

Order 1, Rule 6.4, filed 3/23/60; Subsection (2), General Order 3, Rule 9.2, filed 10/29/65; General Order 9.1, filed 6/12/63; General Order 1, Rule 6.4, filed 3/23/60. Formerly WAC 296-12-165.]

WAC 263-12-170 Appeals to superior court--Certification of record. Upon receipt of a copy of notice of appeal to superior court from a board order, served upon the board by the appealing party pursuant to RCW 51.52.110, 7.68.110, 51.48.131, 34.05.542 or 49.17.150, the executive secretary or his or her designee shall certify the record made before the board to the court pursuant to the provisions of RCW 51.52.110, 7.68.110, 51.48.131, 34.05.566 or 49.17.150. Copies of such record (except nonreproducible exhibits) shall be furnished to all parties to the proceedings before the board.

[Statutory Authority: RCW 51.52.020. 91-13-038, § 263-12-170, filed 6/14/91, effective 7/15/91. Statutory Authority: RCW 51.52.104, 51.52.020 and chapters 51.48 and 42.17 RCW. 86-03-021 (Order 20), § 263-12-170, filed 1/10/86. Statutory Authority: RCW 51.41.060(4) and 51.52.020. 83-01-001 (Order 12), § 263-12-170, filed 12/2/82; Order 7, § 263-12-170, filed 4/4/75; Order 4, § 263-12-170, filed 6/9/72; General Order 2, Rules 10.1 and 10.2, filed 6/12/63; General Order 1, Rules 7.1 and 7.2, filed 3/23/60; Subsections (1) and (2), General Order 3, Rule 10.2, filed 10/29/65. Formerly WAC 296-12-170.]

WAC 263-12-171 Appeals to superior court--Service of final court order or judgment on the board. In all cases in which a party has appealed to the superior court from a decision of the board, or from superior court to any appellate court, the prevailing party in such appeal shall promptly forward to the board a conformed copy of the final order, judgment or decision of the court.

[Statutory Authority: RCW 51.52.020. 91-13-038, § 263-12-171, filed 6/14/91, effective 7/15/91.]

WAC 263-12-195 Significant decisions. (1) The board's publication "Significant Decisions," prepared pursuant to RCW 51.52.160, contains the decisions or orders of the board which it considers to have an analysis or decision of substantial importance to the board in carrying out its duties. Together with the indices of decision maintained pursuant to WAC 263-12-016(4), "Significant Decisions" shall serve as the index required by RCW 42.17.260 (4)(b) and (c).

(2) The board selects the decisions or orders to be included in "Significant Decisions" based on recommendations from staff and the public. Generally, a decision or order is considered "significant" only if it provides a legal analysis or interpretation not found in existing case law, or applies settled law to unusual facts. Decisions or orders may be included which demonstrate the application of a settled legal principle to varying fact situations or which reflect the further development of, or continued adherence to, a legal principle previously recognized by the board. Nominations of decisions or orders for inclusion in "Significant Decisions" should be submitted in writing to the executive secretary.

(3) "Significant Decisions" consists of microfilmed copies of the decisions and orders identified as significant and headnotes summarizing the proposition or propositions for which the board considers the decisions or orders "significant." Indices are also provided to identify

each decision or order by name and by subject. Permanent revisions and additions to "Significant Decisions" are prepared annually. A cumulative supplement is prepared annually between permanent updates and is provided to subscribers of "Significant Decisions." The cumulative supplement contains decisions or orders identified by the board as "significant" in the interim between permanent updates.

(4) Copies of "Significant Decisions" and permanent updates are available to the public at cost. Requests for information concerning the purchase of "Significant Decisions" should be directed to the executive secretary.

[Statutory Authority: RCW 51.52.020. 91-13-038, § 263-12-195, filed 6/14/91, effective 7/15/91.]

Title 275 WAC SOCIAL AND HEALTH SERVICES, DEPARTMENT OF (INSTITUTIONS)

Chapters

- 275-16 Liability for costs of care and hospitalization of the mentally ill.
- 275-25 County plan for mental health, drug abuse, developmental disabilities, alcoholism.
- 275-26 Community residential services and support.
- 275-27 Division of developmental disabilities services rules.
- 275-36 Group homes for the mentally and physically handicapped.
- 275-38 ICF/MR program and reimbursement system.
- 275-41 Work programs for residents of residential habilitation centers in the division of developmental disabilities.
- 275-54 Juvenile involuntary treatment.
- 275-55 Voluntary admission--Involuntary commitment, treatment and/or evaluation of mentally ill persons.
- 275-59 Criminally insane person committed to the care of the department of social and health services--Evaluation, placement, care and discharge.
- 275-156 Civil commitment cost reimbursement.

Chapter 275-16 WAC

LIABILITY FOR COSTS OF CARE AND HOSPITALIZATION OF THE MENTALLY ILL

WAC

275-16-030 Schedule of charges.

WAC 275-16-030 Schedule of charges. Under RCW 43.20B.325, the department shall base hospitalization charges for patients in state hospitals on the actual operating costs of such hospitals. The department shall require patient's hospitalization charges due and payable on or before the tenth day of each calendar

month for services rendered to department patients during the preceding month, based upon the following schedule:

(1) COSTING AND BILLING RATES

	Western State Hospital	Child Study and Treatment Center	Eastern State Hospital
(a) INPATIENT SERVICES -			
Hospital Costs Per Day	\$243.84	320.00	251.17
Physician Costs	*	15.56	*
*The department shall bill the client for physician costs on a fee-for-service basis.			
(b) OUTPATIENT SERVICES -			
Per diem			
Outpatient Day Care Per Day	—	80.48	—
Per Hour	—	11.50	—
(c) ANCILLARY SERVICES -			
Per relative value unit ¹ / ₁			
Radiology	4.91	4.91	7.70
Pathology	.42	.42	.31
Medical Clinics	1.89	1.89	8.66
Electroencephalogram	.93	.93	.93
Electrocardiogram	.18	.18	.52
Physical Therapy	5.74	5.74	12.91
Occupational Therapy	—	—	28.01
Speech Therapy	—	—	23.51
Dental	36.25	36.25	42.98
Podiatry	1.28	1.28	1.00
(d) RESIDENTIAL SERVICES -			
Costs Per Day	Pals 133.22	Portal 83.70	

(2) The department shall purchase services required by the patient, not provided by hospital staff, from private sources and the patient shall be charged actual cost of services.

¹/California Medical Association. *Relative Value Studies*. Fifth edition. San Francisco: 693 Sutter Publication, Inc., 1969, 135 pp.

[Statutory Authority: RCW 43.20B.335. 91-21-122 (Order 3267), § 275-16-030, filed 10/23/91, effective 11/23/91; 91-17-064 (Order 3235), § 275-16-030, filed 8/20/91, effective 9/20/91; 91-08-014 (Order 3155), § 275-16-030, filed 3/26/91, effective 4/26/91. Statutory Authority: RCW 43.20B.335 and 71.05.560. 90-18-004 (Order 3061), § 275-16-030, filed 8/23/90, effective 9/23/90. Statutory Authority: RCW 71.02.412. 89-22-128 (Order 2890), § 275-16-030, filed 11/1/89, effective 12/2/89. Statutory Authority: RCW 43.20B.335. 88-21-095 (Order 2715), § 275-16-030, filed 10/19/88. Statutory Authority: RCW 71.02.412. 87-19-026 (Order 2531), § 275-16-030, filed 9/10/87; 86-17-075 (Order 2414), § 275-16-030, filed 8/19/86; 85-17-038 (Order 2273), § 275-16-030, filed 8/15/85; 84-17-011 (Order 2131), § 275-16-030, filed 8/3/84; 83-18-029 (Order 2019), § 275-16-030, filed 8/31/83; 82-17-070 (Order 1866), § 275-16-030, filed 8/18/82; 80-06-087 (Order 1508), § 275-16-030, filed 5/28/80. Statutory Authority: RCW 72.01.090. 79-03-019 (Order 1372), § 275-16-030, filed 2/21/79; 78-03-029 (Order 1270), § 275-16-030, filed 2/17/78; Order 1190, § 275-16-030, filed 2/18/77; Order 1086, § 275-16-030, filed 1/15/76; Order 1002, § 275-16-030, filed 1/14/75; Order 947, § 275-16-030, filed 6/26/74; Order 812, § 275-16-030, filed 6/28/73; Order 14, § 275-16-030, filed 5/11/71; Order 6, § 275-16-030, filed 1/10/69; Order 1, § 275-16-030, filed 2/23/68; Emergency Rules (part), filed 1/26/68, 10/24/67, 8/2/67, and 7/28/67.]

Chapter 275-25 WAC

COUNTY PLAN FOR MENTAL HEALTH, DRUG ABUSE, DEVELOPMENTAL DISABILITIES, ALCOHOLISM

WAC	Definitions.
275-25-010	Definitions.
275-25-015	Exemptions.
275-25-030	Program operation—General provisions.
275-25-520	Services—Developmental disabilities.
275-25-530	Funding formula—Developmental disabilities.

WAC 275-25-010 Definitions. (1) All terms used in this chapter not defined herein shall have the same meaning as indicated in the act.

(2) "Act" means:

(a) The Alcoholism Act (chapter 70.96 and 70.96A RCW) as now existing or hereafter amended; or

(b) Local funds for community services chapter 71.20 RCW, State services chapter 71A.12 RCW, and Local services chapter 71A.14 RCW as now existing or hereafter amended; or

(c) Drug and alcohol rehabilitation, education programs—drug treatment centers (chapter 69.54 RCW) as now existing or hereafter amended.

(3) "County" means each county or two or more counties acting jointly.

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

(5) "Exemption" means the department's approval of a written request for an exception to a rule in this chapter.

(6) "Indian" shall mean any:

(a) Person enrolled in or eligible for enrollment in a recognized Indian tribe; any person determined to be or eligible to be found to be an Indian by the secretary of the interior; and any Eskimo, Aleut or other Alaskan native;

(b) Canadian Indian person who is a member of a treaty tribe, Metis community, or other nonstatus Indian community from Canada;

(c) Unenrolled Indian person considered an Indian by a federally or nonfederally recognized Indian tribe or by an urban Indian/Alaska community organization.

(7) "Plan" means the application a county submits to the secretary for review and approval under the act(s); or revision of an existing plan.

(8) "Population" means the most recent estimate of the aggregate number of persons located in the designated county as computed by the office of financial management.

(9) "Secretary" means the secretary of the department or such employee or such unit of the department as the secretary may designate.

[Statutory Authority: RCW 71A.14.030. 91-17-005 (Order 3230), § 275-25-010, filed 8/9/91, effective 9/9/91. Statutory Authority: RCW 69.54.040 and 71.24.190. 83-03-011 (Order 1936), § 275-25-010, filed 1/12/83; Order 1142, § 275-25-010, filed 8/12/76. Formerly chapters 275-12, 275-13 and 275-29 WAC.]

WAC 275-25-015 Exemptions. (1) The department may approve an exemption to a specific rule in this

chapter as defined under WAC 275-25-010(5) provided an:

(a) Assessment of the exemption request ensures granting the exemption shall not undermine the legislative intent of Title 71A RCW; and

(b) Evaluation of the exemption request shows granting the exemption shall not adversely affect the quality of the services, supervision, health, and safety of department-served persons.

(2) Agencies and individual providers shall retain a copy of each department-approved exemption.

[Statutory Authority: RCW 71A.14.030. 91-17-005 (Order 3230), § 275-25-015, filed 8/9/91, effective 9/9/91.]

WAC 275-25-030 Program operation--General provisions. (1) The provisions of this section shall apply to all programs operated under authority of the acts.

(2) The county and all contractors and subcontractors must comply with all applicable law or rule governing the department's approval of payment of funds for the programs. Verification may be in the manner and to the extent requested by the secretary.

(3) State funds shall not be paid to a county for costs of services provided by the county or other person or organization who or which was not licensed, certified, and approved as required by law or by rule whether or not the plan was approved by the secretary.

(4) The secretary may impose such reasonable fiscal and program reporting requirements as the secretary deems necessary for effective program management.

(5) Funding.

(a) The department and county shall negotiate and execute a contract before the department provides reimbursement for services under contract, except as provided under WAC 275-25-020(10).

(b) Payments to counties shall be made on the basis of vouchers submitted to the department for costs incurred under the contract. The department shall specify the form and content of the vouchers.

(c) The secretary may make advance payments to counties, where such payments would facilitate sound program management. The secretary shall withhold advance payments from counties failing to meet the requirements of WAC 275-25-020 until such requirements are met. Any county failing to meet the requirements of WAC 275-25-020 after advance payments have been made shall repay said advance payment within thirty days of notice by the department that the county is not in compliance.

(d) If the department receives evidence a county or subcontractor performing under the contract is:

(i) Not in compliance with applicable state law or rule; or

(ii) Not in substantial compliance with the contract; or

(iii) Unable or unwilling to provide such records or data as the secretary may require, then the secretary may withhold all or part of subsequent monthly disbursement to the county until such time as satisfactory

evidence of corrective action is forthcoming. Such withholding or denial of funds shall be subject to appeal under the Administrative Procedure Act (chapter 34.05 RCW).

(6) **Subcontracting.** A county may subcontract for the performance of any of the services specified in the contract. The county's subcontracts shall include:

(a) A precise and definitive work statement including a description of the services provided;

(b) The subcontractor's specific agreement to abide by the acts and the rules;

(c) Specific authority for the secretary and the state auditor to inspect all records and other material the secretary deems pertinent to the subcontract; and agreements by the subcontractor that such records will be made available for inspection;

(d) Specific authority for the secretary to make periodic inspection of the subcontractor's program or premises in order to evaluate performance under the contract between the department and the county; and

(e) Specific agreement by the subcontractor to provide such program and fiscal data as the secretary may require.

(7) **Records: Maintenance.** Client records shall be maintained for every client for whom services are provided and shall document:

(a) Client demographic data;

(b) Diagnosis or problem statement;

(c) Treatment or service plan; and

(d) Treatment or services provided including medications prescribed.

(8) Liability.

(a) The promulgation of these rules or anything contained in these rules shall not be construed as affecting the relative status or civil rights or liabilities between:

(i) The county and community agency; or

(ii) Any other person, partnership, corporation, association, or other organization performing services under a contract or required herein and their employees, persons receiving services, or the public.

(b) The use or implied use herein of the word "duty" or "responsibility" or both shall not import or imply liability other than provided for by the statutes or general laws of the state of Washington, to any person for injuries due to negligence predicated upon failure to perform on the part of an applicant, or a board established under the acts, or an agency, or said agency's employees, or persons performing services on said agency's behalf.

(c) Failure to comply with any compulsory rules shall be cause for the department to refuse to provide the county and community agency funds under the contract.

[Statutory Authority: RCW 71A.14.030. 91-17-005 (Order 3230), § 275-25-030, filed 8/9/91, effective 9/9/91. Statutory Authority: RCW 69.54.040 and 71.24.190. 83-03-011 (Order 1936), § 275-25-030, filed 1/12/83; Order 1142, § 275-25-030, filed 8/12/76.]

WAC 275-25-520 Services--Developmental disabilities. (1) A county may purchase and provide services listed under chapter 71A.14 RCW. The department shall pay a county for department authorized services provided to an eligible developmentally disabled person.

(2) A county may purchase or provide authorized services. Authorized services may include, but are not limited to:

- (a) Early childhood intervention services;
- (b) Employment services;
- (c) Community access services;
- (d) Residential services;
- (e) Individual evaluation;
- (f) Program evaluation;
- (g) County planning and administration; and
- (h) Consultation and staff development.

[Statutory Authority: RCW 71A.14.030. 91-17-005 (Order 3230), § 275-25-520, filed 8/9/91, effective 9/9/91. Statutory Authority: RCW 71.20.070, 72.33.125 and 72.33.850. 82-06-034 (Order 1771), § 275-25-520, filed 3/1/82. Statutory Authority: RCW 71.20.030, 71.20.050, and 71.20.070. 78-04-002 (Order 1278), § 275-25-520, filed 3/2/78; Order 1142, § 275-25-520, filed 8/12/76.]

WAC 275-25-530 Funding formula--Developmental disabilities. (1) For the purposes of this section, "county" shall mean the legal subdivision of the state, regardless of any agreement with another county to provide developmental disabilities services jointly.

(2) The allocation of funds to counties shall be based on the following criteria:

(a) The department may withhold up to ten percent of allocated funds to provide funding for new programs, for state-wide priority programs, and for emergency needs.

(b) Each county shall be guaranteed a minimum amount for basic developmental disabilities services subject to the availability of state and federal funds.

(c) The remainder of the funds shall be distributed either on a county per capita basis or on a rate per client basis, whichever will more equitably support developmental disabilities programs.

(3) A county may utilize seven or less percent of the county's allocated funds for county administrative expenses. A county may utilize more than seven percent for county administration with approval of the division director. A county electing to provide all services directly, in addition to county administration, is exempt from this requirement.

(4) The department may withhold ten or less percent of allocated funds for new programs, for state-wide priority programs, and for emergency needs.

[Statutory Authority: RCW 71A.14.030. 91-17-005 and 91-17-025 (Orders 3230 and 3230A), § 275-25-530, filed 8/9/91 and 8/14/91, effective 9/9/91 and 9/14/91. Statutory Authority: RCW 69.54.040 and 71.24.190. 83-03-011 (Order 1936), § 275-25-530, filed 1/12/83; Order 1142, § 275-25-530, filed 8/12/76.]

Chapter 275-26 WAC

COMMUNITY RESIDENTIAL SERVICES AND SUPPORT

WAC

- 275-26-005 Purpose.
- 275-26-010 Definitions.
- 275-26-012 Repealed.
- 275-26-015 Repealed.
- 275-26-019 Exemptions.
- 275-26-020 Certification.
- 275-26-021 Review and evaluation.

- 275-26-022 Administrative review conference—Adjudicative proceeding process.
- 275-26-025 Eligibility for residential services and support.
- 275-26-030 Repealed.
- 275-26-032 Repealed.
- 275-26-050 Client remuneration.
- 275-26-055 Administration.
- 275-26-060 Personnel.
- 275-26-065 Staffing.
- 275-26-070 Staff training.
- 275-26-071 Individual service plan.
- 275-26-072 Instruction and support.
- 275-26-073 Health services.
- 275-26-075 Client records.
- 275-26-080 Repealed.
- 275-26-085 Repealed.
- 275-26-087 Transportation.
- 275-26-090 Repealed.
- 275-26-095 Physical requirements.
- 275-26-100 Payment for service.
- 275-26-107 Program set-up cost.
- 275-26-110 Change of ownership.
- 275-26-115 Accounting procedures for client accounts.
- 275-26-500 Repealed.
- 275-26-520 Repealed.
- 275-26-530 Repealed.
- 275-26-540 Repealed.
- 275-26-550 Repealed.
- 275-26-560 Repealed.
- 275-26-570 Repealed.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 275-26-012 Tenant support agencies. [Statutory Authority: Chapter 72.33 RCW. 83-05-017 (Order 1945), § 275-26-012, filed 2/9/83.] Repealed by 91-17-005 (Order 3230), filed 8/9/91, effective 9/9/91. Statutory Authority: RCW 71A.12.080.
- 275-26-015 Initial and interim certification. [Statutory Authority: Chapter 72.33 RCW. 83-05-017 (Order 1945), § 275-26-015, filed 2/9/83.] Repealed by 91-17-005 (Order 3230), filed 8/9/91, effective 9/9/91. Statutory Authority: RCW 71A.12.080.
- 275-26-030 Evaluation and supervision. [Statutory Authority: Chapter 72.33 RCW. 83-05-017 (Order 1945), § 275-26-030, filed 2/9/83.] Repealed by 91-17-005 (Order 3230), filed 8/9/91, effective 9/9/91. Statutory Authority: RCW 71A.12.080.
- 275-26-032 Emergency and other services. [Statutory Authority: Chapter 72.33 RCW. 83-05-017 (Order 1945), § 275-26-032, filed 2/9/83.] Repealed by 91-17-005 (Order 3230), filed 8/9/91, effective 9/9/91. Statutory Authority: RCW 71A.12.080.
- 275-26-080 Health services. [Statutory Authority: Chapter 72.33 RCW. 83-05-017 (Order 1945), § 275-26-080, filed 2/9/83.] Repealed by 91-17-005 (Order 3230), filed 8/9/91, effective 9/9/91. Statutory Authority: RCW 71A.12.080.
- 275-26-085 Tenant support program plan. [Statutory Authority: Chapter 72.33 RCW. 83-05-017 (Order 1945), § 275-26-085, filed 2/9/83.] Repealed by 91-17-005 (Order 3230), filed 8/9/91, effective 9/9/91. Statutory Authority: RCW 71A.12.080.
- 275-26-090 Tenant services. [Statutory Authority: Chapter 72.33 RCW. 83-05-017 (Order 1945), § 275-26-090, filed 2/9/83.] Repealed by 91-17-005 (Order 3230), filed 8/9/91, effective 9/9/91. Statutory Authority: RCW 71A.12.080.
- 275-26-500 Alternative living program. [Statutory Authority: Chapter 72.33 RCW. 83-05-017 (Order 1945), § 275-26-500, filed 2/9/83.] Repealed by 91-17-005 (Order 3230), filed 8/9/91, effective 9/9/91. Statutory Authority: RCW 71A.12.080.
- 275-26-520 Eligibility. [Statutory Authority: Chapter 72.33 RCW. 83-05-017 (Order 1945), § 275-26-520, filed 2/9/83.] Repealed by 91-17-005 (Order 3230), filed

- 8/9/91, effective 9/9/91. Statutory Authority: RCW 71A.12.080.
- 275-26-530 Evaluation and supervision. [Statutory Authority: Chapter 72.33 RCW. 83-05-017 (Order 1945), § 275-26-530, filed 2/9/83.] Repealed by 91-17-005 (Order 3230), filed 8/9/91, effective 9/9/91. Statutory Authority: RCW 71A.12.080.
- 275-26-540 Administration of alternative living services. [Statutory Authority: Chapter 72.33 RCW. 83-05-017 (Order 1945), § 275-26-540, filed 2/9/83.] Repealed by 91-17-005 (Order 3230), filed 8/9/91, effective 9/9/91. Statutory Authority: RCW 71A.12.080.
- 275-26-550 Alternative living services. [Statutory Authority: Chapter 72.33 RCW. 83-05-017 (Order 1945), § 275-26-550, filed 2/9/83.] Repealed by 91-17-005 (Order 3230), filed 8/9/91, effective 9/9/91. Statutory Authority: RCW 71A.12.080.
- 275-26-560 Provider requirements. [Statutory Authority: Chapter 72.33 RCW. 83-05-017 (Order 1945), § 275-26-560, filed 2/9/83.] Repealed by 91-17-005 (Order 3230), filed 8/9/91, effective 9/9/91. Statutory Authority: RCW 71A.12.080.
- 275-26-570 Maximum compensation. [Statutory Authority: Chapter 72.33 RCW. 83-05-017 (Order 1945), § 275-26-570, filed 2/9/83.] Repealed by 91-17-005 (Order 3230), filed 8/9/91, effective 9/9/91. Statutory Authority: RCW 71A.12.080.

WAC 275-26-005 Purpose. (1) The purpose of these standards is to specify measures which shall carry out the legislative intent of Title 71A RCW authorizing the department to provide or contract for the provision of services to clients with developmental disabilities residing in community residential settings.

(2) Residential services shall provide eligible clients the opportunity to:

(a) Enjoy all rights and privileges under the Constitution and laws of the United States and the state of Washington;

(b) Participate in community life with nonhandicapped and less-handicapped persons to the greatest extent possible; and

(c) Achieve a greater measure of independence and fulfillment.

[Statutory Authority: RCW 71A.12.080. 91-17-005 (Order 3230), § 275-26-005, filed 8/9/91, effective 9/9/91. Statutory Authority: Chapter 72.33 RCW. 83-05-017 (Order 1945), § 275-26-005, filed 2/9/83.]

WAC 275-26-010 Definitions. (1) "Agency" means the department-certified entity providing residential instruction and support services to clients.

(2) "Certification" means the determination of satisfactory compliance with the rules and regulations outlined as referenced under this chapter.

(3) "Client" means a person the division determines under RCW 71A.16.040 and WAC 275-27-026 eligible for division-funded services.

(4) "Client/provider account" means an account in the name of one client where the client or client's provider has the authority to make deposits or withdrawals. The banking laws under RCW 30.22.040 refer to this as an "agency account."

(5) "Client services" means instruction and support activities promoting the following client-centered benefits:

(a) Health and safety:

- (i) Needing and using health services;
 - (ii) Dealing with illness and injury and first aid procedures;
 - (iii) Learning about basic nutrition;
 - (iv) Maintaining good health;
 - (v) Obtaining mental health services when needed;
 - (vi) Learning about human sexuality;
 - (vii) Being aware of fire evacuation plans;
 - (viii) Knowing emergency procedures, including how to use 911 or a local emergency number;
 - (ix) Being aware of burglary protection strategies; and
 - (x) Learning self-protection.
- (b) Personal power and choice:
- (i) Securing housing and furnishings reflecting personal preferences, life style, and financial means;
 - (ii) Expressing opinions and making decisions;
 - (iii) Learning and exercising rights and responsibilities;
 - (iv) Improving communication skills;
 - (v) Participating in various activities, including new experiences;
 - (vi) Exercising a voter's rights;
 - (vii) Learning about available protection and advocacy services; and
 - (viii) Making career choices.
- (c) Positive recognition by self and others:
- (i) Creating positive self-esteem and feelings of self-worth;
 - (ii) Choosing valued social roles; and
 - (iii) Having choices influencing valued perception of self and others.
- (d) Integration in the physical and social life of the community:
- (i) Residing in areas convenient to shopping, banking, eating, worshiping, learning, making friends, and otherwise participating in community life;
 - (ii) Assisting people to use available transportation;
 - (iii) Meeting new people and participating with other members of the community in shared activities; and
 - (iv) Accessing educational and vocational opportunities.
- (e) Positive relationships:
- (i) Establishing, maintaining, expanding, and improving relationships by providing personal interaction opportunities with people;
 - (ii) Involving the client's family, guardian, or representative in planning and decision making which affect the client;
 - (iii) Resolving disagreements among clients or among clients and family, friends, neighbors, and co-workers;
 - (iv) Coping with the loss of a significant relationship, such as the death of a friend or family member, end of a relationship, loss of a job, or change of staff.
- (f) Competence and self-reliance:
- (i) Learning and using skills useful to the client, such as meal planning, grocery shopping, meal preparation, cleaning laundry, using household appliances, money management and budgeting, and use of leisure time in settings where the skills are needed;
 - (ii) Identifying situations in which the client needs or desires assistance from others;

(iii) Accomplishing tasks requiring the assistance of staff or others; and

(iv) Acquiring and using adaptive devices and equipment.

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

(7) "Depositor," when utilized in determining the rights of persons to funds in an account, means a person who owns the funds.

(8) "Division" means the division of developmental disabilities of the department of social and health services.

(9) "Exemption" means the department's approval of a written request for an exception to a rule in this chapter.

(10) "Facility based" means a residence which is owned, leased, or rented by an entity other than the client.

(11) "Group home" means a residence licensed by the applicable state authority and operated by an agency certified by the division of developmental disabilities.

(12) "Group training home" means a residence meeting the definition of RCW 71A.22.020(2) and which is operated by an agency certified by the division of developmental disabilities as defined under RCW 71A.22.040.

(13) "Imprest fund" means a petty cash fund which has a pre-established limit. The total of the cash in the fund and receipts from withdrawals from the fund equal the pre-established limit.

(14) "Individual account" means one account in the name of one client primarily managed by a provider.

(15) "Individual client cash" means one client's cash controlled by the provider.

(16) "Instruction" means goal-oriented teaching addressing skill acquisition and skill enhancement.

(17) "Nonfacility based" means the client owns, leases, sub-leases, or rents a residence although others, except the department, may guarantee the client's credit.

(18) "Provider" means the agency or individual with which the department contracts for providing client instruction and support services.

(19) "Residence" means the place or home where a client resides.

(20) "Residential service" means work or duties performed by the provider to meet clients' daily living needs and enhance clients' lives.

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

(22) "Support" means:

(a) Assistance to a client in performance of necessary functions or tasks; or

(b) The performance of a task on behalf of a client, that is, someone else does the client's task.

(23) "Trust account" means an account containing two or more clients' funds where the provider has the authority to make deposits or withdrawals.

[Statutory Authority: RCW 71A.12.080, 91-17-005 (Order 3230), § 275-26-010, filed 8/9/91, effective 9/9/91. Statutory Authority: Chapter 72.33 RCW, 83-05-017 (Order 1945), § 275-26-010, filed 2/9/83.]

WAC 275-26-012 Repealed. See Disposition Table at beginning of this chapter.

WAC 275-26-015 Repealed. See Disposition Table at beginning of this chapter.

WAC 275-26-019 Exemptions. (1) The department may approve an exemption to a specific rule in this chapter as defined under WAC 275-26-010(9) provided an:

(a) Assessment of the exemption request ensures granting the exemption shall not undermine the legislative intent of Title 71A RCW; and

(b) Evaluation of the exemption request shows granting the exemption shall not affect the quality of the services, supervision, health, and safety of department-served persons.

(2) Agencies and individual providers shall retain a copy of each department-approved exemption.

[Statutory Authority: RCW 71A.12.080, 91-17-005 (Order 3230), § 275-26-019, filed 8/9/91, effective 9/9/91.]

WAC 275-26-020 Certification. (1) Initial certification.

(a) The agency's application for initial certification shall include a mission statement, budget forecast, staff coverage schedule, staff in-service training plan, and agency policies and procedures. The department shall provide the county a copy of the agency's application. The department shall review the recommendations from the county.

(b) The agency shall file with the department a statement of assurance stating the agency shall not:

(i) Refuse a client's admission to the agency;

(ii) Deny participation in the activities of the agency; or

(iii) Deny employment at the agency on the grounds of:

(A) Race;

(B) Religion;

(C) Marital status;

(D) Age;

(E) Sexual orientation;

(F) Color;

(G) Creed;

(H) National origin; or

(I) Handicapping condition, including communicable diseases and HIV/AIDS.

(c) The agency shall comply with:

(i) Relevant federal, state, and local laws and ordinances; and

(ii) Department-established standards of care, instruction, and support.

(d) Initial certification may be granted upon assurance the agency shall comply with the rules and regulations outlined under chapter 275-26 WAC within one hundred eighty days of the effective date.

(e) Upon receipt of initial certification, the agency shall be approved for receiving referrals and serving clients.

(f) In the event initial certification expires before the date of formal evaluation and review, the department may extend initial certification for a specified period of time, not to exceed one hundred eighty days.

(2) Regular certification.

(a) Upon the department's determination of satisfactory compliance with the rules and regulations described and referenced herein, through formal evaluation and review under WAC 275-26-030, the department may certify an agency as approved for continued referral of and service provision to clients.

(b) The agency's certification may be granted for either a one-year or two-year period, but the department may require a more frequent certification review.

(c) The county may submit recommendations to the department before certification.

(d) Regular certification may be extended for a period not to exceed one hundred eighty days.

(3) Provisional certification.

(a) An agency found out of compliance with the provisions of this chapter may be subject to provisional certification not to exceed one hundred eighty days.

(b) When the agency does not comply with the requirements of chapter 275-26 WAC within the one hundred eighty days, the department shall initiate certification revocation. If the agency contests the department's ruling, the agency may request an administrative review conference as described under WAC 275-26-022.

(c) The department's notice of denial, modification, suspension, or revocation of certification is governed by chapter 43.20A RCW and section 95, chapter 175, Laws of 1989.

(d) When an agency comes into compliance with the requirements of chapter 275-26 WAC within one hundred eighty days, the department may grant a regular one-year or two-year certification.

(4) Decertification:

(a) When the department determines the agency does not comply with this chapter the department may revoke the agency's certification as governed under chapter 43.20A RCW and section 95, chapter 175, laws of 1989;

(b) If the agency contests the department's decision, the agency may request an administrative review conference as described under WAC 275-26-022.

[Statutory Authority: RCW 71A.12.080. 91-17-005 (Order 3230), § 275-26-020, filed 8/9/91, effective 9/9/91. Statutory Authority: Chapter 72.33 RCW. 86-08-003 (Order 2349), § 275-26-020, filed 3/20/86; 83-05-017 (Order 1945), § 275-26-020, filed 2/9/83.]

WAC 275-26-021 Review and evaluation. (1) The department shall review and/or evaluate the agency's services as set forth by law or this chapter. Evaluation shall occur biennially, but the department may require more frequent evaluations.

(2) The department may, at any time, review each client's records and activities to ensure the agency continues serving the client's needs, interests, and welfare.

(3) The department shall file a report of the evaluation results. When the agency is out of compliance with the standards and regulations contained in chapter 275-

26 WAC and department contracts, the report shall specify the corrective action to be implemented within a specific time. When corrective action is not implemented within the specified time, the department may withdraw the agency's certification as described under WAC 275-26-020.

(4) The department shall have the right to conduct additional evaluations or audits of the agency as the department deems necessary.

[Statutory Authority: RCW 71A.12.080. 91-17-005 (Order 3230), § 275-26-021, filed 8/9/91, effective 9/9/91.]

WAC 275-26-022 Administrative review conference--Adjudicative proceeding process. (1) Within twenty-eight days after a community residential support agency is notified of a certification determination it wishes to challenge, the agency shall request, in writing, that the division director or the division director's designee review such determination. The agency shall:

(a) Sign the request;

(b) Identify the challenged determination and the date thereof; and

(c) State as specifically as practicable the issues and regulations involved and the grounds for the agency's contention that the determination is erroneous. The agency shall include with the request copies of any documentation the agency intends to rely on to support its position.

(2) After receiving a timely request meeting the criteria of this section, the director shall contact the agency to schedule a conference for the earliest mutually convenient time. The director shall schedule the conference for no later than thirty days after a properly completed request is received, unless both parties agree, in writing, to a specific later date. The conference may be conducted by telephone unless either the department or the agency requests, in writing, the conference be held in person.

(3) The agency and appropriate representatives of the department shall attend the conference. The agency shall bring to the conference, or provide to the department in advance of the conference, any documentation the agency intends to rely on to support the agency's contentions. The parties shall clarify and attempt to resolve the issues at the conference. If additional documentation is needed to resolve the issues, a second session of the conference shall be scheduled for not later than thirty days after the initial session unless both parties agree in writing to a specific later date.

(4) Unless informal agreement has been reached at the conference, a written decision by the director of the division of developmental disabilities shall be furnished to the agency within sixty days after the conclusion of the conference.

(5)(a) An agency contesting the director's determination shall within twenty-eight days of receipt of the determination:

(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 director's determination; and

(C) A copy of the director's determination 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 in this chapter conflicts with chapter 388-08 WAC, the provision in this chapter governs.

[Statutory Authority: RCW 71A.12.080. 91-17-005 (Order 3230), § 275-26-022, filed 8/9/91, effective 9/9/91. Statutory Authority: RCW 34.05.220 (1)(a) and 71.12.030 [71A.12.030]. 90-04-074 (Order 2997), § 275-26-022, filed 2/5/90, effective 3/1/90. Statutory Authority: Chapter 72.33 RCW. 83-05-017 (Order 1945), § 275-26-022, filed 2/9/83.]

WAC 275-26-025 Eligibility for residential services and support. Any client authorized by the division of developmental disabilities shall be eligible for residential services as defined by this chapter.

[Statutory Authority: RCW 71A.12.080. 91-17-005 (Order 3230), § 275-26-025, filed 8/9/91, effective 9/9/91. Statutory Authority: Chapter 72.33 RCW. 83-05-017 (Order 1945), § 275-26-025, filed 2/9/83.]

WAC 275-26-030 Repealed. See Disposition Table at beginning of this chapter.

WAC 275-26-032 Repealed. See Disposition Table at beginning of this chapter.

WAC 275-26-050 Client remuneration. Clients performing work for the agency shall be given remuneration in accordance with wage and hour laws and requirements stipulated by federal and state law, unless the United States Department of Labor or state department of labor and industries has granted written exemption.

[Statutory Authority: RCW 71A.12.080. 91-17-005 (Order 3230), § 275-26-050, filed 8/9/91, effective 9/9/91. Statutory Authority: Chapter 72.33 RCW. 83-05-017 (Order 1945), § 275-26-050, filed 2/9/83.]

WAC 275-26-055 Administration. (1) The owner or board of directors of the agency shall have department-approved written statements including, but not limited to, the following:

- (a) Agency philosophy, objectives, and goals;
- (b) Program description and admission criteria;
- (c) Policies and procedures describing the following:
- (i) Division administrative policy number one prohibiting abuse:

(A) The agency administrator shall complete and file with the division the document entitled division of developmental disabilities administrative policy number one prohibiting a client's mistreatment, neglect, or abuse. The agency shall retain a copy of the document; and

(B) All agency staff working with clients shall sign a similar department-approved document. The agency shall keep the document on record.

(ii) Organizational chart and description showing all supervisory relationships;

(iii) Definition of staff roles and responsibilities, including the person designated to act in the absence of the administrator;

(iv) Criminal background inquiries required under chapter 388-330 WAC;

(v) Client confidentiality and release of information;

(vi) Client rights and grievance procedure;

(vii) Protection of client's financial interests, including management of client accounts, if applicable;

(viii) Drug administration, supervision, handling, storage, and disposal;

(ix) Self-administration of drugs, prescribed or not;

(x) Response to and contingency planning for:

(A) Medical emergencies;

(B) Natural or other disasters;

(C) Missing persons;

(D) Clients involved with law enforcement; and

(E) Unmanageable client behavior.

(xi) Notification of client's guardian and/or relatives in case of emergency.

(2) Following emergencies, as defined under WAC 275-27-020, the agency shall:

(a) Immediately notify the department orally of a serious incident or emergency as described in department policy;

(b) Submit a written incident report to the department as required by law or policy; and

(c) Notify the client's guardian or legal representative.

[Statutory Authority: RCW 71A.12.080. 91-17-005 (Order 3230), § 275-26-055, filed 8/9/91, effective 9/9/91. Statutory Authority: Chapter 72.33 RCW. 83-05-017 (Order 1945), § 275-26-055, filed 2/9/83.]

WAC 275-26-060 Personnel. (1) The owner or board of directors of the agency shall maintain current written personnel policies and procedures which shall be made available to all employees.

(2) Personnel policies and practices shall not discriminate against any employee or applicant for employment because of race, color, sex, religion, national origin, creed, marital status, sexual orientation, age, Vietnam era or disabled veteran status, or the presence of any sensory, mental, or physical handicap, including communicable diseases, and HIV/AIDS, provided the sensory, mental, or physical handicap does not prevent the job's specific performance.

(3) Agency-employed staff shall meet the following minimum requirements:

(a) Have a background inquiry clearance by the authorized state agency;

(b) Exhibit mature behavior and the ability to make independent judgments;

(c) Be twenty-one years of age or older when employed as an administrator;

(d) Be eighteen years of age or older when employed as a direct care staff; and

(e) Have attained a high school diploma or GED equivalent. Current employees are exempt from subsection (3)(e) effective the date of this amendatory act.

(4) Agency employees shall treat a client with dignity and consideration, respecting the client's civil and human rights at all times.

(5) The performance of the administrator and each employee shall be evaluated, in writing, annually or more often by the agency. An owner/administrator is exempt from this requirement.

(6) The administrator or administrator's designee shall be responsible for:

(a) Recruiting, employing, and arranging for residential services staff training;

(b) Terminating from employment any employee performing in an unsatisfactory manner; and

(c) Preparing and maintaining policies and procedures pertaining to clients personnel and financial records; and

(d) Securely storing client, personnel and financial records.

(7) Clients shall not be routinely involved in the instruction and support of other clients.

[Statutory Authority: RCW 71A.12.080. 91-17-005 (Order 3230), § 275-26-060, filed 8/9/91, effective 9/9/91. Statutory Authority: Chapter 72.33 RCW. 83-05-017 (Order 1945), § 275-26-060, filed 2/9/83.]

WAC 275-26-065 Staffing. (1) An agency shall provide sufficient staff to administer the program and perform instruction and support services.

(2) An agency shall provide the client with immediate access to staff or the means to contact staff twenty-four hours a day, seven days each week.

(3) An agency required to have twenty-four hour on-duty staff coverage shall have a department-approved staff coverage schedule at the time of certification and when substantial changes occur. The agency shall retain a copy of department approval.

(4) Staff availability.

(a) An agency operating one residential program shall have a minimum of one paid half-time, twenty hours per week, administrator for the program.

(b) For programs licensed under the boarding home regulations an agency operating two or more residential programs shall have a minimum of one paid half-time, twenty hours per week, administrator for each program. The agency may utilize one paid full-time administrator, forty hours per week, at the department's discretion. The agency shall retain a copy of department approval.

(c) Each facility-based residence shall maintain staffing requirements applicable to the specific licensing regulations and contract requirements under which the agency operates.

(d) When only one direct care staff member is on duty, the agency shall make or have provisions for a second person on call in case of an emergency.

[Statutory Authority: RCW 71A.12.080. 91-17-005 (Order 3230), § 275-26-065, filed 8/9/91, effective 9/9/91. Statutory Authority: Chapter 72.33 RCW. 83-05-017 (Order 1945), § 275-26-065, filed 2/9/83.]

WAC 275-26-070 Staff training. (1) The agency shall orient the new employee to the agency's philosophy, goals, policies, procedures, and program services within the first:

(a) Two weeks of employment for staff scheduled to work twenty hours or more per week; or

(b) Four weeks of employment for staff scheduled to work less than twenty hours per week.

(2) The agency shall ensure new employees receive a minimum of twelve hours of training during the first six weeks of employment. Such training shall include a combination of orientation, instruction, and on-the-job training.

(3) The agency shall provide a minimum of twenty training hours to each direct service employee during the subsequent five employment months. Such staff training shall include, but not be limited to:

(a) Basic first aid/CPR;

(b) Knowledge and transmission of Hepatitis B; and

(c) Knowledge and transmission of human immunodeficiency virus (HIV), and acquired immunodeficiency syndrome (AIDS).

(4) The agency shall review and explain the current instruction and support plan for each client for whom the employee provides direct services before the employee works alone with the client.

(5) The agency shall document orientation, review, and training activities.

[Statutory Authority: RCW 71A.12.080. 91-17-005 (Order 3230), § 275-26-070, filed 8/9/91, effective 9/9/91. Statutory Authority: Chapter 72.33 RCW. 83-05-017 (Order 1945), § 275-26-070, filed 2/9/83.]

WAC 275-26-071 Individual service plan. The agency shall participate with department staff, the client, the client's guardian or legal representative, and other interested persons in the development of the individual service plan (ISP), under RCW 71A.18.010 and WAC 275-27-060, as required for each client.

[Statutory Authority: RCW 71A.12.080. 91-17-005 (Order 3230), § 275-26-071, filed 8/9/91, effective 9/9/91.]

WAC 275-26-072 Instruction and support. (1) The agency shall develop a written individual instruction and support plan (IISP) for each client:

(a) Based on the goals established in the department's individual service plan (ISP);

(b) Reflecting the client's preferences and concurrence;

(c) Identifying activities promoting one or more of the following client services:

(i) Health and safety;

(ii) Personal power and choice;

(iii) Positive recognition by self and others;

(iv) Integration in the physical and social life of the community;

(v) Positive relationships; and

(vi) Competence and self-reliance.

(d) Identifying the specific goal and describing the methods of instruction and support promoting client-centered benefits and independence in the community.

(2) The agency shall:

(a) Implement the individual instruction and support plan (IISP) in a manner:

(i) Appropriate to the age of the client;

(ii) Taking place or occurring in typical community settings; and

(iii) Resulting in opportunities for:

- (A) Positive change;
- (B) Personal growth; and
- (C) Development toward maximum independence.

(b) Document progress toward achieving the benefits described in the individual instruction and support plan (IISP);

(c) Review the plan semi-annually or more often;

(d) Consult with other providers serving the client and other interested persons as needed to coordinate and promote the individual instruction and support plan (IISP); and

(e) Revise the individual instruction and support plan (IISP) as benefits are achieved.

[Statutory Authority: RCW 71A.12.080. 91-17-005 (Order 3230), § 275-26-072, filed 8/9/91, effective 9/9/91.]

WAC 275-26-073 Health services. (1) The agency shall have a means and procedure for ensuring a client has access to personal care and hygiene services, health services, mental health services, and dental services. For a client for whom the agency provides an average of thirty hours or more of service per month, the agency shall provide instruction and support to the client by:

- (a) Maintaining health records;
- (b) Assisting the client to arrange appointments with health professionals;
- (c) Assisting and ensuring transportation for the client to health services;
- (d) Monitoring the client's implementation of medical treatment prescribed by health professionals; and
- (e) Communicating directly with health professionals, when indicated.

(2) For each client for whom the agency provides an average of thirty hours or more a month, the agency shall ensure the client receives an annual physical and dental examination unless an exemption is granted, in writing, from the appropriate medical professional.

(3) The agency shall document client refusal to participate in health care services. Documentation shall include:

- (a) A written description of events concerning client refusal to participate in health services; and
- (b) A written plan to teach the client the benefits of health care participation.

[Statutory Authority: RCW 71A.12.080. 91-17-005 (Order 3230), § 275-26-073, filed 8/9/91, effective 9/9/91.]

WAC 275-26-075 Client records. (1) The client's records shall include, but not be limited to, the following:

- (a) The client's name, address, and Social Security Number;
- (b) The client's guardian or legal representative's name, address, and telephone number;
- (c) Copies of legal guardianship papers, if any;
- (d) Client health records:

(i) Names, addresses, and telephone numbers of relatives or responsible persons and the name, address, and telephone number of the client's:

- (A) Physician;
- (B) Dentist;
- (C) Mental health provider; or
- (D) Others providing client health care services.

(ii) Health care providers' instructions regarding health care needed, including appointment dates and date of next appointment if appropriate;

(iii) Written documentation that the health care providers' instructions have been followed; and

(iv) A record of prosthesis and other artificial parts;

(e) A copy of the department's individual service plan (ISP); and

(f) The client's agency-developed individual instruction and support plan (IISP).

(2) The agency shall maintain and keep current documentation of:

(a) Instruction and support activities for each client as a basis for review, study, and evaluation of the overall progress in programs provided by the agency to the participating clients;

(b) Semi-annual review of the IISP;

(c) Consultation with other service providers and other interested persons;

(d) IISP revisions and changes; and

(e) Other activities relevant to the client.

(3) The agency serving a client an average of thirty hours or more a month shall assist the client in maintaining a current, written property record. The record shall include:

(a) A list of personal possessions, including clothing the client purchases, with a value of one hundred dollars or more per item;

(b) A list of items the client owns when moving into the program;

(c) Description and identifying numbers, if any;

(d) The date of acquisition of items purchased after moving into the program;

(e) The date and reason for addition or removal from the record; and

(f) The signature of the staff making the entry.

(4) Individual providers shall maintain records as required by the department.

(5) The agency shall consider all client record information:

(a) Privileged and confidential;

(b) Available to the department, to the client, and to residential services staff, as needed, to provide client services;

(c) Available to the county developmental disabilities board when the department requests it as allowed under RCW 71A.14.070.

(6) The agency shall prepare and record all record entries:

(a) In ink;

(b) At the time of or immediately following the occurrence of the event recorded, in legible writing, dated, and signed by the person making the entry.

(7) Any transfer or inspection of records, except under subsection (5) of this section, shall be authorized by a release of information form, specific to the transfer or inspection signed by the client or guardian.

[Statutory Authority: RCW 71A.12.080. 91-17-005 (Order 3230), § 275-26-075, filed 8/9/91, effective 9/9/91. Statutory Authority: Chapter 72.33 RCW. 83-05-017 (Order 1945), § 275-26-075, filed 2/9/83.]

WAC 275-26-080 Repealed. See Disposition Table at beginning of this chapter.

WAC 275-26-085 Repealed. See Disposition Table at beginning of this chapter.

WAC 275-26-087 Transportation. (1) The agency shall ensure or provide transportation for medical emergencies and medical appointments and therapies.

(2) The agency shall assist the client with or arrange transportation, in conjunction with the client and the division, for:

(a) Implementation of the individual service plan (ISP);

(b) Implementation of the individual instruction and support plan (IISP);

(c) Work, school or other publicly-funded services;

(d) Leisure or recreation activities; and

(e) Client-requested activities.

(3) An agency vehicle used to transport clients shall be:

(a) In safe operating condition; and

(b) Properly insured for its usage.

[Statutory Authority: RCW 71A.12.080. 91-17-005 (Order 3230), § 275-26-087, filed 8/9/91, effective 9/9/91.]

WAC 275-26-090 Repealed. See Disposition Table at beginning of this chapter.

WAC 275-26-095 Physical requirements. (1) The agency shall ensure facility-based residential services provide clients the following conditions or necessary equipment:

(a) A clean, safe, and healthful environment;

(b) A location in a residential neighborhood within reasonable distance of necessary physical resources, such as stores, banks, laundromats, churches, job opportunities, and other public services;

(c) An adequate first aid kit or supplies and a first aid manual; and

(d) Compliance with all licensing regulations, when applicable.

(e) Current facility-based agencies are exempt from subsection 1(b) effective the date of this amendatory act.

(2) The agency shall ensure nonfacility-based residential services provide clients with the following conditions or necessary equipment:

(a) A clean, safe, and healthful environment;

(b) Access to client-usable telephone equipment;

(c) A working smoke detector, light-alarmed if clients are hearing impaired, located in proximity to sleeping rooms;

(d) A flashlight or other nonelectrical light source in working condition;

(e) Basic first-aid supplies;

(f) An evacuation plan, developed and practiced with the client, placed or stored within the living unit;

(g) A safe storage area for flammable and combustible materials;

(h) Unblocked exits; and

(i) Accessibility by customary forms of ingress and egress for space utilized for residential purposes, excluding ladders, folding stairs, or trap doors.

(3) The agency providing nonfacility-based residential services shall document activities with a client relevant to subsection (2) of this section.

[Statutory Authority: RCW 71A.12.080. 91-17-005 (Order 3230), § 275-26-095, filed 8/9/91, effective 9/9/91. Statutory Authority: Chapter 72.33 RCW. 83-05-017 (Order 1945), § 275-26-095, filed 2/9/83.]

WAC 275-26-100 Payment for service. (1) The department shall pay for residential services provided to eligible clients under department contract or policy.

(2) For a client receiving facility-based residential services and support:

(a) The client shall pay for cost of care or service from earnings or financial resources under department policy;

(b) Department payments under this chapter shall be supplemental to other financial resources of the client; and

(c) When a client's guardian controls the client's income, estate, or trust fund, the guardian shall reimburse the agency as described under this section.

(3) A client receiving nonfacility-based residential services shall pay for their own housing, utilities, food, clothing, and other personal and incidental expenses from earnings and other financial resources.

(4) The department shall require a client to participate in defraying the cost of services when mandated by federal or state statute or regulation.

(5) The provider shall inform the department when the client requires services beyond levels described under chapter 275-26 WAC. The department may approve and provide payment for additional expenses or services. The provider shall retain a copy of department approval.

(6) To ensure a client is not charged for services provided by state-funded programs, any payment made for health services with client funds shall be supported by the department's written denial.

[Statutory Authority: RCW 71A.12.080. 91-17-005 (Order 3230), § 275-26-100, filed 8/9/91, effective 9/9/91.]

WAC 275-26-107 Program set-up cost. (1) The department may enter into a contractual agreement to reimburse the provider for costs incurred to establish the program. The provider's costs shall:

(a) Be based on a budget negotiated with the department; and

(b) Include client costs of establishing a residence.

(2) The provider shall submit the department-required billing documents.

[Statutory Authority: RCW 71A.12.080. 91-17-005 (Order 3230), § 275-26-107, filed 8/9/91, effective 9/9/91.]

WAC 275-26-110 Change of ownership. (1) An agency shall inform the department in writing sixty days prior to a change of ownership.

(2) On the effective date of a change of ownership, the department shall terminate the department's certification with the previous provider.

(3) The department shall withhold final payment to the previous provider until the previous provider submits and the department accepts all reports and required documents.

[Statutory Authority: RCW 71A.12.080. 91-17-005 (Order 3230), § 275-26-110, filed 8/9/91, effective 9/9/91.]

WAC 275-26-115 Accounting procedures for client accounts. (1) Clients' cash or bank accounts controlled by a provider shall be subject to the provisions of this chapter. Clients' accounts shall include, but not be limited to:

- (a) Trust accounts;
- (b) Client/provider accounts;
- (c) Individual accounts;
- (d) Individual client cash; and
- (e) Imprest fund(s).

(2) An account the client independently manages shall not be subject to the provisions of this section.

(3) The provider shall protect a client's financial interests by:

(a) Making available to the requesting client the money held for the client unless a client's guardian or legal representative makes other arrangements;

(b) Securing a client's or client's guardian's or legal representative's written consent for the management of the client's account;

(c) Keeping the client's account current by maintaining a running balance;

(d) Reconciling the client's account to the bank statement monthly;

(e) Making deposits to the client's account within one week of receiving the client's money;

(f) Preventing the client's account from becoming overdrawn or showing a debit;

(g) Limiting imprest and individual client cash funds to a reasonable amount necessary for the needs of the client, not to exceed fifty dollars per client;

(h) Maintaining documentation to support financial transactions for the specific type of account:

(i) Trust account records shall include:

- (A) A control journal;
- (B) Monthly bank statements and reconciliations;
- (C) Checkbook registers and bankbooks;
- (D) Deposit receipts;
- (E) Canceled checks;
- (F) Receipts for purchases; and
- (G) Itemized subsidiary ledgers showing deposits, withdrawals, and interest payments to individual clients.

(ii) Client/provider accounts or individual accounts shall include the following records:

- (A) Monthly bank statements and reconciliations;

(B) Checkbook registers and bankbooks showing deposits, withdrawals, and interest payments to the client;

(C) Deposit receipts;

(D) Canceled checks; and

(E) Receipts for purchases.

(iii) Individual client cash fund records shall include:

(A) A detailed ledger;

(B) Monthly reconciliation to the cash amount;

(C) Detailed accounting of money received on behalf of the client, including cash received from writing checks over the purchase amount and disposition of money spent; and

(D) Receipts for purchases costing over twenty dollars.

(iv) Imprest fund records shall include:

(A) A subsidiary ledger;

(B) A monthly reconciliation to the cash amount;

(C) A detailed accounting of money received on behalf of the client and disposition of money spent;

(D) Receipts for purchases over the amount of twenty dollars;

(E) Itemized ledgers showing a client's deposits and withdrawals, and interest payments paid to clients.

(i) Notifying the department when the client's account reaches three hundred dollars less than the maximum amount allowable by federal or state law; and

(j) Making each client's account available for the secretary's audit and inspection.

(k) Making client funds available to the client or a new provider on the day of transfer or movement when there is change of ownership or a client moves.

(4) When a client's provider receives a check made out to the client, the provider assisting the client shall:

(a) Secure the client's signature and designation "for deposit only" and deposit the check to the client's account; or

(b) Secure the client's "x" mark in the presence of another witness; and

(i) Co-sign the check with the designation "for deposit only"; and

(ii) Deposit the check to the client's account.

(5) When a provider manages client/provider accounts and individual accounts, the agency and client checks shall:

(a) Be signed at the time of purchase only;

(b) Be signed by the client;

(c) Be initialed or signed by the staff assisting the client; and

(d) Not be written for amounts greater than a purchase unless the provider maintains required documentation described under subsection (3)(h)(ii) of this section.

(6) A provider shall pay overdraft charges, fees resulting from the provider's error or mismanagement when they control:

(a) Trust accounts;

(b) Client/provider accounts; and

(c) Imprest funds.

(7) A provider shall pay service charges for trust accounts and imprest funds when they control them.

(8) The agency shall retain all clients' financial records for a minimum of six years after audit, settlement or contract termination, including but not limited to:

- (a) Client's related bankbooks;
- (b) Bank statements;
- (c) Checkbooks;
- (d) Check registers; and
- (e) All voided and canceled checks.

(9) The client's provider may loan money to the client from the provider's funds and collect the debt from the client by installments.

(10) The client's provider shall not:

- (a) Charge the client interest for money loaned; or
- (b) Borrow funds from the client.

(11) Upon a provider's transfer of ownership or movement of the client the previous provider shall within thirty days:

(a) Give the client, the client's guardian, or the client's legal representative a written accounting of all client's funds held by the provider;

(b) When applicable give the new provider a written accounting, in accordance with generally accepted accounting principles, of all transferred client funds;

(c) Obtain the client's, client's guardian's, or client's legal representative's written receipt for all the transferred funds; and

(d) When applicable, obtain the new provider's written receipt for the transferred funds.

(12) When a client becomes incapacitated or a client's whereabouts are unknown, the client's provider shall within thirty days transfer the client's funds to the client's legal guardian or to the department.

(13) When a client dies, the client's provider shall within thirty days transfer the client's funds to the client's legal guardian or to the department if the client does not have a legal heir.

(14) The provider shall not release client funds to a person other than the client or the client's guardian or legal representative without the written consent of the client or the secretary.

[Statutory Authority: RCW 71A.12.080, 91-17-005 (Order 3230), § 275-26-115, filed 8/9/91, effective 9/9/91.]

WAC 275-26-500 Repealed. See Disposition Table at beginning of this chapter.

WAC 275-26-520 Repealed. See Disposition Table at beginning of this chapter.

WAC 275-26-530 Repealed. See Disposition Table at beginning of this chapter.

WAC 275-26-540 Repealed. See Disposition Table at beginning of this chapter.

WAC 275-26-550 Repealed. See Disposition Table at beginning of this chapter.

WAC 275-26-560 Repealed. See Disposition Table at beginning of this chapter.

WAC 275-26-570 Repealed. See Disposition Table at beginning of this chapter.

Chapter 275-27 WAC DIVISION OF DEVELOPMENTAL DISABILITIES SERVICES RULES

WAC

275-27-020	Definitions.
275-27-023	Exemptions.
275-27-060	Individual service plan.
275-27-230	Authorization of services.
275-27-300	Repealed.
275-27-310	Repealed.
275-27-320	Repealed.
275-27-500	Adjudicative proceeding.
275-27-820	Community alternatives program (CAP)—Services.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

275-27-300	Completion of individual program plan—Residential habilitation centers. [Statutory Authority: RCW 71A.20.070, 84-15-058 (Order 2124), § 275-27-300, filed 7/18/84. Statutory Authority: RCW 72.01.090, 72.33.040, 72.33.125 and 72.33.165. 78-04-033 (Order 1280), § 275-27-300, filed 3/16/78.] Repealed by 91-17-005 (Order 3230), filed 8/9/91, effective 9/9/91. Statutory Authority: RCW 71A.16.020.
275-27-310	Exclusion of child from educational program—Residential schools. [Statutory Authority: RCW 72.01.090, 72.33.040, 72.33.125, and 72.33.165. 78-04-033 (Order 1280), § 275-27-310, filed 3/16/78.] Repealed by 91-17-005 (Order 3230), filed 8/9/91, effective 9/9/91. Statutory Authority: RCW 71A.16.020.
275-27-320	Discipline—Expulsion—Suspension. [Statutory Authority: RCW 72.01.090, 72.33.040, 72.33.125, and 72.33.165. 78-04-033 (Order 1280), § 275-27-320, filed 3/16/78.] Repealed by 91-17-005 (Order 3230), filed 8/9/91, effective 9/9/91. Statutory Authority: RCW 71A.16.020.

WAC 275-27-020 Definitions. (1) "Best interest" includes, but is not limited to, individual client centered benefits designed to:

- (a) Achieve or maintain economic self-support;
- (b) Achieve or maintain self-sufficiency;
- (c) Prevent or remedy neglect, abuse, or exploitation of individuals unable to protect their own interest;
- (d) Preserve or reunite families; and
- (e) Prevent or reduce institutional care by providing community-based services, home-based services, or other forms of less-intensive service, to meet the individual's medical and personal needs.

(2) "Client or person" means a person the division determines under RCW 71A.16.040 and WAC 275-27-026 eligible for division-funded services.

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

(4) "Director" means the director of the division of developmental disabilities.

(5) "Division" means the division of developmental disabilities of the department of social and health services.

(6) "Emergency" means a sudden, unexpected occurrence demanding immediate action.

(7) "Exemption" means the department's approval of a written request for an exception to a rule in this chapter.

(8) "ICF/MR" means a facility certified as an intermediate care facility for the mentally retarded by Title XIX to provide services to the mentally retarded or persons with related conditions.

(9) "Individual" means the person for whom division services are requested.

(10) "Informed consent" means an agreement obtained from a person or the person's authorized representative, for such person's participation in an activity other than health care. Informed consent for health care shall be provided pursuant to RCW 7.70.065. The following information is necessary to informed consent:

(a) An explanation of the procedures to be followed including an identification of experimental procedures;

(b) A description of the attendant discomforts and risks;

(c) A description of the expected benefits;

(d) A disclosure of appropriate alternative procedures;

(e) An offer to answer inquiries concerning the procedures; and

(f) Instruction that consent may be withdrawn and participation discontinued at any time.

(11) "Intelligence quotient score" means a full scale score on the Wechsler, or the intelligence quotient score on the Stanford-Binet or the Leiter International Performance Scale.

(12) "Nonresidential programs" means programs including, but not limited to, county-funded habilitation services.

(13) "Residential programs" means those programs providing domiciliary care and other services, including, but not limited to, state residential facilities, group homes, skilled nursing facilities, intermediate care facilities, congregate care facilities, boarding homes, children's foster homes, adult family homes, and group training homes.

(14) "Respite care" means temporary services provided to a developmentally disabled person and the person's family on either an emergency or planned basis without which the individual may need an alternative living environment.

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

[Statutory Authority: RCW 71A.16.020. 91-17-005 (Order 3230), § 275-27-020, filed 8/9/91, effective 9/9/91. Statutory Authority: RCW 71.20.070. 89-06-049 (Order 2767), § 275-27-020, filed 2/28/89; 84-15-058 (Order 2124), § 275-27-020, filed 7/18/84. Statutory Authority: RCW 72.01.090, 72.33.040, 72.33.125 and 72.33.165. 78-04-033 (Order 1280), § 275-27-020, filed 3/16/78; Order 1143, § 275-27-020, filed 8/11/76.]

WAC 275-27-023 Exemptions. (1) The department may approve an exemption to a specific rule in this chapter as defined under WAC 275-27-020(7) provided an:

(a) Assessment of the exemption shall not undermine the legislative intent of Title 71A RCW; and

(b) Evaluation of the exemption request shows granting the exemption shall not adversely effect the quality of the services, supervision, health, and safety of department-served persons.

(2) Agencies and individual providers shall retain a copy of each department-approved exemption.

[Statutory Authority: RCW 71A.16.020. 91-17-005 (Order 3230), § 275-27-023, filed 8/9/91, effective 9/9/91.]

WAC 275-27-060 Individual service plan. (1) The division may develop a written individual service plan (ISP) or other planning documents for each person determined eligible for division and department services within ninety days of the eligibility date. Interim services may be provided if necessary.

(2) An ISP shall be based on an assessment of a person's needs and will specify the services adjudged to be in the best interests of the person and meet the person's habilitation needs. The ISP shall be in the form and manner specified by the director.

(3) A person, the parent if a person is seventeen years of age or younger, or the person's guardian, or an advocate, or the service provider may request review or modification of the service plan at any time based on changed circumstances.

(4) The department's implementation of specific provisions of the plan shall require the development, review, and may require significant modifications of the ISP and shall include, to the maximum extent possible:

(a) Appropriate division staff;

(b) The person;

(c) The person's parent or guardian;

(d) Advocate; and

(e) Representatives of the agency or facility which is, or will be, primarily responsible for the implementation of specific provisions of the plan.

(5) An ISP shall be a planning document, and shall not be an authorization for services. An ISP shall not guarantee the authorization or delivery of services. The authorization of such services is described under WAC 275-27-230.

[Statutory Authority: RCW 71A.16.020. 91-17-005 (Order 3230), § 275-27-060, filed 8/9/91, effective 9/9/91. Statutory Authority: RCW 71.20.070. 86-18-049 (Order 2418), § 275-27-060, filed 8/29/86; 84-15-058 (Order 2124), § 275-27-060, filed 7/18/84. Statutory Authority: RCW 72.01.090, 72.33.040, 72.33.125 and 72.33.165. 78-04-033 (Order 1280), § 275-27-060, filed 3/16/78; Order 1143, § 275-27-060, filed 8/11/76.]

WAC 275-27-230 Authorization of services. (1) The division's field services section shall be responsible for authorizing services received by eligible persons including, but not limited to:

(a) Placement to and from residential habilitation centers;

(b) Other community residential services;

(c) Family support services; and

(d) Nonresidential programs.

(2) The division's authorization of services shall be based on the availability of services and funding.

(3) The division shall include the following persons when determining authorized services:

- (a) The person;
- (b) The person's parent or guardian and may include:
 - (i) The person's advocate; or
 - (ii) Other responsible parties.
- (4) The division shall not make an emergency or temporary admission of a person to a residential habilitation center for thirty-one days or more without the written approval of the division director or the director's designee.
- (5) The division shall authorize county-funded services only when the:
 - (a) Service is included in a department contract;
 - (b) Person is at least twenty-one years of age and graduated from school during their twenty-first year; or
 - (c) Person is twenty-two years of age or older; or
 - (d) Person is two years of age or younger and eligible for early intervention services.
- (6) The department shall require a person to participate in defraying the cost of services provided when mandated by state or federal regulation or statute.

[Statutory Authority: RCW 71A.16.020. 91-17-005 (Order 3230), § 275-27-230, filed 8/9/91, effective 9/9/91. Statutory Authority: RCW 71.20.070. 86-18-049 (Order 2418), § 275-27-230, filed 8/29/86; 84-15-058 (Order 2124), § 275-27-230, filed 7/18/84. Statutory Authority: RCW 71.20.070, 72.33.125 and 72.33.850. 82-06-034 (Order 1771), § 275-27-230, filed 3/1/82. Statutory Authority: RCW 72.01.090, 72.33.040, 72.33.125 and 72.33.165. 78-04-033 (Order 1280), § 275-27-230, filed 3/16/78; Order 1143, § 275-27-230, filed 8/11/76.]

WAC 275-27-300 Repealed. See Disposition Table at beginning of this chapter.

WAC 275-27-310 Repealed. See Disposition Table at beginning of this chapter.

WAC 275-27-320 Repealed. See Disposition Table at beginning of this chapter.

WAC 275-27-500 Adjudicative proceeding. (1) A client, former client, or applicant acting on the applicant's own behalf or through an authorized representative has the right to an adjudicative proceeding to contest the following department actions:

- (a) Denial or termination of eligibility set forth in WAC 275-27-030;
- (b) Development or modification of the individual service plan set forth in WAC 275-27-060;
- (c) Authorization, denial, reduction, or termination of services set forth in WAC 275-27-230;
- (d) Admission or readmission to, or discharge from, a residential habilitation center;
- (e) A claim the client, former client, or applicant owes an overpayment debt;
- (f) A decision of the secretary under RCW 71A.10.060 or 71A.10.070;
- (g) A decision to change a client's placement from one category of residential services to a different category of residential services.

(2) Adjudicative proceedings are governed by the Administrative Procedure Act (chapter 34.05 RCW), RCW 71A.10.050, the rules in this chapter, and by chapter 388-08 WAC. If any provision in this chapter

conflicts with chapter 388-08 WAC, the provision in this chapter shall govern.

(3) The applicant's application for an adjudicative proceeding shall be in writing and filed with the DSHS office of appeals within twenty-eight days of receipt of the decision the appellant wishes to contest.

(4) The department shall not implement the following actions while an adjudicative proceeding is pending:

- (a) Termination of eligibility;
- (b) Reduction or termination of service, except when the action to reduce or terminate the service is based on the availability of funding and/or service; or
- (c) Removal or transfer of a client from a service, except when a condition in subsection (5)(f) of this section is present.

(5) The department shall implement the following actions while an adjudicative proceeding is pending:

- (a) Denial of eligibility;
- (b) Development or modification of an individual service plan;
- (c) Denial of service;
- (d) Reduction or termination of service when the action to reduce or terminate the service is based on the availability of funding or service;

(e) After notification of an administrative law judge's (or review judge) ruling that the appellant has caused an unreasonable delay in the proceedings; or

(f) Removal or transfer of a client from a service when:

(i) An immediate threat to the client's life or health is present;

(ii) The client's service provider is no longer able to provide services due to:

- (A) Termination of the provider's contract;
- (B) Decertification of the provider;
- (C) Nonrenewal of provider's contract;
- (D) Revocation of provider's license; or
- (E) Emergency license suspension.

(iii) The client, the parent when the client is a minor, or the guardian when the client is an adult, approves the decision.

(6) When the appellant files an application to contest a decision to return a resident of a state residential school to the community, the procedures specified in RCW 71A.10.050(2) shall govern the proceeding. These procedures include:

(a) A placement decision shall not be implemented during any period during which an appeal can be taken or while an appeal is pending and undecided unless the:

(i) Client's or the client's representative gives written consent; or

(ii) Administrative law judge (or review judge) after notice to the parties rules the appellant has caused an unreasonable delay in the proceedings.

(b) The burden of proof is on the department; and

(c) The burden of proof is whether the specific placement proposed by the department is in the best interests of the resident.

(7) The initial order shall be made within sixty days of the department's receipt of the application for an adjudicative proceeding. When a party files a petition for

administrative review, the review order shall be made within sixty days of the department's receipt of the petition. The decision-rendering time is extended by as many days as the proceeding is continued on motion by, or with the assent of, the appellant.

[Statutory Authority: RCW 71A.16.020, 91-17-005 (Order 3230), § 275-27-500, filed 8/9/91, effective 9/9/91. Statutory Authority: RCW 34.05.220 (1)(a) and 71.12.030 [71A.12.030]. 90-04-074 (Order 2997), § 275-27-500, filed 2/5/90, effective 3/1/90. Statutory Authority: RCW 71.20.070, 86-18-049 (Order 2418), § 275-27-500, filed 8/29/86. Statutory Authority: RCW 72.33.161, 84-15-038 (Order 2122), § 275-27-500, filed 7/13/84. Statutory Authority: RCW 72.01.090, 72.33.040, 72.33.125 and 72.33.165, 78-04-033 (Order 1280), § 275-27-500, filed 3/16/78; Order 1143, § 275-27-500, filed 8/11/76.]

WAC 275-27-820 Community alternatives program (CAP)--Services. (1) The department may authorize the following services under 42 CFR Part 435 as specified in the ISP:

(a) Case management services, including intake, eligibility determination, assessment of need, service coordination, service authorization, placement and case monitoring;

(b) Habilitation services, including instruction, support, and supervision in developing a person's physical skills, personal care, social and community integration skills;

(c) Family support for an eligible person needing support and supervision which the person's family cannot provide; and

(d) Other community-based services.

(2) The department cost of a person's services under CAP shall not exceed one hundred percent of the cost of care in an ICF/MR.

(3) The division shall review CAP eligibility under 42 CFR Part 435 on forms specified by the division director.

[Statutory Authority: RCW 71A.16.020, 91-17-005 (Order 3230), § 275-27-820, filed 8/9/91, effective 9/9/91. Statutory Authority: RCW 71.20.020, 84-07-018 (Order 2086), § 275-27-820, filed 3/14/84.]

Chapter 275-36 WAC

GROUP HOMES FOR THE MENTALLY AND PHYSICALLY HANDICAPPED

WAC

275-36-010 through 275-36-310 Repealed.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

275-36-010 Definitions. [Statutory Authority: RCW 72.33.850, 83-06-013 (Order 1950), § 275-36-010, filed 2/23/83; Order 1070, § 275-36-010, filed 11/21/75; Order 8, § 275-36-010, filed 9/25/69.] Repealed by 91-17-005 (Order 3230), filed 8/9/91, effective 9/9/91. Statutory Authority: RCW 71A.12.080.

275-36-020 Approval and certification of group homes. [Statutory Authority: RCW 72.33.850, 83-06-013 (Order 1950), § 275-36-020, filed 2/23/83; Order 1070, § 275-36-020, filed 11/21/75; Order 8, § 275-36-020, filed 9/25/69.] Repealed by 91-17-005 (Order 3230), filed 8/9/91, effective 9/9/91. Statutory Authority: RCW 71A.12.080.

275-36-030 Certification of group homes. [Statutory Authority: RCW 72.33.850, 83-06-013 (Order 1950), § 275-36-030, filed 2/23/83; Order 1070, § 275-36-030, filed 11/21/75; Order 8, § 275-36-030, filed 9/25/69.] Repealed by 91-17-005 (Order 3230), filed 8/9/91, effective 9/9/91. Statutory Authority: RCW 71A.12.080.

275-36-040 Provisional initial certification or interim renewal certification. [Statutory Authority: RCW 72.33.850, 83-06-013 (Order 1950), § 275-36-040, filed 2/23/83; Order 1070, § 275-36-040, filed 11/21/75; Order 8, § 275-36-040, filed 9/25/69.] Repealed by 91-17-005 (Order 3230), filed 8/9/91, effective 9/9/91. Statutory Authority: RCW 71A.12.080.

275-36-050 Eligibility for placement in group home. [Order 1070, § 275-36-050, filed 11/21/75; Order 8, § 275-36-050, filed 9/25/69.] Repealed by 91-17-005 (Order 3230), filed 8/9/91, effective 9/9/91. Statutory Authority: RCW 71A.12.080.

275-36-061 Supervision. [Statutory Authority: RCW 72.33.850, 83-06-013 (Order 1950), § 275-36-061, filed 2/23/83; Order 1070, § 275-36-061, filed 11/21/75. Formerly WAC 275-36-080.] Repealed by 91-17-005 (Order 3230), filed 8/9/91, effective 9/9/91. Statutory Authority: RCW 71A.12.080.

275-36-065 Investigation of complaints. [Statutory Authority: RCW 72.33.850, 83-06-013 (Order 1950), § 275-36-065, filed 2/23/83.] Repealed by 91-17-005 (Order 3230), filed 8/9/91, effective 9/9/91. Statutory Authority: RCW 71A.12.080.

275-36-071 Payment for service. [Statutory Authority: RCW 72.33.850, 83-06-013 (Order 1950), § 275-36-071, filed 2/23/83; Order 1070, § 275-36-071, filed 11/21/75. Formerly WAC 275-36-090.] Repealed by 91-17-005 (Order 3230), filed 8/9/91, effective 9/9/91. Statutory Authority: RCW 71A.12.080.

275-36-081 Resident remuneration. [Statutory Authority: RCW 72.33.850, 83-06-013 (Order 1950), § 275-36-081, filed 2/23/83; Order 1070, § 275-36-081, filed 11/21/75. Formerly WAC 275-36-100.] Repealed by 91-17-005 (Order 3230), filed 8/9/91, effective 9/9/91. Statutory Authority: RCW 71A.12.080.

275-36-091 Group home administration. [Statutory Authority: RCW 72.33.850, 83-06-013 (Order 1950), § 275-36-091, filed 2/23/83; Order 1070, § 275-36-091, filed 11/21/75.] Repealed by 91-17-005 (Order 3230), filed 8/9/91, effective 9/9/91. Statutory Authority: RCW 71A.12.080.

275-36-101 Personnel. [Statutory Authority: RCW 72.33.850, 83-06-013 (Order 1950), § 275-36-101, filed 2/23/83; Order 1070, § 275-36-101, filed 11/21/75.] Repealed by 91-17-005 (Order 3230), filed 8/9/91, effective 9/9/91. Statutory Authority: RCW 71A.12.080.

275-36-110 Staffing. [Statutory Authority: RCW 72.33.850, 83-06-013 (Order 1950), § 275-36-110, filed 2/23/83; Order 1070, § 275-36-110, filed 11/21/75.] Repealed by 91-17-005 (Order 3230), filed 8/9/91, effective 9/9/91. Statutory Authority: RCW 71A.12.080.

275-36-120 Staff ratios. [Statutory Authority: RCW 72.33.850, 83-06-013 (Order 1950), § 275-36-120, filed 2/23/83; Order 1070, § 275-36-120, filed 11/21/75.] Repealed by 91-17-005 (Order 3230), filed 8/9/91, effective 9/9/91. Statutory Authority: RCW 71A.12.080.

275-36-130 Inservice staff training. [Statutory Authority: RCW 72.33.850, 83-06-013 (Order 1950), § 275-36-130, filed 2/23/83; Order 1070, § 275-36-130, filed 11/21/75.] Repealed by 91-17-005 (Order 3230), filed 8/9/91, effective 9/9/91. Statutory Authority: RCW 71A.12.080.

275-36-140 Resident records. [Statutory Authority: RCW 72.33.850, 83-06-013 (Order 1950), § 275-36-140, filed 2/23/83; Order 1070, § 275-36-140, filed 11/21/75.] Repealed by 91-17-005 (Order 3230),

- filed 8/9/91, effective 9/9/91. Statutory Authority: RCW 71A.12.080.
- 275-36-150 Personal care and hygiene. [Statutory Authority: RCW 72.33.850. 83-06-013 (Order 1950), § 275-36-150, filed 2/23/83; Order 1070, § 275-36-150, filed 11/21/75.] Repealed by 91-17-005 (Order 3230), filed 8/9/91, effective 9/9/91. Statutory Authority: RCW 71A.12.080.
- 275-36-153 First aid services. [Statutory Authority: RCW 72.33.850. 83-06-013 (Order 1950), § 275-36-153, filed 2/23/83.] Repealed by 91-17-005 (Order 3230), filed 8/9/91, effective 9/9/91. Statutory Authority: RCW 71A.12.080.
- 275-36-160 Transportation. [Statutory Authority: RCW 72.33.850. 83-06-013 (Order 1950), § 275-36-160, filed 2/23/83; Order 1070, § 275-36-160, filed 11/21/75.] Repealed by 91-17-005 (Order 3230), filed 8/9/91, effective 9/9/91. Statutory Authority: RCW 71A.12.080.
- 275-36-170 Individual service plan. [Statutory Authority: RCW 72.33.850. 83-06-013 (Order 1950), § 275-36-170, filed 2/23/83; Order 1070, § 275-36-170, filed 11/21/75.] Repealed by 91-17-005 (Order 3230), filed 8/9/91, effective 9/9/91. Statutory Authority: RCW 71A.12.080.
- 275-36-180 Group home service plan. [Statutory Authority: RCW 72.33.850. 83-06-013 (Order 1950), § 275-36-180, filed 2/23/83; Order 1070, § 275-36-180, filed 11/21/75. Formerly WAC 275-36-070.] Repealed by 91-17-005 (Order 3230), filed 8/9/91, effective 9/9/91. Statutory Authority: RCW 71A.12.080.
- 275-36-190 Educational and vocational training. [Statutory Authority: RCW 72.33.850. 83-06-013 (Order 1950), § 275-36-190, filed 2/23/83; Order 1070, § 275-36-190, filed 11/21/75.] Repealed by 91-17-005 (Order 3230), filed 8/9/91, effective 9/9/91. Statutory Authority: RCW 71A.12.080.
- 275-36-200 Family involvement. [Order 1070, § 275-36-200, filed 11/21/75.] Repealed by 91-17-005 (Order 3230), filed 8/9/91, effective 9/9/91. Statutory Authority: RCW 71A.12.080.
- 275-36-211 Group home set-up cost. [Statutory Authority: RCW 72.33.850. 83-06-013 (Order 1950), § 275-36-211, filed 2/23/83.] Repealed by 91-17-005 (Order 3230), filed 8/9/91, effective 9/9/91. Statutory Authority: RCW 71A.12.080.
- 275-36-260 Change of ownership. [Statutory Authority: RCW 72.33.850. 83-06-013 (Order 1950), § 275-36-260, filed 2/23/83.] Repealed by 91-17-005 (Order 3230), filed 8/9/91, effective 9/9/91. Statutory Authority: RCW 71A.12.080.
- 275-36-270 Accounting procedures for resident trust accounts. [Statutory Authority: RCW 72.33.850. 83-06-013 (Order 1950), § 275-36-270, filed 2/23/83.] Repealed by 91-17-005 (Order 3230), filed 8/9/91, effective 9/9/91. Statutory Authority: RCW 71A.12.080.
- 275-36-275 Trust moneys—Imprest fund. [Statutory Authority: RCW 72.33.850. 83-06-013 (Order 1950), § 275-36-275, filed 2/23/83.] Repealed by 91-17-005 (Order 3230), filed 8/9/91, effective 9/9/91. Statutory Authority: RCW 71A.12.080.
- 275-36-280 Trust moneys control or disbursement. [Statutory Authority: RCW 72.33.850. 83-06-013 (Order 1950), § 275-36-280, filed 2/23/83.] Repealed by 91-17-005 (Order 3230), filed 8/9/91, effective 9/9/91. Statutory Authority: RCW 71A.12.080.
- 275-36-285 Trust moneys availability. [Statutory Authority: RCW 72.33.850. 83-06-013 (Order 1950), § 275-36-285, filed 2/23/83.] Repealed by 91-17-005 (Order 3230), filed 8/9/91, effective 9/9/91. Statutory Authority: RCW 71A.12.080.
- 275-36-290 Accounting upon change of ownership. [Statutory Authority: RCW 72.33.850. 83-06-013 (Order 1950), § 275-36-290, filed 2/23/83.] Repealed by 91-17-005 (Order 3230), filed 8/9/91, effective 9/9/91. Statutory Authority: RCW 71A.12.080.
- 275-36-295 Procedure for refunding or transferring trust funds. [Statutory Authority: RCW 72.33.850. 83-06-013 (Order 1950), § 275-36-295, filed 2/23/83.] Repealed by 91-17-005 (Order 3230), filed 8/9/91, effective 9/9/91. Statutory Authority: RCW 71A.12.080.
- 275-36-300 Liquidation of trust funds. [Statutory Authority: RCW 72.33.850. 83-06-013 (Order 1950), § 275-36-300, filed 2/23/83.] Repealed by 91-17-005 (Order 3230), filed 8/9/91, effective 9/9/91. Statutory Authority: RCW 71A.12.080.
- 275-36-305 Resident property records. [Statutory Authority: RCW 72.33.850. 83-06-013 (Order 1950), § 275-36-305, filed 2/23/83.] Repealed by 91-17-005 (Order 3230), filed 8/9/91, effective 9/9/91. Statutory Authority: RCW 71A.12.080.
- 275-36-310 Administrative review conference—Adjudicative proceeding. [Statutory Authority: RCW 34.05.220 (1)(a) and 71.12.030 [71A.12.030]. 90-04-074 (Order 2997), § 275-36-310, filed 2/5/90, effective 3/1/90. Statutory Authority: RCW 72.33.850. 83-06-013 (Order 1950), § 275-36-310, filed 2/23/83.] Repealed by 91-17-005 (Order 3230), filed 8/9/91, effective 9/9/91. Statutory Authority: RCW 71A.12.080.

WAC 275-36-010 through 275-36-310 Repealed.
See Disposition Table at beginning of this chapter.

Chapter 275-38 WAC ICF/MR PROGRAM AND REIMBURSEMENT SYSTEM

WAC

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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 275-38-007 IMR facilities. [Statutory Authority: RCW 74.09.120. 82-16-080 (Order 1853), § 275-38-007, filed 8/3/82.] Repealed by 91-17-005 (Order 3230), filed 8/9/91, effective 9/9/91. Statutory Authority: RCW 74.09.120 and 71A.20.140.
- 275-38-040 Classification of IMR residents. [Statutory Authority: RCW 74.09.120. 82-16-080 (Order 1853), § 275-38-040, filed 8/3/82.] Repealed by 91-17-005 (Order 3230), filed 8/9/91, effective 9/9/91. Statutory Authority: RCW 74.09.120 and 71A.20.140.

WAC 275-38-001 Terms—Definitions. Unless the context clearly requires otherwise, the following terms shall have the meaning set forth in this section when used in this chapter.

(1) "Accrual method of accounting" means a method of accounting where revenues are reported in the period when earned, regardless of when collected, and expenses

are reported in the period incurred, regardless of when paid.

(2) "Active treatment" means "active treatment" as defined under 42 CFR 483.440(a) including implementation of an individual program plan for each client as outlined under 42 CFR 483.440 (c) through (f).

(3) "Administration and management" means activities employed to maintain, control, and evaluate the efforts and resources of a facility or organization for the accomplishment of the objectives and policies of that facility or organization.

(4) "Admission" means entering and being authorized to receive services from a state-certified facility.

(5) "Allowable costs" are described under WAC 275-38-680.

(6) "Appraisal" means the process of establishing the fair market value or reconstruction of the historical cost of an asset acquired in a past period as performed by a person professionally designated either by the American Institute of Real Estate Appraisers as a member, appraisal institute (MAI), or by the Society of Real Estate Appraisers as a senior real estate analyst (SREA) or a senior real property appraiser (SRPA). The process includes a systematic, analytic determination, the recording and analyzing of property facts, rights, investments, and values based on a personal inspection and inventory of the property.

(7) "Arm's-length transaction" means a transaction resulting from good-faith bargaining between a buyer and seller who have adverse positions in the market place. Sales or exchanges of ICF/MR or nursing home facilities among two or more parties where all parties subsequently continue to own one or more of the facilities involved in the transaction shall not be considered arm's-length transactions. Sale of an ICF/MR facility which is subsequently leased back to the seller within five years of the date of sale shall not be considered an arm's-length transaction for purposes of chapter 275-38 WAC.

(8) "Assets" means economic resources of the contractor, recognized, and measured in conformity with accounting principles. Assets also include deferred charges which are not resources, but recognized and measured in accordance with accounting principles. The value of assets acquired in a change of ownership entered into after September 30, 1984, shall not exceed the acquisition cost of the owner of record as of July 18, 1984.

(9) "Bad debts" means amounts considered uncollectable from accounts and notes receivable.

(10) "Beds" means unless otherwise specified, the number of set-up beds in the ICF/MR facility, not exceeding the number of licensed beds.

(11) "Beneficial owner" means any person:

(a) Directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise has or shares:

(i) Voting power including the power to vote, or to direct the voting of such ownership interest; and/or

(ii) Investment power including the power to dispose, or to direct the disposition of such ownership interest.

(b) Directly or indirectly, who 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 to the same person 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 (5) of this section, with 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) Under the power to revoke a trust, discretionary account, or similar arrangement; or

(iv) Under the automatic termination of a trust, discretionary account, or similar arrangement.

Except, any person acquiring an ownership interest or power specified in subsection (11)(c)(i), (ii), or (iii) of this section shall be deemed the beneficial owner of the ownership interest acquired through the exercise or conversion of such ownership interest or power;

(d) Who 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 except under the following conditions:

(i) The pledgee shall take all formal steps necessary and be required to:

(A) Declare a default and determine the power to vote; or

(B) Direct the vote; or

(C) Dispose or direct the disposition of how such pledged ownership interest will be exercised.

(ii) The pledge agreement is bona fide and was not entered into with the purpose nor with the effect of changing or influencing the control of the contractor, nor in connection with any transaction having such purpose or effect, including any transaction with persons who meet the conditions set forth in subsection (11)(b) of this section; and

(iii) The pledge agreement, before default, does not grant to the pledgee the power to:

(A) Vote or direct the vote of the pledged ownership interest; or

(B) Dispose or direct the disposition of the pledged ownership interest, other than the grant of such power or powers under a pledge agreement where credit is extended and where the pledgee is a broker or dealer.

(12) "Boarding home" means any home or other institution licensed in accordance with chapter 18.20 RCW.

(13) "Capitalization" means the recording of an expenditure as an asset.

(14) "Capitalized lease" means a lease required to be recorded as an asset and associated liability in accordance with generally accepted accounting principles.

(15) "Cash method of accounting" means a method of accounting where revenues are recognized only when

cash is received, and expenditures are expensed, and asset items are not recorded until cash is disbursed.

(16) "Change of ownership" means a change in the individual or legal organization responsible for the daily operation of an ICF/MR facility.

(a) Events changing ownership include but are not limited to:

(i) The form of legal organization of the owner is changed, such as a sole proprietor forms a partnership or corporation;

(ii) Title to the ICF/MR enterprise is transferred by the contractor to another party;

(iii) The ICF/MR facility is leased, or an existing lease is terminated;

(iv) Where the contractor is a partnership, any event occurring dissolving the partnership;

(v) Where the contractor is a corporation, the corporation is dissolved, merges with another corporation which is the survivor, or consolidates with one or more other corporations to form a new corporation.

(b) Ownership does not change when the following occurs:

(i) A party contracts with the contractor to manage the enterprise as the contractor's agent, that is, 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.

(17) "Charity allowances" means reductions in charges made by the contractor because of the indigence or medical indigence of a resident.

(18) "Client or person" means a person the division determines, under RCW 71A.16.040 and WAC 275-27-026, eligible for division-funded services.

(19) "Consent" means the process through which a person's agreement is obtained for procedures and for taking actions affecting that person.

(20) "Contract" means a contract between the department and a contractor for the delivery of ICF/MR services to eligible Medicaid recipients.

(21) "Contractor" means an entity contracting with the department to deliver ICF/MR services to eligible Medicaid recipients.

(22) "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.

(23) "Custody" means immediate physical attendance, shelter, and supervision of a person for purposes of the person's care and welfare.

(24) "DDD" means the division of developmental disabilities of the department.

(25) "Department" means the department of social and health services (DSHS) and its employees.

(26) "Depreciation" means the systematic distribution of the cost or other base of a tangible asset, less any salvage, over the estimated useful life of the asset.

(27) "Discharge" means the resident's leaving the residential facility and the facility's relinquishment of

responsibilities acquired by reason of the acceptance for admission of the resident.

(28) "Donated asset" means an asset the contractor acquired without making any payment in the form of cash, property, or services. An asset is not a donated asset if the contractor made even a nominal payment in acquiring the asset. An asset purchased using donated funds is not a donated asset.

(29) "Entity" means an individual, partnership, corporation, public institution established by law, or any other association of individuals, capable of entering enforceable contracts.

(30) "Equity capital" means total tangible and other assets necessary, ordinary, and related to resident 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.

(31) "Exemption" means the department's approval of a written request for an exception to a rule in this chapter.

(32) "Facility" means a residential setting certified as an ICF/MR by the department in accordance with federal regulations. A state facility is a state-owned and operated residential habilitation center or a state-operated living alternative (SOLA). A nonstate facility is a residential setting licensed in accordance with chapter 18.51 RCW as a nursing home or chapter 18.20 RCW as a boarding home.

(33) "Fair market value" means the price the asset would have been purchased for 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.

(34) "Financial statements" means statements prepared and presented in conformity with accounting principles and this chapter including, but not limited to, balance sheet, statements of operations, statements of changes in financial position, and related notes.

(35) "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.

(36) "Funded capacity" for a state facility means the number of beds on file with the office of financial management by the first day of each biennium for operation during each ensuing fiscal year.

(37) "Generally accepted accounting principles" means accounting principles currently approved by the financial accounting standard board (FASB).

(38) "Generally accepted auditing standards" means auditing standards approved by the American Institute of Certified Public Accountants (AICPA).

(39) "Goodwill" means the excess of the price paid for a business over the fair market value of all other identifiable, tangible, and intangible assets acquired. "Goodwill" also means the excess of the price paid for an asset over fair market value.

(40) "Habilitative services" means those services required by the individual habilitation plan provided or directed by qualified therapists.

(41) "Harmful" means situations when the individual is at immediate risk of serious bodily harm.

(42) "Historical cost" means the actual cost incurred in acquiring and preparing an asset for use, including feasibility studies, architects' fees, and engineering studies.

(43) "Imprest fund" means a fund:

(a) That is regularly replenished in exactly the amount expended from the fund[; and]

[(b) In which the cash and expended receipts always equal a predetermined amount].

(44) "ICF/MR" means a facility certified as an intermediate care facility for the mentally retarded by Title XIX to provide services to the mentally retarded or persons with related conditions.

(45) "Interest" means the cost incurred for the use of borrowed funds, generally paid at fixed intervals by the user.

(46) "Joint facility costs" means any costs representing expenses incurred benefiting more than one facility, or one facility and any other entity.

(47) "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 under 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.

(48) "Medicaid program" means the state medical assistance program provided under RCW 74.09.500 or authorized state medical services.

(49) "Medical assistance recipient" means an individual determined eligible for medical assistance by the department for the services provided in chapter 74.09 RCW.

(50) "Modified accrual method of accounting" means a method of accounting in which revenues are recognized only when cash is received, and expenses are reported in the period in which incurred, regardless of when paid.

(51) "Net book value" means the historical cost of an asset less accumulated depreciation.

(52) "Nonallowable costs" means costs not allowed under WAC 275-38-680.

(53) "Nonrestricted funds" means donated funds not restricted to a specific use by the donor, for example, general operating funds.

(54) "Nursing home" means a home, place, or institution, licensed in accordance with chapter 18.51 RCW, where skilled nursing, intermediate care, and ICF/MR services are delivered.

(55) "Operating lease" means a lease under which rental or lease expenses are included in current expenses in accordance with accounting principles.

(56) "Owner" means a sole proprietor, general or limited partner, or beneficial interest holder of five percent or more of a corporation's outstanding stock.

(57) "Ownership interest" means all interests beneficially owned by a person, calculated in the aggregate, regardless of the form such beneficial ownership takes.

(58) "Per diem (per resident day) costs" means total allowable costs for a fiscal period divided by total resident days for the same period.

(59) "Prospective daily payment rate" means the daily amount the department assigns to each contractor for providing services to ICF/MR residents. The rate is used to compute the maximum participation of the department in the contractor's costs.

(60) "Qualified mental retardation professional (QMRP)" means QMRP as defined under 42 CFR 483.430(a).

(61) "Qualified therapist" means any of the following:

(a) An activities specialist having specialized education, training, or experience as specified by the department;

(b) An audiologist eligible for a certificate of clinical competence in audiology or having the equivalent education and clinical experience;

(c) A dental hygienist as defined by chapter 18.29 RCW;

(d) A dietitian: Eligible for registration by the American Dietetic Association under requirements in effect on January 17, 1974; or having a baccalaureate degree with major studies in food and nutrition, dietetics, or food service management; having one year supervisory experience in the dietetic service of a health care institution; and participating annually in continuing dietetic education;

(e) An occupational therapist being a graduate of a program in occupational therapy, or having the equivalent of such education or training, and meeting all requirements of state law;

(f) A pharmacist as defined by chapter 18.64 RCW;

(g) A physical therapist as defined by chapter 18.74 RCW;

(h) A physician as defined by chapter 18.71 RCW or an osteopathic physician as defined by chapter 18.57 RCW;

(i) A psychologist as defined by chapter 18.83 RCW;

(j) A qualified mental retardation professional;

(k) A registered nurse as defined by chapter 18.88 RCW;

(l) A social worker who is a graduate of a school of social work.

(m) A speech pathologist eligible for a certificate of clinical competence in speech pathology or having the equivalent education and clinical experience.

(62) "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.

(63) "Regional services" means services of a local office of the division of developmental disabilities.

(64) "Related organization" means an entity which is under common ownership and/or control with, or has control of or is controlled by, the contractor. An entity is deemed to "control" another entity if one entity has a five percent or greater ownership interest in the other, or if an entity has capacity, derived from any financial or other relationship, and whether or not exercised, to influence directly or indirectly the activities of the other.

(65) "Relative" means spouse; natural parent, child, or sibling; adopted child or adoptive parent; stepparent, stepchild, stepbrother, stepsister; father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law; grandparent or grandchild; uncle, aunt, nephew, niece, or cousin.

(66) "Resident day" means a calendar day of resident care. In computing calendar days of care, the day of admission is always counted. The day of discharge is counted only when the resident was admitted on the same day. A person is admitted for purposes of this definition when the person is assigned a bed and a resident record is opened.

(67) "Resident living staff (also known as resident care and training staff)" means staff whose primary responsibility is the care and development of the residents, including:

- (a) Resident activity program;
- (b) Domiciliary services; and
- (c) Habilitative services under the supervision of the QMRP.

(68) "Restricted fund" means a fund where the use of the principal or income is restricted by agreement with or direction by the donor to a specific purpose, in contrast to a fund over which the owner has complete control. These generally fall into three categories:

- (a) Funds restricted by the donor to specific operating purposes;
- (b) Funds restricted by the donor for additions to property, plant, and equipment; and
- (c) Endowment funds.

(69) "Secretary" means the secretary of DSHS.

(70) "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 resident is admitted. Start-up costs include administrative and nursing salaries, utility costs, taxes, insurance, repairs and maintenance, training costs, etc. Start-up costs do not include expenditures for capital assets.

(71) "Superintendent" means the superintendent or the superintendent's designee of a residential habilitation center.

(72) "Title XIX" means the 1965 amendments to the Social Security Act, P.L. 89-07, as amended.

(73) "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.

(74) "Vendor number (also known as provider number)" means a number assigned to each contractor delivering ICF/MR services to ICF/MR Medicaid recipients.

(75) "Working capital" means total current assets necessary, ordinary, and related to resident care as reported in the most recent cost report minus total current liabilities necessary, ordinary, and related to resident care from the most recent cost report.

[Statutory Authority: RCW 74.09.120 and 71A.20.140. 91-17-005 (Order 3230), § 275-38-001, filed 8/9/91, effective 9/9/91. Statutory Authority: RCW 74.09.120. 88-12-087 (Order 2629), § 275-38-001, filed 6/1/88; 85-06-063 (Order 2213), § 275-38-001, filed 3/6/85; 84-19-042 (Order 2150), § 275-38-001, filed 9/17/84; 82-16-080 (Order 1853), § 275-38-001, filed 8/3/82.]

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 275-38-003 Exemptions. (1) The department may approve an exemption to a specific rule in this chapter as defined under WAC 275-38-001(31) provided an:

(a) Assessment of the exemption request ensures granting the exemption shall not undermine the legislative intent of Title 71A RCW; and

(b) Evaluation of the exemption request shows granting the exemption shall not adversely effect the quality of the services, supervision, health, and safety of department-served persons.

(2) Agencies and individual providers shall retain a copy of each department-approved exemption.

[Statutory Authority: RCW 74.09.120 and 71A.20.140. 91-17-005 (Order 3230), § 275-38-003, filed 8/9/91, effective 9/9/91.]

WAC 275-38-005 ICF/MR care. (1) The department has the administrative and legal authority to purchase and provide ICF/MR the services for eligible developmentally disabled persons. The department has the responsibility to assure adequate care, service, and protection are provided through licensing and certification procedures.

(2) This chapter establishes standards for habilitative training, health related care, supervision, and residential services to eligible persons.

(3) Each state and nonstate ICF/MR facility shall be certified as a Title XIX ICF/MR facility.

(4) Each nonstate ICF/MR facility with a certified capacity of sixteen beds or more shall be licensed as a nursing home in accordance with chapter 18.51 RCW.

(5) Each nonstate ICF/MR facility with a certified capacity of fifteen beds or less shall be licensed as a boarding home for the aged in accordance with chapter 18.20 RCW.

(6) Facilities certified to provide ICF/MR services must comply with all applicable federal regulations under Title XIX, Section 1905 of the Social Security Act 42 U.S.C. as amended, and nonstate-operated facilities must comply as well with state regulations governing the licensing of nursing homes or boarding homes for the aged, and other relevant state regulations.

(7) Certified facilities shall admit only developmentally disabled persons as residents.

(8) State facilities may not exceed funded capacity, unless otherwise authorized by the secretary in accord with RCW 71A.20.090.

(9) The sections of this chapter will supersede and replace any and all sections affecting ICF/MR facilities or programs in chapters 388-88 and 388-96 WAC except where specifically referenced in this chapter.

[Statutory Authority: RCW 74.09.120 and 71A.20.140. 91-17-005 (Order 3230), § 275-38-005, filed 8/9/91, effective 9/9/91. Statutory Authority: RCW 74.09.120. 88-12-087 (Order 2629), § 275-38-005, filed 6/1/88; 82-16-080 (Order 1853), § 275-38-005, filed 8/3/82.]

WAC 275-38-007 Repealed. See Disposition Table at beginning of this chapter.

WAC 275-38-040 Repealed. See Disposition Table at beginning of this chapter.

WAC 275-38-045 Minimum staff requirements. Each ICF/MR shall provide staff adequate in numbers and qualifications to meet the needs of the residents.

[Statutory Authority: RCW 74.09.120 and 71A.20.140. 91-17-005 (Order 3230), § 275-38-045, filed 8/9/91, effective 9/9/91. Statutory Authority: RCW 74.09.120. 82-16-080 (Order 1853), § 275-38-045, filed 8/3/82.]

WAC 275-38-050 Placement of client. (1) Placement into an ICF/MR facility is the responsibility of the division of developmental disabilities and shall be accomplished in accordance with the applicable federal and state regulations.

(2) The client's eligibility for ICF/MR services shall be determined by department representatives before payment can be approved, provided a facility may not admit a client requiring services the facility is not able to provide.

[Statutory Authority: RCW 74.09.120 and 71A.20.140. 91-17-005 (Order 3230), § 275-38-050, filed 8/9/91, effective 9/9/91. Statutory Authority: RCW 74.09.120. 82-16-080 (Order 1853), § 275-38-050, filed 8/3/82.]

WAC 275-38-055 Transfer of client--Relocation. (1) The department is responsible for assuring the client's health care and habilitative training needs are identified and met, as provided by state and federal regulations. The department is responsible for assuring each client is placed in a facility certified as capable of meeting the needs of the client. The division's regional services section shall be responsible for authorizing changes in residential services.

(2) A client admitted to a facility may be transferred or discharged only for medical reasons, for the client's welfare, or for the welfare of other residents of the facility. This determination shall be made by the department based on an assessment of the resident, consultation with the service provider, the parent or guardian, and a review of the relevant records.

(3) If the department services provided to a resident are not commensurate with the resident's needs, the department is responsible for initiating and facilitating the

resident's relocation. The department shall consider a resident in a state facility eligible for community residential services when such services appropriately meet the person's individual needs.

A circumstance where the department may enforce immediate movement of a resident from an ICF/MR facility is the revocation or suspension of the ICF/MR certification or license.

(4) The department shall notify, in writing, the resident and resident's guardian, next of kin, or responsible party of the facility's certification or contract status when the:

(a) Department or health care financing administration (HCFA) determines a facility no longer meets certification requirements as an ICF/MR; or

(b) Department determines the facility does not meet contract requirements; or

(c) Facility voluntarily terminates the facility's contract or participation in the ICF/MR program.

(5) When the department determines a resident's relocation is necessary, the department shall give the resident and resident's guardian, next of kin, or responsible party twenty-eight days notice, in writing, of the department's intent to relocate the resident as required under WAC 275-38-060.

(6) When the department determines there is a serious and immediate threat to the resident's health or safety, the department shall not be required to give the resident and resident's guardian, next of kin, or responsible party twenty-eight days notice of the resident's relocation.

(7) Decertification, termination, or nonrenewal of contract actions require a stop payment of Title XIX funds. Such actions do not affect the facility's right to operate as a nursing home or boarding home, but does disqualify the facility from operating as an ICF/MR facility and receiving federal funds.

(8) Grounds for the request by a facility to have a resident relocated or discharged are limited to the following:

(a) Medical reasons;

(b) Resident's welfare;

(c) The welfare of the other residents; or

(d) Nonpayment of services provided to the resident during the resident's stay at the facility.

The facility shall follow the following procedure for resident relocation or discharge:

(i) The facility shall send a request in writing to the department, for relocation or discharge of a resident. The facility's request shall include the grounds for the request and substantiation of concurrence by the interdisciplinary team in the development of an appropriate individual habilitation plan;

(ii) The department shall approve or deny the request for relocation or discharge based on an on-site visit with the resident and a review of the resident's records, within fifteen working days following the receipt of the request;

(iii) The facility administrator shall be informed of the department's approval or denial of the request;

(iv) If the facility's request is approved, the department shall notify, in writing, the resident and the resident's guardian, or next-of-kin, or responsible party, of the decision as described under WAC 275-38-060; and

(v) The resident and the department shall be allowed thirty days from the date the resident is notified of relocation or discharge by the department in order to facilitate relocation.

(e) The resident has a right to request relocation and to select the ICF/MR the resident desires for placement. If this selection is available and appropriate to the habilitation and health care needs of the resident, the department shall make all reasonable attempts to accomplish relocation. If the relocation or ICF/MR selection is not appropriate or available, the resident may make another selection.

(i) The resident or the resident's guardian shall request such a move in writing.

(ii) The division of developmental disabilities shall be responsible for arranging the resident's relocation.

[Statutory Authority: RCW 74.09.120 and 71A.20.140, 91-17-005 (Order 3230), § 275-38-055, filed 8/9/91, effective 9/9/91. Statutory Authority: RCW 74.09.120, 82-16-080 (Order 1853), § 275-38-055, filed 8/3/82.]

WAC 275-38-060 Resident rights--Relocation re-determination of eligibility. (1) Except in the cases specified in WAC 275-38-060 [(2)][(3)], the resident, and the resident's guardian, next-of-kin, or responsible party of the resident shall be informed in writing twenty-eight days before any relocation or redetermination of eligibility for ICF/MR services to ensure orderly transfer or discharge. Such resident's notice shall include:

(a) The grounds for the proposed eligibility change and/or transfer;

(b) A statement that the resident or any other individual designated by the resident has a right to a conference with a division of developmental disabilities representative within twenty-eight days of receipt of the notice;

(c) The right to request a fair hearing within twenty-eight days of the notice to contest the department's decision;

(d) The method by which a fair hearing may be obtained;

(e) The right to be represented at the fair hearing by an authorized representative;

(f) The existence and locations of available legal services in the community.

(2) The department shall send a fair hearing request form with the notice of relocation and/or redetermination of eligibility for ICF/MR services.

(a) If the resident requests a fair hearing within the twenty-eight day time period, the department shall not redetermine eligibility or transfer the resident pending fair hearing decision or appeal rights, unless such action is warranted by the health or safety needs of the resident.

(b) If the secretary or the secretary's designee finds the redetermination of eligibility is not appropriate, further action shall not be taken to redetermine eligibility

or transfer the resident, unless there is a change in the situation or circumstances at which time the request may be resubmitted.

(c) If the secretary or the secretary's designee affirms the determination to change the resident's eligibility for services and/or transfer, and no judicial review is filed within twenty-eight days of the receipt of notice of determination, the department shall proceed with the planned action.

(d) If the secretary or secretary's designee affirms the determination to change the resident's eligibility for ICF/MR services or transfer and a request for judicial review has been filed, any proposed redetermination of eligibility or transfer shall be delayed pending the outcome of the process, unless such action is warranted by the health or safety needs of the resident.

(3) Advance notice is not required:

(a) If the resident or the resident's guardian requests a transfer in writing and waives the right to a period notice; or

(b) In the event of an immediate threat to the resident's life or health, or life or health of others.

(4) Advance notice and planning shall not include a right to a fair hearing for a resident when the department judges the facility where the resident resides is not able to provide Title XIX services due to:

(a) Termination of the facility's contract;

(b) Decertification of the facility;

(c) Nonrenewal of the facility's contract;

(d) Revocation of the facility's license; or

(e) Emergency license suspension.

[Statutory Authority: RCW 74.09.120 and 71A.20.140, 91-17-005 (Order 3230), § 275-38-060, filed 8/9/91, effective 9/9/91. Statutory Authority: RCW 74.09.120, 82-16-080 (Order 1853), § 275-38-060, filed 8/3/82.]

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 275-38-065 Transfer or discharge planning. The division of developmental disabilities (DDD) shall prepare a suitable written discharge or transfer plan for each resident to be transferred or discharged. DDD's plan shall include the location of available settings providing the appropriate services consistent with the needs of the resident. The plan shall include:

(1) Coordination of communication between the staffs of the old and new facilities;

(2) Pretransfer visit, when the resident's condition permits, to the new facility, familiarizing the resident with the new surroundings, and other residents;

(3) Coordination of active participation by the resident's guardian or family in the transfer preparation;

(4) Coordination with staffs of the old and new facilities to discuss expectations and provide consultation on request; and

(5) Posttransfer follow-up by the division of developmental disabilities to monitor the effects of the change.

[Statutory Authority: RCW 74.09.120 and 71A.20.140, 91-17-005 (Order 3230), § 275-38-065, filed 8/9/91, effective 9/9/91. Statutory

Authority: RCW 74.09.120. 82-16-080 (Order 1853), § 275-38-065, filed 8/3/82.]

WAC 275-38-075 Discharge, readmission, and incident reporting. (1) A certified ICF/MR facility having an ICF/MR contract with the department shall contact the regional services office, division of developmental disabilities giving immediate notification of unauthorized leave, disappearance, serious accident, or other traumatic incident effecting a resident or the resident's health or welfare.

(2) The department shall require discharge and readmission for residents admitted as hospital inpatients.

[Statutory Authority: RCW 74.09.120 and 71A.20.140. 91-17-005 (Order 3230), § 275-38-075, filed 8/9/91, effective 9/9/91. Statutory Authority: RCW 74.09.120. 82-16-080 (Order 1853), § 275-38-075, filed 8/3/82.]

WAC 275-38-090 Superintendent's limited authority to hold. (1) When a superintendent, acting on behalf of the secretary, receives information that a resident intends to voluntarily discharge himself or herself from the programs and services of the residential habilitation center (RHC), the superintendent shall determine if such a departure would be harmful to the resident.

(2) If, in the superintendent's judgment, the resident's departure is harmful to the resident, the superintendent may hold the resident until the danger passes, not to exceed forty-eight hours. The superintendent may refer the resident to a mental health professional as described under RCW 71.05.150.

(3) When the superintendent detains an RHC resident as required under this section, the superintendent or the superintendent's designee shall give notification of such hold to the resident and the legal representative of the resident as provided under RCW 71A.10.070. If the legal representative is not available, the superintendent shall also notify one or more persons in the following order of priority:

(a) A parent of a person with a developmental disability eighteen years of age or older;

(b) Other kin of the person with a developmental disability with a preference to persons with closest kinship;

(c) The Washington protection and advocacy agency for the rights of a person with a developmental disability, appointed in compliance with 42 USC section 6042; or

(d) A person who is not an employee of the department nor a contractor under this title nor an employee of such contractor who, in the opinion of the superintendent is concerned with the person's welfare.

(4) This section shall not prohibit the superintendent of an RHC from notifying:

(a) A mental health professional;

(b) Local law enforcement;

(c) Adult protective services;

(d) Child protective services; or

(e) Other agencies as appropriate.

(5) At the end of the forty-eight-hour hold, the superintendent shall not continue to detain a resident.

(6) If the provisions of the section are invoked a second time within six months, the superintendent or superintendent's designee shall make a referral to a mental health professional within eight hours. In this situation, the resident may only be held until the mental health professional:

(a) Investigates and evaluates the specific facts surrounding the situation; and

(b) Determines the further detention of the resident in accord with RCW 71.05.150.

(7) This section shall not prohibit the superintendent of an RHC or designee from allowing a resident to leave the center for prescribed periods under such conditions as may be appropriate for the resident's habilitation or care.

(8) When a resident has voluntarily left the programs and services of the RHC, under the provision of this section, except as provided in subsection (7), the superintendent shall initiate discharge proceeding.

[Statutory Authority: RCW 74.09.120 and 71A.20.140. 91-17-005 (Order 3230), § 275-38-090, filed 8/9/91, effective 9/9/91.]

Chapter 275-41 WAC

WORK PROGRAMS FOR RESIDENTS OF RESIDENTIAL HABILITATION CENTERS IN THE DIVISION OF DEVELOPMENTAL DISABILITIES

WAC

275-41-005	Purpose.
275-41-010	Definition.
275-41-015	Establishment of new work programs.
275-41-020	Protection of residents.
275-41-025	Compensation for persons participating in work programs.

WAC 275-41-005 Purpose. The regulations provide guidelines for the operation of work programs at residential habilitation centers or for programs contracted on behalf of residents of residential habilitation centers within the division of developmental disabilities as required under RCW 43.20A.445.

[Statutory Authority: RCW 71A.20.060. 91-17-005 (Order 3230), § 275-41-005, filed 8/9/91, effective 9/9/91.]

WAC 275-41-010 Definition. (1) "Compensate" means the resident's receipt of money for work done at a work program.

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

(3) "Division" means the developmental disabilities division of the department of social and health services.

(4) "Prevailing wage" means the amount paid to a nondisabled worker in a nearby industry or surrounding community for essentially the same type, quality, and quantity of work or work requiring comparable skills.

(5) "Residential habilitation center (RHC)" means a residential habilitation center operated by the developmental disabilities division.

(6) "Work program" means a directed vocational activity or series of related activities provided on a systematic, organized basis for developing and maintaining

individual resident work skills, and providing remuneration to resident employees. Work programs must result in:

- (a) Benefit to the economy of the facility; or
- (b) A contribution to the facility's maintenance; or
- (c) Produce articles or services for sale.

[Statutory Authority: RCW 71A.20.060. 91-17-005 (Order 3230), § 275-41-010, filed 8/9/91, effective 9/9/91.]

WAC 275-41-015 Establishment of new work programs. The requirements of RCW 43.20A.445 shall be followed before the department establishes new residential habilitation center work programs.

[Statutory Authority: RCW 71A.20.060. 91-17-005 (Order 3230), § 275-41-015, filed 8/9/91, effective 9/9/91.]

WAC 275-41-020 Protection of residents. (1) When a resident participates in a work program, the resident shall be employed in work and subjected to work conditions where reasonable precautions are taken to ensure the resident's health and safety.

(2) Resident work programs shall be consistent with the resident's individual habilitation plan objectives.

[Statutory Authority: RCW 71A.20.060. 91-17-005 (Order 3230), § 275-41-020, filed 8/9/91, effective 9/9/91.]

WAC 275-41-025 Compensation for persons participating in work programs. (1) The department shall compensate a person participating in a work program at the prevailing minimum wage except when an appropriate certificate has been obtained by the RHC or contract program in accordance with current regulations and guidelines issued under the Fair Labor Standards Act (29 CFR Ch. V, 525 and 529) as amended.

(2) The department shall not be required to compensate a person participating in the shared domiciliary activities of maintaining the person's own immediate household or residence.

[Statutory Authority: RCW 71A.20.060. 91-17-005 (Order 3230), § 275-41-025, filed 8/9/91, effective 9/9/91.]

Chapter 275-54 WAC

JUVENILE INVOLUNTARY TREATMENT

WAC	
275-54-160	Requirements for certifying evaluation and treatment components for minors.
275-54-190	Emergency component.
275-54-200	Inpatient component.
275-54-290	Patient rights.

WAC 275-54-160 Requirements for certifying evaluation and treatment components for minors. (1) Each county or Regional Support Network shall develop and coordinate an evaluation and treatment program consistent with chapter 354, Laws of 1985 and chapter 71.24 RCW. Such program shall include, but is not limited to components of outpatient services, emergency services, and short-term inpatient services. The county or Regional Support Network may provide one or more of

these components directly. The county or Regional Support Network may also contract or have a written agreement with one or more agencies to provide each component in its entirety. Component or components obtained on this basis from an agency or agencies shall be subject to all applicable provisions of these rules and of chapter 354, Laws of 1985. The county or Regional Support Network will maintain coordination responsibility over the program.

Any contract or agreement between county or Regional Support Network and agencies, or between two or more agencies, shall be required to comply with the standards for evaluation and treatment components. In addition, each contract or agreement shall indicate the department will consider those standards in the department's site visit and certification procedure as directed by WAC 275-54-210.

(2) In addition to the responsibilities specified, the following shall be required of the county or Regional Support Network or of such individual designated by the county as administrator of the evaluation and treatment program to:

(a) Identify, recommend to the department for certification, and coordinate the various facilities and components of the evaluation and treatment program;

(b) Assist the department in ensuring facilities and components are in compliance with all applicable rules and regulations set forth in chapter 354, Laws of 1985 and this chapter; and

(c) Make periodic reviews of a certified component consistent with county procedures.

(3) Any agency desiring certification of a component or components in order to become an evaluation and treatment facility shall make application for such to the county or Regional Support Network administrator of the evaluation and treatment program.

(4) The department is responsible for certifying each component of an agency desiring to become an evaluation and treatment facility. Upon formal request of the county-designated administrator of the evaluation and treatment program, the department may:

(a) Inspect and evaluate the applicant agency's component or components for certification in accordance with the provisions of WAC 275-54-210.

(b) Conduct on-site visits for the purposes of certification including, where possible, the county or Regional Support Network administrator of the evaluation and treatment program as part of the site visit team.

(5) All facilities shall be recognized elements of the county or Regional Support Network mental health plan. The plan shall list the agencies for which certification is requested and the components to be provided by each. The plan shall also specify the method whereby components will be coordinated when more than one agency provides evaluation and treatment services, and the method whereby the services of the facility will be coordinated with other elements of the mental health program.

[Statutory Authority: RCW 71.34.800. 91-16-060 (Order 3221), § 275-54-160, filed 8/1/91, effective 9/1/91. Statutory Authority: 1985 c 354. 86-02-019 (Order 2323), § 275-54-160, filed 12/23/85.]

WAC 275-54-190 Emergency component. (1) The emergency component is defined as a public or private agency or hospital having the capacity to detain an individual posing an imminent threat to the safety and/or well-being of self, or others, or is gravely disabled.

(2) The department may upon the formal request of the county or Regional Support Network accept a hospital licensed under WAC 246-318-280 or 246-322 as a certified emergency component for an evaluation and treatment program, in lieu of requiring a hospital to meet the requirements set forth by WAC 275-54-170, 275-54-200, and 275-54-210.

(3) In addition to the general requirements stated in WAC 275-54-170, the following requirements shall apply to all emergency components. Such component shall:

(a) Be available twenty-four-hours-per-day, seven-days-per-week;

(b) Follow a written protocol for detaining an individual and contacting the county designated mental health professional;

(c) Provide or have access to medical services;

(d) Have a written agreement with a certified short-term inpatient component for admission on a seven-day-per-week, twenty-four-hour-per-day basis; and

(e) Follow a written protocol for transporting individuals to short-term inpatient components.

[Statutory Authority: RCW 71.34.800. 91-16-060 (Order 3221), § 275-54-190, filed 8/1/91, effective 9/1/91. Statutory Authority: RCW 34.04.020. 87-19-070 (Order 2535), § 275-54-190, filed 9/16/87. Statutory Authority: 1985 c 354. 86-02-019 (Order 2323), § 275-54-190, filed 12/23/85.]

WAC 275-54-200 Inpatient component. (1) The inpatient component is a hospital or residential setting where treatment services are provided on a twenty-four-hour-per-day basis for individuals on seventy-two-hour detentions, or fourteen-day commitments, or one hundred eighty-day commitments.

(2) The department may accept a hospital licensed under WAC 246-318-280 or 246-322 as a certified short-term inpatient component for an evaluation and treatment program, in lieu of requiring a hospital to meet the requirements set forth by WAC 275-54-170, 275-54-200, and 275-54-210.

(3) In addition to the general requirements stated in WAC 275-54-170, the following requirements shall apply to all inpatient components:

(a) The inpatient component shall meet the standards required for state licensing as a skilled nursing facility, intermediate care facility, or residential treatment facility;

(b) Such component shall have the capability to admit the individual on a twenty-four-hour-per-day, seven-day-per-week basis;

(c) Such component shall not deny admission except under the following circumstances:

(i) After a psychosocial evaluation, there is a determination by a mental health professional that the individual does not present a likelihood of serious harm, or an imminent likelihood of serious harm, or the individual is not gravely disabled, and does not require inpatient

care. Reference RCW 71.34.170 for necessary action in this case;

(ii) The individual requires specialized medical care and support services of a type not provided by the facility;

(iii) A greater degree of control is required than can be provided by the facility;

(iv) Treatment space is not available and is so documented;

(v) A less restrictive alternative provided by another facility is more appropriate and available; and

(vi) For situations arising under subsection (3)(c)(i) through (iv) of this section, the county or Regional Support Network-designated mental health professional shall make arrangements for the most appropriate placement available.

(d) Such component shall within twenty-four hours of initial detention, to include Saturday, Sunday, and holidays, conduct evaluations to determine the nature of the disorder, the treatment necessary, and whether or not detention is required. Such evaluations shall include at least a:

(i) Medical evaluation by a licensed physician; and

(ii) Psychosocial evaluation by a mental health professional.

(e) Such component shall have the capability to detain individuals dangerous to self, others, or gravely disabled, and shall provide or have access to at least one seclusion room meeting the requirements of WAC 248-18-001;

(f) Such component shall provide therapeutic services including generally accepted treatment modalities such as:

(i) Individual therapy;

(ii) Family therapy; and

(iii) Medication management.

(g) Such component shall provide treatment to each individual under the supervision of the professional person in charge;

(h) A mental health professional must have contact with each involuntary patient daily for the purpose of observation, evaluation, and the provision of continuity of treatment; and

(i) Such component shall have access to a mental health professional and a licensed physician for consultation and communication with the individual and the component staff on a twenty-four-hour-per-day, seven-day-per-week basis.

[Statutory Authority: RCW 71.34.800. 91-16-060 (Order 3221), § 275-54-200, filed 8/1/91, effective 9/1/91. Statutory Authority: RCW 34.04.020. 87-19-070 (Order 2535), § 275-54-200, filed 9/16/87. Statutory Authority: 1985 c 354. 86-02-019 (Order 2323), § 275-54-200, filed 12/23/85.]

WAC 275-54-290 Patient rights. Absent a risk to self or others, minors treated under this chapter have the following rights, which shall be prominently posted in the evaluation and treatment facility:

(1) To wear their own clothes and to keep and use personal possessions;

(2) To keep and be allowed to spend a reasonable sum of their own money for canteen expenses and small purchases;

(3) To have individual storage space for private use;

(4) To have visitors at reasonable times;

(5) To have reasonable access to a telephone, both to make and receive confidential calls;

(6) To have ready access to letter-writing materials, including stamps, and to send and receive uncensored correspondence through the mail;

(7) To discuss treatment plans and decisions with mental health professionals;

(8) To have the right to adequate care and individualized treatment;

(9) Not to consent to the administration of antipsychotic medications or the performance of electroconvulsive treatment or surgery, unless the procedures below are followed:

(a) Emergency life-saving surgery may be performed; however, nonemergency surgery may only be provided involuntarily upon an order of the court or upon the approval of the parent;

(b) Antipsychotic medications may be administered when an emergency exists, provided there is a review of this decision by a nonattending physician within twenty-four hours. An emergency exists if:

(i) The patient presents an imminent likelihood of serious harm to self or others; and

(ii) Medically acceptable alternatives to administration or antipsychotic medications are not available or are unlikely to be successful; and

(iii) In the opinion of the physician, the patient's condition constitutes an emergency requiring that treatment be instituted before obtaining a second opinion by a nonattending physician.

(c) Antipsychotic medications may be administered involuntarily for up to thirty days if a nonattending physician concurs with the treating physician's decision to medicate. Thereafter, antipsychotic medications may be administered involuntarily only upon an order of the court;

(d) Electronconvulsive [Electroconvulsive] treatment may be administered involuntarily upon an order of the court;

(e) In any court proceeding the minor must be present and represented by counsel, and the court shall appoint a psychiatrist, psychologist, or physician designated by the minor or the minor's counsel to testify on behalf of the minor. The minor's parent may exercise this right on the minor's behalf, and must be informed of any impending treatment;

(10) Not to have psychosurgery performed on the minor under any circumstances.

[Statutory Authority: 1991 c 105. 91-21-025 (Order 3265), § 275-54-290, filed 10/8/91, effective 11/8/91. Statutory Authority: 1985 c 354. 86-02-019 (Order 2323), § 275-54-290, filed 12/23/85.]

Chapter 275-55 WAC

VOLUNTARY ADMISSION--INVOLUNTARY COMMITMENT, TREATMENT AND/OR EVALUATION OF MENTALLY ILL PERSONS

WAC

275-55-115	Transfer of a patient between state-operated facilities for persons with mental illness.
275-55-241	Rights of patient.
275-55-261	Requirements for certifying evaluation and treatment components.
275-55-281	Emergency component.
275-55-291	Short-term inpatient component.

WAC 275-55-115 Transfer of a patient between state-operated facilities for persons with mental illness. In some instances, it is appropriate for the department to transfer a patient currently residing in a state facility to another state facility for ongoing treatment. The department shall accomplish the transfer with the utmost care given to the therapeutic needs of the patient. This section describes the procedures for handling a patient transfer between state facilities in a manner consistent with the best interest of the patient.

(1) The department may use the following criteria when determining the appropriateness of a patient transfer:

(a) The patient's family resides within the receiving facility's catchment area; or

(b) The patient's primary home of residence is in the receiving facility's catchment area; or

(c) A particular service or need of the patient is better met at the receiving facility; or

(d) Transfer to the receiving facility may facilitate community discharge due to the availability of community service in the receiving facility's catchment area; or

(e) The county, regional support network, or patient requests a transfer.

(2) Prior to any proposed transfer of a patient, the state facility shall comply with the following:

(a) The sending facility, at the request of the superintendent, shall in writing forward information necessary to make a decision on whether transfer is appropriate to the receiving facility's liaison and the regional support network liaison;

(b) The receiving facility's and regional support network designated liaisons shall recommend appropriate action to the superintendent of the sending facility in writing within five calendar days of receipt of the transfer request;

(c) If the receiving facility accepts the proposed patient transfer, the sending facility shall notify the patient, guardian, regional support network liaison, and attorney, if known, at least five days before the proposed patient transfer;

(d) The sending facility is responsible for all patient transfer arrangements, e.g., transportation, staff escort, etc., and shall coordinate the day and time of arrival with the receiving facility's liaison; and

(e) The sending facility shall arrange for the transfer of patient's medical record to the receiving facility.

(3) The sending state facility shall document the following in the patient's record:

(a) Physician documentation of the medical suitability of the patient for transfer; and

(b) Social worker documentation regarding:

(i) Justification as to why the transfer is considered in the patient's best interests; and

(ii) The patient's wishes regarding transfer.

(4) If a transfer is proposed for a court-ordered patient, the sending facility shall contact the prosecuting attorney's office for persons committed for up to fourteen days or the attorney general's office for persons committed for ninety or hundred eighty days to determine if legal action is necessary prior to the transfer.

[Statutory Authority: RCW 74.05.560 [71.05.560], 91-22-044 (Order 3275), § 275-55-115, filed 10/31/91, effective 12/1/91. Statutory Authority: RCW 71.05.560, 88-23-021 (Order 2724), § 275-55-115, filed 11/7/88.]

WAC 275-55-241 Rights of patient. Any agency, facility, or component providing services defined in this chapter to persons with a mental disorder shall not withhold from any patient the following rights. The facility shall prominently post a list of such rights within the department or ward where such person is housed if the person is an inpatient or receiving services from an emergency component. Outpatient facilities or components shall prominently post a list of such rights drawn from the following as are appropriate to an outpatient facility or component and such list shall be posted within the reception area. The agency, facility, or component shall ensure, unless an imminent danger to the person or others would result, each patient shall have the rights listed in subsection (1)(a), (j), (l), (p), (2)(a), (b), (3)(a), (c), (d), (f), and (g) of this section.

(1) Rights of all patients. All patients shall have the right:

(a) Not to be restrained from sending written communications of the fact of the patient's detention, commitment, or admission. The facility, director, or the facility's designee shall mail such written communication to the person to whom addressed;

(b) To adequate care and individualized treatment;

(c) To make an informed decision regarding the use of antipsychotic medication. Documentation shall be entered in the medical record of the physician's attempt to obtain informed consent and the reasons why antipsychotic medication is being administered over the patient's objection or lack of consent. The physician may administer antipsychotic medications over the patient's objection or lack of consent:

(i) When an emergency exists, provided there is a review of this decision by a nonattending physician within twenty-four hours. An emergency exists if:

(A) The patient presents an imminent likelihood of serious harm to self or others; and

(B) Medically acceptable alternatives to administration of antipsychotic medications are not available or are unlikely to be successful; and

(C) In the opinion of the physician, the patient's condition constitutes an emergency requiring that treatment

be instituted before obtaining a second opinion by a nonattending physician.

(ii) For up to thirty days, provided there is an additional concurring opinion by a nonattending physician;

(iii) For continued treatment beyond thirty days through the hearing on any one hundred eighty-day petition filed under RCW 71.05.370(7), provided the facility medical director or director's medical designee reviews the decision to medicate a patient. The review shall occur at least every sixty days:

(A) The examining physician shall sign all one hundred eighty-day petitions for antipsychotic medications filed under the authority of RCW 71.05.370(7);

(B) Persons committed for one hundred eighty days who refuse or lack the capacity to consent to antipsychotic medications have the right to a court hearing under RCW 71.05.370(7) prior to the involuntary administration of antipsychotic medications. In an emergency, antipsychotic medications may be administered prior to the court hearing provided that an examining physician must file a petition for a antipsychotic medication order the next judicial day.

(iv) All involuntary medication orders shall be consistent with the provisions of RCW 71.05.370 (7)(a) and (b), whether ordered by a physician or the court;

(d) To wear the patient's own clothes and to keep and use the patient's own personal possessions, except when deprivation of same is essential to the protection and safety of the patient or other persons;

(e) [Of] [To] keep and be allowed to spend a reasonable sum of the patient's own money;

(f) To access to individual storage space for the patient's own private use;

(g) To have visitors at reasonable times;

(h) To have reasonable access to a telephone, both to make and receive confidential calls;

(i) To have ready access to letter writing material, including stamps, and to send and receive uncensored correspondence through the mails;

(j) Not to consent to the performance of electroconvulsive therapy or surgery, except emergency life-saving surgery, upon the patient, and not to have electroconvulsive therapy or nonemergency surgery in such circumstances unless ordered by a court under a judicial hearing where:

(i) The patient is present and represented by counsel; and

(ii) The court appoints a psychiatrist, psychologist, or physician designated by such patient or the patient's counsel to testify on behalf of the patient as described under RCW 71.05.210, 71.05.370, and 71.05.380.

(k) To dispose of property and sign contracts unless the patient has been adjudicated as incompetent in a court proceeding directed to the particular issue;

(l) Not to have psychosurgery performed under any circumstances;

(m) To object to detention or request release through writ of habeas corpus;

(n) To maintain the right to be presumed competent and not lose any civil rights as a consequence of receiving evaluation or treatment for a mental disorder;

(o) Of access to attorneys, courts, and other legal redress;

(p) To have all information and records compiled, obtained, or maintained in the course of receiving services kept confidential, under the provisions of RCW 71.05-.390 through 71.05.420.

(2) All voluntary patients shall have the right to:

(a) Release, unless involuntary commitment proceedings are initiated. Specific patients' rights to release are as follows:

(i) Adult patient, no guardian – Release at request of patient;

(ii) Consenting adult admitted who has a guardian – Release at request of guardian or patient;

(iii) Minor, thirteen years of age or under – Release at request of parent(s), conservator, guardian, or other person entitled to custody;

(iv) Minor, fourteen years of age or over – Release upon request of both minor and the minor's parent(s), conservator, guardian, or other person entitled to custody. If requested by minor only, release on next judicial day.

(b) A review of condition and status at least each one hundred and eighty days as required under RCW 71.05-.050, 71.05.380, and 72.23.070.

(3) All involuntary patients shall:

(a) Unless released within seventy-two hours as defined under WAC 275-55-020(21), have a right to a judicial hearing, as defined, after initial detention to determine whether probable cause exists to detain such patient after seventy-two hours for a further period up to fourteen days;

(b) Have the right to:

(i) Communicate immediately with an attorney and, if indigent, the right to have an attorney appointed to represent the patient before and at such hearing; and

(ii) Be told the name and address of the attorney appointed.

(c) Have the right to remain silent;

(d) Have the right to be told statements the patient makes may be used in the involuntary proceedings;

(e) Have the right to present evidence and to cross-examine witnesses testifying against the patient at the probable cause hearing;

(f) Have the right to refuse medication beginning twenty-four hours before any court proceeding wherein the patient has the right to attend and which bears upon the continued commitment of the patient;

(g) When taken into custody by a peace officer and then placed in a facility without prior authorization by the county-designated mental health professional, the involuntary patient shall be:

(i) Examined by a mental health professional within three hours of the patient's arrival; and

(ii) Released within twelve hours unless the county-designated mental health professional files a supplemental petition for initial detention and the detained person receives a copy as described under RCW 71.05.150(5).

[Statutory Authority: 1991 c 105. 91-21-025 (Order 3265), § 275-55-241, filed 10/8/91, effective 11/8/91. Statutory Authority: RCW 71.05.560. 82-07-024 (Order 1775), § 275-55-241, filed 3/11/82.]

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 275-55-261 Requirements for certifying evaluation and treatment components. (1) Each county or Regional Support Network shall develop and coordinate an evaluation and treatment program consistent with chapters 71.05 and 71.24 RCW. Such program shall include, but is not limited to, components of outpatient services, emergency services, and short-term inpatient services. The county or Regional Support Network may provide one or more of these components directly. The county or Regional Support Network may also contract or have a written agreement with one or more agencies to provide each component in its entirety. Component(s) obtained on this basis from an agency or agencies shall be subject to all applicable provisions of this chapter and chapter 71.05 RCW. The county or Regional Support Network shall maintain coordination responsibility over the program.

Any contract or agreement between county or Regional Support Network and agencies, or between two or more agencies, shall be required to comply with the standards for evaluation and treatment components, WAC 275-55-263. In addition, each contract or agreement shall indicate the department will consider those standards in the department's site visit and certification procedure as directed by WAC 275-55-293.

(2) In addition to the responsibilities specified, the following shall be required of the county or Regional Support Network or of such individual designated by the county as administrator of the evaluation and treatment program to:

(a) Identify, recommend to the department for certification, and coordinate the various facilities and components of the evaluation and treatment program;

(b) Assist the department in ensuring facilities and components are in compliance with all applicable rules and regulations set forth in chapter 71.05 RCW and this chapter;

(c) Make periodic reviews of a certified component consistent with county procedures.

(3) Any agency desiring certification of a component or components in order to become an evaluation and treatment facility, shall make application for such to the county or Regional Support Network administrator of the evaluation and treatment program.

(4) The department is responsible for certifying each component of an agency desiring to become an evaluation and treatment facility. Upon formal request of the county or Regional Support Network administrator of the evaluation and treatment program, the department may:

(a) Inspect and evaluate the applicant agency's component or components for certification in accordance with the provisions of WAC 275-55-293.

(b) Conduct on-site visits for the purposes of certification including, where possible, the county or Regional Support Network administrator of the evaluation and treatment program as part of the site visit team.

(5) All facilities shall be recognized elements of the county or Regional Support Network mental health plan. The plan shall list the agencies for which certification is requested, and the components to be provided by each. The plan shall also specify the method whereby components will be coordinated when more than one agency provides evaluation and treatment services, and the method whereby the services of the facility will be coordinated with other elements of the county or Regional Support Network mental health program. (Reference RCW 71.24.130)

[Statutory Authority: RCW 74.05.560. 91-16-061 (Order 3222), § 275-55-261, filed 8/1/91, effective 9/1/91. Statutory Authority: RCW 71.05.560. 82-07-024 (Order 1775), § 275-55-261, filed 3/11/82.]

WAC 275-55-281 Emergency component. (1) The emergency component is defined as a public or private agency or hospital having the capacity to detain an individual posing an imminent threat to the safety and/or well-being of self or others, or is gravely disabled.

(2) The department may upon the formal request of the county or Regional Support Network, accept a hospital licensed under WAC 246-318-280 or 246-322 as a certified emergency component for an evaluation and treatment program, in lieu of requiring a hospital to meet the requirements set forth by WAC 275-55-263, 275-55-281, and 275-55-293.

(3) In addition to the general requirements stated in WAC 275-55-263(2), the following requirements shall apply to all emergency components. Such components shall:

(a) Be available seven-days-per-week, twenty-four-hours-per-day;

(b) Follow a written protocol for detaining an individual and contacting the county or Regional Support Network designated mental health professional;

(c) Provide or have access to medical services;

(d) Have a written agreement with a certified short-term inpatient component for admission on a seven-day-per-week, twenty-four-hour-per-day basis; and

(e) Follow a written protocol for transporting individuals to short-term inpatient components or state hospitals.

[Statutory Authority: RCW 74.05.560. 91-16-061 (Order 3222), § 275-55-281, filed 8/1/91, effective 9/1/91. Statutory Authority: RCW 34.04.020. 87-19-071 (Order 2536), § 275-55-281, filed 9/16/87. Statutory Authority: RCW 71.05.560. 84-03-035 (Order 2065), § 275-55-281, filed 1/13/84; 82-07-024 (Order 1775), § 275-55-281, filed 3/11/82.]

WAC 275-55-291 Short-term inpatient component.

(1) The inpatient component is a hospital or residential setting where treatment services are provided on a twenty-four-hour-per-day basis for individuals on seventy-two hour detentions or fourteen-day commitments.

(2) The department may accept a hospital licensed under WAC 246-318-280 or 246-322 as a certified

short-term inpatient component for an evaluation and treatment program, in lieu of requiring a hospital to meet the requirements set forth by WAC 275-55-263, 275-55-291, and 275-55-293.

(3) In addition to the general requirements stated in WAC 275-55-263(2), the following requirements shall apply to all inpatient components:

(a) The inpatient component shall meet the standards required for state licensing as a skilled nursing facility, intermediate care facility, or residential treatment facility;

(b) Such component shall have the capability to admit the individual on a twenty-four-hour-per-day, seven-day-per-week basis;

(c) Such component shall not deny admission except under the following circumstances:

(i) After a psychosocial evaluation, there is a determination by a mental health professional that the individual does not present a likelihood of serious harm, or an imminent likelihood of serious harm, or the individual is not gravely disabled, and does not require inpatient care. Reference RCW 71.05.190 for necessary action in this case;

(ii) The individual requires specialized medical care and support services of a type not provided by the facility;

(iii) A greater degree of control is required than can be provided by the facility;

(iv) Treatment space is not available and is so documented;

(v) A less restrictive alternative provided by another facility is more appropriate and available; and

(vi) For situations arising under subsection (3)(c)(i) through (iv) of this section, the county or Regional Support Network-designated mental health professional shall make arrangements for the most appropriate placement available.

(d) Such component shall within twenty-four hours of initial detention, to include Saturday, Sunday, and holidays, conduct evaluations to determine the nature of the disorder, the treatment necessary, and whether or not detention is required. Such evaluations shall include at least a:

(i) Medical evaluation by a licensed physician; and

(ii) Psychosocial evaluation by a mental health professional.

(e) Such component shall have the capability to detain persons dangerous to self, others, or gravely disabled, and shall provide or have access to at least one seclusion room meeting the requirements of WAC 248-18-001(65);

(f) Such component shall provide therapeutic services including generally accepted treatment modalities such as:

(i) Individual therapy; and

(ii) Medication management.

(g) Such component shall provide treatment to each individual under the supervision of the professional person in charge;

(h) A mental health professional must have contact with each involuntary patient daily for the purpose of

observation, evaluation, and the provision of continuity of treatment; and

(i) Such component shall have access to a mental health professional and a licensed physician for consultation and communication with the individual and the component staff on a twenty-four-hour-per-day, seven-day-per-week basis.

[Statutory Authority: RCW 74.05.560. 91-16-061 (Order 3222), § 275-55-291, filed 8/1/91, effective 9/1/91. Statutory Authority: RCW 34.04.020. 87-19-071 (Order 2536), § 275-55-291, filed 9/16/87. Statutory Authority: RCW 71.05.560. 84-03-035 (Order 2065), § 275-55-291, filed 1/13/84; 82-07-024 (Order 1775), § 275-55-291, filed 3/11/82.]

Chapter 275-59 WAC

CRIMINALLY INSANE PERSON COMMITTED TO THE CARE OF THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--EVALUATION, PLACEMENT, CARE AND DISCHARGE

WAC

- 275-59-041 Schedule of maximum payment for defendant expert or professional person.
275-59-071 Transfer of a patient between state-operated facilities for persons with mental illness.

WAC 275-59-041 Schedule of maximum payment for defendant expert or professional person. Department payments to an expert or professional person for department services an indigent person receives shall not exceed:

- (1) One hundred dollars an hour for services; or
- (2) Eight hundred dollars total payment for services.

The department shall only approve an exception to this section ruling when the exception is approved, in writing, by the division director. The department shall only approve payment for one mental health examination per indigent person in each six month period.

[Statutory Authority: RCW 72.01.090. 91-24-045 (Order 3298), § 275-59-041, filed 11/27/91, effective 1/1/92; 79-03-038 (Order 1373), § 275-59-041, filed 3/1/79.]

WAC 275-59-071 Transfer of a patient between state-operated facilities for persons with mental illness. In some instances, it is appropriate for the department to transfer a patient currently residing in a state facility to another state facility for ongoing treatment. The department shall accomplish the transfer with the utmost care given to the therapeutic needs of the patient. This section describes the procedures for handling a patient transfer between state facilities in a manner consistent with the best interest of the patient.

(1) The department may use the following criteria when determining the appropriateness of a patient transfer:

- (a) The patient's family resides within the receiving facility's catchment area; or
- (b) The patient's primary home of residence is in the receiving facility's catchment area; or
- (c) A particular service or need of the patient is better met at the receiving facility; or

(d) Transfer to the receiving facility may facilitate community discharge due to the availability of community service in the receiving facility's catchment area; or

(e) The county, regional support network, or patient requests a transfer.

(2) Prior to any proposed transfer of a patient, the state facility shall comply with the following:

(a) The sending facility, at the request of the superintendent, shall in writing forward information necessary to make a decision on whether transfer is appropriate to the receiving facility's liaison and the regional support network liaison;

(b) The receiving facility's liaison and the regional support network liaison shall recommend appropriate action to the superintendent of the sending facility in writing within five calendar days of receipt of the request;

(c) If the receiving facility accepts the proposed patient transfer, the sending facility shall notify the patient, guardian, regional support network liaison, and attorney, if known, at least five days before the proposed patient transfer;

(d) The sending facility is responsible for all patient transfer arrangements, e.g., transportation, staff escort, etc., and shall coordinate the day and time of arrival with the receiving facility's liaison; and

(e) The sending facility shall arrange for the transfer of patient's medical record to the receiving facility.

(3) The sending state facility shall document the following in the patient's record:

(a) Physician documentation of the medical suitability of the patient for transfer; and

(b) Social worker documentation regarding:

(i) Justification as to why the transfer is considered in the patient's best interests; and

(ii) The patient's wishes regarding transfer.

(4) The sending facility shall contact the prosecuting attorney's office of the committing county prior to the transfer.

[Statutory Authority: RCW 74.05.560 [71.05.560]. 91-22-044 (Order 3275), § 275-59-071, filed 10/31/91, effective 12/1/91. Statutory Authority: RCW 71.05.560. 88-23-021 (Order 2724), § 275-59-071, filed 11/7/88.]

Chapter 275-156 WAC

CIVIL COMMITMENT COST REIMBURSEMENT

WAC

- 275-156-005 Purpose.
275-156-010 Definitions.
275-156-015 Limitation of funds.
275-156-020 Maximum allowable reimbursement for law enforcement cost.
275-156-025 Billing procedure.
275-156-030 Exceptions.
275-156-035 Effective date.
275-156-040 Audits.

WAC 275-156-005 Purpose. These rules establish the standards and procedures for reimbursing counties

for the cost incurred during civil commitment trial, annual evaluation, and review processes and release procedures related to chapter 71.09 RCW. The department's reimbursement to counties is limited to appropriated funds.

[Statutory Authority: RCW 43.20A.050. 91-21-027 (Order 3263), § 275-156-005, filed 10/8/91, effective 11/8/91.]

WAC 275-156-010 Definitions. (1) "Attorney cost" means the fully documented prosecutorial and defense fee directly related to the violent sexual predator civil commitment process. Said fee includes the cost of paralegal services.

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

(3) "Evaluation by expert cost" means a county-incurred service fee as the result of a comprehensive examination of a person:

- (a) Alleged to be a "sexually violent predator"; and
- (b) Who has had a petition filed.

(4) "Incremental cost" means county-incurred efforts or costs that are not otherwise covered and are exclusively attributable to the trial of a person alleged to be a "sexually violent predator."

(5) "Judicial cost" means the costs a county incurs as the result of filing a petition for the civil commitment of a person alleged to be a "sexually violent predator" under chapter 71.09 RCW. This cost is limited to fees for judges which shall include court clerk and bailiff services, court reporter services, transcript typing and preparation, expert and non expert witnesses, jury, and jail facilities.

(6) "Law enforcement cost" means a cost incurred by a police agency investigating issues specific to:

- (a) Filing a petition alleging a person is a "sexually violent predator"; or
- (b) A hearing to determine if a person is a "sexually violent predator."

(7) "Medical cost" means a county-incurred extraordinary medical expense beyond the routine services of a jail.

(8) "Secretary" means the secretary of social and health services.

(9) "Transportation cost" means the cost a county incurs when transporting a person alleged to be, or having found to be, a "sexually violent predator," to and from a sexual predator program facility.

[Statutory Authority: RCW 43.20A.050. 91-21-027 (Order 3263), § 275-156-010, filed 10/8/91, effective 11/8/91.]

WAC 275-156-015 Limitation of funds. The department shall:

(1) Reimburse funds to a county when funds are available;

(2) Limit a county's reimbursement to costs of civil commitment trials or hearings as described under this chapter;

(3) Restrict a county's reimbursement to documented law enforcement, expert evaluation, attorney, transportation, judicial, and medical costs;

(4) Not pay a county a cost under the rules of this section and said cost is otherwise reimbursable under law;

(5) Pay a county's claim for a trial or hearing occurring during each biennium in the order in which the claim is received at the department's office of accounting services until the department's biennial appropriation is expended.

[Statutory Authority: RCW 43.20A.050. 91-21-027 (Order 3263), § 275-156-015, filed 10/8/91, effective 11/8/91.]

WAC 275-156-020 Maximum allowable reimbursement for law enforcement cost. The department shall reimburse a county for actual costs incurred during the period July 1, 1990, through June 30, 1992, up to the maximum allowable rate as specified:

(1) Attorney cost - Up to forty-nine dollars and forty-one cents per hour;

(2) Evaluation by expert cost - Up to one hundred dollars per hour, not to exceed more than twenty hours;

(3) Judicial costs:

(a) Judge - Up to forty-six dollars and five cents per hour. These county costs shall include court clerk and bailiff services;

(b) Court reporters - Up to twenty dollars and seventy-one cents per hour;

(c) Transcript typing and preparation services - Up to four dollars and thirteen cents per page;

(d) Expert witnesses - Up to one hundred dollars per hour;

(e) Nonexpert witnesses - Up to thirty-one dollars and thirteen cents per day;

(f) Jury - Thirty-one dollars and thirteen cents per day;

(g) Jail facilities - Thirty dollars per day.

(4) Law enforcement cost - Up to twenty dollars and sixty-six cents per hour;

(5) Medical costs - Up to fifty dollars per day, not to exceed five consecutive days; and

(6) Transportation cost - Up to twenty-six cents per mile, plus the cost of one meal for transporting staff, if transport exceeds eleven consecutive hours.

[Statutory Authority: RCW 43.20A.050. 91-21-027 (Order 3263), § 275-156-020, filed 10/8/91, effective 11/8/91.]

WAC 275-156-025 Billing procedure. (1) When a county requests the department reimburse a county's cost, the county shall:

(a) Make a claim using the state of Washington invoice voucher, Form A 19 1-A; and

(b) Attach to the claim necessary documentation, support, and justification materials.

(2) The department may subject a county's claim documentation to periodic audit at the discretion of the department.

(3) Only an authorized administrator, or the county administrator's designee, may submit to the department a request for a county's cost reimbursement.

(4) A county's reimbursement claim shall contain the name of the person for whom costs were incurred.

(5) A county shall submit a reimbursement claim to the department within thirty days of final costs incurred to assure proper handling of the claim.

(6) When a county submits a reimbursement claim, the county shall submit a reimbursement claim to the department of social and health services, offices of accounting services.

(7) If the department's reimbursement appropriation becomes exhausted before the end of a biennium, a county may continue to make a claim for reimbursement. The department may use the reimbursement claim to justify a request for adequate department funding during future biennia.

[Statutory Authority: RCW 43.20A.050. 91-21-027 (Order 3263), § 275-156-025, filed 10/8/91, effective 11/8/91.]

WAC 275-156-030 Exceptions. (1) The secretary may grant exceptions to the rules of this chapter.

(2) A county seeking an exception shall make the exception request using the DSHS exception request Form, DSHS 05-210(X), and file it with the secretary or secretary's designee.

(3) The department will deny a claim which does not follow the rules of this chapter unless the secretary or secretary designee granted an exception before the claim was filed.

[Statutory Authority: RCW 43.20A.050. 91-21-027 (Order 3263), § 275-156-030, filed 10/8/91, effective 11/8/91.]

WAC 275-156-035 Effective date. When a county submits a reimbursement claim according to this chapter, the claim shall be only for costs incurred as defined in this chapter, on or after July 1, 1990.

[Statutory Authority: RCW 43.20A.050. 91-21-027 (Order 3263), § 275-156-035, filed 10/8/91, effective 11/8/91.]

WAC 275-156-040 Audits. The department may audit county reimbursement claims at the department's discretion.

[Statutory Authority: RCW 43.20A.050. 91-21-027 (Order 3263), § 275-156-040, filed 10/8/91, effective 11/8/91.]

**Title 284 WAC
INSURANCE COMMISSIONER**

Chapters

- 284-02 Description of insurance commissioner's office--Organization operations and obtaining information.
- 284-12 Agents, brokers and adjusters.
- 284-15 Surplus line insurance.
- 284-17 Licensing requirements and procedures.
- 284-23 Washington life insurance regulations.
- 284-30 Trade practices.
- 284-44 Health care services contractors--Agents--Contract formats--Standards.
- 284-46 Health maintenance organizations.
- 284-51 Standards for coordination of benefits.
- 284-91 Health insurance access regulation.

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**Chapter 284-02 WAC
DESCRIPTION OF INSURANCE
COMMISSIONER'S OFFICE--ORGANIZATION
OPERATIONS AND OBTAINING INFORMATION**

WAC	
284-02-020	Organization and operations.
284-02-030	Obtaining service of process over foreign and alien insurers.
284-02-070	Hearings of the insurance commissioner.

WAC 284-02-020 Organization and operations. The insurance commissioner is the head of an agency generally referred to as the insurance commissioner's office, and as such is its chief administrative officer. The commissioner's office consists of three major divisions: Administrative, company supervision, and consumer protection. The commissioner may appoint a chief deputy commissioner who has the same powers as are granted to the commissioner. The commissioner may appoint additional deputy commissioners for such purposes as he may designate (RCW 48.02.090). The commissioner may appoint a chief hearing officer who will have primary responsibility for the conduct of hearings, the procedural matters preliminary thereto, and the preservation of hearing records. The position of chief hearing officer does not report to any of the three major divisions of the commissioner's office.

(1) Administrative division.

(a) Licensing and insurance education. Licenses are issued to individuals, partnerships, and corporations to act as insurance agents, brokers, solicitors, adjusters, and premium finance companies. Insurance education and licensing renewal requirements are the responsibility of this section and the content of continuing education programs is supervised by it.

(b) Taxes, fees, and accounting responsibilities. Taxes and fees imposed by the insurance code are collected and processed by the commissioner.

(i) Both domestic and foreign insurers are taxed on gross premium, pursuant to RCW 48.14.020. Fraternal benefit societies and title insurers are not taxed, as provided in chapters 48.36A and 48.14 RCW, respectively. Surplus line insurance is taxed pursuant to the provisions of RCW 48.15.120. Health care service contractors and health maintenance organizations are not taxed. The current rate of taxation is stated at RCW 48.14.020. Under the retaliatory provisions of RCW 48.14.040, if the laws of another state or country impose any taxes, fees, or other obligations in excess of the rate charged a Washington domestic insurer, a like rate or obligation may be imposed by the commissioner.

(ii) Fees paid by insurers (RCW 48.14.010), health care service contractors (RCW 48.44.040), health maintenance organizations (RCW 48.46.140), and agents, brokers, solicitors, and adjusters (chapter 48.17 RCW) are also collected by the administrative division.

(2) Company supervision division. The deputy commissioner for company supervision supervises admission