and in consultation with the child's parent;

(j) Potty chairs, when in use, are located on washable, impervious surfaces; and

(k) Toilet training equipment is sanitized after each use.

(4) Feeding. The licensee and the infant's parent shall agree on a schedule for the infant's feedings.

(a) Bottle feedings.

(i) The licensee or parent may provide the child's bottle feeding in the following manner:

(A) A filled bottle brought from home;

(B) Whole milk or formula in ready-to-feed strength; or

(C) Formula requiring no preparation other than dilution with water, mixed on the premises.

(ii) The licensee shall prepare the child's bottle and nipple in a sanitary manner in an area separate from diapering areas.

(iii) The licensee shall sanitize the child's bottle and nipple between uses.

(iv) The licensee shall label the child's bottle with the child's name and date prepared.

(v) The licensee shall refrigerate a filled bottle if the child does not consume the content immediately and shall discard the bottle's content if the child does not consume the content within twelve hours.

(b) To ensure safety and promote nurturing, the licensee shall ensure staff:

(i) Hold in a semi-sitting position for feedings the infant unable to sit in a high chair, unless such is against medical advice;

(ii) Interact with the child;

(iii) Do not prop a bottle;

(iv) Do not give a bottle to the reclining child, unless the bottle contains water only;

(v) Take the bottle from the child when the child finishes feeding; and

(vi) Keep the child in continuous visual and auditory range.

(c) The licensee shall provide semi-solid food for the infant, upon consultation with the parent, not before the child is four months of age and not later than ten months of age, unless such is not recommended by the child's health care provider.

(5) Sleeping equipment. The licensee shall furnish the infant a single-level crib, infant bed, bassinet, or play pen for napping until such time the licensee and parent concur the infant can safely use a mat, cot, or other approved sleeping equipment.

(6) When the licensee furnishes the infant or child a crib, the licensee shall ensure the crib is:

(a) Sturdy and made of wood, metal, or plastic with secure latching devices; and

(b) Constructed with two and three-eighths inches or less space between vertical slats when the crib is used for an infant six months of age or younger. The licensee may allow an infant to use a crib not meeting the spacing requirement provided the licensee uses crib bumpers or another effective method preventing the infant's body from slipping between the slats.

(7) The licensee shall not allow the infant or child to use a stacked crib.

(8) The licensee shall ensure the infant's or child's crib mattress is:

(a) Snug fitting, preventing the infant from being caught between the mattress and crib side rails; and

(b) Waterproof and easily sanitized.

(9) Program and equipment. The licensee shall provide the infant a daily opportunity for:

(a) Large and small muscle development;

(b) Crawling and exploring;

(c) Sensory stimulation;

(d) Social interaction;

(e) Development of communication; and

(f) Learning self-help skills.

(10) The licensee shall provide the infant safe, noningestible, and suitable toys and equipment for the infant's mental and physical development.

(11) Nursing consultation. The licensee licensed for the care of four or more infants shall arrange for regular nursing consultation to include one or more monthly on-site visits by a registered nurse trained or experienced in the care of young children.

(12) In collaboration with the licensee, the nurse shall advise the center on the:

(a) Operation of the infant care program; and

(b) Implementation of the child health program.

(13) The licensee shall obtain a written agreement with the nurse for consultation services.

(14) The licensee shall document the nurse's on-site consultations.

(15) The licensee shall ensure the nurse consultant's name and telephone number is posted or otherwise available on the premises.

[Statutory Authority: RCW 74.15.030, 90-23-078 (Order 3103), § 388-150-270, filed 11/20/90, effective 12/21/90.]

WAC 388-150-280 Safety and environment. (1) General safety, maintenance, and site. The licensee shall operate the center:

(a) On an environmentally safe site;

(b) In a neighborhood free from a condition detrimental to the child's welfare; and

(c) In a location accessible to other services to carry out the program.

(2) The licensee shall maintain the indoor and outdoor premises in a safe and sanitary condition, free of hazards, and in good repair. The licensee shall ensure furniture and equipment are safe, stable, durable, child-sized, and free of sharp, loose, or pointed parts.

The licensee shall:

(a) Install handrails or safety devices at child height adjacent to steps, stairways, and ramps;

(b) Maintain a flashlight or other emergency lighting device in working condition;

(c) Ensure there is no flaking or deteriorating lead-based paint on interior and exterior surfaces, equipment, and toys accessible to the preschool age and younger child;

(d) Finish or cover rough or untreated wood surfaces; and

(e) Maintain one or more telephones in working order, accessible to staff.

(4) The licensee shall supply bathrooms and other rooms subject to moisture with washable, moisture-impermeable flooring.

(5) The licensee caring for the preschool age and younger child shall equip child-accessible electrical outlets with nonremovable safety devices or covers preventing electrical injury.

(6) The licensee shall ensure staff can gain rapid access in an emergency to a bathroom or other room occupied by the child.

(7) The licensee shall shield light bulbs and tubes in child-accessible areas.

(8) The licensee shall keep the premises free from rodents, fleas, cockroaches, and other insects and pests.

(9) The licensee shall use a housekeeping sink or another appropriate method for drawing clean mop water and disposing waste water.

(10) The licensee shall ensure the mop storage area is ventilated.

(11) The licensee shall ensure no firearm or another weapon is on the premises.

(12) The licensee shall comply with fire safety regulations adopted by the state fire marshal's office.

[Statutory Authority: RCW 74.15.030. 90-23-078 (Order 3103), § 388-150-280, filed 11/20/90, effective 12/21/90.]

WAC 388-150-290 Water safety. (1) The licensee shall maintain the following water safety precautions when the child uses an on-premises swimming pool, wading pool, or natural body of water, or enters the water on a field trip by ensuring:

(a) The on-premises pool or natural body of water is inaccessible to the child when not in use;

(b) During the child's use of a wading pool, an adult with current CPR training supervises the child at all times; and

(c) During the child's use of a swimming pool or open body of water, a certified lifeguard is present at all times, in addition to required staff.

(2) The licensee shall daily empty and clean portable wading pools when in use.

(3) The licensee shall not permit the child to use or access a hot tub, spa, whirlpool, tank, or similar equipment.

[Statutory Authority: RCW 74.15.030. 90-23-078 (Order 3103), § 388-150-290, filed 11/20/90, effective 12/21/90.]

WAC 388-150-310 First aid supplies. The licensee shall maintain on the premises adequate first aid supplies, conforming with the center's first aid policies and procedures. The licensee's first aid supplies shall include

unexpired syrup of ipecac which may be administered only on the advice of a physician or poison control center.

[Statutory Authority: RCW 74.15.030. 90-23-078 (Order 3103), § 388-150-310, filed 11/20/90, effective 12/21/90.]

WAC 388-150-320 Outdoor play area. (1) The licensee shall provide a safe and securely-fenced or department-approved, enclosed outdoor play area:

(a) Adjoining directly the indoor premises; or

(b) Reachable by a safe route and method; and

(c) Promoting the child's active play, physical development, and coordination; and

(d) Protecting the play area from unsupervised exit or entry by the child; and

(e) Preventing child access to roadways and other dangers.

(2) The licensee shall ensure the play area contains a minimum of seventy-five usable square feet per child. If the center uses a rotational schedule of outdoor play periods so only a portion of the child population uses the play area at one time, the licensee may reduce correspondingly the child's play area size. The licensee shall ensure appropriate child grouping by developmental or age levels, staff-to-child ratio adherence, and group size maintenance.

(3) At its discretion, the department may approve the licensee providing drop-in care only or operating in a densely developed area to use equivalent, separate, indoor space for the child's large muscle play.

(4) The licensee providing full-time care shall ensure the center's activity schedule affords the child sufficient daily time to participate actively in outdoor play.

(5) The licensee shall provide a variety of age appropriate play equipment for climbing, pulling, pushing, riding, and balancing activities. The licensee shall arrange, design, construct, and maintain equipment and ground cover to prevent child injury. The licensee's quantity of outdoor play equipment shall offer the child a range of outdoor play options.

[Statutory Authority: RCW 74.15.030. 90-23-078 (Order 3103), § 388-150-320, filed 11/20/90, effective 12/21/90.]

WAC 388-150-330 Indoor play area. (1) The center's indoor premises shall contain adequate area for child play and sufficient space to house a developmentally appropriate program for the number and age range of children served. The licensee shall provide a minimum of thirty-five square feet of usable floor space per child, exclusive of a bathroom, hallway, and closet. If the staff removes mats and cots when not in use, the licensee may use and consider the napping area as child care space. The licensee may consider the kitchen usable space if:

(a) Appliances and utensils do not create a safety hazard;

(b) Toxic or harmful substances are not accessible to the child;

(c) Food preparation and storage sanitation is maintained; and

(d) The space is located safely and appropriately for use as a child care activity area.

(2) The licensee shall provide a minimum of fifty square feet of usable floor space per child for the play and napping of the infant and other child requiring a crib.

(3) The licensee may use a room for multiple purposes such as playing, dining, napping, and learning activities, provided the:

(a) Room is of sufficient size; and

(b) Room's usage for one purpose does not interfere with usage of the room for another purpose.

[Statutory Authority: RCW 74.15.030. 90-23-078 (Order 3103), § 388-150-330, filed 11/20/90, effective 12/21/90.]

WAC 388-150-340 Toilets, handwashing sinks, and bathing facilities. (1) The licensee shall provide a minimum of one indoor flush-type toilet and one adjacent handwash sink for every fifteen persons normally on site, except:

(a) The child eighteen months of age or younger and other children using toilet training equipment need not be included when determining the number of required flush-type toilets;

(b) If urinals are provided, the number of urinals shall not replace more than one-third of the total required toilets; and

(c) For the center serving the school age child only, the number of sinks and toilets for the child shall equal or exceed the number required by the local school district.

(2) The licensee shall supply the child warm running water for hand-washing at a temperature range no less than eighty-five degrees Fahrenheit and no more than one hundred and twenty degrees Fahrenheit.

(3) The licensee shall locate the child's handwashing facilities in or adjacent to rooms used for toileting.

(4) The licensee shall provide toileting privacy for the child of opposite sex six years of age and older and for other children demonstrating a need for privacy.

(5) The licensee shall provide toilets, urinals, and handwashing sinks of appropriate height and size for the child in care or furnish safe, easily cleanable platforms impervious to moisture.

(6) The licensee shall ensure rooms used for toileting are ventilated to the outdoors.

(7) When the center serves the child not toilet trained, the licensee shall provide developmentally appropriate equipment for the toileting and toilet training of the young child. The licensee shall sanitize the equipment after each child's use.

(8) The licensee shall provide the child with soap and individual towels or other appropriate devices for washing and drying the child's hands and face.

(9) If the center is equipped with a bathing facility, the licensee shall:

(a) Make the bathing facility inaccessible to the child; or

(b) Ensure the preschool age and younger child is supervised while using the bathing facility; and

(c) Equip the bathing facility with a conveniently located grab bar or other safety device such as a nonskid pad.

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[Statutory Authority: RCW 74.15.030. 90-23-078 (Order 3103), § 388-150-340, filed 11/20/90, effective 12/21/90.]

WAC 388-150-350 Laundry. (1) The licensee shall maintain access to laundry washing and drying facilities, which may include using on-premises or off-site equipment.

(2) The licensee shall use an effective method through temperature or chemical measures for adequately sanitizing the child's laundry contaminated with urine, feces, lice, scabies, or other infectious material.

(3) When washing or drying occurs on-site, the licensee shall locate equipment in an area separate from the kitchen and inaccessible to the child.

(4) The licensee shall store the child's soiled laundry separately from clean laundry.

[Statutory Authority: RCW 74.15.030. 90-23-078 (Order 3103), § 388-150-350, filed 11/20/90, effective 12/21/90.]

WAC 388-150-360 Nap and sleep equipment. (1) The licensee shall provide a clean, separate, firm mat, cot, bed, mattress, play pen, or crib for each child five years of age and under remaining in care for six or more hours and for another child requiring a nap or rest period.

(2) The licensee shall ensure the child's mat is of sufficient length, width, and thickness to provide adequate comfort for the child to nap. The licensee may use a washable sleeping bag meeting the mat requirements for the toilet-trained child.

(3) The licensee shall ensure the child's cot is of sufficient length and width and constructed to provide adequate comfort for the child to nap. The licensee shall ensure the cot surface is of a material which can be cleaned with a detergent solution, disinfected, and allowed to air dry.

(4) The licensee shall clean the child's nap equipment as needed and between use by another child.

(5) The licensee shall separate the child's nap equipment when in use to facilitate sanitation, child comfort, and staff access.

(6) The licensee shall ensure the child's bedding:

(a) Consists of a clean sheet or blanket to cover the sleeping surface and a clean, suitable cover for the child;

(b) Is laundered weekly or more often and between use by different children; and

(c) Is stored separately from bedding used by another child.

(7) The licensee shall not use the upper bunk of a double deck bed for a preschool age or younger child.

[Statutory Authority: RCW 74.15.030. 90-23-078 (Order 3103), § 388-150-360, filed 11/20/90, effective 12/21/90.]

WAC 388-150-370 Storage. (1) The licensee shall provide accessible individual space for the child to store clothes and personal possessions.

(2) The licensee shall provide space separate from child care area to store play and teaching equipment and supplies, records and files, cots, mats, and bedding.

(3) The licensee shall store and make inaccessible to the child cleaning supplies, toxic substances, paint, poisons, aerosol containers, and items bearing warning labels.

(4) The licensee shall label a container filled from a stock supply to identify contents.

[Statutory Authority: RCW 74.15.030. 90-23-078 (Order 3103), § 388-150-370, filed 11/20/90, effective 12/21/90.]

WAC 388-150-380 Program atmosphere. (1) The licensee shall provide a cheerful learning environment for the child by:

(a) Covering walls and ceilings with light or bright colors; and

(b) Placing visually stimulating decorations, pictures, or other attractive materials at appropriate heights for the child.

(2) The licensee shall maintain a safe and developmentally appropriate noise level, without inhibiting normal ranges of expression by the child, so staff and child can be clearly heard and understood in normal conversation.

(3) The licensee shall locate light fixtures and provide lighting intensities promoting good visibility and comfort for the child care.

(4) The licensee shall maintain the temperature within the center at:

(a) Sixty-eight degrees Fahrenheit or more during the child's waking hours; and

(b) Sixty degrees Fahrenheit or more during the child's napping or sleeping hours.

(5) The licensee shall regulate the temperature and ventilate the center for the health and comfort of the child in care.

[Statutory Authority: RCW 74.15.030. 90-23-078 (Order 3103), § 388-150-380, filed 11/20/90, effective 12/21/90.]

WAC 388-150-390 Agency practices. Discrimination prohibited. The licensee shall comply with federal and state regulatory and statutory requirements, defined under chapter 49.60 RCW, regarding nondiscrimination in employment practices and client services.

[Statutory Authority: RCW 74.15.030. 90-23-078 (Order 3103), § 388-150-390, filed 11/20/90, effective 12/21/90.]

WAC 388-150-400 Religious activities. (1) Consistent with state and federal laws, the licensee shall respect and facilitate the rights of the child in care to observe the tenets of the child's faith.

(2) The licensee shall not punish or discourage the child for exercising these rights.

(3) If the center conducts a religious activity program, the licensee shall maintain a written description of the center's religious policies and practices affecting the child in care.

[Statutory Authority: RCW 74.15.030. 90-23-078 (Order 3103), § 388-150-400, filed 11/20/90, effective 12/21/90.]

WAC 388-150-410 Special requirements regarding American Indian children. When five percent or more of the center's child enrollment consists of Indian children,

the licensee shall develop social service resources and staff training programs designed to meet the special needs of such children through coordination with tribal, Indian health service, and Bureau of Indian Affairs social service staff, and appropriate urban Indian and Alaskan native consultants.

[Statutory Authority: RCW 74.15.030. 90-23-078 (Order 3103), § 388-150-410, filed 11/20/90, effective 12/21/90.]

WAC 388-150-420 Child abuse, neglect, and exploitation. The licensee and staff shall protect the child in care from child abuse, neglect, or exploitation, as required under chapter 26.44 RCW.

[Statutory Authority: RCW 74.15.030. 90-23-078 (Order 3103), § 388-150-420, filed 11/20/90, effective 12/21/90.]

WAC 388-150-430 Prohibited substances. (1) During operating hours or when the child is in care, the licensee, staff, and volunteers on center premises or caring for the child off-site shall not be under the influence of, consume, or possess an:

(a) Alcoholic beverage; or

(b) Illegal drug.

(2) The licensee shall prohibit smoking in the center when the child is present and in a motor vehicle when the licensee transports the child. The licensee may permit on premises smoking out doors, away from the building, where the child is not present.

[Statutory Authority: RCW 74.15.030. 90-23-078 (Order 3103), § 388-150-430, filed 11/20/90, effective 12/21/90.]

WAC 388-150-440 Limitations to persons on premises. (1) During center operating hours or while the child is in care, only the licensee, employee, or volunteer, or an authorized representative of a governmental agency, or parent shall have unsupervised or regular access to the child in care.

(2) The licensee shall allow the parent of the child in care unsupervised access only to the parent's child.

[Statutory Authority: RCW 74.15.030. 90-23-078 (Order 3103), § 388-150-440, filed 11/20/90, effective 12/21/90.]

WAC 388-150-450 Records, reporting, and posting. Child records and information. The licensee shall maintain on the premises organized confidential records and information concerning the child in care. The licensee shall ensure the child's record contains, at a minimum:

(1) Registration data:

(a) Name, birthdate, dates of enrollment and termination, and other identifying information;

(b) Name, address, and home and business telephone number of the parent and other person to be contacted in case of emergency; and

(c) Completed enrollment application signed by the parent, guardian, or responsible relative.

(2) Authorizations:

(a) Name, address, and telephone number of the person authorized to remove from the center the child under care;

(b) Written parental consent for transportation provided by the center, including field trips and swimming,

when the child participates in these activities. A parent-signed blanket consent form may authorize the child's off-site travel; and

(c) Written parental consent, or court order, for providing medical care and emergency surgery, except for such care authorized by law.

(3) Medical and health data:

(a) Date and kind of illness and injury occurring on the premises, including the treatment given by staff;

(b) Medication given indicating dosage, date, time, and name of dispensing staff person; and

(c) A health history, obtained when the licensee or staff enrolls the child for care. The history includes:

(i) The date of the child's last physical examination;

(ii) Allergies;

(iii) Special health or developmental problems and other pertinent health information;

(iv) Immunization history as required under WAC 388-150-220; and

(v) Name, address, and telephone number of the child's health care provider or facility.

[Statutory Authority: RCW 74.15.030. 90-23-078 (Order 3103), § 388-150-450, filed 11/20/90, effective 12/21/90.]

WAC 388-150-460 Program records. The licensee shall maintain the following documentation on the premises:

(1) The daily attendance record:

(a) The parent, or other person authorized by the parent to take the child to or from the center, shall sign in the child on arrival and shall sign out the child at departure, using a full, legal signature; and

(b) When the child leaves the center to attend school as authorized by the parent, the staff person shall sign out the child, and sign in the child on return to the center.

(2) A copy of the report sent to the licensor about the illness or injury to the child in care requiring medical treatment or hospitalization;

(3) Copies of meal and snack menus for a minimum of six months;

(4) The twelve month record indicating the date and time the licensee conducted the required monthly fire evacuation drills;

(5) A written plan for staff development, specifying the content, frequency, and manner of planned training;

(6) Activity program plan records; and

(7) Nursing consultation records, if applicable, including:

(a) A copy of the written agreement with the nurse; and

(b) A summary of the nurse's on-site consultation activities.

[Statutory Authority: RCW 74.15.030. 90-23-078 (Order 3103), § 388-150-460, filed 11/20/90, effective 12/21/90.]

WAC 388-150-470 Personnel policies and records.

(1) Each employee and volunteer having unsupervised or regular access to the child in care shall complete and submit to the licensee or director by the date of hire:

(a) An application for employment on a department-prescribed form, or its equivalent; and

(b) A criminal history and background inquiry form.

(i) The licensee shall submit this form to the department for the employee and volunteer, within seven calendar days of the employee's first day of employment, permitting a criminal and background history check.

(ii) The department shall discuss the inquiry information with the licensee or director, when applicable.

(2) The licensee employing five or more persons shall have written personnel policies describing staff benefits, if any, duties, and qualifications.

(3) The licensee shall maintain a personnel record-keeping system, having on file for the licensee, staff person, and volunteer:

(a) An employment application, including work and education history;

(b) Documentation of criminal history and background inquiry form submission;

(c) A record of tuberculin skin test results, x-ray, or an exemption to the skin test or x-ray;

(d) Documentation of HIV/AIDS education and training;

(e) A record of participation in staff development training;

(f) Documentation of orientation program completion;

(g) Documentation of a valid food handler permit, when applicable; and

(h) Documentation of current first aid and CPR training, when applicable.

[Statutory Authority: RCW 74.15.030. 90-23-078 (Order 3103), § 388-150-470, filed 11/20/90, effective 12/21/90.]

WAC 388-150-480 Reporting of death, injury, illness, epidemic, or child abuse. The licensee or staff shall report immediately:

(1) A death, serious injury requiring medical treatment, or illness requiring hospitalization of a child in care, by telephone and in writing, to the parent, licensor, and child's social worker, if any;

(2) An instance when the licensee or staff has reason to suspect the occurrence of physical, sexual, or emotional child abuse, child neglect, or child exploitation as required under chapter 26.44 RCW, by telephone, to child protective services or local law enforcement; or

(3) An occurrence of food poisoning or communicable disease, as required by the state board of health, by telephone, to the local public health department.

[Statutory Authority: RCW 74.15.030. 90-23-078 (Order 3103), § 388-150-480, filed 11/20/90, effective 12/21/90.]

WAC 388-150-490 Reporting of circumstantial changes. A child day care center license is valid only for the address, person, and organization named on the license. The licensee shall promptly report to the licensor major changes in staff, program, or premises affecting the center's classification, delivery of safe, developmentally appropriate services, or continued eligibility for licensure. A major change includes the:

(1) Center's address, location, space, or phone number;

(2) Maximum number, age ranges, and sex of children the licensee wishes to serve as compared to current license specifications;

(3) Number and qualifications of the center's staffing pattern that may affect staff competencies to implement the specified program, including:

(a) Change of ownership, chief executive, director, or program supervisor; and

(b) The death, retirement, or incapacity of the licensee.

(4) Name of the licensed corporation, or name by which the center is commonly known, or changes in the center's articles of incorporation and bylaws;

(5) Occurrence of a fire, major structural change, or damage to the premises; and

(6) Plans for major remodeling of the center, including planned use of space not previously department-approved.

[Statutory Authority: RCW 74.15.030, 90-23-078 (Order 3103), § 388-150-490, filed 11/20/90, effective 12/21/90.]

WAC 388-150-500 Posting requirements. (1) The licensee shall post the following items, clearly visible to the parent and staff:

(a) The center's child care license issued under this chapter;

(b) A schedule of regular duty hours with the names of caregiving staff;

(c) A typical activity schedule, including operating hours and scheduled mealtimes;

(d) Meal and snack menus;

(e) Evacuation plans and procedures, including a diagram of exiting routes; and

(f) Emergency telephone numbers.

(2) For the staff, the licensee shall post:

(a) Dietary restrictions and nutrition requirements for particular children;

(b) Handwashing practices; and

(c) Diaper changing procedures, if applicable.

[Statutory Authority: RCW 74.15.030, 90-23-078 (Order 3103), § 388-150-500, filed 11/20/90, effective 12/21/90.]

Chapter 388-320 WAC

PUBLIC RECORDS DISCLOSURE— ADMINISTRATIVE PROCEDURES

WAC

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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

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| 388-320-055 | Operations and procedure—Program division responsibilities. [Order 899, § 388-320-055, filed 1/25/74.] Repealed by 81-06-001 (Order 1609), filed 2/19/81. Statutory Authority: RCW 42.17.250 through 42.17.340. |
| 388-320-060 | Operations and procedure—Program division operation. [Order 899, § 388-320-060, filed 1/25/74.] Repealed by 81-06-001 (Order 1609), filed 2/19/81. Statutory Authority: RCW 42.17.250 through 42.17.340. |
| 388-320-070 | Operations and procedure—Administrative divisions. [Order 899, § 388-320-070, filed 1/25/74.] Repealed by 81-06-001 (Order 1609), filed 2/19/81. Statutory Authority: RCW 42.17.250 through 42.17.340. |
| 388-320-093 | Statements of policy—Practice manuals. [Order 899, § 388-320-093, filed 1/25/74.] Repealed by 81-06-001 (Order 1609), filed 2/19/81. Statutory Authority: RCW 42.17.250 through 42.17.340. |
| 388-320-094 | Statements of policy—State plans. [Order 899, § 388-320-094, filed 1/25/74.] Repealed by 81-06-001 (Order 1609), filed 2/19/81. Statutory Authority: RCW 42.17.250 through 42.17.340. |
| 388-320-095 | Statements of policy—Other. [Order 899, § 388-320-095, filed 1/25/74.] Repealed by 81-06-001 (Order 1609), filed 2/19/81. Statutory Authority: RCW 42.17.250 through 42.17.340. |
| 388-320-120 | Office hours. [Order 899, § 388-320-120, filed 1/25/74.] Repealed by 81-06-001 (Order 1609), filed 2/19/81. Statutory Authority: RCW 42.17.250 through 42.17.340. |
| 388-320-150 | Exemptions. [Order 899, § 388-320-150, filed 1/25/74.] Repealed by 81-06-001 (Order 1609), filed 2/19/81. Statutory Authority: RCW 42.17.250 through 42.17.340. |
| 388-320-155 | Denial of request. [Order 899, § 388-320-155, filed 1/25/74.] Repealed by 81-06-001 (Order 1609), filed 2/19/81. Statutory Authority: RCW 42.17.250 through 42.17.340. |
| 388-320-160 | Review of denial. [Order 899, § 388-320-160, filed 1/25/74.] Repealed by 81-06-001 (Order 1609), filed 2/19/81. Statutory Authority: RCW 42.17.250 through 42.17.340. |
| 388-320-190 | Communications and submissions relating to public records. [Order 899, § 388-320-190, filed 1/25/74.] Repealed by 81-06-001 (Order 1609), filed 2/19/81. Statutory Authority: RCW 42.17.250 through 42.17.340. |
| 388-320-200 | Adoption of form. [Order 899, § 388-320-200, filed 1/25/74.] Repealed by 81-06-001 (Order 1609), |

filed 2/19/81. Statutory Authority: RCW 42.17.250 through 42.17.340.

WAC 388-320-010 Purpose. The purpose of this chapter shall be to ensure compliance by the department of social and health services with the provisions of the Public Records Disclosure Act, RCW 42.17.250 through 42.17.340.

This chapter is organized as follows:

(1) WAC 388-320-030 through 388-320-092 provide information relative to the overall organizational structure of the department, as required by RCW 42.17.250.

(2) The remainder of the chapter, commencing with WAC 388-320-100, provides information relating to disclosure of public records, as required by RCW 42.17.260 through 42.17.340. These sections apply to all offices of the department.

[Statutory Authority: RCW 42.17.250 through 42.17.340. 81-06-001 (Order 1609), § 388-320-010, filed 2/19/81; Order 899, § 388-320-010, filed 1/25/74.]

WAC 388-320-020 Definitions. (1) "Client" means a person or organization about whom the department has a record.

(2) "Denial of disclosure" denotes exempting from disclosure of a public record.

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

(4) "Disclosure" means inspection and/or copying.

(5) "Public records" include writing containing information related to the conduct of government or the performance of a governmental or proprietary function prepared, owned, used or retained by the department regardless of physical form or characteristics.

(6) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording a form of communication or representation, including:

(a) Letters, words, pictures, sounds, or symbols, or combination; and

(b) All papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums and other documents.

[Statutory Authority: RCW 34.05.220 and 42.17.250. 90-17-002 (Order 3048), § 388-320-020, filed 8/2/90, effective 9/2/90. Statutory Authority: RCW 42.17.250 through 42.17.340. 81-06-001 (Order 1609), § 388-320-020, filed 2/19/81; Order 899, § 388-320-020, filed 1/25/74.]

WAC 388-320-030 Establishment of department.

(1) The department of social and health services was created effective July 1, 1970 under the authority of chapter 43.20A RCW. The former departments of health, public assistance and institutions, and the former veterans rehabilitation council and division of vocational rehabilitation of the coordinating council on occupational education were abolished and the department was assigned substantially all their powers, duties and functions.

(2) The department was established to integrate and coordinate most of those activities of the state of

Washington which involve provision of care for individuals who, because of economic, social, or health conditions, require financial assistance, institutional care, or rehabilitative or other social or health services.

(3) The state administrative office of the department is located in Olympia. Regional and local units are located throughout the state.

[Order 899, § 388-320-030, filed 1/25/74.]

WAC 388-320-035 Programs operated by department. The department operates the following programs:

(1) Adult correction and rehabilitation

(2) Juvenile rehabilitation

(3) Mental health

(4) Developmental disabilities

(5) Veterans' services

(6) Income maintenance

(7) Community social services

(8) Medical assistance

(9) Public health

(10) Vocational rehabilitation.

[Order 899, § 388-320-035, filed 1/25/74.]

WAC 388-320-040 Operations and procedure—Organization. (1) The department's basic organizational structure is built around major functions with different organizations having responsibility for aspects of the various departmental programs. No single organization has sole responsibility for all aspects of any one program. Responsibility for program development is assigned to central office staff and for operation to staff in the field. Supporting services are provided to all staff.

(2) The department has three basic functional components:

(a) Office of the secretary

(b) Program development and operation

(c) Management services.

[Order 899, § 388-320-040, filed 1/25/74.]

WAC 388-320-045 Operations and procedure—Office of secretary. The secretary of the department is appointed by the governor with the consent of the senate and serves at the pleasure of the governor. Subject to statutory limitations the secretary has complete charge of the department. He may delegate any power or duty vested in his office to any assistant or subordinate but he remains responsible for the official acts of the officers and employees.

[Order 899, § 388-320-045, filed 1/25/74.]

WAC 388-320-050 Operations and procedure—Program divisions. (1) The secretary has established four divisions within the department to which he has assigned primary responsibility for the development and operation of each of the programs enumerated in WAC 388-320-035 as follows:

(a) The division of adult corrections has been assigned responsibility for the adult correction and rehabilitation program.

(b) The division of vocational rehabilitation services has been assigned responsibility for the vocational rehabilitation program.

(c) The division of health services has been assigned responsibility for the medical assistance and public health programs.

(d) The division of community services has been assigned responsibility for the juvenile rehabilitation, mental health, developmental disabilities, veterans' services, income maintenance, and community social services programs.

(2) Each of these divisions is headed by a director.

[Order 899, § 388-320-050, filed 1/25/74.]

WAC 388-320-080 Operations and procedure-- Other organizational units. The secretary has created a number of other organizational units with responsibilities not attributable to a single program. These units are directly responsible to the secretary or to his deputy and administer the following functions:

- (1) Citizen participation coordination.
- (2) Public affairs.
- (3) Minority affairs.
- (4) Legislative liaison.
- (5) Special investigators.
- (6) Attorney general's services.

[Order 899, § 388-320-080, filed 1/25/74.]

WAC 388-320-090 Operations and procedure-- Rules adoption and publication. Substantive and procedural rules of general applicability adopted by the department as authorized by law or adopted by the Washington state board of health and enforced by the department as authorized by law appear at the following WAC titles:

- (1) Title 248--Health
- (2) Title 275--Institutions, mental health, and mental retardation
- (3) Title 388--Economic and social services
- (4) Title 402--Radiation control agency
- (5) Title 490--Vocational rehabilitation.

[Statutory Authority: RCW 42.17.250 through 42.17.340. 81-06-001 (Order 1609), § 388-320-090, filed 2/19/81; Order 899, § 388-320-090, filed 1/25/74.]

WAC 388-320-092 Statements of policy. Statements of general policy or interpretations of general applicability, including procedural manuals maintained for department staff use, shall be available for public inspections.

[Statutory Authority: RCW 42.17.250 through 42.17.340. 81-06-001 (Order 1609), § 388-320-092, filed 2/19/81; Order 899, § 388-320-092, filed 1/25/74.]

WAC 388-320-100 Public records available. (1) All public records of the department are available for disclosure except as otherwise provided by these rules.

(2) Requests for any identifiable public record may be initiated at any office of the department, except that requests for research purposes shall be made directly to the human research review section.

(3) The department shall at all times take the most timely possible action on requests for disclosure; the department shall respond in writing within ten working days of receipt of the request for disclosure, and its failure to do so shall entitle the person seeking disclosure to petition the public records officer pursuant to WAC 388-320-210.

[Statutory Authority: RCW 42.17.250 through 42.17.340. 81-06-001 (Order 1609), § 388-320-100, filed 2/19/81; Order 899, § 388-320-100, filed 1/25/74.]

WAC 388-320-110 Public records officer. The department shall designate a public records officer, located in the state administrative office, who shall be responsible for implementing the department's rules regarding disclosure of public records, coordination of staff in this regard, and generally insuring compliance by the staff with public records disclosure requirements.

[Statutory Authority: RCW 42.17.250 through 42.17.340. 81-06-001 (Order 1609), § 388-320-110, filed 2/19/81; Order 899, § 388-320-110, filed 1/25/74.]

WAC 388-320-115 Public disclosure coordinator. Each departmental administrative unit—for example, each CSO or institution—shall designate from among its employees at least one public disclosure coordinator, who shall:

(1) Have responsibility to respond to written requests for disclosure of the department's nonexempt public records located in that office; and

(2) Refer the person requesting disclosure to any other office where the record is located, and assist further in the disclosure process; and

(3) Verify, if necessary, the identity of any person requesting information.

[Statutory Authority: RCW 42.17.250 through 42.17.340. 81-06-001 (Order 1609), § 388-320-115, filed 2/19/81; Order 899, § 388-320-115, filed 1/25/74.]

WAC 388-320-130 Request for public records. (1) A request for disclosure of a public record may be oral or written. Such a request need merely identify with reasonable certainty the record sought to be disclosed.

(2) A request for disclosure shall be made during customary business hours.

(3) A request for disclosure shall not be made for commercial or political purposes.

(4) If the public record contains material exempt from disclosure pursuant to law, including those laws cited in WAC 388-320-220, the department must provide the person requesting disclosure with a written explanation for the nondisclosure, pursuant to WAC 388-320-205.

(5) Any person continuing to seek disclosure, after having received a written explanation for nondisclosure pursuant to WAC 388-320-205, may request a review under the provisions of WAC 388-320-210.

(6) When a person's identity is relevant to an exemption, that person may be required to provide personal identification.

(7) Nothing in this section or elsewhere in this chapter shall be construed to require the department to compile statistics or other information from material

contained in public records, where doing so would unduly interfere with other essential functions of the department and is not required for litigation by rules of pretrial discovery.

[Statutory Authority: RCW 42.17.250 through 42.17.340. 81-06-001 (Order 1609), § 388-320-130, filed 2/19/81; Order 899, § 388-320-130, filed 1/25/74.]

WAC 388-320-135 Disclosure to client's representative. (1) If a client requests disclosure to a representative, that request must be accompanied by a written release signed by the client, except that, as an accommodation to the client and if the legislator or attorney representing the client can provide assurance that the client has authorized disclosure, the client's record may be briefly discussed with that legislator or attorney so long as there is neither physical inspection nor copying of client records by that representative. A written release must include:

- (a) The identity of the person(s) or organization(s) to whom disclosure is to be made;
 - (b) An identification of the record, or portion thereof, to be disclosed;
 - (c) A statement of when the authorization for disclosure expires.
- (2) Disclosures of information to a representative shall be made to the same extent as to the client.
- (3) The legal guardian of a client has any and all rights accorded to a client by this section.

[Statutory Authority: RCW 42.17.250 through 42.17.340. 81-06-001 (Order 1609), § 388-320-135, filed 2/19/81.]

WAC 388-320-140 Fees--Inspection and copying. (1) No fee shall be charged for the inspection of public records.

(2) The department shall collect the following fees to reimburse itself for actual costs incident to providing copies of public records:

- (a) In the instance of manuals, and manual revisions to holders of manuals, the cost shall be that of printing and mailing;
- (b) Cost of copying of blueprints and like materials involving an extraordinary expense shall be fully reimbursed to the department;
- (c) Otherwise, the department shall charge a fee of ten cents per page, plus postage if any, provided that:
 - (i) The first ten pages shall be free;
 - (ii) Additionally, any materials to be entered by the department as an exhibit in a hearing or trial shall be free.
 - (iii) Additionally, where a hearing or trial is being contested, the public disclosure coordinator shall authorize additional free copying of materials demonstrated to be relevant, where the client is indigent.

(3) Nothing contained in this section shall preclude the department from agreeing to exchange or provide copies of manuals or other public records with other state or federal agencies, whenever doing so is in the best interest of the department.

(4) The secretary of the department or his designee is authorized to waive any of the foregoing copying costs.

[Title 388 WAC—p 498]

[Statutory Authority: RCW 42.17.250 through 42.17.340. 81-06-001 (Order 1609), § 388-320-140, filed 2/19/81; Order 899, § 388-320-140, filed 1/25/74.]

WAC 388-320-170 Protection of public records. Public records shall be disclosed only in the presence of a public disclosure coordinator or his/her designee, who shall withdraw the records if the person requesting disclosure acts in a manner which will damage or substantially disorganize the records or interfere excessively with other essential functions of the department. This section shall not be construed to prevent the department from accommodating a client by use of the mails in the disclosure process.

[Statutory Authority: RCW 42.17.250 through 42.17.340. 81-06-001 (Order 1609), § 388-320-170, filed 2/19/81; Order 899, § 388-320-170, filed 1/25/74.]

WAC 388-320-180 Records index. (1) The department finds that it would be unduly burdensome and would interfere with agency operations to maintain an index of records because of the complexity and diversity of its operations and the resulting volume of manuals, correspondence, reports, surveys, staff studies and other materials.

(2) The department will make available for public disclosure all indices which may at a future time be developed for agency use.

[Statutory Authority: RCW 42.17.250 through 42.17.340. 81-06-001 (Order 1609), § 388-320-180, filed 2/19/81; Order 899, § 388-320-180, filed 1/25/74.]

WAC 388-320-184 Interpretive and policy statements. (1) This section applies to the department, beginning on or after July 1, 1990, administering programs applying to the distribution of interpretive and policy statements.

Departments are obligated to create an index in accordance with RCW 34.05.220. This section is intended to implement this statute. The department's interpretive and policy statements are written in the Administrative Policies Manual.

(2) The department shall maintain a roster of persons receiving interpretive and policy statements issued on or after June 30, 1990. Annually, the department shall update the roster. The department shall send copies of new or amended statements to persons listed on the roster.

(3) A person needing interpretive and policy statements may request, in writing, a copy from the department's Office of Issuances, Mail Stop OB-33H, 12th Avenue and Franklin Street, Olympia, Washington 98504.

[Statutory Authority: RCW 34.05.220 and 42.17.250. 90-17-002 (Order 3048), § 388-320-184, filed 8/2/90, effective 9/2/90.]

WAC 388-320-185 Final adjudicative order index. (1) Legal authority for this rule is RCW 42.17.260 (4)(b) and (c). Each state agency is required to, by rule, establish and implement a system of indexing for the identification and location of final adjudicative orders and declaratory orders that contain an analysis or decision of substantial importance to the agency, in carrying

out its duties. The requirement applies to orders entered after June 30, 1990.

(2) The department's indexing system is administered by the office of appeals.

(3) The system of indexing is as follows:

(a) A separate index may be established by program category, including but not limited to benefits, such as public assistance, food stamps, vocational rehabilitation, and developmental disabilities; food stamp administrative disqualification; child support; institution reimbursement; and license, rate, and similar programs.

(b) Staff of the office of appeals select the orders to be indexed. Review final adjudicative and declaratory orders in all programs are evaluated and those orders which have substantial importance are selected for inclusion in the index.

(c) Any person may nominate a final adjudicative order or declaratory order to be evaluated for indexing by writing the Office of Appeals, P.O. Box 2465, Olympia, WA 98504-2465 and attaching a copy of the nominated order.

(d) Selected orders are indexed by a phrase describing the issue or holding and by a citation to the law involved.

(e) The index may contain a copy or a synopsis of the order.

[Statutory Authority: RCW 34.05.220 (1)(a). 90-13-054 (Order 3024), § 388-320-185, filed 6/15/90, effective 7/1/90.]

WAC 388-320-205 Disclosure procedure. (1) The public disclosure coordinator shall review file materials prior to disclosure.

(2) If the file does not contain materials exempt from disclosure, the public disclosure coordinator shall ensure full disclosure.

(3) If the file does contain materials exempt from disclosure, the public disclosure coordinator shall deny disclosure of those exempt portions of the file, and shall, at the time of the denial, in writing, clearly specify the reasons for the denial of disclosure, including a statement of the specific exemptions or reasons authorizing the withholding of the record and a brief explanation of how the exemption or reason applies. The remaining, nonexempt materials shall be fully disclosed.

[Statutory Authority: RCW 42.17.250 through 42.17.340. 81-06-001 (Order 1609), § 388-320-205, filed 2/19/81.]

WAC 388-320-210 Remedy for review of denial of disclosure. (1) If the person requesting disclosure disagrees with the decision of a public disclosure coordinator denying disclosure of a public record, this person may at any time petition the department's public records officer for review of the decision denying disclosure. The form used by the public disclosure coordinator to deny disclosure of a public record shall clearly indicate this right of review.

(2) The public records officer shall review decisions denying disclosure in the most prompt fashion possible, and such review shall be deemed completed at the end of

the second business day following receipt by the department of the petition for review. This shall constitute final agency action for the purposes of judicial review, pursuant to RCW 42.17.320.

[Statutory Authority: RCW 42.17.250 through 42.17.340. 81-06-001 (Order 1609), § 388-320-210, filed 2/19/81.]

WAC 388-320-220 Exemptions to public records disclosure. Nondisclosable records are those exempted by law, including:

(1) Personal information in any files concerning a client to the extent required by RCW 42.17.310 (1)(a) and/or 74.04.060, including departmental evaluations of information received from providers of services, is exempt from disclosure to the general public. However, disclosure may be made to the client or the client's representative, except as otherwise prohibited by these rules.

(2) Valuable formulae, designs, drawings, and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss, as required by RCW 42.17.310 (1)(h).

(3) Data (including information revealing the identity of persons who file complaints, if disclosure would endanger any person's life, physical safety or property) contained in intelligence, investigative, and other related files compiled by investigative, law enforcement or penology agencies, and state agencies vested with the responsibility to discipline members of any profession: *Provided*, That pursuant to the rules set forth in chapter 388-08 WAC, the hearings examiner may make determinations in the following program areas only: Public assistance and/or food stamp programs as to whether the circumstances of a particular case, when weighing the public interest in protecting the flow of information against the individual's right to prepare his or her defense, necessitates nondisclosure of particular intelligence or investigative information: *Provided further*, That nothing in this regulation shall be deemed to deny adequate opportunity to the appellant or his or her representative, to examine any intelligence or investigative information to be used by the agency at the hearing. As used in these regulations, intelligence and investigative information includes the following:

(a) Allegations or complaints of suspected criminal activity;

(b) Identification of informants, complainants, any person whose life or limb may be endangered by such disclosure, and potential witnesses regarding alleged criminal activity;

(c) Identification of and reports concerning criminal suspects other than the person who is the subject of the fair hearing;

(d) Assessments, reports, notes or voice recordings of law enforcement officials or officials of a criminal justice agency, as defined in RCW 10.97.030, concerning the person who is the subject of the fair hearing, informants or potential witnesses; and

(e) Criminal history information relating to persons or organizations other than the person or persons who are the subject of the fair hearing.

(4) Vocational rehabilitation records to the extent required by 45 C.F.R. 1361.47 and WAC 490-500-550.

(5) Certain juvenile justice or juvenile care records to the extent required by chapter 13.50 RCW.

(6) Records of the state registrar of vital statistics to the extent required by RCW 70.58.095.

(7) Alcohol and drug abuse patient records to the extent required by 42 C.F.R. Chapter 1 Part II or other federal law or regulation.

(8) Office of support enforcement information regarding location of parents to the extent required by RCW 74.20.280.

(9) Adoption and voluntary termination of parent-child relationship records to the extent required by chapter 26.32 RCW, and financial information received from adoptive parents to the extent required by RCW 74.13.121.

(10) Mental illness and inebriacy records to the extent required by RCW 71.05.390.

(11) Personal information in files maintained for an employee of the department to the extent required by RCW 42.17.310 (1)(b).

(12) Deliberative material, as opposed to facts upon which a decision is based, contained in preliminary drafts, notes, recommendations, and intra-agency memoranda in which opinions are expressed or policies formulated or recommended, except that a specific record shall be disclosable when publicly cited by the department in connection with any action to the extent required by RCW 42.17.310 (1)(i).

(13) Records relevant to a controversy to which the department is a party but which records would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts, including records involving attorney-client communications between the department and the office of the attorney general privileged under RCW 5.60.060(2).

(14) The central registry of reported cases of child abuse or abuse of developmentally disabled persons to the extent required by RCW 26.44.070.

(15) Records of patients and inmates of state institutions to the extent required by RCW 72.01.290.

(16) Records concerning applicants or recipients of support enforcement activities, as required by 45 C.F.R. 302.18.

(17) Nursing home records, to the extent required by RCW 18.51.190 and 70.124.010.

(18) Competitive contract procurement instruments, such as a request for proposals or an invitation for bids, prior to the release to potential bidders; proposals and bids received in response to competitive contract procurement instruments until either the public opening of bids or, for proposals, the contractor and the department have signed the contract, pursuant to RCW 43.20A.050.

[Statutory Authority: RCW 34.04.020. 83-03-021 (Order 1938), § 388-320-220, filed 1/13/83. Statutory Authority: RCW 42.17.250 through 42.17.340. 81-06-001 (Order 1609), § 388-320-220, filed 2/19/81.]

WAC 388-320-225 Qualifications on nondisclosure.

(1) To the extent that nondisclosable information can be deleted from the specific records sought, the remainder of the records shall be disclosable.

(2) No exemptions shall be construed to require nondisclosure of statistical information not descriptive of identifiable persons, as required by RCW 42.17.310(2).

(3) Inspection and copying of any specific records otherwise nondisclosable is permissible pursuant to an order of the superior court enforcing a subpoena in accordance with the provisions of RCW 42.17.310(3), or an order of the office of hearings enforcing a subpoena.

(4) Upon written request of a person who has been properly identified as an officer of the law with a felony arrest warrant or a properly identified United States immigration official with a warrant for an illegal alien the department shall disclose to such officer or official the current address and location of the person described in the warrant, as required by RCW 74.04.062.

(5) Any person may inquire of the department whether a named individual is a recipient of welfare assistance in accordance with RCW 74.04.060.

(6) Any records of the department may be made accessible for research purposes provided that the research complies with the guidelines published by the department in response to 45 C.F.R. 46 or other applicable state and federal law.

[Statutory Authority: RCW 42.17.250 through 42.17.340. 81-06-001 (Order 1609), § 388-320-225, filed 2/19/81.]

WAC 388-320-230 Visitation rights of parents. (1)

Upon written request of a parent who has been awarded visitation rights or legal custody, the public disclosure coordinator shall disclose to such parent the current address of his or her natural or adoptive child(ren) if they are currently receiving financial aid from the department as shown by the warrant roll, or receiving nonassistance support enforcement services. Information supplied to a parent by the department shall be used only for purposes directly related to the visitation or custody provisions of the court order. No parent shall disclose such information to any other person except for the purpose of enforcing visitation or custody provisions of the court order.

(2) A request for an address shall be accompanied by a copy of the appropriate court order awarding visitation or custody, and the requesting parent shall state in his or her written request that the accompanying order has not been subsequently modified or amended.

(3) Information shall be released only upon satisfactory evidence of the identity of the party, but this provision is waived where the request is made by an attorney at law representing the parent.

[Statutory Authority: RCW 42.17.250 through 42.17.340. 81-06-001 (Order 1609), § 388-320-230, filed 2/19/81.]

WAC 388-320-235 Disclosure for program purposes. (1)

For purposes directly connected with the administration of department programs, information shall be disclosed between different offices of the department, unless prohibited by 45 C.F.R. 205.50 or other law.

(2) For purposes directly connected with the administration of department programs, information may be disclosed by the department to outside agencies, unless disclosure is prohibited by law.

(3) Outside agencies receiving information pursuant to (2) of this section shall be thereby subject to the same standards of disclosure as are required of the department.

[Statutory Authority: RCW 42.17.250 through 42.17.340. 81-06-001 (Order 1609), § 388-320-235, filed 2/19/81.]

WAC 388-320-240 Disclosure for other than program purposes. To the extent not otherwise prohibited or authorized by law, inquiries from agencies outside the department will be honored only if written and only if the client's authorization is included with the request.

[Statutory Authority: RCW 42.17.250 through 42.17.340. 81-06-001 (Order 1609), § 388-320-240, filed 2/19/81.]

WAC 388-320-340 Delegation of authority by secretary. Under RCW 43.20A.110, certain powers and duties may be delegated by the secretary. Writings evidencing delegations of authority are on file in the secretary's office and may be inspected between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, excluding holidays.

[Statutory Authority: RCW 34.05.220 (1)(a). 90-04-076 (Order 2999), § 388-320-340, filed 2/5/90, effective 3/1/90.]

WAC 388-320-350 Declaratory orders—Forms, content, and filing. A petition for a declaratory order shall generally adhere to the following form:

(1) At the top of the page shall appear the wording "Before the state department of social and health services." On the left side of page below the foregoing the following caption shall be set out: "In the matter of the petition of (name of petitioning party) for a declaratory order." Opposite the foregoing caption shall appear the word "petition."

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

(3) The original and two legible copies shall be filed with the Office of Issuances, MS OB-33H, Third Floor West, Office Building 2, Twelfth and Franklin, Olympia, WA 98504. Petitions shall be on white paper, 8 1/2" x 11" in size.

[Statutory Authority: RCW 34.05.220 (1)(a). 90-04-076 (Order 2999), § 388-320-350, filed 2/5/90, effective 3/1/90.]

WAC 388-320-360 Declaratory orders—Procedural rights of persons in relation to petition. If a petition for a

declaratory order is set for specified proceedings under RCW 34.05.240 (5)(b), the department shall give not less than seven days advance written notice of the proceedings to the petitioner and all persons described under RCW 34.05.240(3). The notice shall contain the time, date, place, and nature of the proceedings and shall describe how interested persons may participate in the proceeding.

[Statutory Authority: RCW 34.05.220 (1)(a). 90-04-076 (Order 2999), § 388-320-360, filed 2/5/90, effective 3/1/90.]

WAC 388-320-370 Declaratory orders—Disposition of petition. A declaratory order entered by the department or a decision declining to enter a declaratory order shall be in writing and shall be served upon the petitioner and all other persons described under RCW 34.05.240(3).

[Statutory Authority: RCW 34.05.220 (1)(a). 90-04-076 (Order 2999), § 388-320-370, filed 2/5/90, effective 3/1/90.]

WAC 388-320-400 Petition for rule making—Form, content, and filing. A petition for adoption, amendment, or repeal of a rule shall generally adhere to the following form:

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

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

(3) Petitions shall be dated and signed by the person or entity named in the first paragraph or by his attorney. The original and two legible copies of the petition shall be filed with the Office of Issuances, MS OB-33H, Third Floor West, Office Building 2, Twelfth and Franklin, Olympia, WA 98504. Petitions shall be on white paper 8 1/2" x 11" in size.

[Statutory Authority: RCW 34.05.220 (1)(a). 90-04-076 (Order 2999), § 388-320-400, filed 2/5/90, effective 3/1/90.]

WAC 388-320-410 Petition for rule making—Consideration and disposition. (1) Each petition for the

adoption, amendment, or repeal of a rule shall be considered by the department and the department may, in its discretion, solicit comments or invite discussion concerning the matter before disposition of the petition.

(2) If the department denies the petition, the denial shall be served upon the petitioner.

[Statutory Authority: RCW 34.05.220 (1)(a). 90-04-076 (Order 2999), § 388-320-410, filed 2/5/90, effective 3/1/90.]

WAC 388-320-500 Updating mailing lists. (1) Periodically, the department may cause the following notice, or a notice substantially similar, to be mailed: "In order to maintain as current a mailing list as possible, and to eliminate mailing notices to those who no longer have need for such notices, the department will discontinue use of its old mailing lists, effective (date to be specified). If you wish to continue receiving copies of notices of intention to adopt, amend or repeal rules after that date, please fill out the attached form and return it to the department at the address indicated on the form. If you do not return the form indicating your desire to continue to receive notices to adopt, amend or repeal rules, your name or the names of your organization will be removed from the mailing lists."

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

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

[Statutory Authority: RCW 34.05.220 (1)(a). 90-04-076 (Order 2999), § 388-320-500, filed 2/5/90, effective 3/1/90.]

Chapter 388-330 WAC BACKGROUND INQUIRIES

WAC

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WAC 388-330-010 Purpose and authority. This chapter establishes policy within the department of social and health services for conducting central registry and criminal history portions of background inquiries and checks of Washington state patrol's child abuse information file on those licensed or authorized by the department to care for children or developmentally disabled persons. Such inquiries are required under RCW 74.15.030.

[Statutory Authority: RCW 74.15.030. 89-07-096 (Order 2777), § 388-330-010, filed 3/22/89.]

WAC 388-330-020 Scope. (1) Background inquiries.

(a) Inquiries shall include, but are not limited to:

(i) Review of records of criminal convictions and pending criminal charges as listed by the Washington state patrol (WSP) per chapters 10.97 and 43.43 RCW;

(ii) Review of the central registry of abuse and neglect established per RCW 26.44.070, repealed pursuant to 2SSB 5063, chapter 486, Laws of 1987; and

(iii) Review of Washington state patrol file of a person found to be a child abuser in a civil adjudication or a disciplinary board final decision.

(b) Inquiries may include a review of law enforcement records of convictions and pending charges in other states or locations whenever the need for further information is indicated by:

(i) An individual's prior residences;

(ii) Reports from credible community sources; or

(iii) An identification number indicating the subject has a record on file with the Federal Bureau of Investigation.

(2) Affected persons. Persons subject to background inquiries include:

(a) All persons licensed to care for children or disabled persons under:

(i) Chapter 74.15 RCW; or

(ii) Contract with the department to provide that care.

(b) All staff, employed by licensed or authorized providers, involved in the direct care or supervision of children and developmentally disabled persons;

(c) Any volunteer or other person having regular, unsupervised access to children or developmentally disabled persons in facilities, homes, or operations licensed or authorized by the department to provide care under chapter 74.15 RCW.

(3) Persons not affected. This chapter does not apply to schools, hospitals, or other facilities where the primary focus is not custodial and where the provider is not acting in place of the parent.

(4) This chapter does not apply to persons being considered for employment or volunteer activities with the department of social and health services. Background check requirements applicable to department employees and volunteers are set forth in MSR 326-26-140 and 2SSB 5063, chapter 486, Laws of 1987, respectively.

[Statutory Authority: RCW 74.15.030. 89-07-096 (Order 2777), § 388-330-020, filed 3/22/89.]

WAC 388-330-030 Application of inquiry findings.

(1) For the purposes of conducting criminal history portions of background inquiries pursuant to RCW 74.15.030, the department shall consider only convictions and pending charges. The department shall not solicit or use as the sole basis for disqualification information about:

(a) Arrests not resulting in charges; and

(b) Charges which were dismissed.

(2) The department shall maintain a listing of offenses which, because of their seriousness, shall disqualify prospective care providers from being licensed or otherwise authorized to provide care to children or developmentally disabled persons. The following offenses or their equivalents in jurisdictions outside of the state of Washington shall constitute that list:

- (a) Aggravated murder;
- (b) Murder in the first degree;
- (c) Murder in the second degree;
- (d) Manslaughter in the first degree;
- (e) Manslaughter in the second degree;
- (f) Simple assault, if it involves physical harm to another person;
- (g) Assault in the first degree;
- (h) Assault in the second degree;
- (i) Assault in the third degree;
- (j) Vehicular homicide;
- (k) Criminal mistreatment in the first degree;
- (l) Criminal mistreatment in the second degree;
- (m) Reckless endangerment;
- (n) Kidnapping in the first degree;
- (o) Kidnapping in the second degree;
- (p) Unlawful imprisonment;
- (q) Rape in the first degree;
- (r) Rape in the second degree;
- (s) Rape in the third degree;
- (t) First degree rape of a child;
- (u) Second degree rape of a child;
- (v) Third degree rape of a child;
- (w) Child molestation in the first degree;
- (x) Child molestation in the second degree;
- (y) Child molestation in the third degree;
- (z) Sexual misconduct with a minor in the first degree;
- (aa) Sexual misconduct with a minor in the second degree;
- (bb) Indecent liberties;
- (cc) Arson in the first degree;
- (dd) Arson in the second degree;
- (ee) Burglary in the first degree;
- (ff) Extortion in the first degree;
- (gg) Extortion in the second degree;
- (hh) Robbery in the first degree;
- (ii) Robbery in the second degree;
- (jj) Incest in the first degree;
- (kk) Incest in the second degree;
- (ll) Promoting prostitution in the first degree;
- (mm) Promoting prostitution in the second degree;
- (nn) Sexual exploitation of a minor;
- (oo) Communication with a minor for immoral purposes;
- (pp) Child selling - child buying;
- (qq) Public indecency, if toward a person under the age of fourteen years;
- (rr) Dealing in depictions of a minor engaged in sexually explicit conduct;
- (ss) Sending or bringing into the state depictions of a minor engaged in sexually explicit conduct;
- (tt) Possession of depictions of a minor engaged in sexually explicit conduct;
- (uu) Patronizing a juvenile prostitute;
- (vv) Family abandonment;
- (ww) Unlawfully manufacturing, delivering, or possessing, with intent to deliver, a controlled substance;
- (xx) Promoting a suicide attempt;
- (yy) Malicious harassment;
- (zz) Promoting pornography;

(aaa) Coercion.

(3) Whenever a criminal history inquiry reveals a prospective care provider has been charged with or convicted of an offense, or has been listed in the central registry as a perpetrator of substantiated child abuse or neglect, or in the WSP file as a person found to be a child abuser in a civil adjudication or disciplinary board final decision, the department shall take action as follows:

(a) If it is confirmed the subject's name appears on the aforementioned WSP file of child abusers, that person shall not be licensed, employed by licensees or contractors, serve in a volunteer capacity for licensees or contractors, or otherwise be authorized by the department to provide care. If the subject's name appears on the central registry of child abuse, the individual shall be disqualified;

(b) If the inquiry reveals charges are pending against the subject for any of the offenses listed in subsection (1) of this section, or their equivalents in other jurisdictions, the department shall withhold licensure or authorization to provide care until dismissal or acquittal occurs. Pending charges for other offenses may be grounds for withholding licensure or authorization to provide care. If the inquiry reveals pending charges are more than one year old, the department shall contact the charging law enforcement agency to determine the disposition or status of the charge;

(c) If the inquiry reveals the subject has been convicted of any of the offenses listed in subsection (1) of this section or their equivalents in other jurisdictions, the department shall deny licensure or authorization to provide care;

(d) If the inquiry reveals the subject has been convicted of an offense not listed, the department shall consider such information in determining the character, suitability, and competence of the prospective caretaker as required by chapter 74.15 RCW. However, the department shall not use conviction as the sole basis for denial of licensure or authorization to provide care unless the conviction is directly related to the employment, licensure, or authorization being sought. The department shall consider the recency, seriousness, kind, and number of previous offenses as well as the vulnerability of the clients to be cared for.

[Statutory Authority: RCW 74.15.030. 89-07-096 (Order 2777), § 388-330-030, filed 3/22/89.]

WAC 388-330-040 Inquiry form to be submitted-- Time requirements. (1) Applicants for licensure under chapter 74.15 RCW shall complete the background inquiry form at the time of application.

(2) Employees and volunteers of those licensed or otherwise authorized to provide care under chapter 74.15 RCW shall complete and submit the DSHS background inquiry form to the person licensed or authorized to provide care. This shall be done prior to or as soon as possible after being on the premises and having regular unsupervised contact with children or developmentally disabled persons. The employer, licensee, or authorized person shall submit the properly completed form to the

appropriate DSHS licensor or authorizing person within seven calendar days of the time the employee or volunteer had regular unsupervised contact.

(3) The department shall not issue a license or otherwise authorize persons to provide care until they have properly completed and submitted the inquiry form and the results are known to the department; except, such care may be authorized if the inquiry form has been submitted. If a child is placed with a relative under RCW 13.34.060 or 13.34.130, and if such relative appears otherwise suitable and competent to provide care and treatment, the criminal history background check required by this section need not be completed before placement, but shall be completed as soon as possible after placement.

[Statutory Authority: RCW 74.15.030. 89-07-096 (Order 2777), § 388-330-040, filed 3/22/89.]

WAC 388-330-050 Release of information. (1) Release of criminal history information.

(a) Unless there is a signed release of information, the department may only share with a provider:

(i) The criminal inquiry information used to disqualify an employee or volunteer of that provider; or

(ii) The fact the subject is listed on the Washington state patrol's child abuse information file if that is the basis for a disqualification.

(b) The department shall not share any other inquiry information with the provider or provider's employees unless the department withheld licensure or care authorization based on that information.

(2) Release of central registry information.

(a) The department shall not share with care providers or prospective providers any abuse information in the central registry.

(b) Unless there is a release of information signed by the employee, the department may only tell a provider or prospective provider that the results of the department's background inquiry disqualify the employee. Even if the employee has signed a release of information, the department shall not discuss identifying information about the victim of the abuse.

(3) Release of inquiry findings to the subject of inquiry. The department shall provide disqualified care providers with inquiry findings about themselves if the provider:

(a) Makes the request in writing, and

(b) Offers proof of identity.

[Statutory Authority: RCW 74.15.030. 89-07-096 (Order 2777), § 388-330-050, filed 3/22/89.]

WAC 388-330-060 Sanctions for noncompliance.

Any licensee, employer, contractor, or other care provider within the scope of this chapter may be subject to sanctions by the department pursuant to applicable licensing requirements or statutes or contractual agreements for failure to comply with the requirements of this chapter.

[Statutory Authority: RCW 74.15.030. 89-07-096 (Order 2777), § 388-330-060, filed 3/22/89.]