

Title 388 WAC
SOCIAL AND HEALTH SERVICES,
DEPARTMENT OF (PUBLIC ASSISTANCE)

Chapters

- 388-11 Child support—Obligations.
- 388-14 Support enforcement.
- 388-15 Social services for families, children and adults.
- 388-21 Diversity initiative.
- 388-24 Aid to families with dependent children—Eligibility.
- 388-28 Aid to families with dependent children and continuing general assistance—Eligibility need.
- 388-29 Standards—Eligibility.
- 388-31 Lifeline telephone assistance program.
- 388-34 Person in institution—Eligibility—Payment.
- 388-37 General assistance—Eligibility—Standards of assistance—Payment.
- 388-40 Alcohol/Drug programs.
- 388-41 Medical audit dispute resolution.
- 388-42 Funeral expense.
- 388-43 Deaf and hard of hearing services.
- 388-47 Job opportunities and basic skills training program.
- 388-49 Food assistance programs.
- 388-51 Job opportunities and basic skills training program child care and other work-related supportive services and transitional child care.
- 388-60 Domestic violence perpetrator program standards.
- 388-62 Repatriated United States citizens—Assistance.
- 388-70 Child welfare services—Foster care—Adoption services—Services to unmarried parents.
- 388-74 Child welfare services—Complaints.
- 388-77A Family independence program expiration.
- 388-81 Medical care—Administration—General.
- 388-82 Medical care—Program described—Limitations.
- 388-83 Medical care—Eligibility.
- 388-84 Medical care—Application.
- 388-86 Medical care—Services provided.
- 388-87 Medical care—Payment.
- 388-88 Medical care—Nursing home care.
- 388-91 Medical care—Drugs.
- 388-92 Medical care for persons receiving benefits under Title XVI of Social Security Act—Eligibility—Income and resource standards for applicants in own home.
- 388-95 Institutional—Medical assistance—Eligibility.
- 388-96 Nursing home accounting and reimbursement system.
- 388-99 Limited casualty program—Medically needy.
- 388-150 Minimum licensing requirements for child day care centers.

- 388-160 Minimum licensing requirements for overnight youth shelters.
- 388-230 General assistance for pregnant women.
- 388-233 General assistance for children.
- 388-235 General assistance unemployable.
- 388-240 Alcohol/Drug programs.
- 388-280 United States (U.S.) repatriate program.
- 388-320 Public records disclosure--Administrative procedures.
- 388-330 Background inquiries.
- 388-538 Managed care.
- 388-539 Acquired human immunodeficiency syndrome insurance program.
- 388-540 Kidney centers.

Chapter 388-11 WAC
CHILD SUPPORT—OBLIGATIONS

WAC

- 388-11-010 Statutory basis.
- 388-11-011 Definitions.
- 388-11-015 Credits allowed—Debt satisfaction.
- 388-11-030 Notice and finding of financial responsibility.
- 388-11-035 Notice and finding of medical responsibility.
- 388-11-045 Service requirements—Tolling.
- 388-11-055 Petition for hearing after twenty days—Stay.
- 388-11-115 Repealed.
- 388-11-120 Default—Vacate.
- 388-11-135 Service.
- 388-11-143 Department review of support orders.
- 388-11-145 Notice to parties.
- 388-11-150 Consent order and agreed settlement.
- 388-11-170 Collection of debts determined.
- 388-11-210 Administrative orders.

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

- 388-11-115 Fraud—Vacation of decision. [Statutory Authority: 1988 c 275. 88-18-031 (Order 2689), § 388-11-115, filed 8/30/88. Statutory Authority: RCW 74.08.090. 81-05-021 (Order 1605), § 388-11-115, filed 2/11/81; 80-01-026 (Order 1465), § 388-11-115, filed 12/14/79.] Repealed by 93-17-060 (Order 3622), filed 8/16/93, effective 9/16/93. Statutory Authority: RCW 74.08.090 and 45 CFR 302-33 (a)(5).

WAC 388-11-010 Statutory basis. RCW 74.20A.055 is the administrative process for establishing support obligations when there is no superior court order and the office of support enforcement has served a notice and finding of financial responsibility on the responsible parent. The department may only serve a notice and finding of financial responsibility on a responsible parent for a support debt or current support obligation established or to be established under RCW 74.20A.057, specifically including cases eligible for nonassistance support enforcement services under WAC 388-14-300.

[Statutory Authority: RCW 74.08.090. 93-05-020 (Order 3512), § 388-11-010, filed 2/10/93, effective 3/13/93. Statutory Authority: 1988 c 275. 88-18-031 (Order 2689), § 388-11-010, filed 8/30/88. Statutory Authority: RCW 74.08.090. 80-01-026 (Order 1465), § 388-11-010, filed 12/14/79; Order 1054, § 388-11-010, filed 9/25/75; Order 875, § 388-11-010, filed 11/16/73.]

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

(1) "Accrued debt" means a debt for the payment of expenses for the reasonable or necessary care, support, and maintenance, including birth costs, of a dependent child owed by a person having signed an affidavit acknowledging paternity which has been filed with the state office of vital statistics.

(2) "Administrative order" means a determination, finding, decree, or order for support issued under RCW 74.20A.055 or by another state agency under a substantially similar administrative process, establishing the existence of a support obligation and ordering the payment of a set or determinable amount of support money to satisfy current support or a support debt. Administrative orders include:

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

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

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

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

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

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

(7) "Current support" or "current and future support" means support money paid to satisfy the support obligation for the present month as opposed to satisfaction of a support debt. Current and future support also means the prospective obligation to make monthly support payments.

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

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

(10) "Dependent child" means a person:

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

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

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

(i) A full-time student; and

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

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

(a) The representation of the existence or nonexistence of a fact;

(b) The representation's materiality;

(c) The representation's falsity;

(d) The speaker's knowledge of the falsity;

(e) The speaker's intent that the representation should be acted on by the person to whom it is made;

(f) Ignorance of the falsity on the part of the person to whom it is made;

(g) The latter's:

(i) Reliance on the truth of the representation;

(ii) Right to rely upon it; and

(iii) Subsequent damage.

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

(13) "Health care costs," for the purpose of:

(a) Establishing support obligations under RCW 74.20A.055 and 74.20A.056 means medical, dental, and optometrical costs and expenses; and

(b) Enforcement action under Titles 26.23, 74.20, and 74.20A RCW, including a notice of support owed and a notice of support debt, means medical, dental, optometrical costs stated as a fixed dollar amount by a support order.

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

(15) "Medical support" means health care costs stated as a fixed dollar amount in a support order and health insurance coverage for a dependent child's benefit.

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

(a) Directly benefiting a dependent child; and

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

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

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

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

(c) Tracing activity as follows:

(i) Checking local telephone directories and attempts by telephone or mail to contact the applicant/recipient, applicant/custodian, relatives of the responsible parent, past or present employers, or the postal authorities;

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

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

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

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

(e) Referral to the attorney general, a prosecuting attorney, the IV-D agency of another state, or the Internal Revenue Service for specific legal or collection action; or

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

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

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

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

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

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

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

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

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

(22) "State" means a state or political subdivision, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico, a federally recognized Indian tribe, or a foreign country.

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

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

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

(24) "Support debt" means:

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

(b) A debt for the payment of expenses for the reasonable or necessary care, support and maintenance, including health care costs as defined in this section, birth costs, child care, special child rearing expenses, and an accrued debt under RCW 74.20A.056, of a dependent child or other person for whom a support obligation is owed;

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

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

(25) "Support money" means money paid to satisfy a support obligation whether named child support, spousal

support, alimony, maintenance, medical support, birth costs, or other money intended to satisfy a support obligation for a person or satisfy wholly or partly a support debt.

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

[Statutory Authority: RCW 74.08.090. 93-05-020 (Order 3512), § 388-11-011, filed 2/10/93, effective 3/13/93. Statutory Authority: 1990 1st ex.s. c 2. 90-20-072 (Order 3081), § 388-11-011, filed 9/28/90, effective 10/29/90. Statutory Authority: 1988 c 275. 88-18-031 (Order 2689), § 388-11-011, filed 8/30/88. Statutory Authority: RCW 74.08.090. 85-23-019 (Order 2304), § 388-11-011, filed 11/13/85; 83-21-014 (Order 2036), § 388-11-011, filed 10/6/83; 81-05-021 (Order 1605), § 388-11-011, filed 2/11/81; 80-01-026 (Order 1465), § 388-11-011, filed 12/14/79.]

WAC 388-11-015 Credits allowed—Debt satisfaction.

(1) After the responsible parent has been advised of the obligation to make payments to the Washington state support registry (WSSR) by service of a notice under WAC 388-11-030, 388-11-032, 388-14-415, or 388-14-435, or by entry of a support order requiring payments to WSSR, the responsible parent may only obtain credit against the parent's support obligation:

(a) By cash, check, electronic funds transfer, or money order payments through WSSR or payment of health insurance premiums; or

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

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

(a) Items are provided before service of the notice on a responsible parent;

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

(c) Items are food, clothing, shelter, or medical attendance directly related to the care, support, and maintenance of a child.

(3) After service of the notice, a parent may only obtain credit against the parent's current support obligation when the responsible parent proves that the payments were made and:

(a) The department determines there:

(i) Is no prejudice to:

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

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

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

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

(4) The department shall not allow credit for shelter payments made before service of the notice in an amount more than the greater of the:

(a) Shelter allocation in the public assistance standards for the period when payments were made; or

(b) One-half of the actual shelter payment.

(5) The department shall not allow credit for shelter payments made after service of the notice.

(6) Effective with benefits paid on or after July 1, 1990, the department shall give credit for disability benefits paid on behalf of the responsible parent's child as a result of the responsible parent's injury or illness, by:

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

(b) The Social Security Administration.

(7) The department shall credit disability payments under subsection (6) of this section:

(a) First against the current support obligation for the month in which the benefit is paid for the dependant child to whom the benefit was paid; and

(b) Second to the responsible parent's support debt for the child and physical custodian to whom the benefit was paid. In crediting the benefit amount against the support debt, the department shall credit:

(i) First against any support debt owned to the nonassistance support enforcement services recipient to whom the benefit was paid; and

(ii) Any remaining benefit amount against the responsible parent's support debt to the department for the dependent child and/or physical custodian to whom the benefit was paid.

(8) A responsible parent must prove payment of these benefits and has no right to:

(a) Reimbursement because of a credit allowed under this subsection;

(b) Credit for benefits actually paid prior to July 1, 1990.

(9) The department shall mail a notice of credit to the custodial parent if the department agrees to credit the responsible parent for disability benefits under this section unless the agreement to credit occurred during a negotiation or an adjudicative proceeding in which the custodial parent was present and a party. The department shall:

(a) Include in the notice the amount of the credit; and

(b) Advise the custodial parent that:

(i) The parent may request an adjudicative proceeding to contest the credit by filing a written application for an adjudicative proceeding with the office of support enforcement within twenty-three days of the date of mailing of the notice; and

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

[Statutory Authority: RCW 74.08.090 and 45 CFR 302-33 (a)(5). 93-17-060 (Order 3622), § 388-11-015, filed 8/16/93, effective 9/16/93. Statutory Authority: 1990 1st ex.s. c 2. 90-20-072 (Order 3081), § 388-11-015, filed 9/28/90, effective 10/29/90. Statutory Authority: 1988 c 275. 88-18-031 (Order 2689), § 388-11-015, filed 8/30/88. Statutory Authority: RCW 74.08.090. 80-01-026 (Order 1465), § 388-11-015, filed 12/14/79; 78-07-015 (Order 1305), § 388-11-015, filed 6/15/78; Order 1054, § 388-11-015, filed 9/25/75.]

WAC 388-11-030 Notice and finding of financial responsibility. (1) The office of support enforcement's (OSE) notice and finding of financial responsibility shall include the:

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

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

(i) Actual income, if known;

(ii) Estimated income, if OSE has:

(A) Incomplete information;

(B) Information based on prevailing wages in the responsible parent's trade or profession; or

(C) Information that is not current.

(iii) Imputed income under RCW 26.19.071(6).

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

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

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

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

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

(d) The responsible parent's employer; and

(e) A statement that:

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

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

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

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

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

[Statutory Authority: RCW 74.08.090 and 45 CFR 302-33 (a)(5). 93-17-060 (Order 3622), § 388-11-030, filed 8/16/93, effective 9/16/93. Statutory Authority: 1990 1st ex.s. c 2. 90-20-072 (Order 3081), § 388-11-030, filed 9/28/90, effective 10/29/90. Statutory Authority: 1988 c 275. 88-18-031 (Order 2689), § 388-11-030, filed 8/30/88. Statutory Authority: RCW 74.08.090. 86-05-009 (Order 2340), § 388-11-030, filed 2/12/86; 80-01-026 (Order 1465), § 388-11-030, filed 12/14/79; 78-07-015 (Order 1305), § 388-11-030, filed 6/15/78; Order 1054, § 388-11-030, filed 9/25/75; Order 875, § 388-11-030, filed 11/16/73.]

WAC 388-11-035 Notice and finding of medical responsibility. (1) The office of support enforcement (OSE) may serve a notice and finding of medical responsibility on the responsible parent when:

(a) The physical custodian or dependent child is receiving or is certified to be eligible to receive medical assistance and is not receiving AFDC benefits;

(b) The physical custodian has chosen medical support enforcement activity only, and has asked OSE in writing not to collect monetary child support; and

(c) There is no court order governing child support.

(2) OSE shall serve the notice and finding of medical responsibility like a summons in a civil action, or by certified mail, return receipt requested.

(3) The department shall include in the notice and finding of medical responsibility:

(a) A statement of the:

(i) Responsible parent's obligation to provide health insurance coverage for the dependant children under WAC 388-11-215;

(ii) Maximum premium amount the responsible parent is obligated to pay; and

(iii) Income basis for the maximum premium amount, based on the basic child support obligation according to the Washington state child support schedule.

(b) Notice that:

(i) OSE is not seeking a cash child support award;

(ii) The physical custodian may seek a cash child support award at any time;

(iii) The responsible parent may request a hearing under subsection (7) of this section;

(iv) The income stated in the notice, or in any subsequent order based on the notice, shall not be binding in any later action to set a cash child support award;

(v) Twenty days from the date of service, the notice and finding of medical responsibility will become an order, and OSE will take direct enforcement action under RCW 26.18.170, if the responsible parent fails to:

(A) Sign an agreed settlement with OSE establishing the obligation to provide medical insurance and authorizing the department to enroll the children in a medical insurance plan when a plan becomes available;

(B) Start a proceeding to contest the notice in superior court; or

(C) Request an adjudicative proceeding under subsection (7) of this section.

(vi) The responsible parent keep OSE informed of the availability of health insurance and of the policy numbers and extent of the health insurance coverage.

(4) OSE shall:

(a) Compute the basic support obligation under chapter 26.19 RCW;

(b) Compute the maximum premium amount under chapter 26.19 RCW; and

(c) Attach worksheets completed through the basic support obligation to the notice and finding of medical responsibility.

(5) The notice and finding of medical responsibility will become an order, and OSE shall take direct enforcement action under RCW 26.18.170, if the responsible parent fails to:

(a) Provide policy information for existing coverage for the dependent children;

(b) Sign an agreed settlement with OSE establishing the obligation and authorizing OSE to enroll the children in a medical insurance plan when a plan becomes available;

(c) Start a proceeding to contest the notice in superior court; or

(d) Request an adjudicative proceeding under subsection (7) of this section, within twenty days of the date OSE serves the notice.

(6) The responsible parent may request an adjudicative proceeding to contest the notice and finding of medical responsibility.

(a) The responsible parent shall:

(i) Request an adjudicative proceeding within twenty days of the date OSE serves the notice and finding of medical responsibility; and

(ii) Make the request in writing, and serve the request on OSE like a summons in a civil action, or by any form of mail requiring a return receipt.

(b) The department shall:

(i) Schedule an adjudicative proceeding to consider the responsible parent's objections to the notice and finding of medical responsibility; and

(ii) Notify the responsible parent and the physical custodian of the time and place of the adjudicative proceeding.

(c) A physical custodian who appears for an adjudicative proceeding shall be allowed to participate. Participation includes:

(i) Giving testimony;

(ii) Presenting evidence;

(iii) Being present for or listening to other evidence in the proceeding; and

(iv) Offering rebuttal to other evidence in the proceeding.

(7) If the responsible parent starts a proceeding in superior court, the responsible parent shall serve OSE and the office of the attorney general with notice of the proceeding.

(8) The responsible parent may petition for a late hearing under WAC 388-11-055.

(9) The responsible parent, the department, or a physical custodian may petition for a prospective modification of the maximum premium amount under WAC 388-11-140.

(10) In any adjudicative proceeding to consider the merits of an objection to a notice and finding of medical responsibility, or a petition for prospective modification of medical responsibility, the presiding officer shall determine:

(a) The basic support obligation, without deviations;

(b) The maximum premium amount under chapter 26.19 RCW and WAC 388-11-215; and

(c) Whether or not any order entered under this subsection by the presiding officer in a prior proceeding should be modified under WAC 388-11-140.

(11) In any adjudicative proceeding under this section, the responsible parent shall show cause why the:

(a) Presiding officer should not enter an order requiring the responsible parent to provide medical support; or

(b) Maximum premium amount is incorrect under RCW 26.09.105.

(12) OSE and the presiding officer shall include in agreed settlements and administrative orders for medical responsibility:

(a) Findings of fact regarding the:

(i) Basic support obligation; and

(ii) Maximum premium amount.

(b) Notice that:

(i) The responsible parent shall:

(A) Keep OSE informed of the availability of health insurance and of the policy numbers and extent of the health insurance coverage;

(B) Enroll the children in a health insurance plan under WAC 388-11-215(2) and (3).

(ii) The department will take direct action under WAC 388-14-480, if the responsible parent fails to comply with WAC 388-11-215, or upon the next open enrollment date if the responsible parent agrees to allow OSE to enroll the children in the health insurance plan.

(c) The name, address, employment information, and social security number of the responsible parent;

(d) Policy information of any health insurance coverage currently in effect, covering the dependent children;

(e) Names, Social Security Number, and dates of birth of the dependent children;

(f) Each parent shall notify OSE of a change in residence address; and

(g) A medical support obligation established under this chapter shall continue until:

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

(ii) Superseded by a superior court order; or

(iii) The child for whom support is assessed reaches the age of majority or is emancipated, unless the child is a full-time student in high school or its vocational equivalent, and is reasonably expected to graduate before turning nineteen years of age, in which case the support obligation will continue until earlier of the child's graduation from high school or the child's nineteenth birthday.

(13) Upon receipt of a request for full support enforcement services, OSE may, at any time before the entry of the initial decision and order, in an adjudicative proceeding requested under subsection (7) of this section, convert the proceeding to a proceeding on a notice and finding of financial responsibility under WAC 388-11-030. To convert the proceeding, OSE shall:

(a) File a copy of the notice and finding of financial responsibility with the presiding officer, and serve the notice on the responsible parent; and

(b) Agree to one continuance, if a party requests additional time to respond to the claim for monetary child support.

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

(15) The administrative law judge shall not require the office of support enforcement to produce or obtain information, documents, or witnesses to assist the responsible parent in proof of defenses to liability. However, this rule shall not apply to relevant, nonconfidential information or documents that the office of support enforcement has in its possession.

[Statutory Authority: RCW 74.08.090 and 45 CFR 302-33 (a)(5). 93-17-060 (Order 3622), § 388-11-035, filed 8/16/93, effective 9/16/93.]

WAC 388-11-045 Service requirements—Tolling.

(1) For support obligations owed for months on or after

September 1, 1979, the department shall exercise reasonable efforts to locate the responsible parent. The department shall serve a notice and finding of financial or parental responsibility within sixty days of the date the state assumes responsibility for the support of a dependent child on whose behalf support is sought. If service is not timely, the department shall lose the right to reimbursement of public assistance payments made after the sixtieth day and before the notice is served. However, the department shall not lose the right to reimbursement of public assistance payments for any period of time:

(a) During which it exercised reasonable efforts to locate the responsible parent; or

(b) For sixty days after the date on which the center for health statistics received an acknowledgement of paternity for the child for whom the state has assumed responsibility, and paternity has not been established.

(2) The department shall not apply this rule to:

(a) Nonassistance cases;

(b) Cases where the residential parent lives out of state;

(c) Cases in which the custodial parent is claiming good cause for not cooperating with the department; and

(d) Cases where parentage is in issue and:

(i) Has not been established by superior court order; or

(ii) Is not the subject of a presumption under RCW 26.26.040 (1)(a) or (e).

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

(4) For support obligations owed for months before September 1, 1979, and for which a final determination was issued on or after September 1, 1979, the department shall exercise reasonable efforts to locate the responsible parent. The department shall serve a notice and finding of financial responsibility within six months of the date the state assumes responsibility for the support of a dependent child on whose behalf support is sought. If service is not timely, the department shall lose the right to reimbursement of public assistance payments made after the sixth month and before the notice is served. However, the department shall:

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

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

(c) Consider a prorated share of each monthly public assistance payment as paid on each day of the month.

[Statutory Authority: RCW 74.08.090. 93-05-020 (Order 3512), § 388-11-045, filed 2/10/93, effective 3/13/93. Statutory Authority: 1988 c 275. 88-18-031 (Order 2689), § 388-11-045, filed 8/30/88. Statutory Authority: RCW 74.08.090. 83-17-007 (Order 1997), § 388-11-045, filed 8/5/83; 80-06-088 (Order 1507), § 388-11-045, filed 5/28/80; 80-01-026 (Order 1465), § 388-11-045, filed 12/14/79.]

WAC 388-11-055 Petition for hearing after twenty days—Stay. (1) Any party expressly entitled to an adjudicative proceeding under provisions of chapters 388-11, 388-13, or 388-14 WAC may, at any time after the designated time

period for filing a timely request for an adjudicative proceeding has expired, petition the secretary or the secretary's designee for a late adjudicative proceeding. The department shall schedule adjudicative proceedings to make findings and determinations as outlined in subsections (4) and (6) of this section. "Petitioner" means the individual petitioning for a late hearing.

(2) The petitioner shall also serve a copy of the petition by certified mail, return receipt requested, or like a summons in a civil action on the office of support enforcement.

(3) The filing of a petition for a late adjudicative proceeding shall not stay:

(a) Any collection action taken under chapters 26.18, 26.23, or 74.20A RCW;

(b) The effect of any qualified domestic relations order; or

(c) Certification of the support debt to the Internal Revenue Service for income tax refund offset.

(4) The department shall schedule an adjudicative proceeding to determine whether or not the petitioner has good cause for failing to file a timely adjudicative proceeding request when the petitioner files the petition more than:

(a) Twenty days after the date of service of the notice the petitioner is objecting to, and the notice the petitioner is objecting to is a:

(i) Notice of proposed settlement;

(ii) Notice and finding of financial responsibility served before September 1, 1991;

(iii) Notice to payee;

(iv) Notice of support owed.

(b) Ninety days from the date of a notice described under WAC 388-14-270(11); or

(c) One year after the date of service of a:

(i) Notice and finding of parental responsibility;

(ii) Notice and finding of financial responsibility served after September 1, 1991;

(iii) Debt adjustment notice; or

(iv) Notice and finding of medical responsibility.

(5) If in any proceeding under subsection (4) of this section, the presiding officer finds that the petitioner has good cause for failing to make a timely adjudicative proceeding request:

(a) The presiding officer shall conduct an adjudicative proceeding on the merits of the petitioner's objection to the notice served; and

(b) If the petitioner is the responsible parent, any further collection or enforcement based on the notice served shall be stayed, except for any amounts exempted from a stay on collections by the regulations authorizing the notice when a timely request is filed.

(6) The department shall schedule an adjudicative proceeding to hear the merits of the petitioner's objection to the notice served if the petitioner:

(a) Files the petition for a late adjudicative proceeding more than twenty days, but one year or less from the date of service of the notice; and

(b) The petitioner is objecting to a:

(i) Notice and finding of financial responsibility served after September 1, 1991;

(ii) Debt adjustment notice;

(iii) Notice and finding of parental responsibility; or

(iv) Notice and finding of medical responsibility.

(7) If the responsible parent fails to make a timely request for an adjudicative proceeding, after proper service of a notice and finding of financial or parental responsibility, the department shall retain or distribute and shall not refund moneys withheld as a result of collection action taken more than twenty days after the date of service of a notice and finding of parental responsibility, or notice and finding of financial responsibility served after September 1, 1991. OSE shall disburse temporary current and future support paid, or collected during the pendency of the hearing or appeal when OSE receives such support.

[Statutory Authority: RCW 74.08.090 and 45 CFR 302-33 (a)(5). 93-17-060 (Order 3622), § 388-11-055, filed 8/16/93, effective 9/16/93. Statutory Authority: Chapters 74.20A and 26.19 RCW, RCW 74.20A.059 and 26.23.050 and E2SSB 5120 and ESSB 5996. 92-08-034 (Order 3344), § 388-11-055, filed 3/24/92, effective 4/24/92. Statutory Authority: 1988 c 275. 88-18-031 (Order 2689), § 388-11-055, filed 8/30/88. Statutory Authority: RCW 74.08.090. 80-01-026 (Order 1465), § 388-11-055, filed 12/14/79; 78-07-015 (Order 1305), § 388-11-055, filed 6/15/78.]

WAC 388-11-115 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-11-120 Default—Vacate. (1) If the responsible parent fails to appear at a hearing, the administrative law judge shall, upon a showing of valid service, enter an initial decision and default order. The administrative law judge shall state in the decision that the:

(a) Support debt and the current support obligation stated in the notice and finding of financial or parental responsibility are assessed, determined, and subject to collection action; or

(b) Health insurance provisions of the notice and finding of medical responsibility are subject to direct enforcement action.

(2) Decisions and orders on default become final twenty-one days from the date of mailing under WAC 388-08-464.

(3) Any party against whom the administrative law judge has entered an initial decision and order on default may petition the secretary or the secretary's designee for vacation of the default order.

(4) The petitioning party shall:

(a) File the petition within one year from the:

(i) Effective date of this subsection; or

(ii) Date of notice of default.

(b) Serve a copy of the petition on the office of support enforcement like a summons in a civil action, or by any form of mail requiring a return receipt.

(5) The department shall:

(a) Schedule an adjudicative proceeding to determine whether or not the petitioner has good cause for vacating the default order; and

(b) Give any other parties to the proceeding notice of the time and date of the proceeding.

(6) If, in any proceeding under subsection (3) of this section, the presiding officer finds that the petitioner has good cause for vacating the default order, the presiding officer shall:

(a) Conduct an adjudicative proceeding on the merits of the petitioner's objection to the notice that was the basis for the proceeding at which the petitioner failed to appear; and

(b) Stay any further collection to the extent provided for under the regulations authorizing the notice the responsible parent originally objected to.

(7) "Good cause" is the same standard as that prescribed for failure to make a timely hearing request under WAC 388-11-011(12).

[Statutory Authority: RCW 74.08.090 and 45 CFR 302-33 (a)(5). 93-17-060 (Order 3622), § 388-11-120, filed 8/16/93, effective 9/16/93. Statutory Authority: RCW 74.08.090. 93-05-020 (Order 3512), § 388-11-120, filed 2/10/93, effective 3/13/93. Statutory Authority: 1988 c 275. 88-18-031 (Order 2689), § 388-11-120, filed 8/30/88. Statutory Authority: RCW 74.08.090. 80-01-026 (Order 1465), § 388-11-120, filed 12/14/79; 78-07-015 (Order 1305), § 388-11-120, filed 6/15/78; Order 1054, § 388-11-120, filed 9/25/75; Order 875, § 388-11-120, filed 11/16/73.]

WAC 388-11-135 Service. Service of the decision and order or notice of hearing pursuant to WAC 388-11-100 or 388-11-120 shall be by mailing a copy of the decision and order or notice of hearing to the last known address of the:

- (1) Appellant by certified mail; and
- (2) Appellant's attorney or other representative at the hearing, if any.

[Statutory Authority: RCW 74.08.090 and 45 CFR 302-33 (a)(5). 93-17-060 (Order 3622), § 388-11-135, filed 8/16/93, effective 9/16/93. Statutory Authority: RCW 74.08.090. 81-05-021 (Order 1605), § 388-11-135, filed 2/11/81; 78-07-015 (Order 1305), § 388-11-135, filed 6/15/78.]

WAC 388-11-143 Department review of support orders. (1) When the office of support enforcement (ONE) is providing support enforcement services under Title IV-D of the Social Security Act, ONE shall:

(a) Review a superior court or administrative order for child support to determine whether ONE will petition to modify the child support provisions of the order; or

(b) Evaluate an interstate case to determine whether to refer the case to another state for review of the support order for modification.

(2) Recipients of payment services only under WAC 388-14-300(1), are not eligible for a review of their support order under this section until they have submitted an application for support enforcement services.

(3) ONE shall review orders for child support under subsection (1) of this section when:

(a) ONE has enough locate information to obtain personal service on both parties to the order; and

(b) The department is paying public assistance or has determined that the children are eligible for medical assistance, and thirty-five months have passed since:

- (i) ONE last reviewed the order under this section;
- (ii) The order was last modified; or
- (iii) The order was entered; or

(c) A party to the order, or another state's IV-D agency submits a request for review to ONE and thirty-five months have passed since:

(i) ONE or another state's IV-D agency last reviewed the order under this section;

- (ii) The order was last modified; or
- (iii) The order was entered.

(4) ONE may refer a request for review to another state's IV-D agency for action.

(5) ONE shall:

(a) Notify recipients of support enforcement services, that the review and modification process is available; and

(b) Send notice of a pending review by regular mail to the last known address of the parties to the order thirty days before the review. The notice shall explain the parties':

- (i) Rights in the review and modification process; and
- (ii) Responsibility to submit:

(A) Completed Washington state child support schedule worksheets; and

(B) Income verification as required by the Washington state child support schedule, chapter 26.19 RCW.

(6) During the thirty days before conducting the review, OSE shall use all appropriate procedures to obtain up to date income and asset information.

(7) Under this section, OSE shall petition to modify the order when OSE finds during the review that each of the following conditions are present:

(a) The proposed change in child support based on the Washington state child support schedule:

(i) Is at least twenty-five percent above or below the current support obligation;

(ii) Is at least one hundred dollars per month above or below the current support obligation; and

(iii) Is at least a two thousand four hundred dollar change over the remaining life of the support order; or

(iv) Will provide enough income to:

(A) Make the family ineligible for public assistance if the responsible parent pays the full amount due under the proposed order; or

(B) Allow a family, otherwise eligible for public assistance, to remain off of assistance.

(b) The case meets the legal requirements for modification under RCW 26.09.170, 74.20A.059, or WAC 388-11-140.

(8) OSE may petition to modify the order without regard to subsection (7)(a) of this section when:

(a) The order does not require the responsible parent to provide health insurance coverage for the children; and

(b) Health insurance coverage is available through the responsible parent's employer or union at a reasonable cost; or

(c) Both parties agree to an order modifying the support amount.

(9) OSE shall notify the parties of:

(a) The findings of the review by regular mail at the parties' last known address;

(b) The parties' right to challenge the review findings; and

(c) The appropriate forum and procedure for challenging the review findings.

(10) Except as provided under subsection (12) of this section, a party to the review process may contest OSE's review findings by requesting a modification conference within 30 days of the date of the notice of review findings.

(11) The modification conference shall be conducted by:

(a) OSE when the review findings indicate that the case is not appropriate for OSE to petition for modification under subsection (7) or (8) of this section;

(b) The county prosecutor, or the attorney general's office when OSE has referred the case to the prosecutor or

attorney general's office as a result of a review conducted under this section.

(12) When OSE has petitioned for modification of:

(a) A superior court order, the prosecutor or attorney general's office may, in their discretion, allow the parties to contest the review findings in the modification proceeding, rather than a modification conference. The modification proceeding shall be the sole means to contest the review findings.

(b) An administrative order, the parties may contest the review findings in the modification proceeding. In this case, the modification proceeding shall be the sole means to contest the review findings.

(13) In a modification conference, OSE, the prosecutor, or the attorney general's office:

(a) Shall review all available income and asset information to determine if the review findings are correct; and

(b) Shall advise the parties of the results of the modification conference.

(14) A modification conference is not an adjudicative proceeding under the administrative procedure act, chapter 34.05 RCW.

(15) This section does not limit the right of any party to petition for a modification of the support order independent from the review and modification process.

(16) OSE shall not review an order under this section when the CSO has notified OSE that the physical custodian has claimed good cause under WAC 388-24-111, unless one of the parties requests the review.

(17) The physical custodian's refusal to accept a proposed agreed order modifying support shall not constitute noncooperation for the purpose of WAC 388-14-200, or 388-14-420.

(18) OSE shall apply the Washington state child support schedule when reviewing support orders under this section. All deviations available under chapter 26.19 RCW, are available in the review and modification process under this section.

(19) For the purpose of this section, the term "party" means party to a superior court order, a responsible parent or a physical custodian entitled to petition for modification under RCW 74.20A.059.

[Statutory Authority: RCW 74.08.090 and 45 CFR 302.70, 303.7 and 303.8. 93-24-014 (Order 3671), § 388-11-143, filed 11/19/93, effective 12/20/93.]

WAC 388-11-145 Notice to parties. (1) It shall be the responsibility of the parties to notify the department of:

(a) Their mailing addresses at the time the request for hearing is made; and

(b) Any subsequent change of mailing address during the pendency of the appeal including any review by the courts.

(2) When the department has notified a party of this responsibility, mailing by the department by certified mail to the party's last known address constitutes service of notice under chapters 388-11, 388-13, and 388-14 WAC.

[Statutory Authority: RCW 74.08.090 and 45 CFR 302-33 (a)(5). 93-17-060 (Order 3622), § 388-11-145, filed 8/16/93, effective 9/16/93. Statutory Authority: RCW 74.08.090. 80-01-026 (Order 1465), § 388-11-145, filed 12/14/79.]

WAC 388-11-150 Consent order and agreed settlement. (1) The department may enter a consent order or agreed settlement to dispose of any contested case. The department shall use consent orders and agreed settlements in any case in which such informal disposition is feasible.

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

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

(2) If negotiations to a consent order or agreed settlement are commenced within twenty days of service of the notice and finding of financial, or parental responsibility, and such negotiations fail, the responsible parent shall have an additional twenty days from the date the negotiations fail to request a hearing. The department shall consider a hearing request filed within twenty days of the date negotiations failed, to be timely.

(3) A party to a consent order or an agreed settlement may:

(a) Not petition for review of the settlement or order under WAC 388-08-464;

(b) Petition for modification under WAC 388-11-140; and

(c) Petition to vacate the settlement or order under WAC 388-11-115.

[Statutory Authority: RCW 74.08.090. 93-05-020 (Order 3512), § 388-11-150, filed 2/10/93, effective 3/13/93. Statutory Authority: 1988 c 275. 88-18-031 (Order 2689), § 388-11-150, filed 8/30/88. Statutory Authority: RCW 74.08.090. 86-05-009 (Order 2340), § 388-11-150, filed 2/12/86; 82-17-068 (Order 1864), § 388-11-150, filed 8/18/82; 81-05-021 (Order 1605), § 388-11-150, filed 2/11/81; 80-01-026 (Order 1465), § 388-11-150, filed 12/14/79; Order 875, § 388-11-150, filed 11/16/73.]

WAC 388-11-170 Collection of debts determined.

(1) As authorized under chapters 26.18, 26.23, 74.20, and 74.20A RCW, the office of support enforcement (OSE):

(a) Shall take action enforcing and collecting support obligations; and

(b) May take collection action against the responsible parent's income and assets to collect a support debt even if the parent makes payments under a support order, unless OSE agrees, in writing, to limit OSE's right to take action.

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

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

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

(3) After a responsible parent fails to make payments when due, the presiding officer may not stop collection action by OSE and the responsible parent may only seek review of collection in:

(a) Superior court under RCW 74.20A.200 or other applicable state statutes; or

(b) A conference board under WAC 388-14-385.

[Statutory Authority: RCW 74.08.090 and 45 CFR 302-33 (a)(5). 93-17-060 (Order 3622), § 388-11-170, filed 8/16/93, effective 9/16/93. Statutory Authority: 1990 1st ex.s. c 2. 90-20-072 (Order 3081), § 388-11-170, filed 9/28/90, effective 10/29/90. Statutory Authority: RCW 74.08.090. 78-07-

015 (Order 1305), § 388-11-170, filed 6/15/78; Order 1054, § 388-11-170, filed 9/25/75; Order 875, § 388-11-170, filed 11/16/73.]

WAC 388-11-210 Administrative orders. (1) The department and the presiding officer shall include in every administrative child support order the:

- (a) Responsible parent's and residential parent's net income;
- (b) Amount of the responsible parent's share of the basic support obligation without adjustments;
- (c) Amount of the responsible parent's share of the basic support obligation after adjustments;
- (d) Specific reasons for deviation, if the adjusted amount is different than the unadjusted amount;
- (e) Total amount of the responsible parent's support obligation with the transfer payment stated as an amount per month per child;
- (f) Specific day of the month on which the support payment is due;
- (g) Responsible parent's Social Security Number, residence address, and the name of the responsible parent's employer;
- (h) Residential parent's Social Security Number;
- (i) Names, birthdates, and Social Security Numbers, if any, of the dependent child;
- (j) Disposition of the responsible parent's obligation to provide health insurance under WAC 388-11-215;
- (k) Statement that the responsible parent shall make all support payments to the Washington state support registry;
- (l) Statement that each parent shall notify the Washington state support registry of a change in resident address;
- (m) Statement that the responsible parent must keep the Washington state support registry informed of the:
 - (i) Name and address of that parent's employer;
 - (ii) Availability of health insurance coverage for the dependant children at reasonable cost; and
 - (iii) If health insurance is available, of the health insurance policy information.
- (n) Statement that a support obligation established under this chapter shall continue until:
 - (i) Modified under WAC 388-11-140;
 - (ii) Superseded by a superior court order; or
 - (iii) The child for whom support is assessed reaches the age of majority or is emancipated, unless the child is a full-time student in high school or its vocational equivalent, and is reasonably expected to graduate before turning nineteen years of age, in which case the support obligation shall continue until the earlier of the child's graduation from high school or the child's nineteenth birthday; and
- (o) Statement that the responsible parent is liable for the following costs based on the parent's proportionate share of the basic support obligation, if these costs are known when the order is entered:

- (i) Health care costs, including extraordinary health care costs, not covered by health insurance;
- (ii) Day care expenses; and
- (iii) Approved special child-rearing expenses.

(2) Unless the presiding officer finds good cause or approves an alternate payment arrangement under subsection (3) of this section, the support order shall contain a statement that the department may issue a notice of payroll deduction under chapter 26.23 RCW or may take other

income withholding action under chapters 26.18 or 74.20A RCW at any time, without further notice to the responsible parent.

(3) The presiding officer may enter an order that does not contain the notice required by subsection (2) of this section if the presiding officer:

- (a) Finds that one of the parties has demonstrated good cause not to require immediate income withholding; or
 - (b) Approves a written agreement signed by both parties that provides for an alternate payment arrangement.
- (4) All support orders containing an alternate payment arrangement approved under subsection (3)(a) or (b) of this section shall include a statement that the department may issue a notice of payroll deduction under chapter 26.23 RCW or may take other income withholding action under chapters 26.18 or 74.20A RCW when a support payment is not paid when due and an amount equal to or greater than the support payable for one month is owed.

(5) The department and the presiding officer shall:

- (a) Base all findings of good cause under subsection (3)(a) of this section on a finding that immediate wage withholding would not be in the best interest of the child; and

(b) Include in the support order a written explanation of why immediate wage withholding would not be in the best interests of the child.

(6) When modifying an existing support order, the department and the presiding officer shall not make a finding of good cause under subsection (3)(a) of this section without:

- (a) Finding that immediate wage withholding would not be in the best interest of the child;
- (b) Proof of timely payment of previously ordered support; and
- (c) Including a written explanation of why immediate wage withholding would not be in the best interests of the child.

[Statutory Authority: RCW 74.08.090 and 45 CFR 303.11 and 45 CFR 303.100. 93-05-020 (Order 3512), § 388-11-210, filed 2/10/93, effective 3/13/93. Statutory Authority: Chapters 74.20A and 26.19 RCW, RCW 74.20A.059 and 26.23.050 and E2SSB 5120 and ESSB 5996. 92-08-034 (Order 3344), § 388-11-210, filed 3/24/92, effective 4/24/92. Statutory Authority: 1990 1st ex.s. c 2. 90-20-072 (Order 3081), § 388-11-210, filed 9/28/90, effective 10/29/90. Statutory Authority: 1988 c 275. 88-18-031 (Order 2689), § 388-11-210, filed 8/30/88.]

Chapter 388-14 WAC SUPPORT ENFORCEMENT

WAC

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| 388-14-030 | Confidentiality. |
| 388-14-205 | Responsibilities of the office of support enforcement. |
| 388-14-385 | Conference board. |
| 388-14-420 | Termination of support enforcement services. |
| 388-14-427 | Payroll deduction notice—Order to withhold and deliver—Wage assignments—Agreements for electronic service. |
| 388-14-435 | Notice of support debt. |

WAC 388-14-030 Confidentiality. (1) Under RCW 26.23.120, all information and records, concerning persons who owe a support obligation or for whom the office provides support enforcement services, are private and

confidential. The office shall disclose information and records only as follows:

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

(i) A person or entity listed and for the specific purpose or purposes stated in federal law;

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

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

(iv) A party to a judicial proceeding or a hearing under chapter 34.05 RCW, if the presiding officer enters an order to disclose. The presiding officer shall base the order on a written finding that the need for the information outweighs any reason for maintaining privacy and confidentiality;

(v) A party under contract, if disclosure will allow the party to assist in the program's management or operation;

(vi) A person or entity when necessary to the administration of the program or the performance of functions and duties in state and federal law. The office may publish information about a responsible parent for locate and enforcement purposes;

(vii) A person, representative, or entity if the person who is the subject of the information and records consents, in writing, to disclosure;

(viii) The office of administrative hearings or the office of appeals for administration of the hearing process under chapter 34.05 RCW. The presiding officer or review judge shall not include the address of the physical custodian in an administrative order, or disclose the physical custodian's address to the responsible parent. The review judge and the presiding officer shall:

(A) State in support orders that the address is known by the Washington state support registry; and

(B) Inform the parties they may obtain the address by submitting a request for disclosure to the office of support enforcement (OSE) under this section.

(b) The last known address of, or employment information about, a party to a court or administrative order for, or a proceeding involving, child support may be given to another party to the order. The party receiving the information may only use the information to establish, enforce, or modify a support order. Disclosure of this information is subject to the limitations listed under subsections (4), (5), and (6) of this section;

(c) The last known address of natural or adoptive children may be given to a parent having a court order granting that parent visitation rights with, legal custody of or residential time with the parent's natural or adoptive children. The parent may only use this information to enforce the terms of the court order;

(d) The department may disclose the Social Security Number of a dependent child to the absent parent to enable the parent to claim the dependency exemption as authorized by the Internal Revenue Service.

(2) Except as provided under subsections (4) through (8) of this section, chapter 388-320 WAC governs the process of requesting and disclosing information and records.

(3) The office shall take timely action on requests for disclosure. The office shall respond in writing within five working days of receipt of the request, unless the request is

for disclosure of the address of the physical custodian or the dependent children. The office shall inform the requestor of the thirty-day notice period provided for under subsection (5) of this section. The office shall respond to a request for an address within five working days of the date the thirty-day notice period, provided for in subsection (5) of this section, expires, unless the physical custodian requests an adjudicative proceeding to contest the address release.

(4) The following provisions apply to a request for disclosure of the physical custodian's or a dependent child's address under subsection (1)(b) and (c) of this section:

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

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

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

(b) A person shall submit a request for disclosure in writing and in person, with satisfactory evidence of identity, at any OSE office;

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

(d) If the person resides outside the state of Washington, the office shall waive the provision requiring submission in person if the person:

(i) Submits a notarized request for disclosure; and

(ii) Complies with the requirements of subsection (4)(e) of this section.

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

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

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

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

(5) Prior to disclosing the physical custodian's or a child's address, the office shall mail a notice to the last known address of the physical custodian, except as provided under subsection (8) of this section. The notice shall advise the physical custodian that:

(a) A request for disclosure has been made;

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

(i) The office receives a copy of a court order which:

(A) Enjoins disclosure of the address; or

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

(ii) The physical custodian requests an adjudicative proceeding which ultimately results in a decision that release of the address is reasonably anticipated to result in harm to the physical custodian or a dependent child.

(c) If the physical custodian requests an adjudicative proceeding to contest the address release, the physical

custodian may participate in the proceeding by telephone, from any pre-arranged location. The location and phone number shall not be disclosed by the presiding officer.

(6) In any adjudicative proceeding requested under subsection (5)(b)(ii) of this section:

(a) The parent requesting address disclosure and the physical custodian are independent parties in the adjudicative proceeding;

(b) The physical custodian may participate by telephone, provided the physical custodian:

(i) States in the request for the adjudicative proceeding that participation will be by telephone; and

(ii) Provides the office of appeals or the office of administrative hearings with a telephone number where the physical custodian can be reached for the hearing, at least five calendar days before the scheduled hearing.

(c) The presiding officer shall not disclose the location or phone number from which the physical custodian is appearing;

(d) The initial burden of proof is on the party requesting address disclosure, to show that the address request is for a purpose for which disclosure is specifically permitted under this section.

(e) If the party requesting address disclosure:

(i) Fails to meet this burden, the presiding officer shall enter an order denying the address request;

(ii) Establishes that the address was requested for a purpose for which disclosure is permitted, the physical custodian must then show that it is reasonable to anticipate that physical or emotional harm to the physical custodian or a child will result from release of the address. The physical custodian:

(A) May demonstrate reasonable anticipation of harm by any form of evidence admissible under chapter 34.05 RCW; and

(B) Is not required to provide corroborative evidence required by WAC 388-24-111(7), to establish a reasonable anticipation of harm.

(f) If either party fails to appear, the presiding officer may enter an order on default:

(i) If the physical custodian fails to appear, the order shall require OSE to release the physical custodian's address;

(ii) If the address requesting party fails to appear, the default order shall deny the request for address information.

(g) The office of administrative hearings shall arrange the attendance of the parties by telephone or other procedure showing due regard for the safety of the physical custodian and the children;

(h) If the physical custodian requests an adjudicative proceeding the office shall respond to the disclosure request within five working days of the exhaustion of administrative remedies.

(7) If the physical custodian requests a hearing under subsection (6) of this section in response to a department initiated review of the support order for modification, both parties to the support order shall be independent parties in the address disclosure hearing.

(8) The office shall not mail a notice prior to disclosure:

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

(i) A court of competent jurisdiction of this state or another state has entered an order giving legal and physical custody of a child whose address is requested to the requesting party; and

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

(iii) A child was taken or enticed from the address requesting party's physical custody without that party's consent; and

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

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

(b) When a child whose address is requested is receiving foster care services under chapter 74.13 RCW.

(9) If a child is receiving foster care services, the party shall contact the party's local community services office for disclosure of that child's address information.

(10) The rules of confidentiality and penalties for misuse of information and reports that apply to a department employee, shall also apply to a person who receives information under this section.

(11) Nothing in these rules:

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

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

[Statutory Authority: RCW 74.08.090. 93-05-020 (Order 3512), § 388-14-030, filed 2/10/93, effective 3/13/93; 91-17-063 (Order 3234), § 388-14-030, filed 8/20/91, effective 9/20/91. Statutory Authority: 1988 c 275. 89-01-049 (Order 2738), § 388-14-030, filed 12/14/88. Statutory Authority: RCW 74.08.090. 88-07-012 (Order 2606), § 388-14-030, filed 3/4/88; Order 1054, § 388-14-030, filed 9/25/75.]

WAC 388-14-205 Responsibilities of the office of support enforcement. (1) The office shall provide services, until such services are terminated under this chapter, when:

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

(b) A former recipient of public assistance is eligible for services under WAC 388-14-300 (2)(d);

(c) An applicant/custodian requests nonassistance support enforcement services under RCW 74.20.040 and WAC 388-14-300;

(d) A support order or wage assignment order under chapter 26.18 RCW directs that the responsible parent make support payments through the Washington state support registry;

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

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

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

(2) When possible and appropriate, the office shall take action under chapters 26.23 and 74.20A RCW to establish, enforce, and collect the child support obligation. The office may refer appropriate cases to the county prosecuting attorney or attorney general's office when judicial action is required.

(3) Except to the extent allowed by WAC 388-24-111, in any case for which OSE has received notice that the CSO has made a finding of good cause under WAC 388-24-111, the office shall not act to:

(a) Establish paternity on its own initiative or at the request of a putative father applying for services under WAC 388-14-300 (1)(h); or

(b) Secure child support.

(4) The office shall suspend all activities under Title IV-D to establish paternity or secure child support, to the extent required by WAC 388-24-111, until the CSO notifies the office of its final determination regarding an applicant or recipient who has claimed good cause. Any agency acting under a cooperative agreement who fails or refuses to comply with a request from OSE to suspend activities shall not be entitled to financial participation under the Title IV-D cooperative agreement as to said case or cases upon which the request is made.

(5) A child support obligation shall:

(a) Continue while enforcement and/or collection action is suspended pending a final determination of good cause; and

(b) Be subject to collection when a decision is made that good cause for refusal to cooperate no longer exists.

(6) The office shall:

(a) Review and comment on the findings and basis for the proposed determination by the CSO; and

(b) Be a party to any hearing requested as a result of an applicant's or recipient's appeal of any agency action under WAC 388-24-111.

(7) The office shall:

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

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

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

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

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

(b) A statement that payee has twenty days from the date of the notice, to:

(i) Object and request a conference board under WAC 388-14-385; or

(ii) Initiate an action to obtain a judgment from the court that entered the order.

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

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

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

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

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

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

(11) WAC sections 388-14-300 and 388-14-310 govern the level of services provided by the department under subsections (1)(b) through (g) of this section.

[Statutory Authority: RCW 74.08.090, 93-05-020 (Order 3512), § 388-14-205, filed 2/10/93, effective 3/13/93; 92-13-026 (Order 3403), § 388-14-205, filed 6/9/92, effective 7/10/92. Statutory Authority: 1988 c 275, 89-01-049 (Order 2738), § 388-14-205, filed 12/14/88. Statutory Authority: RCW 74.08.090, 88-07-012 (Order 2606), § 388-14-205, filed 3/4/88; 86-05-009 (Order 2340), § 388-14-205, filed 2/12/86; 79-06-032 (Order 1400), § 388-14-205, filed 5/16/79; 78-09-053 (Order 1330), § 88-14-205, filed 8/22/78.]

WAC 388-14-385 Conference board. (1) A conference board may inquire into, determine facts, and attempt to resolve matters in which a responsible parent, residential parent, payee under a court order, or other person feels aggrieved by an action taken by the office of support enforcement under:

(a) Chapters 26.23, 74.20, 74.20A RCW; or

(b) Title IV-D of the Social Security Act (Title 42 U.S.C.).

(2) The intent and purpose of the conference board is to facilitate the informal speedy resolution of grievances.

(3)(a) The director, revenue division, or director's designee may assemble a conference board on application of an aggrieved person or on the director's own motion. The conference board shall dissolve upon issuance of a decision on the matter for which it was appointed.

(b) An applicant for a conference board shall have made a reasonable attempt and have failed to resolve the grievance before a conference board may act to attempt to resolve the issue.

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

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

(b) Review of a denial of an application for or termination of nonassistance support enforcement services;

(c) Review of an allegation of error as to the distribution of support moneys;

(d) Review of a denial to collect support arrears in nonassistance cases under RCW 74.20.040;

(e) Resolution of the amount of arrears claimed due and rate of repayment;

(f) A request to release or refund money taken under RCW 74.20A.080 or 26.23.060 to provide for the reasonable necessities of a responsible parent and minor children in the responsible parent's home;

(g) A request for deferral of support enforcement action;

(h) A request for partial or total charge-off of support arrears under RCW 74.20A.220;

(i) A request to waive interest under RCW 74.20A.190;

(j) A request to waive or defer the nonassistance support enforcement fee under RCW 74.20.040;

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

(l) A specific request for administrative review of cases submitted to the IRS for offset of a tax refund in accordance with federal statutes and regulations;

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

(n) OSE's action in reporting a support debt to a consumer reporting agency.

(5) When a person requests a conference board, the director or the director's designee may take such action, as deemed appropriate, and may exercise any of the authority provided for in this regulation, when the:

(a) Grievance does not involve a factual dispute; or

(b) Disputed fact or facts even if resolved in favor of the person would not provide a basis upon which relief could be granted to the person by a conference board.

(6) When a person requests a conference board and the grievance involves an apparent factual dispute:

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

(b) The chair shall mail a notice of conference board to the applicant and any other person or agency who is a party in interest to the proceeding. The notice of conference board shall state that a conference board has been scheduled and inform the parties of the time and place of the conference board;

(c) Where the department is not providing public assistance to the payee under a court order, and the responsible parent timely requests a conference board to contest the debt stated in a notice of support debt, the conference board shall be scheduled for a date at least thirty days after the notice of conference board is issued, and the notice shall state that:

(i) The payee has twenty days from the date the notice of conference board was given to request that the grievance be addressed in an adjudicative proceeding under WAC 388-14-435;

(ii) If the payee does not timely request an adjudicative proceeding, the department will deem that the payee has elected to have the grievance heard in a conference board and the:

(A) Conference board decision will become the final agency position on the debt claimed under the notice of support debt; and

(B) A payee's late application for an adjudicative proceeding shall be denied unless the payee shows good cause for the late application; and

(iii) If the payee does not appear at either a conference board or an adjudicative proceeding, the resulting decision may be adverse to the payee's interest including, but not limited to, a reduction in the support debt stated in the notice of support debt.

(d) If the payee requests an adjudicative proceeding under WAC 388-14-435, OSE shall inform the:

(i) Responsible parent that the parent's request for conference board is declined, and the responsible parent must appear at the adjudicative proceeding requested by the payee to raise objections to the notice of support debt; and

(ii) Payee that the conference board previously scheduled has been declined due to the payee's application for an adjudicative proceeding.

(7) The conference board chair is authorized to issue subpoenas under RCW 74.04.290 and to administer oaths, take testimony, and compel the production of such papers, books, records, and documents deemed relevant to the resolution of the grievance under consideration. The conference board chair may take additional evidence by affidavit or other written submission when necessary or practicable together with written or oral argument. The chair may designate persons having specific familiarity with the matter at issue or technical expertise with the subject to advise the board.

(8) The conference board chair shall make a written decision stating the facts found, policies applied, and the board's decision.

(a) The board's decision, including a decision to deny a request for a conference board, shall be in accordance with applicable statutes, case law, department rules and regulations, published office of support enforcement manuals, support enforcement policy bulletins, and the exercise of reasonable administrative discretion.

(b) The board shall base a decision under RCW 74.20A.220 to grant partial or total charge-off of arrears owed to the department under RCW 74.20A.030, 74.20A.250, 74.20.320, 74.20.330, or 42 U.S.C. 602 (a)(26)(A) on the following considerations:

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

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

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

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

(c) If the decision is the result of a conference board, that decision shall represent the decision of a majority of the board. The director shall vacate decisions inconsistent with the standards in this section and remand them for issuance of a new decision in compliance with the standards.

(9) The board shall distribute a copy of the decision to the applicant, other parties in interest, the appropriate office of support enforcement field office for action consistent with the decision of the board, and the director.

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

[Statutory Authority: RCW 74.08.090, 93-05-020 (Order 3512), § 388-14-385, filed 2/10/93, effective 3/13/93; 91-09-018 (Order 3133), § 388-14-385, filed 4/9/91, effective 5/10/91. Statutory Authority: RCW 34.05.220 (1)(a) and 74.08.090, 90-04-077 (Order 3005), § 388-14-385, filed 2/5/90, effective 3/1/90. Statutory Authority: 1988 c 275, 89-01-049 (Order 2738), § 388-14-385, filed 12/14/88. Statutory Authority: RCW 74.08.090, 88-07-012 (Order 2606), § 388-14-385, filed 3/4/88; 86-05-009 (Order 2340), § 388-14-385, filed 2/12/86; 81-05-021 (Order 1605), § 388-14-385, filed 2/11/81; 80-01-026 (Order 1465), § 388-14-385, filed 12/14/79; 78-07-015 (Order 1305), § 388-14-385, filed 6/15/78.]

WAC 388-14-420 Termination of support enforcement services. (1) After the office of support enforcement (OSE) begins providing services under chapter 74.20 RCW and RCW 26.23.045 (1)(a), (b), (c), (e), or (f), OSE may terminate services when:

(a) There is no current support order and the support debt is less than five hundred dollars or cannot be enforced under the laws of the state of Washington;

(b) OSE determines that the responsible parent or putative father is dead and has no available assets, income, or estate subject to collection action;

(c) OSE determines that the responsible parent does not have any available assets, income, or estate subject to collection action, and is and will be unable to pay support because the parent is:

(i) Institutionalized in a psychiatric facility;

(ii) Incarcerated without possibility of parole; or

(iii) Medically verified as totally and permanently disabled with no evidence of support potential.

(d) The applicant, agency, or person receiving nonassistance services submits a written request to terminate services, and no:

(i) Current assignment to the state of medical support rights exists; and

(ii) Debt accrued under a support order that is assigned to the state exists.

(e) OSE makes reasonable efforts to identify or locate the responsible parent, using local, state, and federal locate sources over a three-year period and does not find new locate information;

(f) OSE is unable to contact a nonassistance physical custodian within a thirty-day period using both a telephone call and one or more registered letters;

(g) OSE documents:

(i) Instances of the physical custodian's failure or refusal to cooperate with OSE; and

(ii) That the physical custodian's cooperation is essential for the next step in providing support enforcement services;

(h) OSE cannot obtain a paternity order because:

(i) The putative father is dead;

(ii) A genetic test has excluded all known putative fathers and no other putative father can be identified;

(iii) The child is eighteen years of age or older; or

(iv) The department, a court of competent jurisdiction, or an adjudicative proceeding determines that paternity establishment would not be in the best interest of the child in a case involving:

(A) Incest;

(B) Rape; or

(C) Pending adoption.

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

(j) The department or a court of competent jurisdiction finds that action establishing or enforcing a support obligation cannot proceed without risk of harm to the child or the child's custodian;

(k) OSE has provided locate-only services in response to a request for state parent locator services; or

(l) The responsible parent is a citizen of, and lives in, a foreign country and:

(i) Does not have any assets which can be reached by OSE; and

(ii) Washington state has been unable to establish reciprocity in child support matters with that country.

(2) After OSE provides services under RCW 26.23.045 (1)(d), OSE shall:

(a) Terminate support enforcement services;

(i) If a court of competent jurisdiction orders OSE to terminate services based on:

(A) An approved alternate payment plan under RCW 26.23.050; or

(B) A finding that it is not in the child's best interest for OSE to continue providing services.

(ii) After filing a satisfaction of judgment with the court as provided under WAC 388-14-205; or

(iii) If the responsible parent is dead and OSE receives proof there is no available estate.

(b) Terminate services, except records maintenance and payment processing:

(i) For the reasons stated under subsections (1)(c), (d), (e), (f), (g), (j), (k), or (l) of this section; or

(ii) If the payee under the order fails to submit an application for support enforcement services.

(3) Sixty days before terminating services, OSE shall mail a notice to the physical custodian. OSE shall:

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

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

(c) State in the notice that the physical custodian may ask for an adjudicative proceeding to contest the decision terminating services.

(4) After terminating support enforcement services, OSE shall return support money OSE receives to the payor except as provided under subsection (2)(b) of this section.

[Statutory Authority: RCW 74.08.090, 45 CFR 303.11 and 45 CFR 303.100. 93-05-020 (Order 3512), § 388-14-420, filed 2/10/93, effective 3/13/93. Statutory Authority: RCW 74.08.090. 90-16-041 (Order 3043), § 388-14-420, filed 7/24/90, effective 8/24/90; 88-07-012 (Order 2606), § 388-14-420, filed 3/4/88.]

WAC 388-14-427 Payroll deduction notice—Order to withhold and deliver—Wage assignments—Agreements for electronic service. (1) An employer, or any other person, firm, corporation, or political subdivision, or department of the state or federal government, may agree to accept and acknowledge service of documents listed under subsection (3) of this section by electronic data transmission.

(2) All agreements for service by electronic data transmission (EDT) shall be in writing and shall contain the employer, person, firm, corporation, political subdivision, or department's agreement to accept an EDT as:

(a) Personal service of the documents related to withholding; and

(b) A written document for the purpose of chapters 26.23 and 74.20A RCW.

(3) OSE may serve the following documents by EDT, providing that the entity served has agreed to service by EDT under the provisions of subsections (1) and (2) of this section:

(a) Notice of payroll deduction under RCW 26.23.060;

(b) Order to withhold and deliver under RCW 74.20A.080;

(c) Assignment of earnings under RCW 74.20A.240;

(d) Releases of any of the documents listed in this subsection; and

(e) Amendments in the amount to be withheld under any of the documents listed in this subsection.

(4) OSE shall provide the other party, to any agreement under this section, with copies of the current forms listed in subsection (3) of this section, and any subsequent updates of those forms. OSE's failure to provide updates shall not excuse compliance with any of the wage withholding documents served under the terms of the agreement.

(5) An agreement to accept service by EDT does not alter the rights, duties, and responsibilities related to income withholding action under chapters 26.23, 74.20, and 74.20A RCW.

[Statutory Authority: RCW 74.08.090. 93-05-020 (Order 3512), § 388-14-427, filed 2/10/93, effective 3/13/93.]

WAC 388-14-435 Notice of support debt. (1) A notice of support debt issued under RCW 74.20A.040 shall state:

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

(b) The amount of any support debt, including medical support and day care costs, owed by the responsible parent.

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

(d) Twenty-one days after service of the notice of support debt OSE may take action to collect the responsible parent's support obligation without further notice, when the support obligation becomes due under the terms of the court order, unless the responsible parent or the payee under the order has filed a timely request to contest the notice of

support debt as provided under this section. Collection action includes issuing orders to withhold and deliver, notices of payroll deduction, and/or taking other income withholding action.

(e) After service of the notice of support debt the responsible parent shall make all support payments through the Washington state support registry.

(f) The responsible parent shall not receive credit for payments made to a person or agency other than the support registry under RCW 26.23.050(9) and 74.20.101.

(g) The responsible parent has twenty days after service of the notice to contest the support debt amount by either:

(i) Making a written request for a conference board to be held under WAC 388-14-385; or

(ii) Filing an action in superior court.

(h) If the payee under the order objects to the support debt stated in the notice of support debt, or to a proposed settlement agreement between OSE and the responsible parent resulting in a reduction of the support debt, the payee may contest the action by filing:

(i) A written application for an adjudicative proceeding under chapter 34.05 RCW; or

(ii) An action in superior court.

(i) Both parties shall be notified of any adjudicative proceeding requested by the payee, or conference board requested by the responsible parent, and both parties shall be allowed to participate as independent parties.

(2) The department shall serve the notice of support debt on the responsible parent:

(a) Like a summons in a civil action; or

(b) By any form of mail requiring a return receipt.

(3) Following service upon the responsible parent, the office shall mail a copy of the notice of support debt to the payee under the order, by regular mail at the payee's last known address. The office shall also mail a notice to the payee regarding the payee's rights to contest the notice of support debt as provided under WAC 388-14-440.

(4) OSE shall collect the amounts stated in the notice of support debt without notice to either party if the:

(a) Responsible parent does not request a conference board or start an action in superior court; and

(b) Payee under the order does not file a timely application for an adjudicative proceeding or start an action in superior court.

(5)(a) If the responsible parent requests a conference board the department shall issue a notice of conference board. The notice shall direct the responsible parent to appear and show why the support debt is incorrect. If the conference board request was timely, action to collect the support debt stated in the notice of support debt shall be stayed, except as provided under subsection (5)(c) of this section, pending the outcome of the conference board.

(b) A copy of the notice of conference board shall be mailed to the payee under the court order informing the payee of the payee's right to participate in the conference board.

(i) The payee shall have twenty days from the date the notice of conference board is given to request that the issues be addressed in an adjudicative proceeding under subsection (1)(h) of this section.

(A) If the payee does not file an application for an adjudicative proceeding within twenty days, the payee will be deemed to have made an election of remedies and the:

(I) Conference board decision shall become the final agency position; and

(II) Payee's late application for an adjudicative proceeding shall be denied unless the payee shows good cause for the late application.

(B) If the payee files an application for an adjudicative proceeding within twenty days the department shall stay any action to collect the support debt stated in the notice of support debt, except as provided under subsection (5)(c) of this section, pending the outcome of the adjudicative proceeding.

(ii) OSE shall notify the responsible parent of the payee's application for an adjudicative proceeding as required under subsection (1)(i) of this section.

(c) OSE may take action to collect:

(i) The current monthly amount of support stated in the court order;

(ii) Any portion of the support debt that both parties fail to allege is not owed; or

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

(6)(a) This section incorporates the following sections by reference, into any adjudicative proceeding scheduled to contest a notice issued under this section:

(i) WAC 388-11-011;

(ii) 388-11-015;

(iii) 388-11-060;

(iv) 388-11-065;

(v) 388-11-100;

(vi) 388-11-115;

(vii) 388-11-135;

(viii) 388-11-145;

(ix) 388-11-180; and

(x) Chapters 10-08 and 388-08 WAC.

(b) If any provision in this rule or in a rule incorporated by reference in this section conflicts with, or is inconsistent with a provision in chapters 10-08 or 388-08 WAC, the provision in this section or a rule incorporated by reference in this section shall govern.

(c) For the purposes of this section, if a rule incorporated by this section grants a procedural right to a responsible parent, that rule shall be interpreted to confer the same right to the payee under the court order.

(7) After evidence has been presented at a hearing, the presiding officer shall, within twenty days:

(a) Find the amount of the support debt, including medical support and day care costs, accrued before the date of service of the notice;

(b) Correct the mathematical computation of the stated debt;

(c) Review and consider superior court orders which have modified the superior court order in issue. Contempt orders and orders entered under chapters 26.21 or 26.20 RCW shall not be construed as modifications; and

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

(8)(a) If any party appears for the adjudicative proceeding, absent the granting of a continuance, the presiding

officer shall hear the matter and enter an initial decision and order based on the evidence presented.

(b) If neither party appears or elects to proceed, the presiding officer shall enter a decision and order declaring the amounts stated in the notice of support debt subject to collection.

(c) When a party has advised the presiding officer that the party will participate in an adjudicative proceeding by telephone, the presiding officer shall attempt to contact that party, on the record, prior to beginning the proceeding or ruling on a motion.

This rule does not authorize or require the presiding officer to disclose either party's telephone number.

(9) Informal disposition of any hearing is favored where possible and not precluded by law. OSE may dispose of cases by an agreed settlement, or consent order. The presiding officer shall approve any consent order unless the:

(a) Order is contrary to law; or

(b) Payee under the order files a timely objection to the notice of:

(i) Support debt; or

(ii) Proposed settlement.

(10) The presiding officer, review judge, and OSE shall include the notice and information listed under RCW 26.23.050(5) in support orders issued under this section.

(11) This section does not require OSE to serve a notice of support debt on the responsible parent before taking collection action if the order contains the requirements under RCW 74.20A.040(5).

(12) The provisions of this section regarding the payee's right to an adjudicative proceeding under chapter 34.05 RCW shall not apply if the department is providing public assistance to the payee or the child for whom support is being enforced.

[Statutory Authority: RCW 74.08.090. 93-05-020 (Order 3512), § 388-14-435, filed 2/10/93, effective 3/13/93; 91-09-018 (Order 3133), § 388-14-435, filed 4/9/91, effective 5/10/91.]

Chapter 388-15 WAC

SOCIAL SERVICES FOR FAMILIES, CHILDREN AND ADULTS

WAC

| | |
|------------|---|
| 388-15-132 | Child protective services—Acceptance of reports—Eligibility for services and limits to authority. |
| 388-15-136 | Repealed. |
| 388-15-170 | General and seasonal child day care services. |
| 388-15-202 | Comprehensive assessment—Definitions. |
| 388-15-203 | Assessment. |
| 388-15-204 | Reassessment. |
| 388-15-205 | Service plan development. |
| 388-15-207 | Chore personal care services for adults—Legal basis—Purpose—Goals. |
| 388-15-208 | Definitions. |
| 388-15-209 | Eligibility. |
| 388-15-212 | Service determination. |
| 388-15-213 | Payment. |
| 388-15-214 | Chore personal care services budget control. |
| 388-15-215 | Program limitation. |
| 388-15-216 | Grandparented clients. |
| 388-15-217 | Chore personal care services for employed disabled adults. |
| 388-15-600 | Community options program entry system (COPES)—Purpose—Legal basis. |
| 388-15-610 | COPES—Eligible persons. |

| | |
|------------|---|
| 388-15-615 | COPES—Program restrictions. |
| 388-15-620 | COPES—Services. |
| 388-15-630 | COPES—Payment—Procedures. |
| 388-15-820 | Medicaid personal care services—Definitions. |
| 388-15-830 | Medicaid personal care services—Eligibility. |
| 388-15-840 | Medicaid personal care services—Assessment— Authorization. |
| 388-15-850 | Medicaid personal care services—Nurse oversight. |
| 388-15-860 | Medicaid personal care services—Personal care aide qualifications. |
| 388-15-870 | Medicaid personal care services—Service provision system. |
| 388-15-880 | Payment and authorization. |
| 388-15-890 | Medicaid personal care services—Program limitations. |

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

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| 388-15-136 | Central registry—Duty to maintain. [Statutory Authority: 1987 c 206. 87-23-057 and 87-24-039 (Orders 2561 and 2561A), § 388-15-136, filed 11/18/87 and 11/25/87. Statutory Authority: RCW 74.08.090 and 1979 c 155. 79-10-026 (Order 1431), § 388-15-136, filed 9/10/79; Order 1238, § 388-15-136, filed 8/31/77.] Repealed by 93-13-021 (Order 3567), filed 6/9/93, effective 7/10/93. Statutory Authority: RCW 26.44.050 and 26.44.070. |
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WAC 388-15-132 Child protective services—Acceptance of reports—Eligibility for services and limits to authority. (1) **Acceptance of reports.** The department shall accept a report of CA/N from any source, including a report made anonymously. Reports shall be made directly to the department's division of children and family services (DCFS) local office per RCW 26.44.030. The department shall:

(a) Determine whether reports allege incidents, conditions, or circumstances meeting the definition of CA/N in RCW 26.44.020 and WAC 388-15-130; and

(b) Have the authority to refuse to investigate reports which do not meet the statutory definition of CA/N.

(2) **Reports to law enforcement.** The department shall report to the appropriate law enforcement agency any reported incident of death, sexual abuse, or nonaccidental physical injury of a child and any incident where the CPS investigation reveals reasonable cause to believe a crime has been committed against a child. The department shall create and send the incident report to law enforcement within three working days following:

(a) Receipt of a complaint alleging death, sexual abuse, or nonaccidental physical injury of a child;

(b) Discovery of information during a CPS investigation, creating reasonable cause to believe a child died, suffered sexual abuse, or had a nonaccidental physical injury; or

(c) Discovery of information during a CPS investigation, creating reasonable cause to believe a crime has been committed against a child.

(3) **Investigation.** The department, except as provided by RCW 26.44.050 and WAC 388-15-130(2), shall be responsible for investigation of reports of suspected CA/N.

(a) The department shall begin its investigation within twenty-four hours for all CA/N reports where a child is assessed to be at risk of imminent harm.

(b) The department shall investigate all other reports meeting the legal definition of CA/N, but may determine an appropriate response time based on the assessed risk of CA/N.

(c) The department:

(i) Shall develop and maintain records of department investigations of CA/N per RCW 26.44.035; and

(ii) May arrange for ongoing services by another agency.

(d) Upon receiving a report of incidents, conditions, or circumstances of CA/N, the department shall:

(i) Have access to any and all records of the child in the possession of mandated reporters and reporters' employers;

(ii) Have the authority to interview a child without prior parental notification or consent;

(iii) Have authority to interview a child outside of the presence of parents at locations determined by the department to be suitable for an interview. The child or the department may have a third party present at the interview when the third party does not jeopardize the investigation per RCW 26.44.030;

(iv) Have authority to photograph the child victims for the purpose of documenting the physical condition of the child per RCW 26.44.050; and

(v) Notify the child's parent, guardian, or caretaker about the interview per RCW 26.44.030(9).

(e) The department shall complete the investigation within ninety days from the date of report. The department shall make written findings of all investigations including:

(i) A description of any injuries or harm inflicted on the child;

(ii) An account of the department's investigation;

(iii) The findings regarding specific allegations;

(iv) An assessment of risk to the child; and

(v) The department's disposition of the case as described under RCW 13.34.120 and 26.44.040.

(4) **Limits to authority.** The department:

(a) Shall have the authority to share information for case planning and case consultation purposes with mandated reporters and agencies which have provided or will provide services to the child and family per RCW 26.44.030; and

(b) May share information with community child protection teams, designated members of Washington Indian tribes, and/or citizen advisory groups to assist in case planning, consultation, and policy review per RCW 26.44.030.

(5) **Service options (ninety-day rule).** Within ninety days of receipt of a report alleging a child is at risk of CA/N, the department shall:

(a) Develop, with the family, a mutually agreed upon written service plan;

(b) File a dependency petition with the juvenile court; or

(c) Close the case.

(6) **Juvenile court case plans.** When the department files a dependency petition, the department shall develop a written social study and proposed case plan for the court to consider at the dispositional hearing per RCW 13.34.120. The department shall:

(a) Mail a dependency petition copy to the parents and the parents' attorney ten or more days before the disposition hearing; and

(b) Provide the parents an opportunity to review and comment on the plan at the local DCFS office.

(7) **Reopening closed cases.** The department may reopen any closed case for good cause including, but not limited to:

- (a) Further allegations of CA/N;
- (b) Additional information pertaining to the department's investigation; or
- (c) When necessary witnesses or other persons, for example, parent or child, are located or become available to complete the investigation.

(8) **Length of eligibility.** Any child reported to the department shall be eligible for child protective services. A child shall remain eligible until the child is no longer:

- (a) Abused or neglected; or
- (b) At risk of CA/N subject to the provisions of WAC 388-15-130 and 388-15-132.

[Statutory Authority: RCW 26.44.050 and 26.44.070. 93-13-021 (Order 3567), § 388-15-132, filed 6/9/93, effective 7/10/93. Statutory Authority: RCW 74.15.030. 89-07-024 (Order 2773), § 388-15-132, filed 3/8/89. Statutory Authority: RCW 74.08.090 and 1979 c 155. 79-10-026 (Order 1431), § 388-15-132, filed 9/10/79; Order 1238, § 388-15-132, filed 8/31/77.]

WAC 388-15-136 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-15-170 General and seasonal child day care services. (1) The department may approve child day care funding to facilitate care, protection, and related services for a child twelve years of age or younger. The department may approve special needs child care for a child nineteen years of age or younger who is physically or mentally incapable of caring for himself or herself, as verified by the state, supported by medical documentation.

(2) The department shall only fund child day care during the portion of the twenty-four-hour day when neither of the child's parents or guardians are able to provide necessary care and supervision. The department may authorize child day care services for the following reasons:

- (a) Parents, or parent in a single-parent household, are employed and are not aid to families with dependent children (AFDC) grant recipients;
- (b) Parents, or parent in a single-parent household, are employed and receiving AFDC;
- (c) Parents, or parent in a single-parent household, are receiving AFDC and are enrolled in job opportunity and basic skills (JOBS);
- (d) School-aged parent is enrolled in an approved secondary education or GED program;
- (e) Parent and/or child are in need of treatment or support as part of a child protective or child welfare services case plan. Such services may include, but are not limited to, those provided by a professional child welfare or educational agency; or
- (f) The child is receiving an AFDC grant and lives with a nonresponsible relative who is not receiving an AFDC grant and is employed.

(3) The department shall limit goals for general child day care services as specified under WAC 388-15-010 (1)(a), (d), (e), and (2).

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

(a) With gross income equal to or below thirty-eight percent of the state median income adjusted for family size (SMIAFS). These families pay the provider a minimum monthly co-payment toward the cost of child day care;

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

(c) In need of child day care as an integral part of a child protective or child welfare service plan. The department shall provide such service without regard to family income up to seventy-five percent SMIAFS.

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

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

(b) Fifty percent or more of the family's annual income is derived from agriculturally related work;

(c) In a two-parent household, the primary wage earner has more than one agricultural employer per year; in a one-parent household, the single parent has more than one agricultural employer per year;

(d) Family gross income for the past twelve months does not exceed thirty-eight percent of the state median income adjusted for family size (SMIAFS). The family shall pay the provider a minimum monthly co-payment toward the cost of child day care. The family with gross income above thirty-eight percent and at or below fifty-two percent of the SMIAFS shall pay the child day care provider fifty percent of the family's average gross monthly income above the thirty-eight percent SMIAFS toward the cost of child day care; and

(e) Failure of parents to meet the requirements of subsection (5)(b) and (d) of this section due to status within the past year as an AFDC recipient shall not result in ineligibility for seasonal child care.

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

(7) The department shall consider in-home care or relative, relative's home care as the care and supervision of a child:

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

(b) In the child's own home with an unrelated person.

(8) When the parent or guardian chooses in-home care or relative, relative's home care, the parent or guardian shall make the following assurances:

(a) The in-home caretaker shall meet the following minimum qualifications:

(i) Be eighteen years of age or older;

(ii) Be free of communicable disease;

(iii) Be of sufficient physical, emotional, and mental health to meet the needs of the child in care. Subject to the discretion of the social worker, the parent or guardian shall provide written evidence to the department that the caretaker of the parent's or guardian's choice is in sufficient physical, emotional, and mental health to be a safe caretaker;

(iv) Be able to work with the child without using corporal punishment or psychological abuse;

(v) Be able to accept and follow instructions;

(vi) Be able to maintain personal cleanliness;

(vii) Be prompt and regular in job attendance; and

(viii) Meet the department's in-home caretaker registration requirement. Parents or guardians are required to provide the caretaker's name and address to the department. This registration is done at the time child care is authorized.

(b) The in-home caretaker's primary function while on duty is that of child caretaker. The in-home caretaker shall have the following responsibilities:

(i) Provide constant care and supervision of the child for whom the caretaker is responsible throughout the time the caretaker is on duty in accordance with the needs of the child; and

(ii) Provide developmentally appropriate activities for the child under the caretaker's care.

(c) The child is current on the immunization schedule as described in the National Immunization Guidelines, developed by the American Academy of Pediatrics and the Advisory Committee on Immunization Practices;

(d) The parent's or guardian's home or the relative's home is safe for the care of the child; and

(e) The in-home or relative caretaker is informed about basic health practices, prevention, and control of infectious disease, immunizations, and building and physical premises safety relevant to the care of the child.

The parent or guardian shall make assurances described under subsection (8) of this section at the time child care is authorized. The child care authorizing worker shall provide the parent or guardian with information about basic health practices, prevention, and control of infectious disease, immunizations, and building and physical premises safety relevant to the care of the child.

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

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

(b) The in-home, or relative, relative's home caretaker shall sign a receipt at the time payment is received. The parent must retain the payment receipt for review by the authorizing worker at the time of the next eligibility determination.

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

(d) Payment for child day care by relative. The department shall not allow payment for child care services by the following relatives: Father, mother, brother, sister, stepfather, stepmother, stepbrother, or stepsister, except for adult siblings residing outside the child's home.

[Statutory Authority: RCW 74.12.340 and 45 CFR Part 98.41 Child Care and Development Block Grant. 93-10-021 (Order 3535), § 388-15-170, filed 4/28/93, effective 5/29/93. Statutory Authority: RCW 74.12.340 and 45 CFR 98.20, 98.30, 98.43 and 98.45; and 45 CFR 257.21, 257.30, 257.31 and 257.41. 92-11-062 (Order 3393), § 388-15-170, filed 5/19/92, effective

6/19/92. Statutory Authority: RCW 74.08.090. 88-24-023 (Order 2732), § 388-15-170, filed 12/2/88; 86-12-051 (Order 2387), § 388-15-170, filed 6/3/86; 86-03-078 (Order 2333), § 388-15-170, filed 1/22/86; 83-02-028 (Order 1931), § 388-15-170, filed 12/29/82. Statutory Authority: RCW 43.20A.550. 82-14-048 (Order 1839), § 388-15-170, filed 6/30/82. Statutory Authority: RCW 74.08.090. 82-01-051 (Order 1735), § 388-15-170, filed 12/16/81; 81-10-034 (Order 1650), § 388-15-170, filed 4/29/81; 80-15-010 (Order 1552), § 388-15-170, filed 10/6/80. Statutory Authority: RCW 43.20A.550. 78-04-004 (Order 1276), § 388-15-170, filed 3/2/78; Order 1238, § 388-15-170, filed 8/31/77; Order 1204, § 388-15-170, filed 4/1/77; Order 1147, § 388-15-170, filed 8/26/76; Order 1124, § 388-15-170, filed 6/9/76; Order 1120, § 388-15-170, filed 5/13/76; Order 1088, § 388-15-170, filed 1/19/76.]

WAC 388-15-202 Comprehensive assessment—

Definitions. (1) "Assessment" means an inventory and evaluation of abilities and needs.

(2) "Client" means an applicant for service or a person currently receiving services.

(3) "Personal care services" means assistance with both direct personal care and household tasks provided to clients functionally unable to perform all or part of such tasks listed in subdivisions (a) through (q) below. The type of help allowable for each task shall not include assistance that must be provided by a licensed health professional.

(a) "Ambulation" means assisting the client to move around. Ambulation includes supervising the client when walking alone or with the help of a mechanical device such as a walker if guided, assisting with difficult parts of walking such as climbing stairs, supervising the client if client is able to propel a wheelchair if guided, pushing of the wheelchair, and providing constant physical assistance to the client if totally unable to walk alone or with a mechanical device.

(b) "Bathing" means assisting client to wash self. Bathing includes supervising client able to bathe self when guided, assisting client with difficult tasks such as getting in or out of the tub or washing back, and completely bathing the client if totally unable to wash self.

(c) "Body care" means assisting the client with exercises, skin care including the application of ointments or lotions, changing dry bandages or dressings not requiring professional judgment. Body care excludes foot care beyond washing of feet and filing toenails, foot care for clients who are diabetic or have poor circulation, or changing bandages or dressings when sterile procedures are required. Provision of body care tasks is limited. The client must be able to supervise the provision of these tasks.

(d) "Dressing" means assistance with dressing and undressing. Dressing includes supervising and guiding client when client is dressing and undressing, assisting with difficult tasks such as tying shoes and buttoning, and completely dressing or undressing client when unable to participate in dressing or undressing self.

(e) "Eating" means assistance with eating. Eating includes supervising client when able to feed self if guided, assisting with difficult tasks such as cutting food or buttering bread, and feeding the client when unable to feed self.

(f) "Essential shopping" means assistance with shopping to meet the client's health care or nutritional needs. Limited to brief, occasional trips in the local area to shop for food, medical necessities, and household items required specifically for the health and maintenance of the client. Essential shopping includes assisting when the client can participate in

shopping and doing the shopping when the client is unable to participate.

(g) "Housework" means performing or helping the client perform those periodic tasks required to maintain the client in a safe and healthy environment. Activities performed include such things as cleaning the kitchen and bathroom, sweeping, vacuuming, mopping, cleaning the oven, and defrosting the freezer, shoveling snow. Washing inside windows and walls is allowed, but is limited to twice a year. Assistance with housework is limited to those areas of the home which are actually used by the client. This task is not a maid service and does not include yard care.

(h) "Laundry" means washing, drying, ironing, and mending clothes and linens used by the client or helping the client perform these tasks.

(i) "Meal preparation" means assistance with preparing meals. Meal preparation includes planning meals including special diets, assisting clients able to participate in meal preparation, preparing meals for clients unable to participate, and cleaning up after meals. This task may not be authorized to just plan meals or clean up after meals. The client must need assistance with actual meal preparation.

(j) "Personal hygiene" means assistance with care of hair, teeth, dentures, shaving, filing of nails, other basic personal hygiene, and grooming needs. Personal hygiene includes supervising client when performing the tasks, assisting client when caring for own appearance, and performing grooming tasks for client when unable to care for own appearance.

(k) "Positioning" means assisting the client to assume a desired position. Positioning includes assistance in turning and positioning to prevent secondary disabilities, such as contractures and balance deficits.

(l) "Self-medication" means assisting the client to self-administer medications prescribed by attending physician. Self-medication includes reminding the client of when it is time to take prescribed medication, handing the medication container to the client, and opening a container.

(m) "Supervision" means being available to:

(i) Help the client with personal care tasks that cannot be scheduled, including toileting, ambulation, transfer, positioning, some medication assistance; and

(ii) Provide protective supervision to a client who cannot be left alone because of confusion, forgetfulness, or lack of judgment.

(n) "Toileting" means assistance with bladder or bowel functions. Toileting includes guidance when the client is able to care for own toileting needs, helping client to and from the bathroom, assisting with bedpan routines, using incontinent briefs on client, and lifting client on and off the toilet. Toileting may include performing routine perineal care, colostomy care, or catheter care for the client when client is able to supervise the activities.

(o) "Transfer" means assistance with getting in and out of a bed or wheelchair or on and off the toilet or in and out of the bathtub. Transfer includes supervising the client when able to transfer if guided, providing steadying, and helping the client when client assists in own transfer. Lifting the client when client is unable to assist in their own transfer requires specialized training.

(p) "Travel to medical services" means accompanying or transporting the client to a physician's office or clinic in the local area to obtain medical diagnosis or treatment.

(q) "Wood supply" means splitting, stacking, or carrying wood for the client when the client uses wood as the sole source of fuel for heating and/or cooking. This task is limited to splitting, stacking, or carrying wood the client has at own home. Using a chain saw or felling trees is not allowable.

[Statutory Authority: RCW 74.09.520, 74.39.005, 74.08.043 and 74.08.545. 93-06-042 (Order 3501), § 388-15-202, filed 2/24/93, effective 3/27/93.]

WAC 388-15-203 Assessment. (1) Purpose. The assessor as identified in subsection (2)(a) of this section shall:

(a) Identify client strengths to maximize current strengths and promote client independence;

(b) Evaluate physical health, functional and cognitive abilities, social resources and emotional and social functioning for service planning for long-term care;

(c) Identify client values and preferences for effective service planning based on the individual's values and lifestyles; and

(d) Determine client's need for informal support, community support and services, and department paid services.

(2) Assessment responsibility.

(a) Department staff and aging network staff while assessing need for case management shall perform the assessment.

(b) The assessors shall perform a separate assessment for each adult applying for all aging and adult field services programs except adult protective services.

(c) The assessors shall document the assessment on a prescribed form.

(d) The assessors shall perform the assessment in person with the client.

(e) When administering the assessment, the assessors shall take into account the client's:

(i) Risk of and eligibility for nursing facility placement;

(ii) Health status, psychological/social/cognitive functioning, income and resources, and functional abilities;

(iii) Living situation; and

(iv) Availability of alternative resources providing needed assistance, including family, neighbors, friends, community programs, and volunteers.

(3) Scoring of functional abilities and supports.

(a) For each direct personal care service and household assistance task listed on the assessment form, assessors shall determine:

(i) The client's ability to perform each activity;

(ii) Assistance available through alternative resources, including families, friends, neighbors, community programs, and unpaid caregivers; and

(iii) Assistance needed from aging and adult field services programs after alternative resources have been taken into account.

(b) The assessors shall award points for each task based on the level of unmet need. The number of points allowable for each task are listed below under columns identified as 0=none, M=minimal, S=substantial, and T=total:

| TASK | O | M | S | T |
|----------------------------|---|---|----|----|
| Eating | | | | |
| Breakfast | 0 | 4 | 7 | 10 |
| Light meal | 0 | 4 | 7 | 10 |
| Main meal | 0 | 5 | 10 | 15 |
| Toileting | 0 | 5 | 10 | 15 |
| Ambulation | 0 | 4 | 7 | 10 |
| Transfer | 0 | 1 | 3 | 5 |
| Positioning | 0 | 1 | 3 | 5 |
| Body care | 0 | 5 | 10 | 15 |
| Personal hygiene | 0 | 1 | 3 | 5 |
| Dressing | 0 | 4 | 7 | 10 |
| Bathing | 0 | 4 | 7 | 10 |
| Self-medication | 0 | 2 | 4 | 6 |
| Travel to medical services | 0 | 1 | 2 | 3 |
| Essential shopping | | | | |
| With client | 0 | 5 | 10 | 15 |
| or | | | | |
| For client | 0 | 1 | 3 | 5 |
| Meal preparation | | | | |
| Breakfast | 0 | 4 | 7 | 10 |
| Light meal | 0 | 4 | 7 | 10 |
| Main meal | 0 | 5 | 10 | 15 |
| Laundry | | | | |
| Facilities in home | 0 | 1 | 2 | 3 |
| or | | | | |
| Facilities out of home | 0 | 3 | 5 | 7 |
| Housework | 0 | 1 | 2 | 3 |
| Wood supply | 0 | 3 | 5 | 7 |

(c) The points awarded for each task are added together to obtain the total score for the applicant or client.

(4) Ceiling hour computation. Department staff shall:

(a) Convert the total score into maximum allowable hours per month (ceiling hours) which may be authorized; and

(b) Use the service authorization ceiling chart to convert the score to ceiling hours per month.

| SCORE | CEILING HOURS | SCORE | CEILING HOURS | SCORE | CEILING HOURS |
|---------|---------------|-----------|---------------|-----------|---------------|
| 1 - 4 | 5 | 60 - 64 | 44 | 120 - 124 | 83 |
| 5 - 9 | 8 | 65 - 69 | 47 | 125 - 129 | 87 |
| 10 - 14 | 11 | 70 - 74 | 51 | 130 - 134 | 90 |
| 15 - 19 | 14 | 75 - 79 | 54 | 135 - 139 | 93 |
| 20 - 24 | 18 | 80 - 84 | 57 | 140 - 144 | 97 |
| 25 - 29 | 21 | 85 - 89 | 60 | 145 - 149 | 100 |
| 30 - 34 | 24 | 90 - 94 | 64 | 150 - 154 | 103 |
| 35 - 39 | 28 | 95 - 99 | 67 | 155 - 159 | 106 |
| 40 - 44 | 31 | 100 - 104 | 70 | 160 - 164 | 110 |
| 45 - 49 | 34 | 105 - 109 | 74 | 165 - 169 | 113 |
| 50 - 54 | 37 | 110 - 114 | 77 | 170 and | |
| 55 - 59 | 41 | 115 - 119 | 80 | Above | 116 |

(c) Conversion hours show client need and may not reflect department paid hours as determined by program standards.

(5) The assessors shall determine the client's additional hours of supervision needed:

(a) Due to confusion, forgetfulness or lack of judgment; and

(b) For standby assistance necessary for unscheduled tasks defined in WAC 388-15-202.

(c) Supervision hours show client need and may not reflect department paid hours as determined by program standards.

(6) Department staff shall authorize services to correspond with the client's assessed need according to eligibility criteria for aging and adult services administration programs. The department shall notify the client of the right to contest denial or reduction of services.

[Statutory Authority: RCW 74.09.520, 74.39.005, 74.08.043 and 74.08.545. 93-06-042 (Order 3501), § 388-15-203, filed 2/24/93, effective 3/27/93.]

WAC 388-15-204 Reassessment. (1) The assessors shall perform an interim reassessment or full reassessment of the client's strengths, physical health, functional and cognitive abilities, social resources, emotional and social functioning, preferences, need for informal and community support and services, and need for department paid services:

(a) As required by the program standards in which the client has been authorized services; and

(b) When deemed necessary because of a change in the client's condition or situation.

(2) The department shall continue, deny, or alter services to correspond with the client's present need. The department shall notify the client of the right to contest denial or reduction of services.

[Statutory Authority: RCW 74.09.520, 74.39.005, 74.08.043 and 74.08.545. 93-06-042 (Order 3501), § 388-15-204, filed 2/24/93, effective 3/27/93.]

WAC 388-15-205 Service plan development. (1) The department and the aging network when providing case management shall develop a service plan with the client which identifies ways to meet the client's needs with the most appropriate services, both formal and informal.

(2) Staff who develop the service plan shall document the:

(a) Client's specific problems and needs;

(b) Plan for meeting each need;

(c) Responsible parties for carrying out each part of the plan;

(d) Anticipated outcomes;

(e) Dates and changes to the plan;

(f) Dates of referral, service initiation, follow-up reviews; and

(g) Agreement to the service plan by the client or the client's representative.

[Statutory Authority: RCW 74.09.520, 74.39.005, 74.08.043 and 74.08.545. 93-06-042 (Order 3501), § 388-15-205, filed 2/24/93, effective 3/27/93.]

WAC 388-15-207 Chore personal care services for adults—Legal basis—Purpose—Goals. (1) The legal basis for the chore personal care program is RCW 74.08.530 through 74.08.570.

(2) The purpose of the program is to assist an eligible applicant at risk of being placed in a long-term care facility by providing allowable chore personal care tasks that may

allow the eligible applicant to remain in or return to the eligible applicant's own residence.

(3) Chore personal care services may be provided through the contracted program or the individual provider program.

[Statutory Authority: RCW 74.08.530 and 74.08.545. 93-04-036 (Order 3500), § 388-15-207, filed 1/27/93, effective 2/27/93. Statutory Authority: RCW 74.08.090. 90-15-029 (Order 3041), § 388-15-207, filed 7/13/90, effective 8/13/90; 89-18-026 (Order 2852), § 388-15-207, filed 8/29/89, effective 9/29/89; 88-17-064 (Order 2674), § 388-15-207, filed 8/17/88; 88-06-088 (Order 2605), § 388-15-207, filed 3/2/88; 81-18-045 (Order 1697), § 388-15-207, filed 8/28/81; 81-06-063 (Order 1618), § 388-15-207, filed 3/4/81.]

WAC 388-15-208 Definitions. (1) "Applicant" means a person applying for chore personal care services.

(2) "Attendant care" means the service provided to a grandparented client needing full-time care because the client:

(a) Requires personal care task assistance that cannot be scheduled, e.g., toileting, ambulation, transfer, positioning, some medication assistance; or

(b) Needs protective supervision because of confusion, forgetfulness, or lack of judgment. Protective supervision does not include responsibilities a legal guardian should assume.

(3) "Available" means accessible for use and conversion into money or its equivalent without significant depreciation in the value of the property.

(4) "Chore personal care services" means services in performing personal care and related household assistance tasks as provided in the department's medical assistance state plan provision addressing personal care.

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

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

(7) "Grandparented client" means a person approved for hourly household tasks or family care services before December 14, 1987, or a person approved for attendant care services before April 1, 1988, provided the person was receiving the same services as of June 30, 1989.

(8) "Hourly care" means the service provided to clients needing assistance with scheduled household or personal care tasks.

(9) "Household assistance" means assistance with travel to medical services, essential shopping, laundry, housework, or wood supply as defined under WAC 388-15-202.

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

(11) "Own home" means the client's present or intended place of residence, whether in a building the client rents or owns or in the home of another person.

(12) "Personal care" means assistance with personal hygiene, dressing, bathing, eating, toileting, ambulation,

transfer, positioning, self-medication, body care, or meal preparation. The tasks are defined under WAC 388-15-202.

(13) "Property owned" means property over which the applicant or client has a legal interest.

(14) "Relative" means a client's spouse, father, mother, son, or daughter.

(15) "Resources" means real or personal property owned by or available to an applicant or a client which the department may apply, either directly or after conversion into money or its equivalent toward meeting the client's financial participation for services.

(16) "Shared living arrangement" means a situation where two or more adults share expenses and reside together in one of the adult's residences with common facilities, such as living, cooking, and eating areas.

[Statutory Authority: RCW 74.08.530 and 74.08.545. 93-04-036 (Order 3500), § 388-15-208, filed 1/27/93, effective 2/27/93. Statutory Authority: RCW 74.08.090. 91-08-011 (Order 3152), § 388-15-208, filed 3/26/91, effective 4/26/91; 90-15-029 (Order 3041), § 388-15-208, filed 7/13/90, effective 8/13/90; 89-13-084 (Order 2815), § 388-15-208, filed 6/21/89; 88-17-064 (Order 2674), § 388-15-208, filed 8/17/88; 88-06-088 (Order 2605), § 388-15-208, filed 3/2/88; 86-12-040 (Order 2383), § 388-15-208, filed 5/30/86; 84-22-017 (Order 2165), § 388-15-208, filed 10/31/84; 83-14-029 (Order 1977), § 388-15-208, filed 6/30/83; 82-23-056 (Order 1904), § 388-15-208, filed 11/16/82; 81-18-045 (Order 1697), § 388-15-208, filed 8/28/81; 81-11-044 (Order 1652), § 388-15-208, filed 5/20/81; 81-06-063 (Order 1618), § 388-15-208, filed 3/4/81.]

WAC 388-15-209 Eligibility. The department shall consider the following eligibility criteria when determining an applicant's/client's eligibility for chore personal care services:

(1) Service eligibility:

(a) Eighteen years of age and over;

(b) At risk of placement in a long-term care facility as evidenced by the need for assistance with one or more personal care tasks listed in WAC 388-15-208(12), and no one is willing and able to provide unpaid assistance with the required personal care tasks; and

(c) Not eligible for Medicaid personal care or community options program entry system (COPES) services.

(2) Financial eligibility, meets the financial and resource eligibility requirements established by the department;

(3) Resource eligibility:

(a) Has resources at or below ten thousand dollars for a one-person family or fifteen thousand dollars for a two-person family. Allow another one thousand dollars for each additional family member;

(b) Resources considered. The department shall consider the following resources when available to the applicant or client in determining the value of an applicant's or client's resources:

(i) Checking accounts;

(ii) Savings accounts;

(iii) Certificates of deposit;

(iv) Money markets;

(v) Negotiable stocks and bonds;

(vi) Latest assessed value of lots or property not attached to residence;

(vii) Market value of a boat or boats, recreational vehicle or vehicles, or excess automobiles;

(viii) Liquid assets such as cash, gold, silver, and other items of an investment and negotiable nature;

(ix) Resources received in transfer or assignment from a spouse under WAC 388-92-043(5) are available to the applicant/client as a single-person household and subject to subsections (2) and (3)(a) and (b) of this section; and

(x) Resources transferred for the purpose of making the applicant or client eligible for department-paid assistance.

(c) Resources excluded. The department shall not consider the following resources, regardless of value, in determining the value of a client's or applicant's resources:

(i) A home and lot normal for the community where the client or applicant resides;

(ii) Used and useful household furnishings, personal clothing, and one automobile per client;

(iii) Personal property of great sentimental value;

(iv) Real or personal property used by the applicant or client to earn income or for rehabilitation;

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

(vi) Cash surrender value of life insurance;

(vii) Resources that cannot be converted to cash in twenty working days as long as there is a reasonable ongoing effort to convert the resource into cash;

(viii) Payments received as restitution payments under the Civil Liberties Act of 1988 and the Aleutian and Pribiloff Island Restitution Act, P.L. 100-383; or

(ix) Real estate sales contracts. The interest and principal payments from real estate sales contracts is treated as unearned income.

(4) Adult protective services. Adult protective service clients at risk of being placed in a long-term care facility shall be eligible to receive chore personal care services without regard to income or resources if these services are an integral but subordinate part of the adult protective services plan. These services shall be provided only until the situation necessitating the services has stabilized and are limited to a maximum of ninety days during any twelve-month period; and

(5) Volunteer chore services. An applicant for chore personal care services shall be referred to the volunteer chore service program when the applicant:

(a) Does not meet the eligibility criteria for chore personal care services;

(b) Is eligible for five hours or less per month of chore personal care services;

(c) Is eligible for a reduced level of chore personal care services because income exceeds thirty percent of the state median income; or

(d) Needs help with tasks that are not available in the chore personal care services program.

[Statutory Authority: RCW 74.08.530 and 74.08.545. 93-04-036 (Order 3500), § 388-15-209, filed 1/27/93, effective 2/27/93. Statutory Authority: RCW 74.08.090. 91-08-011 (Order 3152), § 388-15-209, filed 3/26/91, effective 4/26/91; 90-15-029 (Order 3041), § 388-15-209, filed 7/13/90, effective 8/13/90; 89-18-026 (Order 2852), § 388-15-209, filed 8/29/89, effective 9/29/89; 88-17-064 (Order 2674), § 388-15-209, filed 8/17/88; 88-06-088 (Order 2605), § 388-15-209, filed 3/2/88. Statutory Authority: ESHB 1221. 87-22-013 (Order 2550), § 388-15-209, filed 10/26/87. Statutory Authority: RCW 74.08.090. 86-12-040 (Order 2383), § 388-15-209, filed 5/30/86; 84-22-017 (Order 2165), § 388-15-209, filed 10/31/84; 83-21-007 (Order 2028), § 388-15-209, filed 10/6/83; 82-23-056 (Order 1904), § 388-15-209, filed 11/16/82; 81-18-045 (Order 1697), § 388-15-209, filed 8/28/81; 81-06-063 (Order 1618), § 388-15-209, filed 3/4/81.]

WAC 388-15-212 Service determination. (1) Assessment.

(a) Department staff shall perform the assessment or use assessment information received which has been administered according to rules described under WAC 388-15-202 through 388-15-205.

(b) The department shall consider the chore personal care services client the secondary client in households where community options program entry system (COPES) services or Medicaid personal care services are also authorized.

(2) For each task listed on the assessment form, the department staff shall determine the level of assistance needed according to rules under WAC 388-15-203.

(3) Authorization when there is no required reduction in hours.

(a) The department may authorize the number of ceiling hours allowable for the applicant's/client's score when the applicant/client has a gross income, adjusted for family size, at or below thirty percent of the state median income.

(b) The department may authorize fewer than the allowable ceiling hours when appropriate to the applicant's/client's individual circumstances.

(c) The department shall inform all applicant's/clients of their right to request the department to authorize more than the allowable ceiling hours based on the applicant's/client's score. The department shall grant a waiver to authorize additional hours up to the maximum of one hundred sixteen hours per month when:

(i) Circumstances of a demonstrated duration, frequency, or severity require additional chore personal care service hours to assure the client's health or safety;

(ii) Needed additional hours are specific and clearly measurable; and

(iii) Funds are available under WAC 388-15-214.

(d) The department shall approve or deny requests for a waiver to exceed ceiling hours within thirty days.

(e) When a request for a waiver is denied, the department shall send the applicant/client a notice of the right to contest the department's decision under chapter 388-08 WAC.

(4) Authorization when hours are reduced.

(a) An applicant/client with a gross income, adjusted for family size, over thirty percent of the state median income, shall receive fewer than the number of ceiling hours allowable for the applicant's/client's score.

(b) The department shall determine the amount of reduction to allowable ceiling hours by:

(i) Deducting one hour for each percentage point when the applicant's/client's income exceeds thirty percent of the state median income; and

(ii) Deducting an additional hour for each percentage point when the applicant's/client's income exceeds fifty percent of the state median income.

(c) The reduction computed under subsection (5)(b) of this section shall be subtracted from the allowable ceiling hours to obtain the maximum number of hours per month the applicant/client may be authorized.

(5) Meal allowance—IPP hourly services only. When providing meals for the chore personal care provider is an extra client cost, the department may authorize a payment to partially reimburse the client for the meal cost. The depart-

ment shall not reimburse the costs for a spouse provider. The payment shall not exceed the department-established amount and shall be prorated by days of service.

(6) Relative providers. The department may authorize a relative to provide chore services only when the relative:

(a) Gives up paid employment of thirty hours or more per week, to give the service;

(b) Needs to take paid employment of thirty hours or more per week to meet financial needs; or

(c) Is financially eligible to receive general assistance to meet their own need.

The above criteria apply to relatives providing service to clients, including grandparented clients, in either the contracted program or the individual provider hourly program.

(7) Reassessment.

(a) The department shall reassess the eligibility of all chore personal care clients, except grandparented clients, at least every eighteen months or more often when deemed necessary because of a change in the client's condition or situation.

(b) The department shall continue, deny, or alter services to correspond with the client's present chore personal care need. The department shall notify the client of the right to contest denial or reduction of services.

(c) The eligibility rules as described under WAC 388-15-209 apply to reassessment of all clients except grandparented clients.

(d) The department shall terminate chore personal care services for an hourly personal care client when a reassessment shows the client now needs assistance with household tasks only. This rule shall not pertain to grandparented clients receiving household tasks only.

[Statutory Authority: RCW 74.08.530 and 74.08.545. 93-04-036 (Order 3500), § 388-15-212, filed 1/27/93, effective 2/27/93. Statutory Authority: RCW 74.08.090. 91-08-011 (Order 3152), § 388-15-212, filed 3/26/91, effective 4/26/91; 90-15-029 (Order 3041), § 388-15-212, filed 7/13/90, effective 8/13/90; 89-13-084 (Order 2815), § 388-15-212, filed 6/21/89; 88-17-064 (Order 2674), § 388-15-212, filed 8/17/88; 88-06-088 (Order 2605), § 388-15-212, filed 3/2/88. Statutory Authority: ESHB 1221. 87-22-013 (Order 2550), § 388-15-212, filed 10/26/87. Statutory Authority: RCW 74.08.090. 86-12-040 (Order 2383), § 388-15-212, filed 5/30/86; 84-22-017 (Order 2165), § 388-15-212, filed 10/31/84; 83-21-007 (Order 2028), § 388-15-212, filed 10/6/83; 82-23-056 (Order 1904), § 388-15-212, filed 11/16/82; 81-18-045 (Order 1697), § 388-15-212, filed 8/28/81; 81-11-044 (Order 1652), § 388-15-212, filed 5/20/81; 81-06-063 (Order 1618), § 388-15-212, filed 3/4/81; 79-01-042 (Order 1361), § 388-15-212, filed 12/21/78.]

WAC 388-15-213 Payment. (1) Contracted program. The department shall pay the contractor who pays the chore personal care provider.

(2) Individual provider program.

(a) The department shall pay the client who pays the chore personal care provider.

(b) The department shall pay an hourly rate not to exceed the rate set forth in the most recent schedule of rates established and published by the department for performance of authorized chore personal care service tasks. Payment is contingent upon documentation that services were rendered.

(c) The department shall not pay a spouse providing chore services more than the amount of a one-person standard for a continuing general assistance grant. Refer to WAC 388-29-100 for grant standards.

[Statutory Authority: RCW 74.08.530 and 74.08.545. 93-04-036 (Order 3500), § 388-15-213, filed 1/27/93, effective 2/27/93. Statutory Authority: RCW 74.08.090. 90-15-029 (Order 3041), § 388-15-213, filed 7/13/90, effective 8/13/90; 88-17-064 (Order 2674), § 388-15-213, filed 8/17/88; 88-06-088 (Order 2605), § 388-15-213, filed 3/2/88. Statutory Authority: ESHB 1221. 87-22-013 (Order 2550), § 388-15-213, filed 10/26/87. Statutory Authority: RCW 74.08.090. 86-08-085 (Order 2361), § 388-15-213, filed 4/2/86; 84-22-017 (Order 2165), § 388-15-213, filed 10/31/84; 83-21-007 (Order 2028), § 388-15-213, filed 10/6/83; 82-23-056 (Order 1904), § 388-15-213, filed 11/16/82; 81-18-045 (Order 1697), § 388-15-213, filed 8/28/81; 81-06-063 (Order 1618), § 388-15-213, filed 3/4/81; Order 1238, § 388-15-213, filed 8/31/77.]

WAC 388-15-214 Chore personal care services budget control. (1) The department shall establish a monthly dollar lid on chore personal care service expenditures to maintain expenditures within the legislative appropriation.

(2) When expenditure projections reach the monthly dollar lid, the department shall place names of applicants for chore personal care services on a waiting list in the order of their risk of placement in a long-term care facility. Priorities shall be as follows:

(a) Level A. Applicant needs help with one of the following personal care tasks:

- (i) Eating;
- (ii) Body care;
- (iii) Transfer;
- (iv) Positioning; or
- (v) Toileting.

(b) Level B. Applicant needs help with four or more other personal care tasks listed under WAC 388-15-208(12);

(c) Level C. Applicant needs help with one to three other personal care tasks.

(3) If the monthly dollar lid is not sufficient to stay within the legislative appropriation, the department may implement a ratable reduction of hours or payment for some or all chore personal care service clients.

[Statutory Authority: RCW 74.08.530 and 74.08.545. 93-04-036 (Order 3500), § 388-15-214, filed 1/27/93, effective 2/27/93. Statutory Authority: RCW 74.08.090. 90-15-029 (Order 3041), § 388-15-214, filed 7/13/90, effective 8/13/90; 88-19-031 (Order 2693), § 388-15-214, filed 9/12/88; 88-06-088 (Order 2605), § 388-15-214, filed 3/2/88.]

WAC 388-15-215 Program limitations. (1) The department shall not authorize chore personal care services for:

- (a) Teaching and companionship;
- (b) Child care;
- (c) Providing nursing care; or
- (d) Developing social, behavioral, recreational, communication, or other types of skills.

(2) The department shall not provide chore personal care services to a resident of a:

- (a) Group home;
- (b) Licensed boarding home;
- (c) Congregate care facility;
- (d) Nursing care facility;
- (e) Hospital;
- (f) Institution;
- (g) Adult family home; or
- (h) Child foster home.

Shared living arrangements are not considered group homes.

(3) The department shall provide chore personal care services only in the client's home or surrounding property except for essential shopping, travel to medical services, and laundry when there is not a laundry facility in the client's home.

[Statutory Authority: RCW 74.08.530 and 74.08.545. 93-04-036 (Order 3500), § 388-15-215, filed 1/27/93, effective 2/27/93. Statutory Authority: RCW 74.08.090. 91-08-011 (Order 3152), § 388-15-215, filed 3/26/91, effective 4/26/91; 90-15-029 (Order 3041), § 388-15-215, filed 7/13/90, effective 8/13/90; 89-18-026 (Order 2852), § 388-15-215, filed 8/29/89, effective 9/29/89; 88-11-062 (Order 2625), § 388-15-215, filed 5/17/88; 85-22-021 (Order 2298), § 388-15-215, filed 10/30/85; 84-22-017 (Order 2165), § 388-15-215, filed 10/31/84; 83-21-007 (Order 2028), § 388-15-215, filed 10/6/83; 82-23-056 (Order 1904), § 388-15-215, filed 11/16/82; 81-18-045 (Order 1697), § 388-15-215, filed 8/28/81; 81-06-063 (Order 1618), § 388-15-215, filed 3/4/81; Order 1238, § 388-15-215, filed 8/31/77.]

WAC 388-15-216 Grandparented clients. (1) Continuing eligibility for hourly care chore personal care clients:

(a) The department may continue providing hourly chore personal care services for clients receiving assistance with household tasks only before December 14, 1987, provided the clients were receiving the same services as of June 30, 1989;

(b) The department shall perform periodic reviews to determine continuing need and eligibility according to the rules in effect before December 14, 1987:

(i) If a review indicates a household tasks only client needs assistance with personal care, Medicaid personal care may be authorized if eligible for Medicaid funding. If not eligible for Medicaid personal care, chore personal care services shall be authorized according to the eligibility requirements for a new client;

(ii) If more or less household task services are required, services may be authorized accordingly.

(2) Continuing eligibility for attendant care for adults.

(a) The department may continue providing chore personal care services to clients receiving attendant care before April 1, 1988, provided the clients were receiving the same services as of June 30, 1989.

(b) The department shall perform periodic reviews to determine continuing need and eligibility according to the rules in effect before April 1, 1988:

(i) Attendant care service shall be authorized for clients receiving attendant care before April 1, 1988, who continue to need assistance with such unscheduled tasks as toileting, ambulation, and transfer or who need protective supervision;

(ii) Attendant care protective supervision shall be authorized for clients who may hurt themselves, others, or damage property if left alone, or are confused and may wander, or become easily disoriented;

(iii) The amount of service authorized shall be based on the total number of hours per day the chore personal care provider must be with the client. The chore personal care provider performs necessary household or personal care tasks during the authorized attendant care hours.

(c) The department shall pay a daily rate for attendant care for adults a sum not exceeding the department-established rate:

(i) The department shall add up to five dollars per day for each additional client in the household; and

(ii) The department shall reduce the amount of payment by the individual provider program hourly rate when the client's income exceeds thirty percent of the state median income.

(d) The department shall not increase the payment in effect on June 30, 1989, except for a department-approved vendor rate increase; and

(e) The department shall not pay for services when the client is not in the home, for example, because of hospitalization. The department may provide payment for services up to seven days during the service month to enable the client to return home.

(3) Continuing eligibility for hourly family care services.

(a) Clients receiving hourly family care services before April 1, 1988, may continue to be eligible to receive services provided they were receiving the same services as of June 30, 1989.

(b) The department shall make periodic reviews to determine continuing need and eligibility according to the rules in effect before April 1, 1988. Families may receive services when the client is the normal caretaker of the children, and is:

(i) In the home but unable to physically care for the children; or

(ii) In the home and physically unable to perform the necessary household tasks; or

(iii) Temporarily out of the home, as defined by the department.

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

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

(e) Determination of need for hourly care takes into consideration the ages, numbers, and levels of responsibility of the children and presence of a spouse. Allowable family care activities are:

(i) Family housework. The need for additional help cleaning the residence because of the presence of children;

(ii) Family tasks. The child's need for travel to medical services, laundry services, meal preparation, essential shopping, bathing and dressing, or other allowable tasks;

(iii) Supervision of children. The need for physical supervision of the children when the client is:

(A) In the home, but unable to provide supervision; or

(B) Temporarily out of the home.

(f) Points are awarded for family care activities as follows:

(i) O = 0;

(ii) M = 14;

(iii) S = 27; and

(iv) T = 40.

Enter the points awarded in the functional abilities and supports comments section of the assessment form and add to the client's total score.

(4) Board and room meal allowances. When providing board and room or meals for the chore personal care provider is an extra cost to the client, the department may

authorize a payment to partially reimburse the client for this expense. The department shall not reimburse the costs for a spouse provider. The payment shall not exceed the department-established amount and shall be prorated by days of service. No client shall be authorized for both a board and room allowance and a meal allowance.

(5) Ninety-day rule. Grandparented clients terminated from chore services because of transfer to another program may be reauthorized for chore services when the:

(a) Transfer was in effect for less than ninety days; and

(b) Client becomes ineligible for the program the client is transferred to or the program the client is transferred to does not meet the client's needs.

(6) Priority levels. Priority levels for grandparented clients are:

(a) Level A: Client needs help with one of the following personal care tasks:

(i) Eating;

(ii) Body care;

(iii) Bed transfer;

(iv) Wheelchair transfer; or

(v) Toileting.

(b) Level B: Client needs help with four or more other personal care tasks as described under WAC 388-15-208(13);

(c) Level C: Client needs help with one to three other personal care tasks;

(d) Level D: Client needs help with all five household tasks:

(i) Travel to medical services;

(ii) Essential shopping;

(iii) Laundry;

(iv) Housework; and

(v) Wood supply.

(e) Level E: Client needs help with three or four household tasks; and

(f) Level F: Client needs help with one or two household tasks.

[Statutory Authority: RCW 74.08.530 and 74.08.545. 93-04-036 (Order 3500), § 388-15-216, filed 1/27/93, effective 2/27/93. Statutory Authority: RCW 74.08.090, 91-08-011 (Order 3152), § 388-15-216, filed 3/26/91, effective 4/26/91; 90-15-029 (Order 3041), § 388-15-216, filed 7/13/90, effective 8/13/90; 89-18-026 (Order 2852), § 388-15-216, filed 8/29/89, effective 9/29/89.]

WAC 388-15-217 Chore personal care services for employed disabled adults. (1) For purposes of this section, "employed" means engaged on a regular basis in any work activity for which monetary compensation is obtained.

(2) Employed disabled adults shall be eligible for chore personal care services if they are otherwise eligible under the provisions of WAC 388-15-207 through 388-15-216. Employed disabled adults shall participate in the cost of care as authorized by RCW 74.08.570.

(3) To be eligible for chore personal care services under this section, an applicant or client shall meet all of the following conditions:

(a) Be in need of chore personal care services as determined by the department using an assessment form;

(b) Be eighteen years of age or older;

(c) Be a resident of the state of Washington;

(d) Be determined disabled by the department as specified in subsection (4) of this section;

(e) Be willing to submit to examinations as deemed necessary by the department to establish the extent and nature of the disability;

(f) Have earned income which is less than forty percent of the state median income after subtracting work expenses, the cost of chore services, and any medical expenses not covered through insurance or another source and are incurred to allow the disabled person to work;

(g) Have unearned income at or below forty percent of the state median income or be an adult supplemental security income or state supplementation recipient;

(h) Meet the resource limits specified for the chore personal care program in WAC 388-15-209 (2) and (3);

(i) Promptly report to the department, in writing, any changes in income or resources which may effect eligibility;

(j) Agree to pay all chore personal care service costs beyond the state's contribution as determined using a sliding fee schedule.

| | Percentage of State Median Income After Deductions | Percentage of Rate Paid by The Department |
|-------|--|---|
| | 0 through 5 | 95 |
| Above | 5 through 10 | 90 |
| Above | 10 through 15 | 85 |
| Above | 15 through 20 | 80 |
| Above | 20 through 25 | 75 |
| Above | 25 through 30 | 70 |
| Above | 30 through 35 | 65 |
| Above | 35 through 40 | 60 |

(k) Meet all other requirements for the chore personal care program as defined in WAC 388-15-207 through 388-15-216.

(4) For purposes of this section, an applicant is disabled if either the department:

(a) Has previously determined the applicant is disabled for the purpose of receiving Social Security disability insurance (SSDI), supplemental security income (SSI) or, nongrant Medicaid, and there has been no appreciable improvement in the applicant's disabling condition since that disability determination was made; or

(b) Determined the applicant has a medically determinable physical or mental impairment comparable in severity to a disability qualifying an applicant for medical assistance related to Title XVI under WAC 388-92-015 (3)(c).

(5) The department shall pay its share of chore personal care service costs to the client following receipt of documentation that the services were provided. If the department verifies that less service is provided, in any month, than the maximum authorized, the department shall pay a prorated portion of its share of cost. The client shall employ the chore personal care provider and shall pay the provider the full amount due for services rendered. The client shall be responsible for paying the amount exceeding the department's authorized service cost if the client:

(a) Receives services exceeding department authorized services; or

(b) Agrees to a rate of pay exceeding the department-authorized rate of pay.

(6) The department shall compute an applicant's/client's work-related expenses as follows:

(a) The department shall deduct work-related expenses in accordance with the "percentage method" or the "actual method," whichever is chosen by the client;

(b) If the client chooses the "percentage method," the department shall deduct twenty percent of the gross earned income;

(c) If the client chooses the "actual method," the department shall deduct the actual cost of each work-related expense. The department shall use this method only when the client provides written verification of all work-related expenses claimed;

(d) When determined by the "actual method," allowable work expenses shall consist of:

(i) Child care;

(ii) Payroll deductions required by law or as a condition of employment, in amounts actually withheld;

(iii) The necessary cost of transportation to and from the place of employment by the most economical means, not to include rental cars; and

(iv) Expenses of employment necessary for continued employment, such as:

(A) Tools;

(B) Materials;

(C) Union dues;

(D) Transportation to service customers if not furnished or reimbursed by the employer; and

(E) Uniforms and clothing needed on the job but not suitable for wear away from the job.

(e) Even if verified, the department shall not count work-related expenses in excess of the applicant's gross earned income; and

(f) The client shall have the option to change methods when reporting income to the appropriate department staff.

[Statutory Authority: RCW 74.08.530 and 74.08.545. 93-04-036 (Order 3500), § 388-15-217, filed 1/27/93, effective 2/27/93. Statutory Authority: RCW 74.08.090. 90-15-029 (Order 3041), § 388-15-217, filed 7/13/90, effective 8/13/90; 89-18-026 (Order 2852), § 388-15-217, filed 8/29/89, effective 9/29/89; 88-11-062 (Order 2625), § 388-15-217, filed 5/17/88; 83-21-007 (Order 2028), § 388-15-217, filed 10/6/83; 82-23-056 (Order 1904), § 388-15-217, filed 11/16/82; 81-18-045 (Order 1697), § 388-15-217, filed 8/28/81; 81-03-075 (Order 1589), § 388-15-217, filed 1/21/81.]

WAC 388-15-600 Community options program entry system (COPES)—Purpose—Legal basis. (1) The purpose of the community options program entry system (COPES) is to:

(a) Offer the choice of either institutional or home and community-based waiver services to a nursing facility eligible client;

(b) Divert an eligible client from imminent nursing facility placement; and

(c) Discharge an eligible nursing facility client to the client's own home or to a community-based residence.

(2) Beginning April 1, 1993, and ending March 31, 1994, the department shall provide COPES services as an alternative to institutionalization to not more than seven thousand one hundred ninety-two unduplicated clients who:

(a) The department determines are eligible for nursing facility care per WAC 388-88-081 and 388-15-203; and

(b) Are institutionalized, or the department determines are likely to be institutionalized within the next thirty days in the absence of waiver services per WAC 388-15-615.

(3) The department shall administer the COPES Medicaid program as described under subsection 1915(c) of the Social Security Act, codified in the Code of Federal Regulations at 42 CFR 441.300 through 310, and approved by the secretary, department of health and human services.

(4) The department has the authority to limit the number of unduplicated COPES clients served monthly by each aging and adult field services regional office. The approved waiver does not require the department to provide waiver services:

(a) Throughout the state;

(b) Comparable in amount, duration, or scope; or

(c) To each person or target group who require nursing facility level of care.

(5) RCW 74.08.043 and 74.08.045 authorize the department to purchase personal and special care. RCW 74.08.390 permits the department to conduct demonstration programs and waive specific statutory requirements.

[Statutory Authority: RCW 74.04.057 and 74.08.090. 93-13-135 (Order 3577), § 388-15-600, filed 6/23/93, effective 7/24/93. Statutory Authority: 1987 1st ex.s. c 7. 87-23-054 (Order 2558), § 388-15-600, filed 11/18/87. Statutory Authority: RCW 74.08.090. 86-11-024 (Order 2377), § 388-15-600, filed 5/14/86; 83-08-024 (Order 1954), § 388-15-600, filed 3/30/83.]

WAC 388-15-610 COPES—Eligible persons. (1) An aged, blind, or disabled client, as defined under WAC 388-92-015 (1)(a), (b), and (c), shall be eligible for COPES services when the department determines the client:

(a) Is eighteen years of age or older;

(b) Is not financially eligible for Medicaid state plan covered personal care services;

(c) Has gross monthly income not exceeding three hundred percent of the federal Supplemental Security Income (SSI) benefit level, excluding the state supplement, as defined under WAC 388-80-005 (1)(d);

(d) Has resources at or below the Medicaid standard as defined under WAC 388-95-320 (1)(b) and (c), 388-95-337, and 388-95-340(1);

(e) Is eligible for nursing facility care;

(i) Is institutionalized; or

(ii) Is not presently institutionalized and will require nursing facility care within the next thirty days in the absence of home and community-based waiver services as defined under WAC 388-15-615;

(f) Has a feasible written plan of care. The plan shall be sufficient to safeguard the client's health and safety and the plan's costs, including the one-person medically needy income level, shall be less than ninety percent of the average state-wide nursing facility rate; and

(g) Prefer to receive home or community-based waiver services as described in the department's plan of care, as an alternative to department placement in a nursing facility.

(2) The department shall restrict COPES eligibility to a person meeting the approved COPES waiver target group requirements.

[Statutory Authority: RCW 74.04.057 and 74.08.090. 93-13-135 (Order 3577), § 388-15-610, filed 6/23/93, effective 7/24/93. Statutory Authority: RCW 74.09.500. 92-20-013 (Order 3460), § 388-15-610, filed 9/24/92, effective 10/25/92. Statutory Authority: RCW 74.08.090. 90-15-019 (Order 3039), § 388-15-610, filed 7/12/90, effective 8/12/90. Statutory Authority: 1987 1st ex.s. c 7. 87-23-054 (Order 2558), § 388-15-610, filed 11/18/87. Statutory Authority: RCW 74.08.090. 86-11-024 (Order 2377), § 388-15-610, filed 5/14/86. Statutory Authority: RCW 74.08.044.

84-12-038 (Order 2101), § 388-15-610, filed 5/30/84. Statutory Authority: RCW 74.08.090. 83-08-024 (Order 1954), § 388-15-610, filed 3/30/83.]

WAC 388-15-615 COPES—Program restrictions.

Effective July 1, 1993, the COPES program shall be limited to a person eligible for COPES services under WAC 388-15-202 through 388-15-205 and 388-15-600 through 388-15-610. The department shall determine a person likely to be institutionalized within the next thirty days in the absence of COPES services when the person:

(1)(a) Has medical problems or cognitive impairment and is unable to maintain or coordinate the treatment plan; and

(b) Lives alone or has inadequate family or other support and has inadequately attended needs for periods of time within the twenty-four hour period; and

(c) Has unmet need for assistance with two or more of the following basic self care functions:

- (i) Eating;
- (ii) Toileting;
- (iii) Ambulation;
- (vi) Transfer;
- (v) Positioning;
- (vi) Body care;
- (vii) Personal hygiene;
- (viii) Dressing;
- (ix) Bathing; or
- (x) Prescribed medication.

These basic unmet needs require paid services to allow the person to remain in the community.

(2) Received COPES services prior to July 1, 1993.

[Statutory Authority: RCW 74.04.057 and 74.08.090. 93-13-135 (Order 3577), § 388-15-615, filed 6/23/93, effective 7/24/93. Statutory Authority: RCW 74.09.500. 92-18-041 (Order 3445), § 388-15-615, filed 8/27/92, effective 9/27/92.]

WAC 388-15-620 COPES—Services. (1) The department may authorize the following services to a COPES-eligible client, based on department determination of need and feasible plan of care:

(a) Congregate care or congregate care/assisted living as defined under WAC 388-15-560 through 388-15-568. In addition, congregate care or congregate care/assisted living facilities may provide supervised medication service category C to a COPES-eligible client when:

(i) This service is required by the department's plan of care; and

(ii) Medication administration is by a licensed nurse under the general direction of a licensed physician or dentist. Refer to RCW 18.88.285 and WAC 308-117-010 through 308-117-500, 308-120-100 through 308-120-522 and 248-16-229; or

(b) Adult family home care as defined under WAC 388-15-551 through 388-15-555; or

(c) Personal care services as defined under WAC 388-15-202(3) and included in the client's approved plan of care.

(2) The department may not authorize sterile procedures and administration of medications as COPES-paid personal care tasks, unless the provider is a licensed health practitioner or a member of the client's immediate family.

(3) When home health and adult day health services, which are not waiver services, are included in the client's

COPES plan of care, the department shall include the Medicaid reimbursed service costs in the plan of care cost computation.

[Statutory Authority: RCW 74.04.057 and 74.08.090. 93-13-135 (Order 3577), § 388-15-620, filed 6/23/93, effective 7/24/93. Statutory Authority: RCW 74.08.090. 90-15-019 (Order 3039), § 388-15-620, filed 7/12/90, effective 8/12/90. Statutory Authority: 1987 1st ex.s. c 7. 87-23-054 (Order 2558), § 388-15-620, filed 11/18/87. Statutory Authority: RCW 74.08.090. 86-11-024 (Order 2377), § 388-15-620, filed 5/14/86; 85-18-067 (Order 2281), § 388-15-620, filed 9/4/85. Statutory Authority: RCW 74.08.044. 84-12-038 (Order 2101), § 388-15-620, filed 5/30/84. Statutory Authority: RCW 74.08.090. 83-08-024 (Order 1954), § 388-15-620, filed 3/30/83.]

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

The department shall:

(1) Allocate all nonexempt income of a person receiving COPES services according to procedures under WAC 388-83-200;

(2) Pay for COPES services provided in accordance with a client's approved plan of care, a sum not to exceed the COPES rates set forth in the most recent schedule of department-established and published rates to:

(a) Licensed and contracted nonmedical residential care facilities, including congregate care, congregate care/assisted living and adult family homes;

(b) Licensed and contracted home-care agencies;

(c) A person providing care to a COPES-eligible client when the individual provider:

(i) Is eighteen years of age or older;

(ii) Meets or surpasses the COPES waiver's minimum standards of knowledge and experience, skills, and abilities;

(iii) Has a department-approved COPES contract and service payment authorization; and

(iv) Is interviewed, hired, and retained by a COPES-eligible client or representative and provides services in the client's established residence.

(3) Pay a qualified unrelated person providing board, room, and care for a COPES-eligible client in the person's established residence only at the adult family home rate. To qualify for payment, the unrelated person's home shall be licensed and contracted as an adult family home.

(4) Not pay a COPES-eligible client's spouse for providing care to the client.

(5) Pay a COPES-eligible client's father, mother, son, or daughter only when:

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

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

(6) Not make additional payments beyond the department-established and published COPES rates. The department rates shall include all services provided to a COPES-eligible client under applicable department contracts.

[Statutory Authority: RCW 74.04.057 and 74.08.090. 93-13-135 (Order 3577), § 388-15-630, filed 6/23/93, effective 7/24/93. Statutory Authority: RCW 74.08.090. 90-15-019 (Order 3039), § 388-15-630, filed 7/12/90, effective 8/12/90. Statutory Authority: 1987 1st ex.s. c 7. 87-23-054 (Order 2558), § 388-15-630, filed 11/18/87. Statutory Authority: RCW 74.08.090. 86-11-024 (Order 2377), § 388-15-630, filed 5/14/86; 85-18-067 (Order 2281), § 388-15-630, filed 9/4/85. Statutory Authority: RCW 74.08.044. 84-12-038 (Order 2101), § 388-15-630, filed 5/30/84. Statutory Authority: RCW 74.08.090. 83-08-024 (Order 1954), § 388-15-630, filed 3/30/83.]

WAC 388-15-820 Medicaid personal care services—

Definitions. (1) "Applicant" means a person applying for Medicaid personal care services.

(2) "Client" means a person determined eligible for Medicaid personal care services.

(3) "Community residence" means a:

(a) Client's own home, whether in a building owned or rented by the client;

(b) Licensed adult family home under department contract;

(c) Licensed boarding home under department contract;

(d) Licensed children's foster family home;

(e) Licensed group care facility, as defined in WAC 388-73-014(8); or

(f) Shared living arrangement where two or more adults share expenses and reside together in one of the adult's residences with common facilities, such as living, cooking, and eating areas.

(4) "Direct personal care services" means assistance with tasks involving direct client care which are directly related to the client's medical condition. Such assistance is limited to allowable help with the tasks of ambulation, bathing, body care, dressing, eating, essential shopping, personal hygiene, positioning, self-medication, toileting, transfer, and travel to medical services as defined under WAC 388-15-202.

(5) "Handicapping condition" means a medical condition which causes a functional impairment in activities of daily living.

(6) "Household assistance" means assistance with incidental household tasks provided as an integral, but subordinate part of the personal care furnished directly to a client. Household assistance shall be considered an integral part of personal care when such assistance is directly related to a medical condition, is reflected in the client's service plan, and is provided only when a client is assessed as needing personal care assistance with one or more direct personal care tasks. Incidental household tasks are limited to housework, laundry, meal preparation and wood supply as defined under WAC 388-15-202.

(7) "Legally responsible relative" means a spouse for a spouse, or a parent of a minor child.

(8) "Medicaid personal care services" means medically-oriented tasks, directed at a client or the client's immediate environment, that are necessitated by the client's handicapping condition. Such services shall be:

(a) Based on an assessment of applicant/client needs;

(b) Provided in conformance with a service plan ordered by a client's attending physician;

(c) Reviewed by a registered nurse at least every ninety days;

(d) Performed by qualified and trained personal care aides, excluding a legally responsible relative;

(e) Services shall be provided in a client's own home when the client is present in the home.

(9) "Medically-oriented tasks" means direct personal care services, household assistance provided as an integral but subordinate part of the personal care furnished directly to a client, and supervision.

(10) "Personal care aide" means a person meeting the qualification and training requirements established by the

department and providing direct personal care services to a client. This person may be an employee of a qualified agency provider or may be under contract as a qualified individual provider.

(11) "Personal care assistance" means hands-on assistance with personal care tasks which requires action by the provider beyond cueing, prompting, reminding, or supervising.

(12) "Personal care provider" means a qualified agency provider or a qualified individual provider who is not a legally responsible relative of the client and is under department contract to provide Medicaid personal care services.

(13) "Personal care service plan" means a plan which is:

(a) Developed by the department and the client or client's representative in cooperation with appropriate community agency staff;

(b) Written and describes the personal care services which will be provided, frequency of provision, and expected outcomes;

(c) Ordered by a client's attending physician.

(14) "Physician" means a doctor of medicine, osteopathy or podiatry, as defined under WAC 388-80-005(52), or a client's Christian Science practitioner.

(15) "Physician's order" means written approval by a client's attending physician of the specific personal services to be provided to the client.

(16) "Qualified agency provider" means a community agency which applied for licensing as a home care agency or home health agency.

(17) "Qualified individual provider" means a person meeting the individual provider qualifications established by the department.

(18) "Supervision" means unscheduled help with personal care tasks or protective supervision as defined under WAC 388-15-202, and is provided only when a client is assessed as needing personal care assistance with one or more direct personal care tasks.

[Statutory Authority: RCW 74.09.520, 93-10-023 (Order 3538), § 388-15-820, filed 4/28/93, effective 5/29/93. Statutory Authority: RCW 74.08.090, 91-21-026 (Order 3264), § 388-15-820, filed 10/8/91, effective 11/8/91; 90-06-038 (Order 2950), § 388-15-820, filed 3/1/90, effective 4/1/90; 89-18-029 (Order 2856), § 388-15-820, filed 8/29/89, effective 9/29/89.]

WAC 388-15-830 Medicaid personal care services—

Eligibility. (1) The department shall provide Medicaid personal care services to a person:

(a) Certified as a Title XIX categorically needy medical assistance client;

(b) Programmatically eligible; that is, due to a handicapping condition, is determined to need personal care assistance with one or more direct Medicaid personal care tasks to remain in a community residence;

(c) Residing in own residence, in a licensed and contracted adult family home, a licensed boarding home under department contract, a children's foster family home, or a children's group care facility; and

(d) With a physician's order approving provision of specific personal care services.

(2) A person's eligibility for Medicaid personal care services shall begin upon date of the department's service authorization.

(3) The department shall not authorize chore services or adult family home add-on services to a person qualifying for Medicaid personal care services when the person's service needs are met within the scope of the Medicaid personal care program.

[Statutory Authority: RCW 74.09.520, 93-10-023 (Order 3538), § 388-15-830, filed 4/28/93, effective 5/29/93. Statutory Authority: RCW 74.08.090, 89-18-029 (Order 2856), § 388-15-830, filed 8/29/89, effective 9/29/89.]

WAC 388-15-840 Medicaid personal care services—Assessment—Authorization. (1) Department staff shall perform a person's assessment or use assessment information received which has been administered as required under WAC 388-15-202 through 388-15-205.

(2) When a child is assessed, the assessor shall consider the personal care applicant's age in determining if the degree of personal care needed is appropriate to the child's age, or as the result of the applicant's functional impairment. The assessor shall only assess need for personal care services exceeding the level of age appropriate personal care.

(3) The assessor shall perform an assessment or reassessment within the department-established time frames.

(4) The department shall be responsible for authorizing Medicaid personal care services.

(5) For each task listed on the assessment form, the department staff shall determine the degree of assistance needed as required under WAC 388-15-203.

(6) A client's attending physician shall review and reauthorize the client's service plan at least once every twelve months.

[Statutory Authority: RCW 74.09.520, 93-10-023 (Order 3538), § 388-15-840, filed 4/28/93, effective 5/29/93. Statutory Authority: RCW 74.08.090, 91-21-026 (Order 3264), § 388-15-840, filed 10/8/91, effective 11/8/91; 89-18-029 (Order 2856), § 388-15-840, filed 8/29/89, effective 9/29/89.]

WAC 388-15-850 Medicaid personal care services—Nurse oversight. (1) A registered nurse shall visit a client at least once every ninety days not to exceed four visits in any one year period to:

- (a) Review the client's medical and mental condition;
- (b) Review the service plan determining if revisions may be required and, if so, recommend revisions;
- (c) Review the client's need for continued care;
- (d) Assess the quality of personal care services received; and
- (e) Assess the personal care provider's need for additional training.

(2) The registered nurse shall document the result of the nurse's oversight visit on the department-prescribed form.

[Statutory Authority: RCW 74.09.520, 93-10-023 (Order 3538), § 388-15-850, filed 4/28/93, effective 5/29/93. Statutory Authority: RCW 74.08.090, 91-21-026 (Order 3264), § 388-15-850, filed 10/8/91, effective 11/8/91; 89-18-029 (Order 2856), § 388-15-850, filed 8/29/89, effective 9/29/89.]

WAC 388-15-860 Medicaid personal care services—Personal care aide qualifications. The department shall:

- (1) Define minimum qualifications for a personal care aide and require an aide meet the qualifications;
- (2) Define minimum orientation and training requirements for a personal care aide and require documentation stating minimum requirements are met; and

(3) List definitions for minimum qualifications and training requirements for a personal care aide in the department's field manual for Medicaid personal care.

[Statutory Authority: RCW 74.09.520, 93-10-023 (Order 3538), § 388-15-860, filed 4/28/93, effective 5/29/93. Statutory Authority: RCW 74.08.090, 91-21-026 (Order 3264), § 388-15-860, filed 10/8/91, effective 11/8/91; 89-18-029 (Order 2856), § 388-15-860, filed 8/29/89, effective 9/29/89.]

WAC 388-15-870 Medicaid personal care services—Service provision system. (1) Area agencies on aging shall contract with qualified agency providers to perform Medicaid personal care services at the department-established rate.

(2) DCFS shall contract with qualified agency providers to perform Medicaid personal care services for children in foster/group homes, their own homes, or relative placement at the department-established rates.

(3) The department may contract with Indian tribes who meet qualifications to provide Medicaid personal care services at the department-established rates.

(4) Area agencies on aging shall provide or contract for registered nurse oversight for Medicaid personal care services.

(5) The department shall contract with area agencies on aging to assume the responsibilities as described under subsections (1) and (4) of this section.

(6) The department shall contract with a qualified individual provider to perform Medicaid personal care services at the department-established rate.

(7) Agency providers shall deliver services to adult clients in the clients' own residences unless the personal care service plan exceeds eighty-five hours per month. An individual provider may deliver services to a child in the child's own residence regardless of the hours authorized. A client shall have freedom of choice in selecting a qualified agency provider.

(8) An individual provider under contract with the department shall deliver services to a client in the client's own residence when the personal care service plan exceeds eighty-five hours per month. Clients shall have freedom of choice in selecting a qualified individual provider.

(9) Adult family home (AFH) providers or boarding home staff shall provide services to clients in a licensed and contracted AFH or boarding home. Foster parents or group care facility staff shall provide services to children in a foster family home or group care facility as defined in WAC 388-73-014(8). Clients shall have freedom of choice in selecting a licensed and contracted AFH or boarding home, provided the AFH or boarding home can meet their personal care needs.

[Statutory Authority: RCW 74.09.520, 93-10-023 (Order 3538), § 388-15-870, filed 4/28/93, effective 5/29/93. Statutory Authority: RCW 74.08.090, 91-21-026 (Order 3264), § 388-15-870, filed 10/8/91, effective 11/8/91; 90-06-038 (Order 2950), § 388-15-870, filed 3/1/90, effective 4/1/90; 89-18-029 (Order 2856), § 388-15-870, filed 8/29/89, effective 9/29/89.]

WAC 388-15-880 Payment and authorization. Payment and authorization.

(1) In the individual provider program, the department pays the department established rate directly to the service provider. No in-home personal care service plans shall authorize services by an individual provider unless the service need exceeds eighty-five hours per month.

(2) In the contracted program, the department pays the contractor who pays the service provider.

(3) The department shall establish rates paid for the provision of Medicaid personal care. Current maximum rates shall be contained in the departments social service payment system appendices A, E, and C.

(4) No contractor shall pay service providers performing Medicaid personal care services less than five dollars and fifteen cents per hour.

(5) DCFS authorizations for Medicaid personal care in a childrens foster/group home, or for children residing in their own homes shall not exceed sixty hours of service per month.

(6) The department shall not make payment for services provided exceeding the department's authorization.

[Statutory Authority: RCW 74.09.520. 93-10-023 (Order 3538), § 388-15-880, filed 4/28/93, effective 5/29/93. Statutory Authority: RCW 74.08.090. 91-21-026 (Order 3264), § 388-15-880, filed 10/8/91, effective 11/8/91; 90-06-038 (Order 2950), § 388-15-880, filed 3/1/90, effective 4/1/90; 89-18-029 (Order 2856), § 388-15-880, filed 8/29/89, effective 9/29/89.]

WAC 388-15-890 Medicaid personal care services—Program limitations. (1) The department shall not authorize Medicaid personal care services for:

(a) Teaching, including teaching clients how to perform personal care tasks or other community living skills;

(b) Personal care services provided over the telephone, or at a site other than the client's residence, except for the tasks of laundry, travel to medical services, and essential shopping;

(c) Developing social, behavioral, recreational, communication, or other types of skills;

(d) Cleaning areas of the home not occupied by the client, laundering clothing or bedding for someone other than the client, and shopping for groceries or household items not required specifically for the health and maintenance of the client;

(e) Direct personal care tasks, household assistance, or supervision as defined under WAC 388-15-202, unless the client is assessed as needing personal care assistance with one or more direct personal care tasks; and

(f) Companionship.

(2) The department shall adjust payment for services according to department established rates which take into account the common household tasks of essential shopping, meal preparation, laundry, housework, and wood supply when:

(a) More than one client lives in the same household; and

(b) The client is sharing living arrangements.

(3) The department shall not authorize meal preparation, wood supply, laundry, or housework as a Medicaid personal care task to clients who live in an adult family home, licensed boarding home, or childrens foster/group home.

(4) The type of help allowable for each personal care task shall not include assistance that must be provided only by a licensed health professional.

[Statutory Authority: RCW 74.09.520. 93-10-023 (Order 3538), § 388-15-890, filed 4/28/93, effective 5/29/93.]

Chapter 388-21 WAC DIVERSITY INITIATIVE

WAC

388-21-005

Diversity initiative.

WAC 388-21-005 Diversity initiative. (1) The department shall use the biennial planning and budget building process to promote equality for Washington state residents as required under:

(a) Chapter 49.60 RCW, Washington State Laws Against Discrimination;

(b) Titles VI and Title VII of the 1964 Civil Rights Act as amended in 1972;

(c) Executive Order 11246 as amended by Executive order 11375;

(d) 1973 Rehabilitation Act;

(e) 1975 Age Discrimination Act;

(f) 1967 Age Discrimination in Employment Act;

(g) 1974 Vietnam Era Veteran Readjustment Assistance Act;

(h) Governor's Executive Order 91-06;

(i) 1990 Americans with Disabilities Act;

(j) 1991 Civil Rights Act.

(2) For the purposes of this section, "targeted protected group member" means a person protected by the statutes and executive orders cited under subsection (1) of this section.

(3) The department shall seek to ensure a person receives equality of access and high quality service. The department's biennial planning and budget building process shall consider the following:

(a) Access to department services by targeted protected group members; and

(b) Quality, including the cultural relevance and appropriateness of services received by targeted protected group members and their families.

(4) The department shall establish biennial plans for each division of the department that:

(a) Identify service inequities; and

(b) Undertake, within available resources, reasonable and measurable efforts to reduce inequities.

(5) The department shall consider items within the budget building process that meet the department's goal of providing equal access to targeted protected group members.

(6) The department shall establish an ongoing review process that, on a periodic basis, monitors each division's progress in achieving the commitments contained within the department's biennial plan.

(7) In designing and implementing subsections (1), (3), (4), (5), and (6) of this section, the department shall establish and strengthen the collaborative and constructive working relationship between the department and targeted protected group communities.

[Statutory Authority: Chapter 49.60 RCW. 93-04-037 (Order 3499), § 388-21-005, filed 1/27/93, effective 2/27/93.]

Chapter 388-24 WAC
AID TO FAMILIES WITH DEPENDENT
CHILDREN—ELIGIBILITY

WAC

| | |
|------------|---|
| 388-24-050 | Aid to families with dependent children—Assistance unit. |
| 388-24-074 | Aid to families with dependent children-employable—Deprivation due to unemployment of a parent. |
| 388-24-253 | Exempt income and resources for CEAP. |

WAC 388-24-050 Aid to families with dependent children—Assistance unit. (1) Except as specified under subsection (3) of this section, the department shall include, in a single assistance unit, the following persons living together:

- (a) A woman in her third trimester of pregnancy who has no other child; or
- (b) A child, including all full, half, or adopted brothers and sisters of the child; and
- (c) A parent, adoptive parent, or stepparent with whom the child lives; and
- (d) A minor parent's parent who claims to be the needy caretaker relative of:
 - (i) The minor parent;
 - (ii) The minor parent's child; or
 - (iii) The minor parent's full or half brother or full or half sister.

(2) Except as specified under subsection (3) of this section, the department may include in the assistance unit at the option of the family:

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

(b) The stepbrother or stepsister of a child included in the assistance unit, except as required under subsection (1) of this section.

(3) The department shall exclude from the assistance unit a person ineligible due to factors not related to need. Exclusions include, but are not limited to:

- (a) A recipient of SSI benefits;
- (b) An alien not meeting the citizenship and alienage requirements as described under WAC 388-26-120;
- (c) Adopted children receiving Title IVE, state, or local adoption assistance if inclusion of such child and the child's income will result in a decrease in benefits to the assistance unit;
- (d) A child who receives Title IVE, state, or local foster care maintenance payments; and
- (e) A person under sanction for noncooperation with:
 - (i) The job opportunities basic skills training (JOBS) program as described under WAC 388-24-107; or
 - (ii) The department's office of support enforcement as described under WAC 388-24-108 and 388-24-109.

[Statutory Authority: RCW 74.04.660. 93-19-038 (Order 3631), § 388-24-050, filed 9/8/93, effective 10/9/93. Statutory Authority: RCW 74.08.090. 91-12-044 (Order 3188), § 388-24-050, filed 6/4/91, effective 7/5/91; 88-24-009 (Order 2731), § 388-24-050, filed 11/30/88; 88-09-039 (Order 2621), § 388-24-050, filed 4/15/88; 85-18-041 (Order 2275A), § 388-24-050, filed 8/30/85; 83-22-066 (Order 2033), § 388-24-050, filed 11/2/83; 81-10-012 (Order 1644), § 388-24-050, filed 4/27/81. Statutory Authority: RCW 43.20A.550. 79-11-081 (Order 1444), § 388-24-050, filed 10/23/79. Statutory Authority: RCW 74.08.090. 78-12-027 (Order 1357), § 388-24-050, filed 11/15/78. Statutory Authority: RCW 74.08.090. 78-06-074

(Order 1297), § 388-24-050, filed 5/31/78, effective 7/1/78; Order 1235, § 388-24-050, filed 8/31/77; Order 1199, § 388-24-050, filed 3/18/77; Order 978, § 388-24-050, filed 10/28/74.]

WAC 388-24-074 Aid to families with dependent children-employable—Deprivation due to unemployment of a parent. (1) The department shall consider a child deprived of parental care and support due to the unemployment of a parent when the child lives with two parents, one of which meets all the requirements in this section.

(2) The department shall designate the qualifying parent as that parent earning the greater amount of income in the twenty-four-calendar-month period immediately preceding the month the application for assistance is filed. The department shall:

(a) Designate the qualifying parent using the best evidence available;

(b) Consider the earnings of both parents regardless of when the relationship began;

(c) Continue the designation for each consecutive month the family remains on assistance based on the current application; and

(d) Designate the qualifying parent if both parents earned an identical amount of income.

(3) The department shall consider the qualifying parent unemployed when the qualifying parent:

(a) Is employed less than one hundred hours a month;

(b) Exceeds this standard for a particular month if the excess is of a temporary nature evidenced by being under the one hundred hour standard for the two prior months and is expected to be under the standard during the next month; or

(c) Participates in institutional and work experience training under the JOBS program and is not otherwise employed over one hundred hours.

(4) The qualifying parent shall be unemployed as defined in subsection (3) of this section for thirty days or more before the date AFDC-E is authorized except when:

(a) AFDC-E is terminated due to employment of the qualifying parent;

(b) The full-time employment ends within thirty days of termination; and

(c) The qualifying parent reapplies and is found otherwise eligible for AFDC-E.

(5) During the same thirty-day period, or subsequent period, the qualifying parent shall not have:

(a) Refused a bona fide offer of employment;

(b) Refused training for employment;

(c) Voluntarily left a job without good cause; or

(d) If eligible, refused to apply for or accept unemployment compensation.

(6) The qualifying parent shall participate, as required in the JOBS program, or, if exempt due to remoteness, and not participating in JOBS, shall be registered with a public employment agency in the state.

(7) The qualifying parent shall have one of the following:

(a) Six or more quarters of work within any thirteen calendar quarter period ending within one year before the application for assistance.

(i) A "quarter of work" means a calendar quarter in which the parent earned or received earned income of fifty dollars or more, or participated in the OPPORTUNITIES

program; FIP-related education, training, employment services; or JOBS program.

(ii) A "calendar quarter" means three consecutive months ending March 31st, June 30th, September 30th, or December 31st.

(b) Within one year before the application, received, or had such a work history to be eligible to receive, unemployment compensation.

(8) A family independence program (FIP) enrollee who was approved for FIP before June 30, 1989, based on the unemployment of the qualifying parent, and who received FIP continuously through June 30, 1993, shall have eligibility for AFDC determined according to WAC 388-24-074 (1) through (7). Said enrollee may establish the six work quarter requirement in any thirteen consecutive quarter period beginning seventeen quarters before the enrollee's application for FIP benefits through June 30, 1993.

[Statutory Authority: RCW 74.04.057. 93-12-055 (Order 3565), § 388-24-074, filed 5/27/93, effective 7/1/93. Statutory Authority: RCW 74.04.050. 92-14-031 (Order 3408), § 388-24-074, filed 6/23/92, effective 7/24/92. Statutory Authority: RCW 74.08.090. 92-08-041, § 388-24-074, filed 3/24/92, effective 4/24/92; 91-16-058 (Order 3219), § 388-24-074, filed 8/1/91, effective 9/1/91; 90-21-123 (Order 3087), § 388-24-074, filed 10/23/90, effective 11/23/90; 89-12-079 (Order 2808), § 388-24-074, filed 6/7/89; 88-24-009 (Order 2731), § 388-24-074, filed 11/30/88. Statutory Authority: Chapter 74.04 RCW. 88-06-084 and 88-07-056 (Orders 2601 and 2601A), § 388-24-074, filed 3/2/88 and 3/14/88. Statutory Authority: RCW 74.08.090. 85-18-041 (Order 2275A), § 388-24-074, filed 8/30/85; 83-22-066 (Order 2033), § 388-24-074, filed 11/2/83.]

WAC 388-24-253 Exempt income and resources for CEAP. The department shall disregard:

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

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

(3) Used and useful household furnishings;

(4) Used and useful personal effects;

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

(6) Livestock, the products of which are consumed by the applicant and the applicant's dependents;

(7) Any payment received under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, P.L. 91-646;

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

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

(10) Any benefits received under the women, infants and children program (WIC) of the Child Nutrition Act of 1966, as amended, and the special food service program for children under the National School Lunch Act, as amended;

(11) The income and resources of a Supplemental Security Income recipient;

(12) Energy assistance payments;

(13) Grants, loans, or work study to a student under Title IV-A of the Higher Education Amendments or Bureau of Indian Affairs for attendance costs as identified by the institution, P.L. 100-50;

(14) Indian tribal judgment funds, or funds held in trust by the Secretary of the Interior, distributed per capita under

P.L. 93-134, P.L. 94-114, P.L. 97-408, P.L. 97-458, P.L. 98-64, and any real or personal property purchased directly with these funds;

(15) Two thousand dollars per person per calendar year received under the Alaska Native Claims Settlement Act or under P.L. 92-203 and P.L. 100-241;

(16) Payments from the annuity fund established by the Puyallup Tribe of Indians Settlement Act of 1989, P.L. 101-41, made to a Puyallup Tribe member upon reaching twenty-one years of age;

(17) Payments made from the Agent Orange Settlement Fund established to settle agent orange liability claims under P.L. 101-201.

[Statutory Authority: RCW 74.04.660 and CFR 233.20 (a)(4)(ii)(e). 93-07-034 (Order 3527), § 388-24-253, filed 3/10/93, effective 4/10/93. Statutory Authority: RCW 74.04.660. 92-09-023 (Order 3361), § 388-24-253, filed 4/6/92, effective 5/7/92; 87-13-077 (Order 2503), § 388-24-253, filed 6/17/87. Statutory Authority: RCW 74.08.090. 85-20-022 (Order 2284), § 388-24-253, filed 9/23/85.]

Chapter 388-28 WAC

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

WAC

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| 388-28-392 | Community, separate, and jointly owned property—Time-loss compensation—Lien. |
| 388-28-425 | Effect of resources on financial need—Real property other than home—All programs. |
| 388-28-435 | Effect of resources on financial need—Personal property exemptions—Ceiling values. |
| 388-28-485 | Use of income and income potentials—Parental income and support. |
| 388-28-500 | Allocating income from an assistance unit. |
| 388-28-560 | Allocating income to an assistance unit. |
| 388-28-570 | Net cash income—Exempt earned income. |
| 388-28-575 | Disregard of income and resources. |
| 388-28-590 | Alien sponsorship—Deeming of income and resources—Overpayments. |

WAC 388-28-392 Community, separate, and jointly owned property—Time-loss compensation—Lien. (1) The department of social and health services shall file a lien and notice to withhold and deliver, with labor and industries or the self-insurer, to recover time-loss compensation payable to a public assistance client, for injury or illness occurring on or after July 1, 1972. The department shall mail a copy of the notice to the client no later than the following work day.

(2) By accepting public assistance, adult and minor clients subrogate to the department the clients' right to recover time-loss compensation. The department shall compute payments for time-loss compensation and public assistance paid for less than a full month on the actual number of days paid. The department shall not make a further claim under this lien when:

(a) Duplicated benefits terminate; or

(b) Continued assistance is required to supplement time-loss compensation to bring the assistance unit up to the grant standard.

(3) When an assistance unit consists of unmarried parents, the department shall recover time-loss benefits as though the injured worker and the injured worker's depen-

dents comprise a separate assistance unit. The department shall:

(a) Consider any common children to be part of the injured worker's assistance unit; and

(b) Budget any income received by the injured worker's separate assistance unit against the related grant.

(4) When the client or client's attorney claims allowable attorney fees and costs, incidental to an increased award, the office of financial recovery, department of social and health services shall:

(a) Request an itemized billing from the attorney;

(b) Determine what portion of the award, if any, resulted directly from the attorney's involvement;

(c) Determine the department's proportionate share of attorney fees and costs applicable to the duplicate coverage period; and

(d) Deduct the department's share of cost in subsection (4)(c) of this section from the lien for duplicated assistance; or

(e) Issue the proportionate share refund to the attorney with a copy of the account summary to the client.

(5) The department shall advise a client of the provision in WAC 388-28-392 when the client may be eligible for time-loss compensation.

(6) The department shall advise a client of the client's right to a fair hearing as provided in chapter 388-08 WAC.

[Statutory Authority: RCW 74.08.090. 93-04-028 (Order 3503), § 388-28-392, filed 1/27/93, effective 2/27/93; 91-02-070 (Order 3111), § 388-28-392, filed 12/28/90, effective 1/28/91; 85-18-066 (Order 2280), § 388-28-392, filed 9/4/85; 82-12-066 (Order 1818), § 388-28-392, filed 6/2/82; Order 842, § 388-28-392, filed 8/9/73.]

WAC 388-28-425 Effect of resources on financial need—Real property other than home—All programs.

(1) If an applicant owns real property with net equity value in excess of the resource maximum, the applicant may receive assistance for a period not to exceed nine months provided the applicant:

(a) Is making a good-faith effort to sell the property. "Good-faith effort" means listing the property with a multiple listing realtor or other reasonable means when a multiple listing is unavailable or the realtor refuses to list the property.

(b) Signs a repayment agreement to repay the lesser of the amount of aid received or the net proceeds of such sale. "Net sale proceeds" means sale price less encumbrances and costs incurred in selling the property.

(2) If the owner of excess real property ceases to make good-faith efforts to sell the property, the entire amount of assistance may become an overpayment. Clients must be advised of their right to a fair hearing and afforded the opportunity to challenge a decision that good-faith efforts to sell have ceased, prior to assessment of an overpayment under this section.

(3) At the time assistance is authorized, the department shall file a lien without a sum certain on the specific property.

(4) An enrollee in the family independence program (FIP) who converts to AFDC, and who owns real property with net equity value in excess of the resource maximum, shall have eligibility for AFDC determined according to WAC 388-28-425 (1), (2), and (3).

[Statutory Authority: RCW 74.04.057. 93-12-056 (Order 3562), § 388-28-425, filed 5/27/93, effective 7/1/93. Statutory Authority: RCW 74.08.090. 88-19-029 (Order 2691), § 388-28-425, filed 9/12/88; 85-18-042 (Order 2276), § 388-28-425, filed 8/30/85.]

WAC 388-28-435 Effect of resources on financial need—Personal property exemptions—Ceiling values.

(1) Resources shall not exceed one thousand dollars per household regardless of size. The department shall consider cash, marketable securities, cash discount value of real estate or chattel mortgages, sales contracts, cash surrender value of life insurance, excess equity value of vehicles, value of nonexempt property, and any other resources not specifically exempt.

(2) Regardless of value, the department shall exempt household furnishings and personal clothing essential for daily living. The department shall not exempt household furnishings and personal clothing in storage without evidence that these items are essential for daily living.

(3) The department shall exempt term or burial insurance up to an equity value of one thousand five hundred dollars per household member.

(4) The department shall exempt one cemetery plot for each assistance household member.

(5) The department shall exempt one vehicle with an equity value of one thousand five hundred dollars or less.

(6) The department shall consider an income tax refund a resource in the month received. "Income tax refund" means a payment received from a state or from the United States Internal Revenue Service (IRS) representing a refund of taxes previously paid. The earned income tax credit portion of the refund is considered a resource in the second month following the month of receipt.

[Statutory Authority: RCW 74.04.040 and 45 CFR 233.20 (a)(3)(i)(B)(2). 93-07-126 (Order 3529), § 388-28-435, filed 3/24/93, effective 4/24/93. Statutory Authority: RCW 74.04.005. 92-16-014 (Order 3423), § 388-28-435, filed 7/23/92, effective 8/23/92. Statutory Authority: RCW 74.04.055. 91-13-082 (Order 3193), § 388-28-435, filed 6/18/91, effective 7/19/91; 88-05-013 (Order 2598), § 388-28-435, filed 2/10/88. Statutory Authority: RCW 74.08.090. 86-23-020 (Order 2441), § 388-28-435, filed 11/10/86; 85-18-042 (Order 2276), § 388-28-435, filed 8/30/85; 85-04-024 (Order 2200), § 388-28-435, filed 1/30/85; 84-07-019 (Order 2087), § 388-28-435, filed 3/14/84.]

WAC 388-28-485 Use of income and income potentials—Parental income and support.

(1) Support payments made by or in behalf of an absent parent are income to the child and are to be treated in accordance with WAC 388-14-210.

(2) When the custodial parent is not included in the assistance unit because of noncompliance with WAC 388-24-108, 388-24-109, or 388-47-210:

(a) The income of such parent is allocated according to WAC 388-28-560(2).

(b) Support payments paid directly to the parent and not forwarded to the office of support enforcement are:

(i) Income to the child; and

(ii) To be taken into account in determining the need of the assistance unit.

[Statutory Authority: RCW 74.04.055. 93-10-022 (Order 3537), § 388-28-485, filed 4/28/93, effective 5/29/93; Order 1054, § 388-28-485, filed 9/25/75.]

WAC 388-28-500 Allocating income from an assistance unit. The department shall allocate all nonexempt income possessed by an assistance unit member to meet the needs of the assistance unit, except in the following situations:

(1) Families with two or more assistance units. The department shall allocate an equal portion of the total nonexempt net community income, including income in-kind, to meet the needs of each assistance unit unless:

- (a) The family prefers some other division; and
- (b) The preferred division does not increase the total amount of assistance, excluding medical care.

(2) Person with a nonapplying spouse for GAU only. The department shall allocate:

(a) At least half of the total community income, including income in-kind, to meet the needs of the nonapplying spouse;

(b) Net income from wages, retirement benefits, or separate property up to the appropriate one-person payment level, to meet the needs of the assistance unit member;

(c) Income from separate property to meet the needs of the person as provided under WAC 388-28-365.

(3) Persons in a medical institution, alcohol/drug treatment center, congregate care facility, or adult family home. The department shall allocate:

(a) The appropriate payment level for the legal dependents living in the family home as stated in chapter 388-29 WAC; and

(b) Any remaining income to meet the needs of the person in the institution, center, facility, or home according to WAC 388-29-125, 388-29-130, 388-29-280, and 388-40-095(1).

(4) Parent or stepparent income. The department shall allocate the income of a parent or stepparent included in the assistance unit to meet the needs of the assistance unit after deducting an amount for:

(a) Applicable work expense disregards to meet the cost of employment;

(b) For AFDC only, support of other dependents not eligible for inclusion in the assistance unit for factors other than sanction or noncooperation, not to exceed the appropriate payment standard for an assistance unit of the same composition;

(c) Court or administratively ordered support for a legal dependent not living in the parent or stepparent's home, not to exceed the lesser of the amount actually paid or the appropriate need standard for each dependent.

(d) The department shall consider a dependent to be one who:

(i) Is or could be claimed for federal income tax purposes by the parent or stepparent; or

(ii) The parent or stepparent is legally obligated to support.

[Statutory Authority: RCW 74.08.090 and 45 CFR 233.20 (a)(3)(iv)(B) and (xiv) and SSA 402 (a)(39). 93-19-036 (Order 3629), § 388-28-500, filed 9/8/93, effective 10/9/93. Statutory Authority: RCW 74.08.090. 92-19-043 (Order 3451), § 388-28-500, filed 9/10/92, effective 10/11/92; 89-01-094 (Order 2741), § 388-28-500, filed 12/21/88; 87-19-090 (Order 2538), § 388-28-500, filed 9/17/87; 85-18-042 (Order 2276), § 388-28-500, filed 8/30/85; 85-04-024 (Order 2200), § 388-28-500, filed 1/30/85; 83-04-033 (Order 1940), § 388-28-500, filed 1/28/83, effective 3/1/83; 78-10-036 (Order 1338), § 388-28-500, filed 9/18/78; Order 917, § 388-28-500, filed 3/14/74; Order 758, § 388-28-500, filed 12/28/72; Order 445, § 388-28-500, filed

4/28/70; Regulation 8.83, filed 5/17/67; Regulation 8.83, filed 6/14/66, 7/13/65, 1/24/64.]

WAC 388-28-560 Allocating income to an assistance unit. The department shall allocate nonexempt income possessed by a nonassistance unit member to meet the needs of the assistance unit as follows:

(1) Minor parent living with nonapplying parent or stepparent. The department shall allocate the income of a nonapplying parent or stepparent to meet the needs of the minor parent's assistance unit after deducting:

(a) Seventy-five dollars per month for each employed parent or stepparent to meet the costs of employment;

(b) An amount equal to the need standard under WAC 388-29-100 of an assistance unit comprised of the nonapplying parent or stepparent and any other individuals who:

(i) Are living in the home but whose needs are not taken into consideration when determining eligibility for AFDC, excluding sanctioned individuals or individuals who refuse to cooperate; and

(ii) Are or could be claimed by the nonapplying parent or stepparent for federal income tax purposes.

(c) Amounts actually paid by the nonapplying parent or stepparent to meet the needs of individuals not living in the home who are or could be claimed as dependents for federal income tax purposes; and

(d) Payments of alimony or child support to meet the needs of individuals not living in the home.

(2) IRCA alien ineligible for AFDC. When determining eligibility and payment for AFDC, the department shall allocate the income of an IRCA alien, ineligible for AFDC pursuant to WAC 388-26-120 (3)(a) and (b), to meet the needs of the assistance unit after deducting:

(a) Seventy-five dollars per month of the ineligible IRCA alien's gross earned income to meet the costs of employment;

(b) An amount equal to the need standard under WAC 388-29-100 of an assistance unit comprised of the ineligible IRCA alien and any other individuals who:

(i) Are living in the home but whose needs are not taken into consideration when determining eligibility for AFDC, excluding sanctioned individuals or individuals who refuse to cooperate; and

(ii) Are or could be claimed by the ineligible IRCA alien parent for federal income tax purposes.

(c) Amounts actually paid by the ineligible IRCA alien to meet the needs of individuals not living in the home who are or could be claimed as dependents for federal income tax purposes; and

(d) Payments of alimony or child support to meet the needs of individuals not living in the home.

(3) All other excluded assistance unit members for AFDC only. The department shall allocate the income of an excluded assistance unit member to meet the needs of the assistance unit after deducting:

(a) Ninety dollars per month for each employed excluded person to meet the cost of employment;

(b) An amount for the support of the parent or stepparent and other dependents, ineligible for inclusion in the assistance unit for factors other than sanction or noncooperation, not to exceed the appropriate payment standard for an assistance unit of the same composition; and

(c) An amount for court or administratively ordered support for a legal dependent not living in the parent or stepparent's home, not to exceed the lesser of the amount actually paid or the appropriate need standard for each dependent. The department shall consider a dependent to be one who:

(i) Is or could be claimed for federal income tax purposes by the parent or stepparent; or

(ii) The parent or stepparent is legally obligated to support.

(4) Income of a nonapplying spouse for GAU. The department shall allocate net income from wages, retirement benefits, or separate income or property of the nonapplying spouse to meet the needs of the assistance unit after deducting:

(a) The allowable earned income disregards as specified under WAC 388-28-515, excluding the earned income exemptions in WAC 388-37-025, to meet the costs of employment.

(b) Court or administratively ordered support actually paid for a legal dependent not living in the GAU client's home, not to exceed the lesser of the amount actually paid or the appropriate need standard for each dependent. The department shall consider a dependent to be one who:

(i) Is or could be claimed for federal income tax purposes by the parents; or

(ii) The parent is legally obligated to support.

(c) An amount equal to the appropriate one-person payment level to meet the needs of the nonapplying spouse.

(5) Clients in a medical institution, alcohol/drug treatment center, congregate care facility, or adult family home. The department shall allocate:

(a) The appropriate payment level for the legal dependents living in the family home as stated in chapter 388-29 WAC; and

(b) Any remaining income to meet the needs of the client in the institution, center, facility, or home according to WAC 388-29-125, 388-29-130, 388-29-280, and 388-40-095(1).

[Statutory Authority: RCW 74.08.090 and 45 CFR 233.20 (a)(3)(iv)(B) and (xiv) and SSA 402 (a)(39). 93-19-036 (Order 3629), § 388-28-560, filed 9/8/93, effective 10/9/93. Statutory Authority: RCW 74.08.090. 89-24-041 (Order 2912), § 388-28-560, filed 12/1/89, effective 1/1/90. Statutory Authority: RCW 74.04.055. 88-04-018 (Order 2571), § 388-28-560, filed 1/22/88. Statutory Authority: RCW 74.08.090. 86-23-021 (Order 2442), § 388-28-560, filed 11/10/86; 85-18-042 (Order 2276), § 388-28-560, filed 8/30/85; 83-04-033 (Order 1940), § 388-28-560, filed 1/28/83, effective 3/1/83; Order 1253, § 388-28-560, filed 12/1/77; Order 1021, § 388-28-560, filed 4/29/75; Order 445, § 388-28-560, filed 4/28/70; Regulation 8.847, filed 12/31/65, effective 2/1/66; Regulation 8.847, filed 1/24/64.]

WAC 388-28-570 Net cash income—Exempt earned income. (1) For rules on exempting earned income of a full- or part-time student, see WAC 388-28-535. For rules exempting income from training, see WAC 388-28-515. For rules exempting earned income for refugee assistance, see WAC 388-55-010. For rules on other income, see WAC 388-28-580.

(2) As used in this section, "earned income" shall mean income in cash or in-kind earned as wages, salary, commissions, or profit from activities in which the individual is engaged as a self-employed person or as an employee. Earned income may be derived from self-employment (such

as business enterprise or farming), or derived from wages or salary received as an employee. Earned income also includes earnings over a period of time for which settlement is made at one time, for example, sale of farm crops, livestock, or poultry. Income from rentals is earned income, provided the individual has managerial responsibility for the rental property.

(3) For an AFDC recipient, earned income includes earnings under Title I of the Elementary and Secondary Education Act, all earnings received under the Economic Opportunity Act, wages from WIN on-the-job training, and wages paid under the Job Training Partnership Act (JTPA). See WAC 388-28-535(2) for treatment of a child excluded from the grant.

(4) The definition of "earned income" excludes:

(a) Returns from capital investment with respect to which the individual is not actively engaged, as in a business. For example, under most circumstances, dividends and interest are excluded from "earned income;"

(b) Benefits accruing as compensation or reward for service, or as compensation for lack of employment, for example, pensions and benefits from labor organizations, veterans' benefits, unemployment compensation, Social Security, etc.;

(c) Income from WIN incentive payments and training-related expenses derived from WIN institutional or work experience training;

(d) Income received under the Job Training Partnership Act for training allowances, payments for support services, etc.

(5) In AFDC, refugee assistance, and general assistance when payment of income earned over a period of more than one month is delayed, the exemption applies to the period during which the income was earned.

(6) Aid to families with dependent children.

(a) The following shall be disregarded sequentially from the monthly gross earned income of each individual member of the assistance unit:

(i) Ninety dollars for work expenses, regardless of the number of hours worked per month;

(ii) For each nonstudent dependent child and adult found otherwise eligible to receive assistance or having received assistance in one of the four prior months, thirty dollars and one-third of the remainder not already disregarded. The thirty dollars and one-third disregard shall be applied for a maximum of four consecutive months; it cannot be applied again until the recipient has not received AFDC, FIP, or a combination of AFDC and FIP for twelve consecutive months. Family independence program (FIP) enrollees who had earned income greater than seventy five dollars per month from July 1, 1988, through September 30, 1989, or greater than ninety dollars per month from October 1, 1989, through June 30, 1993, shall be deemed to have had the thirty dollars and one-third of the remainder of earned income disregard applied to their earned income when income was budgeted;

(iii) After expiration of the disregard in subsection (6)(a)(ii) of this section, thirty dollars for a maximum of eight consecutive months, whether or not the recipient has earnings or is receiving assistance; it cannot be applied again until the recipient has been a nonrecipient for twelve consecutive months;

(iv) The actual cost for care of each dependent child or incapacitated adult living in the same home and receiving AFDC provided:

(A) Conditions under WAC 388-51-110 (1)(c) are met for each dependent child;

(B) No disregard will be allowed for care provided by a parent or stepparent;

(C) The provider verifies the cost incurred;

(D) The cost is incurred for the month of employment being reported; and

(E) The cost for each dependent child or incapacitated adult, depending on the number of hours worked per month does not exceed the following:

| Hours Worked Per Month | Dependent Care Max- imum Deductions Dependent 2 Years of Age or Older | Dependent Care Max- imum Deductions Dependent Under 2 Years of Age |
|---------------------------|--|---|
| 0 - 40 | \$ 43.75 | \$ 50.00 |
| 41 - 80 | 87.50 | \$100.00 |
| 81 - 120 | 131.25 | \$150.00 |
| 121 or more | 175.00 | \$200.00 |

(b) The exemptions and deductions in subsection (6)(a) of this section will not be applied for any month if the individual within a period of thirty days preceding the month in which the income was received:

(i) Terminated the individual's employment or reduced the individual's earned income without good cause; or

(ii) Refused without good cause to accept employment in which the individual is able to engage which is offered through employment security department, or is otherwise offered by an employer if the offer of such employment is determined by the local office to be a bona fide offer of employment.

(c) The exemptions and deductions in subsection (6)(a) of this section will not be applied for any month the recipient failed without good cause to make a timely report of income. When a timely report is made under these circumstances, the thirty-dollar and one-third exemption shall be counted in the applicable time limits. Good cause shall be determined by the department. Any circumstance beyond the control of the recipient shall constitute good cause.

To be considered timely, a report must be received by the department:

(i) On or before the eighteenth day of the month following the month in which the income was received; or

(ii) By the first following work day if the eighteenth day of the month falls on a weekend or holiday.

(d) If a recipient requests termination in order to break the consecutiveness of the applicable time limits for the thirty-dollar plus one-third exemption, and would have been eligible, the months of voluntary nonreceipt of assistance shall be counted toward the applicable time limits.

(e) If a recipient quits work without good cause, the thirty-dollar and one-third exemption shall be deemed to have been received and shall be counted toward the applicable time limits.

(f) Months in which the applicant/recipient received the thirty-dollar and one-third exemption in another state shall not apply toward the applicable time limits.

(7) The following conditions when verified shall constitute good cause for refusal of an offer of employment or refusal to continue employment:

(a) Physical, mental, or emotional inability of the individual to satisfactorily perform the work required;

(b) Inability of the individual to get to and from the job without undue cost or hardship to the individual;

(c) The nature of the work would be hazardous to the individual;

(d) The wages do not meet any applicable minimum wage requirements and are not customary for such work in the community;

(e) The job is available because of a labor dispute; or

(f) Adequate child care is not available to the AFDC household.

[Statutory Authority: RCW 74.04.057. 93-12-057 (Order 3564), § 388-28-570, filed 5/27/93, effective 7/1/93. Statutory Authority: 1991 c 16. 92-08-033, § 388-28-570, filed 3/24/92, effective 11/24/92. Statutory Authority: RCW 74.08.090. 90-17-116 (Order 3050), § 388-28-570, filed 8/21/90, effective 9/21/90; 89-18-057 (Order 2865), § 388-28-570, filed 9/1/89, effective 10/2/89; 87-01-096 (Order 2449), § 388-28-570, filed 12/22/86; 85-18-042 (Order 2276), § 388-28-570, filed 8/30/85; 85-04-024 (Order 2200), § 388-28-570, filed 1/30/85; 83-23-058 (Order 2049), § 388-28-570, filed 11/16/83; 82-19-056 (Order 1876), § 388-28-570, filed 9/15/82; 82-09-034 (Order 1792), § 388-28-570, filed 4/14/82; 82-01-009 (Order 1728), § 388-28-570, filed 12/4/81; Order 1236, § 388-28-570, filed 8/31/77; Order 975, § 388-28-570, filed 10/11/74; Order 891, § 388-28-570, filed 12/27/73; Order 749, § 388-28-570, filed 12/7/72; Order 619, § 388-28-570, filed 10/27/71; Order 445, § 388-28-570, filed 4/28/70; Order 372, § 388-28-570, filed 8/1/69; Order 329, § 388-28-570, filed 1/8/69; Order 296, § 388-28-570, filed 8/26/68; Regulation 8.848, filed 10/4/67; Regulation 8.848, filed 5/17/67, 2/3/67, 11/22/66, 12/31/65, 7/13/65, 1/24/64.]

WAC 388-28-575 Disregard of income and resources. Unless otherwise stated, the department shall disregard as income and as a resource the following payments for aid to families with dependent children (AFDC) and general assistance (GA):

(1) For AFDC only, the income of a Supplemental Security Income (SSI) recipient;

(2) For AFDC only, the monthly child support incentive payment from the office of support enforcement (OSE);

(3) AFDC benefits resulting from a court order modifying a department policy;

(4) Title IV-E, state and/or local foster care maintenance payments;

(5) Adoption support payments if the adopted child is excluded from the assistance unit;

(6) Bona fide loans as specified under WAC 388-28-480(4). The department shall consider loans bona fide when the loan is a debt the borrower has an obligation to repay;

(7) Educational assistance, in the form of grants, loans, or work study, issued to a student from the following sources:

(a) Title IV of the Higher Education Amendments; or

(b) Bureau of Indian Affairs student assistance programs.

(8) Grants or loans made or insured under any programs administered by the department of education to an undergraduate student for educational purposes;

(9) Educational assistance in the form of grants, loans, or work study, issued under the Carl D. Perkins Vocational and Applied Technology Education Act (P.L. 101-391), for attendance costs as identified by the institution. For a student attending school:

(a) At least half-time, attendance costs include tuition, fees, costs for purchase or rental of equipment, materials, or

supplies required of all students in the same course of study, books, supplies, transportation, dependent care, and miscellaneous personal expenses; or

(b) Less than half-time, attendance costs include tuition, fees, and costs for purchase or rental of equipment, materials, or supplies required of all students in the same course of study.

(10) Educational assistance in the form of grants, work study, scholarships, or fellowships, from sources other than those identified in subsections (7), (8), and (9) of this section for attendance costs as identified by the institution. Attendance costs include tuition, fees, costs for purchase or rental of equipment, materials, or supplies required of all students in the same course of study, books, supplies, transportation, dependent care, and miscellaneous personal expenses;

(11) Any remaining educational assistance, in the form of grants, work study, scholarships, or fellowships, not disregarded in subsections (7), (8), (9) or (10) of this section, as allowed under WAC 388-28-578;

(12) The earned income disregards in WAC 388-28-570(6) for AFDC and WAC 388-37-025 for GA-U to any work study earnings received and not disregarded in subsections (7), (8), (9), (10), and (11) of this section;

(13) Payment under Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646, section 216);

(14) The food coupon allotment under Food Stamp Act of 1977;

(15) Compensation to volunteers under the Domestic Volunteer Act of 1973 (P.L. 93-113, Titles I, II, and III);

(16) Benefits under women, infants, and children program (WIC);

(17) Food service program for children under the National School Lunch Act of 1966 (P.L. 92-433 and 93-150);

(18) Energy assistance payments;

(19) Indian trust funds or lands held in trust (including interest and investment income accrued while such funds are held in trust) by the Secretary of the Interior for an Indian Tribe, including but not limited to funds issued under the Maine Indian Claims Settlement Act of 1980 (P.L. 96-420);

(20) Per capita judgment funds under P.L. 97-408 to members of the:

(a) Blackfeet Tribe of the Blackfeet Indian Community, Montana;

(b) Gros Ventre Tribe of the Fort Belknap Reservation, Montana; and

(c) Assiniboine Tribe of the Fort Belknap Indian Community.

(21) Indian judgment funds or funds held in trust by the Secretary of the Interior distributed per capita under P.L. 93-134, 94-114, 97-458, or 98-64. In addition:

(a) "Initial investments" means real or personal property purchased directly with funds from the per capita payment up to the amount of the funds from the per capita payment;

(b) Income derived either from the per capita payment or the initial investments shall be treated as newly acquired income per WAC 388-28-482 and 388-28-484;

(c) When the initial investments are nonexempt resources, appreciation in value shall be applied to the resource ceiling valued as specified under WAC 388-28-435(1). When appreciation is in excess of the applicable ceiling

value, the department shall apply WAC 388-28-438(2). The department shall determine appreciation in value at the time of eligibility review; and

(d) The disregard does not apply to per capita payments or initial investments from per capita payments which are transferred or inherited.

(22) Two thousand dollars per person per calendar year received under the Alaska Native Claims Settlement Act (P.L. 92-203 and 100-241);

(23) Veterans' Administration educational assistance for the student's educational expenses and child care necessary for school attendance;

(24) Housing and Urban Development (HUD) community development block grant funds that preclude use for current living costs;

(25) Restitution payments made under the Wartime Relocation of Civilians Act, P.L. 100-383. The department shall disregard income and resources derived from restitution payments;

(26) A previous underpayment of assistance under WAC 388-33-195;

(27) Payment from the annuity fund established by the Puyallup Tribe of Indians Settlement Act of 1989 (P.L. 101-41), made to a Puyallup Tribe member upon reaching twenty-one years of age.

(a) "Initial investments" means real or personal property purchased directly with funds from the annuity fund payment up to the amount of the funds from the annuity fund payment.

(b) The department shall treat income derived either from the annuity fund payment or the initial investments as newly acquired income per WAC 388-28-482 and 388-28-484.

(c) When the initial investments are nonexempt resources, the department shall apply appreciation in value to the resource ceiling value as specified under WAC 388-28-435(1). When appreciation is in excess of the applicable ceiling value, the department shall apply WAC 388-28-438(2). The department shall determine appreciation in value at the time of eligibility review.

(d) The department shall treat proceeds from the transfer of the initial investments according to WAC 388-28-471. After sixty days, if funds are in excess of the applicable ceiling value, the department shall apply WAC 388-28-438(2) for AFDC and WAC 388-28-440 (3) and (4) for GA-U.

(28) Payments from the trust fund established by the P.L. 101-41 made to a Puyallup Tribe member;

(29) Payments made from the Agent Orange Settlement Fund or any other funds established to settle Agent Orange liability claims (P.L. 101-201). The effective date of the disregard is retroactive to January 1, 1989;

(30) Payments made under the Disaster Relief Act of 1974 (P.L. 93-288) as amended by Disaster Relief and Emergency Assistance amendments of 1988 (P.L. 100-707). This applies to assistance issued by federal, state, or local governments or by a disaster assistance organization;

(31) Payments from the Radiation Exposure Compensation Act (P.L. 101-426) made to an injured person, surviving spouse, children, grandchildren, or grandparents; and

(32) Income specifically excluded by any other federal statute from consideration as income or resource.

[Statutory Authority: RCW 74.04.050 and P.L. 102-325 Section 479B. 93-17-031 (Order 3613), § 388-28-575, filed 8/11/93, effective 9/11/93. Statutory Authority: RCW 74.04.050. 93-07-031 (Order 3525), § 388-28-575, filed 3/10/93, effective 4/10/93; 92-09-029 (Order 3365), § 388-28-575, filed 4/7/92, effective 5/8/92. Statutory Authority: RCW 74.08.090. 91-13-080 (Order 3191), § 388-28-575, filed 6/18/91, effective 7/19/91; 91-06-007 (Order 3144), § 388-28-575, filed 2/21/91, effective 3/24/91; 90-11-003 (Order 2975), § 388-28-575, filed 5/3/90, effective 6/3/90; 89-17-031 (Order 2848), § 388-28-575, filed 8/8/89, effective 9/8/89; 88-22-036 (Order 2718), § 388-28-575, filed 10/27/88; 88-01-045 (Order 2572), § 388-28-575, filed 12/11/87; 85-18-042 (Order 2276), § 388-28-575, filed 8/30/85; 85-04-024 (Order 2200), § 388-28-575, filed 1/30/85; 83-23-058 (Order 2049), § 388-28-575, filed 11/16/83; 82-11-094 (Order 1812), § 388-28-575, filed 5/19/82; 81-10-035 (Order 1651), § 388-28-575, filed 4/29/81; 79-06-027 (Order 1399), § 388-28-575, filed 5/16/79; 78-09-038 (Order 1324), § 388-28-575, filed 8/17/78; 78-05-019 (Order 1287), § 388-28-575, filed 4/13/78; Order 1229, § 388-28-575, filed 8/23/77; Order 1183, § 388-28-575, filed 1/5/77; Order 1054, § 388-28-575, filed 9/25/75; Order 943, § 388-28-575, filed 6/28/74; Order 926, § 388-28-575, filed 4/15/74; Order 891, § 388-28-575, filed 12/27/73.]

WAC 388-28-590 Alien sponsorship—Deeming of income and resources—Overpayments. (1) The department shall apply the rules of this section to an alien applying for AFDC for the first time after September 30, 1981, and to the alien's sponsor.

(2) The department shall apply the rules of this section only for deeming of the resources of an alien's sponsor to an alien applying for general assistance.

(3) A sponsor is defined as any person or public or private organization executing an affidavit or affidavits of support or similar agreement on behalf of an alien (who is not the child of the sponsor or the sponsor's spouse) as a condition of the alien's entry into the United States.

(4) Any alien whose sponsor is a public or private agency or organization shall be ineligible for assistance for three years from the date of entry into the United States, unless the agency or organization is either no longer in existence or has become unable to meet the alien's needs.

(5) For a period of three years following entry into the United States, an individually sponsored alien shall provide the state agency with any information and documentation necessary to determine the income and resources of the sponsor that can be deemed available to the alien, and obtain any cooperation necessary from the sponsor.

(6) For all subsections in this section, the department shall deem the income and resources of an individual sponsor (and the sponsor's spouse if living with the sponsor) to be the unearned income and resources of an alien for three years following the alien's entry into the United States.

(7) Monthly income deemed available to the alien from the individual sponsor and the sponsor's spouse not receiving AFDC or SSI shall be:

(a) The total monthly unearned income, added to the sponsor's total monthly earned income of the sponsor and sponsor's spouse reduced by:

(i) Twenty percent (not to exceed one hundred seventy-five dollars) of the total of any amounts received by the sponsor in the month as wages or salary or as net earnings from self-employment; plus

(ii) The full amount of any costs incurred in producing self-employment income in the month.

(b) The amount described in subsection (7)(a) of this section reduced by:

(i) The basic requirements standard for a family of the same size and composition as the sponsor and those other persons living in the same household as the sponsor claimed by the sponsor as dependents to determine the sponsor's federal personal income tax liability but who are not AFDC recipients;

(ii) Any amounts actually paid by the sponsor to persons not living in the household claimed by the sponsor as dependents to determine the sponsor's federal personal income tax liability; and

(iii) Actual payments of alimony or child support, with respect to persons not living in the sponsor's household.

(8) The department shall deem as monthly resources available to the alien from the sponsor the total amount of the resources of the sponsor determined as if the sponsor was applying for AFDC in the alien's state of residence, less one thousand five hundred dollars.

(9) In any case where a person is the sponsor of two or more aliens, the department shall divide the income and resources of the sponsor, to the extent they would be deemed the income and resources of any one of the aliens under the provisions of this section, equally among the aliens.

(10) The department shall not consider the income and resources which are deemed to a sponsored alien in determining the need of other unsponsored members of the alien's family except to the extent the income or resources are actually available.

(11) The department shall not apply the provisions of this section to any alien who:

(a) Meets the definition of refugee in WAC 388-55-010; or

(b) Is the dependent child of the sponsor or sponsor's spouse.

(12) Any sponsor of an alien and the alien shall be jointly and individually liable for any overpayment of assistance made to the alien during the three years after the alien's entry into the United States due to the sponsor's failure to provide correct information, except where such sponsors were without fault or where good cause existed.

(a) When the department finds a sponsor has good cause or is without fault for not providing information to the agency, the sponsor shall not be held liable for the overpayment and recovery will not be made.

(b) Good cause and no fault shall be defined as any circumstance beyond the control of the sponsor.

[Statutory Authority: RCW 74.04.005. 93-07-032 (Order 3526), § 388-28-590, filed 3/10/93, effective 4/10/93; 92-16-014 (Order 3423), § 388-28-590, filed 7/23/92, effective 8/23/92. Statutory Authority: RCW 74.08.090. 85-03-068 (Order 2189), § 388-28-590, filed 1/17/85; 83-04-060 (Order 1942), § 388-28-590, filed 2/2/83; 82-19-056 (Order 1876), § 388-28-590, filed 9/15/82; 82-01-009 (Order 1728), § 388-28-590, filed 12/4/81.]

Chapter 388-29 WAC STANDARDS—ELIGIBILITY

WAC

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|------------|--|
| 388-29-100 | Standards of assistance—Basic requirements. |
| 388-29-110 | Standards of assistance—Grant maximum. |
| 388-29-112 | Standards of assistance—Consolidated emergency assistance program. |
| 388-29-130 | Standards of assistance—Persons in congregate care facilities (CCF), adult residential rehabilitation center/adult residential treatment facility (ARRC) |

| | |
|------------|--|
| | ARTF), and division of developmental disabilities (DDD) group home facilities. |
| 388-29-160 | Additional requirements—Restaurant meals. |
| 388-29-220 | Additional requirements—Laundry. |
| 388-29-280 | Standards of assistance—Adult family home care. |
| 388-29-295 | Standards of assistance—Supplemental Security Income (SSI) program. |

WAC 388-29-100 Standards of assistance—Basic requirements. (1) The statewide monthly need standard for basic requirements shall be:

(a) A household with an obligation to pay shelter costs effective September 1, 1993.

Treat a household residing in a lower income housing project, assisted under the United States Housing Act of 1937 or Section 236 of the National Housing Act, as a renter if the household member makes a utility payment in lieu of a rental payment.

This need standard includes recipients owning, purchasing, or renting their home.

Effective April 23, 1990, this need standard includes a homeless family or person:

(i) Lacking a fixed, regular, and adequate nighttime residence;

(ii) Residing in a public or privately operated shelter designed to provide temporary living accommodations; or

(iii) Provided temporary lodging through a public or privately funded emergency shelter program.

| Recipients in Household | Need Standard |
|----------------------------|------------------|
| 1 | \$ 739 |
| 2 | 935 |
| 3 | 1,158 |
| 4 | 1,361 |
| 5 | 1,569 |
| 6 | 1,781 |
| 7 | 2,056 |
| 8 | 2,276 |
| 9 | 2,500 |
| 10 or more | 2,716 |

(b) A household with shelter provided at no cost effective September 1, 1993, except as described under subsection (1)(a) of this section.

The monthly standard for a client with shelter provided at no cost includes requirements for food, clothing, energy costs, personal maintenance and necessary incidentals, household maintenance and operations, and transportation.

| Recipients in Household | Need Standard |
|----------------------------|------------------|
| 1 | \$ 449 |
| 2 | 569 |
| 3 | 705 |
| 4 | 828 |
| 5 | 955 |
| 6 | 1,084 |
| 7 | 1,251 |
| 8 | 1,385 |
| 9 | 1,522 |
| 10 or more | 1,653 |

(2) One hundred eighty-five percent of the statewide monthly need standard for basic requirements is:

(a) A household with shelter costs effective September 1, 1993.

| Recipients in Household | 185% of Need Standard |
|----------------------------|--------------------------|
| 1 | \$ 1,367 |
| 2 | 1,730 |
| 3 | 2,142 |
| 4 | 2,518 |
| 5 | 2,903 |
| 6 | 3,295 |
| 7 | 3,804 |
| 8 | 4,211 |
| 9 | 4,625 |
| 10 or more | 5,025 |

(b) A household with shelter provided at no cost effective September 1, 1993.

| Recipients in Household | 185% of Need Standard |
|----------------------------|--------------------------|
| 1 | \$ 830 |
| 2 | 1,052 |
| 3 | 1,304 |
| 4 | 1,531 |
| 5 | 1,766 |
| 6 | 2,005 |
| 7 | 2,314 |
| 8 | 2,562 |
| 9 | 2,815 |
| 10 or more | 3,058 |

(3) The statewide monthly payment standard for general assistance-unemployable, and alcoholism and drug addiction treatment and support act programs shall be:

(a) Payment standard for a household with an obligation to pay shelter costs effective January 1, 1991.

Treat a household residing in a lower income housing project, assisted under the United States Housing Act of 1937 or Section 236 of the National Housing Act, as a renter if the household member makes a utility payment in lieu of a rental payment.

This payment standard includes recipients owning, purchasing, or renting their home.

Effective April 23, 1990, this payment standard includes a homeless family or person:

(i) Lacking a fixed, regular, and adequate nighttime residence;

(ii) Residing in a public or privately operated shelter designed to provide temporary living accommodations; or

(iii) Provided temporary lodging through a public or privately funded emergency shelter program.

| Recipients in Household | Payment Standard |
|----------------------------|---------------------|
| 1 | \$ 339 |
| 2 | 428 |
| 3 | 531 |
| 4 | 624 |
| 5 | 719 |
| 6 | 817 |

| | |
|------------|-------|
| 7 | 943 |
| 8 | 1,044 |
| 9 | 1,146 |
| 10 or more | 1,246 |

(b) Payment standard for a household with shelter provided at no cost effective January 1, 1991, except as described under subsection (3)(a) of this section.

The monthly payment standard for a client with shelter provided at no cost includes requirements for food, clothing, energy costs, personal maintenance and necessary incidentals, transportation, and household maintenance and operations.

| Recipients in Household | Payment Standard |
|----------------------------|---------------------|
| 1 | \$ 206 |
| 2 | 261 |
| 3 | 323 |
| 4 | 380 |
| 5 | 438 |
| 6 | 497 |
| 7 | 574 |
| 8 | 635 |
| 9 | 698 |
| 10 or more | 758 |

(4) The statewide monthly payment standard for aid to families with dependent children, family independence program, refugee assistance, and general assistance for pregnant women shall be:

(a) Payment standard for a household with an obligation to pay shelter costs effective January 1, 1993.

Treat a household residing in a lower income housing project, assisted under the United States Housing Act of 1937 or Section 236 of the National Housing Act, as a renter if the household member makes a utility payment in lieu of a rental payment.

This payment standard includes recipients owning, purchasing, or renting their home.

Effective April 23, 1990, this payment standard includes a homeless family or person:

(i) Lacking a fixed, regular, and adequate nighttime residence;

(ii) Residing in a public or privately operated shelter designed to provide temporary living accommodations; or

(iii) Provided temporary lodging through a public or privately funded emergency shelter program.

| Recipients in Household | Payment Standard |
|----------------------------|---------------------|
| 1 | \$ 349 |
| 2 | 440 |
| 3 | 546 |
| 4 | 642 |
| 5 | 740 |
| 6 | 841 |
| 7 | 971 |
| 8 | 1,075 |
| 9 | 1,180 |
| 10 or more | 1,283 |

(b) Payment standard for a household with shelter provided at no cost effective January 1, 1993, except as described under subsection (4)(a) of this section.

The monthly payment standard for a client with shelter provided at no cost includes requirements for food, clothing, energy costs, personal maintenance and necessary incidentals, transportation, and household maintenance and operations.

| Recipients in Household | Payment Standard |
|----------------------------|---------------------|
| 1 | \$ 212 |
| 2 | 268 |
| 3 | 332 |
| 4 | 391 |
| 5 | 451 |
| 6 | 511 |
| 7 | 591 |
| 8 | 654 |
| 9 | 718 |
| 10 or more | 780 |

[Statutory Authority: RCW 74.08.090. 93-18-026 (Order 3624), § 388-29-100, filed 8/25/93, effective 9/25/93. Statutory Authority: RCW 74.08.090, 74.04.200 and 20 CFR 416.405. 93-04-030 (Order 3506), § 388-29-100, filed 1/27/93, effective 2/27/93. Statutory Authority: RCW 74.04.770. 92-20-006 (Order 3457), § 388-29-100, filed 9/23/92, effective 10/24/92. Statutory Authority: RCW 74.08.090. 91-17-065 (Order 3236), § 388-29-100, filed 8/20/91, effective 9/20/91; 91-02-072 (Order 3122), § 388-29-100, filed 12/28/90, effective 1/28/91; 90-21-031 (Order 3084), § 388-29-100, filed 10/9/90, effective 11/9/90; 90-15-018 (Order 3038), § 388-29-100, filed 7/12/90, effective 8/12/90; 90-06-035 (Order 2947), § 388-29-100, filed 3/1/90, effective 4/1/90; 89-21-065 (Order 2882), § 388-29-100, filed 10/17/89, effective 11/17/89; 88-18-056 (Order 2677), § 388-29-100, filed 9/1/88. Statutory Authority: 1987 1st ex.s. c 7. 88-04-019 (Order 2588), § 388-29-100, filed 1/22/88. Statutory Authority: RCW 74.08.090. 86-16-048 (Order 2404), § 388-29-100, filed 8/1/86; 85-24-051 (Order 2309), § 388-29-100, filed 12/2/85; 85-16-049 (Order 2265), § 388-29-100, filed 7/31/85; 85-07-020 (Order 2215), § 388-29-100, filed 3/13/85; 84-13-049 (Order 2104), § 388-29-100, filed 6/18/84; 83-17-070 (Order 2008), § 388-29-100, filed 8/19/83; 82-17-066 (Order 1862), § 388-29-100, filed 8/18/82; 82-11-001 (Order 1804), § 388-29-100, filed 5/6/82; 81-19-127 (Order 1701), § 388-29-100, filed 9/23/81; 81-10-011 (Order 1643), § 388-29-100, filed 4/27/81; 80-15-002 (Order 1550), § 388-29-100, filed 10/2/80; 79-10-083 (Order 1434), § 388-29-100, filed 9/21/79; 78-08-084 (Order 1321), § 388-29-100, filed 7/28/78; Order 1241, § 388-29-100, filed 9/23/77.]

WAC 388-29-110 Standards of assistance—Grant maximum. (1) A grant to a family of eight or more shall not exceed the following maximums. In computing the grant amount, nonexempt income (and resources; general assistance only) available to meet need shall be deducted from the monthly payment standard specified in this chapter.

(2) Effective January 1, 1991, the maximum for general assistance-unemployable, and Alcoholism and Drug Addiction Treatment and Support Act programs is:

| Number in household | Maximum |
|------------------------|----------|
| 8 or more | \$ 1,044 |

(3) Effective January 1, 1993, the maximum for aid to families with dependent children, family independence program, refugee assistance, and general assistance for pregnant women is:

Number in
household

Maximum

8 or more

\$ 1,075

[Statutory Authority: RCW 74.08.090, 74.04.200 and 20 CFR 416.405. 93-04-030 (Order 3506), § 388-29-110, filed 1/27/93, effective 2/27/93. Statutory Authority: RCW 74.08.090. 91-02-072 (Order 3122), § 388-29-110, filed 12/28/90, effective 1/28/91; 90-06-035 (Order 2947), § 388-29-110, filed 3/1/90, effective 4/1/90; 85-24-051 (Order 2309), § 388-29-110, filed 12/2/85; 85-07-020 (Order 2215), § 388-29-110, filed 3/13/85; 84-13-049 (Order 2104), § 388-29-110, filed 6/18/84; 83-17-070 (Order 2008), § 388-29-110, filed 8/19/83; 82-11-001 (Order 1804), § 388-29-110, filed 5/6/82; 81-19-127 (Order 1701), § 388-29-110, filed 9/23/81; 81-10-011 (Order 1643), § 388-29-110, filed 4/27/81; 80-15-002 (Order 1550), § 388-29-110, filed 10/2/80; 79-10-083 (Order 1434), § 388-29-110, filed 9/21/79; 78-08-084 (Order 1321), § 388-29-110, filed 7/28/78; Order 1241, § 388-29-110, filed 9/23/77.]

WAC 388-29-112 Standards of assistance—Consolidated emergency assistance program. The statewide standards for the consolidated emergency assistance program shall be paid in the amount necessary to meet allowable emergent needs with the issuance of not more than one hundred percent of the aid to families with dependent children payment standard.

(1) Maximum grant.

| Recipients in Household | Maximum Grant |
|----------------------------|------------------|
| 1 | \$ 349 |
| 2 | 440 |
| 3 | 546 |
| 4 | 642 |
| 5 | 740 |
| 6 | 841 |
| 7 | 971 |
| 8 or more | 1,075 |

(2) Payment maximums for individual emergent need items.

| | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 (or more) |
|-----------|-------|-------|-------|-------|-------|-------|-------|----------------|
| Food | \$211 | \$268 | \$332 | \$391 | \$450 | \$511 | \$583 | \$645 |
| Shelter | 258 | 325 | 404 | 476 | 548 | 621 | 719 | 795 |
| Clothing | 30 | 38 | 47 | 56 | 64 | 73 | 83 | 94 |
| Minor | | | | | | | | |
| Medical | 179 | 228 | 282 | 332 | 382 | 432 | 501 | 554 |
| Utilities | 87 | 110 | 136 | 160 | 184 | 210 | 243 | 268 |
| Household | | | | | | | | |
| Maint. | 64 | 81 | 100 | 118 | 136 | 155 | 178 | 197 |

Job-related transportation - as needed not to exceed the grant maximum. Transportation of a child to home - as needed not to exceed the grant maximum. See WAC 388-24-250.

(3) These standards are effective January 1, 1993.

[Statutory Authority: RCW 74.08.090, 74.04.200 and 20 CFR 416.405. 93-04-030 (Order 3506), § 388-29-112, filed 1/27/93, effective 2/27/93. Statutory Authority: RCW 74.08.090. 91-02-072 (Order 3122), § 388-29-112, filed 12/28/90, effective 1/28/91; 90-06-035 (Order 2947), § 388-29-112, filed 3/1/90, effective 4/1/90; 85-24-051 (Order 2309), § 388-29-112, filed 12/2/85; 85-07-020 (Order 2215), § 388-29-112, filed 3/13/85; 84-13-049 (Order 2104), § 388-29-112, filed 6/18/84; 83-17-070 (Order 2008), § 388-29-112, filed 8/19/83; 83-11-010 (Order 1961), § 388-29-112, filed 5/9/83; 82-11-001 (Order 1804), § 388-29-112, filed 5/6/82; 81-19-127

(Order 1701), § 388-29-112, filed 9/23/81; 81-10-011 (Order 1643), § 388-29-112, filed 4/27/81.]

WAC 388-29-130 Standards of assistance—Persons in congregate care facilities (CCF), adult residential rehabilitation center/adult residential treatment facility (ARRC/ARTF), and division of developmental disabilities (DDD) group home facilities. (1) The monthly eligibility standard for CCF, ARRC/ARTF, and DDD group home care shall be:

(a) The department-contracted facility rate for payment to such facilities to provide a specific level of care and supervision; plus

(b) A monthly allowance of thirty-eight dollars and eighty-four cents for clothing, personal maintenance, and necessary incidentals (CPI).

(2) The monthly grant payment standard shall be the CPI allowance.

[Statutory Authority: RCW 74.08.090. 93-12-052 (Order 3557), § 388-29-130, filed 5/26/93, effective 6/26/93; 88-19-032 (Order 2694), § 388-29-130, filed 9/12/88. Statutory Authority: 1987 1st ex.s. c. 7. 88-04-019 (Order 2588), § 388-29-130, filed 1/22/88. Statutory Authority: RCW 74.08.090. 85-24-051 (Order 2309), § 388-29-130, filed 12/2/85; 85-07-020 (Order 2215), § 388-29-130, filed 3/13/85; 84-13-049 (Order 2104), § 388-29-130, filed 6/18/84; 83-17-070 (Order 2008), § 388-29-130, filed 8/19/83; 81-19-127 (Order 1701), § 388-29-130, filed 9/23/81; 79-10-083 (Order 1434), § 388-29-130, filed 9/21/79; 79-04-036 (Order 1379), § 388-29-130, filed 3/22/79; Order 1254, § 388-29-130, filed 12/1/77; Order 1241, § 388-29-130, filed 9/23/77.]

WAC 388-29-160 Additional requirements—Restaurant meals. (1) Restaurant meals shall be an additional requirement only when:

(a) An individual is physically or mentally unable to prepare meals; and

(b) Board, or board and room, is not available or the use of such facilities is not feasible for the individual.

(2) Effective January 1, 1993, the monthly standard for restaurant meals shall be one hundred eighty-seven dollars and nine cents.

[Statutory Authority: RCW 74.08.090, 74.04.200 and 20 CFR 416.405. 93-04-030 (Order 3506), § 388-29-160, filed 1/27/93, effective 2/27/93. Statutory Authority: RCW 74.08.090. 91-02-072 (Order 3122), § 388-29-160, filed 12/28/90, effective 1/28/91; 90-06-035 (Order 2947), § 388-29-160, filed 3/1/90, effective 4/1/90; 85-24-051 (Order 2309), § 388-29-160, filed 12/2/85; 85-07-020 (Order 2215), § 388-29-160, filed 3/13/85; 84-13-049 (Order 2104), § 388-29-160, filed 6/18/84; 83-17-070 (Order 2008), § 388-29-160, filed 8/19/83; 82-17-066 (Order 1862), § 388-29-160, filed 8/18/82; 81-19-127 (Order 1701), § 388-29-160, filed 9/23/81; 80-11-055 (Order 1532), § 388-29-160, filed 8/20/80; 79-10-083 (Order 1434), § 388-29-160, filed 9/21/79; 78-08-084 (Order 1321), § 388-29-160, filed 7/28/78; Order 1241, § 388-29-160, filed 9/23/77.]

WAC 388-29-220 Additional requirements—Laundry. (1) Laundry is an additional requirement when:

(a) The applicant or recipient (A/R) is physically unable to do laundry; and

(b) There is no one able to perform this service for the A/R.

(2) Effective January 1, 1993, the monthly standard for laundry shall be eleven dollars and thirteen cents.

[Statutory Authority: RCW 74.08.090, 74.04.200 and 20 CFR 416.405. 93-04-030 (Order 3506), § 388-29-220, filed 1/27/93, effective 2/27/93. Statutory Authority: RCW 74.08.090. 91-02-072 (Order 3122), § 388-29-220, filed 12/28/90, effective 1/28/91; 90-06-035 (Order 2947), § 388-29-

220, filed 3/1/90, effective 4/1/90; 85-24-051 (Order 2309), § 388-29-220, filed 12/2/85; 85-07-020 (Order 2215), § 388-29-220, filed 3/13/85; 84-13-049 (Order 2104), § 388-29-220, filed 6/18/84; 83-17-070 (Order 2008), § 388-29-220, filed 8/19/83; 82-17-066 (Order 1862), § 388-29-220, filed 8/18/82; 81-19-127 (Order 1701), § 388-29-220, filed 9/23/81; 80-11-055 (Order 1532), § 388-29-220, filed 8/20/80; 79-10-083 (Order 1434), § 388-29-220, filed 9/21/79; 78-08-084 (Order 1321), § 388-29-220, filed 7/28/78; Order 1241, § 388-29-220, filed 9/23/77.]

WAC 388-29-280 Standards of assistance—Adult family home care. (1) The monthly eligibility standard for adult family home (AFH) care shall be:

(a) The department-contracted facility rate for payment to AFHs to provide a specific level of care and supervision; plus

(b) A monthly allowance of thirty-eight dollars and eighty-four cents for clothing, personal maintenance, and necessary incidentals (CPI); plus

(c) Additional service hours computed at the department-contracted rate as described under WAC 388-15-880.

(2) The monthly grant payment standard shall be the one-person monthly payment standard as defined under WAC 388-29-100(3).

[Statutory Authority: RCW 74.08.090. 93-12-052 (Order 3557), § 388-29-280, filed 5/26/93, effective 6/26/93; 90-06-035 (Order 2947), § 388-29-280, filed 3/1/90, effective 4/1/90; 88-19-032 (Order 2694), § 388-29-280, filed 9/12/88. Statutory Authority: 1987 1st ex.s. c 7. 88-04-019 (Order 2588), § 388-29-280, filed 1/22/88. Statutory Authority: RCW 74.08.090. 85-07-020 (Order 2215), § 388-29-280, filed 3/13/85; 84-13-049 (Order 2104), § 388-29-280, filed 6/18/84; 83-17-070 (Order 2008), § 388-29-280, filed 8/19/83; 82-17-066 (Order 1862), § 388-29-280, filed 8/18/82; 81-19-127 (Order 1701), § 388-29-280, filed 9/23/81; 79-10-083 (Order 1434), § 388-29-280, filed 9/21/79; 78-08-084 (Order 1321), § 388-29-280, filed 7/28/78; Order 1241, § 388-29-280, filed 9/23/77.]

WAC 388-29-295 Standards of assistance—Supplemental Security Income (SSI) program. Effective January 1, 1993, the standards of SSI assistance paid to an eligible individual and couple are:

| | Standard | Federal SSI Benefit | State Supplement |
|---|----------|---------------------|------------------|
| Area I: King, Pierce, Snohomish, Thurston, and Kitsap Counties | | | |
| Living alone | | | |
| Individual | \$462.00 | \$434.00 | 28.00 |
| Individual with one essential person | 673.00 | 651.00 | 22.00 |
| Couples: | | | |
| Both eligible | 674.00 | 652.00 | 22.00 |
| Includes one essential person | 673.00 | 651.00 | 22.00 |
| Includes ineligible spouse | 626.00 | 434.00 | 192.00 |
| Area II: All Counties Other Than the Above | | | |
| Living alone | | | |
| Individual | \$441.55 | \$434.00 | 7.55 |
| Individual with one essential person | 651.00 | 651.00 | 0 |
| Couples: | | | |
| Both eligible | 652.00 | 652.00 | 0 |

| | | | |
|-------------------------------|--------|--------|--------|
| Includes one essential person | 651.00 | 651.00 | 0 |
| Includes ineligible spouse | 594.15 | 434.00 | 160.15 |

Areas I and II: Shared living (all counties)

| | | | |
|--------------------------------------|----------|----------|--------|
| Individual | \$295.15 | \$289.34 | 5.81 |
| Individual with one essential person | 440.30 | 434.00 | 6.30 |
| Couples: | | | |
| Both eligible | 440.97 | 434.67 | 6.30 |
| Includes one essential person | 440.30 | 434.00 | 6.30 |
| Includes ineligible spouse | 408.97 | 289.34 | 119.63 |

[Statutory Authority: RCW 74.08.090, 74.04.200 and 20 CFR 416.405. 93-04-030 (Order 3506), § 388-29-295, filed 1/27/93, effective 2/27/93. Statutory Authority: RCW 74.04.620. 92-18-027 (Order 3443), § 388-29-295, filed 8/26/92, effective 9/26/92. Statutory Authority: RCW 74.08.090. 91-02-072 (Order 3122), § 388-29-295, filed 12/28/90, effective 1/28/91; 90-06-035 (Order 2947), § 388-29-295, filed 3/1/90, effective 4/1/90; 89-05-030 (Order 2759), § 388-29-295, filed 2/13/89; 88-01-040 (Order 2565), § 388-29-295, filed 12/11/87; 87-01-102 (Order 2452), § 388-29-295, filed 12/23/86; 86-14-061 (Order 2391), § 388-29-295, filed 6/27/86; 86-01-007 (Order 2311), § 388-29-295, filed 12/5/85; 85-07-020 (Order 2215), § 388-29-295, filed 3/13/85; 84-09-073 (Order 2095), § 388-29-295, filed 4/18/84; 83-17-070 (Order 2008), § 388-29-295, filed 8/19/83; 82-17-004 (Order 1855), § 388-29-295, filed 8/5/82; 81-19-127 (Order 1701), § 388-29-295, filed 9/23/81.]

Chapter 388-31 WAC

LIFELINE TELEPHONE ASSISTANCE PROGRAM

WAC

388-31-035

WTAP fund.

WAC 388-31-035 WTAP fund. (1) Limited to funds available in the WTAP fund, the department shall reimburse local exchange companies for administrative and program expenses associated with the WTAP. The department shall:

(a) Reduce payment amount to the maximum extent possible by a waiver of all or part of the federal end user access charge;

(b) Reimburse from the WTAP fund;

(c) Limit payments to services provided after the household's eligibility for the WTAP is established; and

(d) Ensure local exchange companies fully document and support in detail all administrative and program expenses billed to the department in the required monthly invoices. The department shall limit reimbursable administrative expenses to:

(i) Salaries and benefits for documented time required for implementing and maintaining the WTAP, with the exception that time required for the correction of case number errors is not an allowable expense;

(ii) Documented travel expenses incurred for attending hearings, meetings, or training pertaining to the WTAP;

(iii) Documented expenses incurred for supplies and materials required to implement and maintain the WTAP;

(iv) Documented postage and handling for delivery of WTAP material;

(v) Change of service charges from a private line to a party line in order to participate in WTAP, not to exceed the

amount tariffed, as necessary to meet the requirements of WAC 480-122-010 (3)(c);

(vi) Administrative charge for change of service orders specified by tariffs; and

(vii) Documented indirect costs associated with implementing and maintaining WTAP.

(2) The department shall recover its administrative costs from the WTAP fund.

(3) The department shall establish procedures for reimbursement from the WTAP fund and shall only reimburse for:

(a) Invoices submitted within ninety days following the month the expense occurred;

(b) Correct, verifiable, billing items; and

(c) Erroneous items which have been corrected within sixty days from the date the department returns the report of invoicing error to the local exchange company.

[Statutory Authority: RCW 80.36.440. 93-16-043 (Order 3604), § 388-31-035, filed 7/28/93, effective 8/28/93; 90-18-007 (Order 3063), § 388-31-035, filed 8/23/90, effective 9/23/90. Statutory Authority: 1987 c 229. 87-19-093 (Order 2541), § 388-31-035, filed 9/17/87.]

Chapter 388-34 WAC

PERSON IN INSTITUTION—ELIGIBILITY— PAYMENT

WAC

388-34-010 through 388-34-384 Repealed.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

388-34-010 Institutional living arrangements. [Regulation 11.00, filed 1/24/64.] Repealed by 93-19-134 (Order 3641), filed 9/22/93, effective 10/23/93. Statutory Authority: RCW 74.08.090.

388-34-015 Definitions. [Order 1044, § 388-34-015, filed 8/14/75; Order 323, § 388-34-015, filed 11/27/68; Order 249, § 388-34-015, filed 11/1/67; Regulation 11.01, filed 1/24/64.] Repealed by 93-19-134 (Order 3641), filed 9/22/93, effective 10/23/93. Statutory Authority: RCW 74.08.090.

388-34-020 Eligibility conditions. [Order 1044, § 388-34-020, filed 8/14/75; Order 323, § 388-34-020, filed 11/27/68; Order 249, § 388-34-020, filed 11/1/67; Regulation 11.02, filed 1/24/64.] Repealed by 93-19-134 (Order 3641), filed 9/22/93, effective 10/23/93. Statutory Authority: RCW 74.08.090.

388-34-025 Eligibility conditions—Eligibility for AFDC—Child or needy relative temporarily in institution. [Order 759, § 388-34-025, filed 12/28/72; Order 249, § 388-34-025, filed 11/1/67; Regulation 11.03, filed 1/24/64.] Repealed by 93-19-134 (Order 3641), filed 9/22/93, effective 10/23/93. Statutory Authority: RCW 74.08.090.

388-34-035 Skilled nursing home care. [Order 759, § 388-34-035, filed 12/28/72; Regulation 11.10, filed 8/29/66; Regulation 11.10, filed 1/24/64.] Repealed by 93-19-134 (Order 3641), filed 9/22/93, effective 10/23/93. Statutory Authority: RCW 74.08.090.

388-34-040 Skilled nursing home care—Application. [Order 759, § 388-34-040, filed 12/28/72; Regulation 11.11, filed 8/29/66; Regulation 11.11, filed 1/24/64.] Repealed by 93-19-134 (Order 3641), filed 9/22/93, effective 10/23/93. Statutory Authority: RCW 74.08.090.

388-34-045 Skilled nursing home care—Cost standards for requirements. [Order 1017, § 388-34-045, filed 4/14/75; Order 907, § 388-34-045, filed 2/14/74; Order 862, § 388-34-045, filed 10/11/73; Order 842, § 388-34-045, filed 8/9/73; Order 824, § 388-34-045, filed 7/26/73; Order 732, § 388-

34-045, filed 10/27/72; Order 675, § 388-34-045, filed 5/10/72; Order 651, § 388-34-045, filed 2/9/72; Order 553, § 388-34-045, filed 4/1/71; Order 377, § 388-34-045, filed 8/7/69; Regulation 11.12, filed 2/23/67, 8/29/66, 3/31/66, 12/31/65, 1/24/64.] Repealed by 93-19-134 (Order 3641), filed 9/22/93, effective 10/23/93. Statutory Authority: RCW 74.08.090.

388-34-055 Skilled nursing home care—Authorization and payment. [Order 759, § 388-34-055, filed 12/28/72; Regulation 11.131, filed 8/29/66; Regulation 11.131, filed 1/24/64.] Repealed by 93-19-134 (Order 3641), filed 9/22/93, effective 10/23/93. Statutory Authority: RCW 74.08.090.

388-34-085 Public nursing home—Definition—Grant requirements. [Order 1017, § 388-34-085, filed 4/14/75; Order 907, § 388-34-085, filed 2/14/74; Order 824, § 388-34-085, filed 7/26/73; Order 651, § 388-34-085, filed 2/9/72; Order 553, § 388-34-085, filed 4/1/71; Order 377, § 388-34-085, filed 8/7/69; Order 249, § 388-34-085, filed 11/1/67; Regulation 11.20, filed 7/24/67; Regulation 11.20, filed 2/23/67, 8/29/66, 1/24/64.] Repealed by 93-19-134 (Order 3641), filed 9/22/93, effective 10/23/93. Statutory Authority: RCW 74.08.090.

388-34-095 Fraternal, religious, or benevolent home. [Statutory Authority: RCW 74.08.090. 78-10-036 (Order 1338), § 388-34-095, filed 9/18/78; Order 651, § 388-34-095, filed 2/9/72; Order 377, § 388-34-095, filed 8/7/69; Order 249, § 388-34-095, filed 11/1/67; Regulation 11.30, filed 8/29/66; Regulation 11.30, filed 1/24/64.] Repealed by 93-19-134 (Order 3641), filed 9/22/93, effective 10/23/93. Statutory Authority: RCW 74.08.090.

388-34-110 General hospital—Grants requirements. [Order 1017, § 388-34-110, filed 4/14/75; Order 917, § 388-34-110, filed 3/14/74, 3/18/74; Order 824, § 388-34-110, filed 7/26/73; Order 651, § 388-34-110, filed 2/9/72; Order 553, § 388-34-110, filed 4/1/71; Order 377, § 388-34-110, filed 8/7/69; Order 249, § 388-34-110, filed 11/1/67; Regulation 11.41, filed 7/27/67; Regulation 11.41, filed 2/23/67, 8/29/66, 1/24/64.] Repealed by 93-19-134 (Order 3641), filed 9/22/93, effective 10/23/93. Statutory Authority: RCW 74.08.090.

388-34-120 Tuberculosis hospital—Grant requirements. [Order 1017, § 388-34-120, filed 4/14/75; Order 917, § 388-34-120, filed 3/14/74, 3/18/74; Order 824, § 388-34-120, filed 7/26/73; Order 651, § 388-34-120, filed 2/9/72; Order 377, § 388-34-120, filed 8/7/69; Order 553, § 388-34-120, filed 4/1/71; Order 249, § 388-34-120, filed 11/1/67; Regulation 11.42, filed 7/27/67, 2/23/67, 1/4/67, 8/29/66, 1/24/64.] Repealed by 93-19-134 (Order 3641), filed 9/22/93, effective 10/23/93. Statutory Authority: RCW 74.08.090.

388-34-125 Psychiatric hospital (JCAH approved)—Standards for requirements. [Statutory Authority: RCW 74.08.090. 78-10-036 (Order 1338), § 388-34-125, filed 9/18/78; Order 1044, § 388-34-125, filed 8/14/75; Order 824, § 388-34-125, filed 7/26/73; Order 651, § 388-34-125, filed 2/9/72; Order 553, § 388-34-125, filed 4/1/71; Order 377, § 388-34-125, filed 8/7/69; Order 249, § 388-34-125, filed 11/1/67.] Repealed by 93-19-134 (Order 3641), filed 9/22/93, effective 10/23/93. Statutory Authority: RCW 74.08.090.

388-34-140 Maternity services. [Order 688, § 388-34-140, filed 6/15/72; Order 434, § 388-34-140, filed 3/31/70; Regulation 11.60, filed 3/31/66; Regulation 11.60, filed 6/24/64, 1/24/64.] Repealed by 93-19-134 (Order 3641), filed 9/22/93, effective 10/23/93. Statutory Authority: RCW 74.08.090.

388-34-150 Other homes. [Statutory Authority: RCW 74.08.090. 78-10-036 (Order 1338), § 388-34-150, filed 9/18/78; Regulation 11.70, filed 8/29/66; Regulation 11.70, filed 1/24/64.] Repealed by 93-19-134 (Order 3641), filed 9/22/93, effective 10/23/93. Statutory Authority: RCW 74.08.090.

388-34-160 Grant change—Admittance to institution other than nursing home. [Statutory Authority: RCW 74.08.090. 83-10-077 (Order 1958), § 388-34-160, filed 5/4/83; 78-10-036 (Order 1338), § 388-34-160, filed 9/18/78; Regulation 11.80, filed 1/24/64.] Repealed by 93-19-134 (Order

- 3641), filed 9/22/93, effective 10/23/93. Statutory Authority: RCW 74.08.090.
- 388-34-165 Grant change—Discharge from institution other than licensed nursing home. [Regulation 11.81, filed 6/14/66; Regulation 11.81, filed 1/24/64.] Repealed by 93-19-134 (Order 3641), filed 9/22/93, effective 10/23/93. Statutory Authority: RCW 74.08.090.
- 388-34-180 Notification of grant authorization and change in grant. [Order 312, § 388-34-180, filed 10/31/68; Regulation 11.90, filed 1/24/64.] Repealed by 93-19-134 (Order 3641), filed 9/22/93, effective 10/23/93. Statutory Authority: RCW 74.08.090.
- 388-34-370 Intermediate care—Eligibility conditions. [Order 701, § 388-34-370, filed 7/27/72; Order 651, § 388-34-370, filed 2/9/72.] Repealed by 93-19-134 (Order 3641), filed 9/22/93, effective 10/23/93. Statutory Authority: RCW 74.08.090.
- 388-34-372 Intermediate care—Determination of need for intermediate care. [Order 701, § 388-34-372, filed 7/27/72; Order 440, § 388-34-372, filed 4/15/70.] Repealed by 93-19-134 (Order 3641), filed 9/22/93, effective 10/23/93. Statutory Authority: RCW 74.08.090.
- 388-34-374 Intermediate care—Placement of recipient. [Order 440, § 388-34-374, filed 4/15/70.] Repealed by 93-19-134 (Order 3641), filed 9/22/93, effective 10/23/93. Statutory Authority: RCW 74.08.090.
- 388-34-375 Intermediate care—Absence for social reasons. [Order 867, § 388-34-375, filed 10/26/73.] Repealed by 93-19-134 (Order 3641), filed 9/22/93, effective 10/23/93. Statutory Authority: RCW 74.08.090.
- 388-34-376 Intermediate care—Services to be provided by operator. [Order 440, § 388-34-376, filed 4/15/70.] Repealed by 93-19-134 (Order 3641), filed 9/22/93, effective 10/23/93. Statutory Authority: RCW 74.08.090.
- 388-34-378 Intermediate care—Grant requirements—Procedures. [Order 1017, § 388-34-378, filed 4/14/75; Order 907, § 388-34-378, filed 2/14/74; Order 862, § 388-34-378, filed 10/11/73; Order 842, § 388-34-378, filed 8/9/73; Order 824, § 388-34-378, filed 7/26/73; Order 732, § 388-34-378, filed 10/27/72; Order 716, § 388-34-378, filed 9/14/72; Order 675, § 388-34-378, filed 5/10/72; Order 651, § 388-34-378, filed 2/9/72; Order 440, § 388-34-378, filed 4/15/70.] Repealed by 93-19-134 (Order 3641), filed 9/22/93, effective 10/23/93. Statutory Authority: RCW 74.08.090.
- 388-34-380 Intermediate care—Payment procedures—Operator's responsibility. [Order 440, § 388-34-380, filed 4/15/70.] Repealed by 93-19-134 (Order 3641), filed 9/22/93, effective 10/23/93. Statutory Authority: RCW 74.08.090.
- 388-34-384 Intermediate care—Application to provide intermediate care. [Order 867, § 388-34-384, filed 10/26/73; Order 627, § 388-34-384, filed 10/24/71; Order 440, § 388-34-384, filed 4/15/70.] Repealed by 93-19-134 (Order 3641), filed 9/22/93, effective 10/23/93. Statutory Authority: RCW 74.08.090.

WAC 388-34-010 through 388-34-384 Repealed.
See Disposition Table at beginning of this chapter.

Chapter 388-37 WAC

GENERAL ASSISTANCE—ELIGIBILITY—STANDARDS OF ASSISTANCE—PAYMENT

WAC

388-37-010 through 388-37-380 Repealed.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 388-37-010 Continuing general assistance—Exclusions. [Statutory Authority: 1987 c 406, 87-18-005 (Order 2525), § 388-37-010, filed 8/21/87. Statutory Authority: RCW 74.08.090. 86-11-021 (Order 2374), § 388-37-010, filed 5/14/86; 85-20-086 (Order 2289), § 388-37-010, filed 10/1/85; 84-19-046 (Order 2152), § 388-37-010, filed 9/17/84; 83-21-012 (Order 2034), § 388-37-010, filed 10/6/83; 83-08-025 (Order 1955), § 388-37-010, filed 3/30/83; 82-22-021 (Order 1894), § 388-37-010, filed 10/26/82; 81-15-056 (Order 1681), § 388-37-010, filed 7/17/81; 81-10-010 (Order 1642), § 388-37-010, filed 4/27/81; 80-12-013 (Order 1536), § 388-37-010, filed 8/25/80; 79-06-026 (Order 1397), § 388-37-010, filed 5/16/79; 78-10-031 (Order 1337), § 388-37-010, filed 9/15/78; Order 1214, § 388-37-010, filed 6/23/77; Order 1102, § 388-37-010, filed 3/2/76; Order 939, § 388-37-010, filed 5/23/74; Order 904, § 388-37-010, filed 1/31/74; Order 841, § 388-37-010, filed 8/9/73.] Repealed by 93-16-058 (Order 3559), filed 7/29/93, effective 8/29/93. Statutory Authority: RCW 74.08.090.
- 388-37-020 Continuing general assistance—Eligibility conditions—General. [Statutory Authority: 1987 c 406, 87-18-005 (Order 2525), § 388-37-020, filed 8/21/87. Statutory Authority: RCW 74.08.090. 83-21-012 (Order 2034), § 388-37-020, filed 10/6/83; 81-12-045 (Order 1661), § 388-37-020, filed 6/3/81; 78-10-031 (Order 1337), § 388-37-020, filed 9/15/78; Order 1251, § 388-37-020, filed 11/10/77; Order 841, § 388-37-020, filed 8/9/73.] Repealed by 93-16-058 (Order 3559), filed 7/29/93, effective 8/29/93. Statutory Authority: RCW 74.08.090.
- 388-37-021 Provision of Social Security numbers. [Statutory Authority: 1987 c 406, 87-18-005 (Order 2525), § 388-37-021, filed 8/21/87.] Repealed by 93-16-058 (Order 3559), filed 7/29/93, effective 8/29/93. Statutory Authority: RCW 74.08.090.
- 388-37-025 Earned income exemption. [Statutory Authority: RCW 74.08.090. 83-21-012 (Order 2034), § 388-37-025, filed 10/6/83; Order 1251, § 388-37-025, filed 11/10/77.] Repealed by 93-16-058 (Order 3559), filed 7/29/93, effective 8/29/93. Statutory Authority: RCW 74.08.090.
- 388-37-029 General assistance retrospective budgeting supplement for AFDC or FIP recipients. [Statutory Authority: RCW 74.08.090. 91-21-124 (Order 3269), § 388-37-029, filed 10/23/91, effective 11/23/91.] Repealed by 93-16-058 (Order 3559), filed 7/29/93, effective 8/29/93. Statutory Authority: RCW 74.08.090.
- 388-37-030 Continuing general assistance—Eligible persons. [Statutory Authority: 1991 c 10 and 126, 91-20-051 (Order 3249), § 388-37-030, filed 9/24/91, effective 10/25/91. Statutory Authority: 1990 c 285, 90-16-085 (Order 3045), § 388-37-030, filed 8/1/90, effective 9/1/90. Statutory Authority: 1987 c 406, 87-18-005 (Order 2525), § 388-37-030, filed 8/21/87. Statutory Authority: RCW 74.08.090. 85-15-090 (Order 2259), § 388-37-030, filed 7/24/85; 84-19-046 (Order 2152), § 388-37-030, filed 9/17/84; 83-21-012 (Order 2034), § 388-37-030, filed 10/6/83; 83-08-025 (Order 1955), § 388-37-030, filed 3/30/83; 81-10-010 (Order 1642), § 388-37-030, filed 4/27/81; 80-02-022 (Order 1471), § 388-37-030, filed 1/9/80; 78-06-021 (Order 1295), § 388-37-030, filed 5/16/78; Order 1214, § 388-37-030, filed 6/23/77; Order 1189, § 388-37-030, filed 2/18/77; Order 1173, § 388-37-030, filed 11/24/76; Order 1102, § 388-37-030, filed 3/2/76; Order 1083, § 388-37-030, filed 12/24/75; Order 976, § 388-37-030, filed 10/28/74; Order 973, § 388-37-030, filed 9/26/74; Order 939, § 388-37-030, filed 5/23/74; Order 904, § 388-37-030, filed 1/31/74; Order 841, § 388-37-030, filed 8/9/73.] Repealed by 93-16-058 (Order 3559), filed 7/29/93, effective 8/29/93. Statutory Authority: RCW 74.08.090.
- 388-37-032 Continuing general assistance—Determination of incapacity. [Statutory Authority: 1987 c 406, 87-18-005 (Order 2525), § 388-37-032, filed 8/21/87. Statutory Authority:

- RCW 74.08.090. 85-22-020 (Order 2297), § 388-37-032, filed 10/30/85; 84-19-046 (Order 2152), § 388-37-032, filed 9/17/84; 83-08-025 (Order 1955), § 388-37-032, filed 3/30/83; 82-22-021 (Order 1894), § 388-37-032, filed 10/26/82; 81-12-045 (Order 1661), § 388-37-032, filed 6/3/81; Order 1145, § 388-37-032, filed 8/26/76; Order 1102, § 388-37-032, filed 3/2/76; Order 1046, § 388-37-032, filed 8/14/75; Order 973, § 388-37-032, filed 9/26/74; Order 904, § 388-37-032, filed 1/31/74.] Repealed by 93-16-058 (Order 3559), filed 7/29/93, effective 8/29/93. Statutory Authority: RCW 74.08.090.
- 388-37-035 Incapacity—Medical evidence. [Statutory Authority: 1987 c 406. 87-18-005 (Order 2525), § 388-37-035, filed 8/21/87. Statutory Authority: RCW 74.08.090. 84-19-046 (Order 2152), § 388-37-035, filed 9/17/84; 83-21-012 (Order 2034), § 388-37-035, filed 10/6/83; 83-08-025 (Order 1955), § 388-37-035, filed 3/30/83; 82-22-021 (Order 1894), § 388-37-035, filed 10/26/82; 82-12-067 (Order 1819), § 388-37-035, filed 6/2/82; 81-21-038 (Order 1709), § 388-37-035, filed 10/15/81; 81-10-010 (Order 1642), § 388-37-035, filed 4/27/81; 80-12-013 (Order 1536), § 388-37-035, filed 8/25/80; Order 1251, § 388-37-035, filed 11/10/77; Order 1214, § 388-37-035, filed 6/23/77; Order 1173, § 388-37-035, filed 11/24/76; Order 1145, § 388-37-035, filed 8/26/76; Order 1109, § 388-37-035, filed 4/15/76; Order 1102, § 388-37-035, filed 3/2/76; Order 973, § 388-37-035, filed 9/26/74; Order 904, § 388-37-035, filed 1/31/74.] Repealed by 93-16-058 (Order 3559), filed 7/29/93, effective 8/29/93. Statutory Authority: RCW 74.08.090.
- 388-37-037 Continuing general assistance—Refusal to accept available and required medical treatment. [Statutory Authority: 1987 c 406. 87-18-005 (Order 2525), § 388-37-037, filed 8/21/87. Statutory Authority: RCW 74.08.090. 85-22-020 (Order 2297), § 388-37-037, filed 10/30/85; 84-19-046 (Order 2152), § 388-37-037, filed 9/17/84; 83-08-025 (Order 1955), § 388-37-037, filed 3/30/83; 82-22-021 (Order 1894), § 388-37-037, filed 10/26/82; 81-12-045 (Order 1661), § 388-37-037, filed 6/3/81; Order 1102, § 388-37-037, filed 3/2/76; Order 904, § 388-37-037, filed 1/31/74.] Repealed by 93-16-058 (Order 3559), filed 7/29/93, effective 8/29/93. Statutory Authority: RCW 74.08.090.
- 388-37-038 Incapacity—Waiver of medical documentation. [Statutory Authority: RCW 74.04.005. 92-08-036, § 388-37-038, filed 3/24/92, effective 4/24/92. Statutory Authority: 1991 c 10 and 126. 91-20-051 (Order 3249), § 388-37-038, filed 9/24/91, effective 10/25/91. Statutory Authority: 1987 c 406. 87-18-005 (Order 2525), § 388-37-038, filed 8/21/87. Statutory Authority: RCW 74.08.090. 84-19-046 (Order 2152), § 388-37-038, filed 9/17/84; 83-08-025 (Order 1955), § 388-37-038, filed 3/30/83; 82-22-021 (Order 1894), § 388-37-038, filed 10/26/82.] Repealed by 93-16-058 (Order 3559), filed 7/29/93, effective 8/29/93. Statutory Authority: RCW 74.08.090.
- 388-37-039 Continuing general assistance—Assistance units. [Statutory Authority: RCW 74.04.005. 92-10-049 (Order 3380), § 388-37-039, filed 5/5/92, effective 7/1/92.] Repealed by 93-16-058 (Order 3559), filed 7/29/93, effective 8/29/93. Statutory Authority: RCW 74.08.090.
- 388-37-040 Continuing general assistance—Standards for requirements—Authorization. [Statutory Authority: 1987 c 406. 87-18-005 (Order 2525), § 388-37-040, filed 8/21/87. Statutory Authority: RCW 74.08.090. 84-19-046 (Order 2152), § 388-37-040, filed 9/17/84; 82-22-021 (Order 1894), § 388-37-040, filed 10/26/82; 81-12-045 (Order 1661), § 388-37-040, filed 6/3/81; 79-06-028 (Order 1398), § 388-37-040, filed 5/16/79; Order 1102, § 388-37-040, filed 3/2/76; Order 841, § 388-37-040, filed 8/9/73.] Repealed by 93-16-058 (Order 3559), filed 7/29/93, effective 8/29/93. Statutory Authority: RCW 74.08.090.
- 388-37-045 General assistance-unemployable—Determination of capacity to engage in gainful employment. [Statutory Authority: RCW 74.04.005. 93-06-073 (Order 3520), § 388-37-045, filed 3/2/93, effective 4/2/93.] Repealed by 93-16-058 (Order 3559), filed 7/29/93, effective 8/29/93. Statutory Authority: RCW 74.08.090.
- 388-37-050 General assistance-unemployable—Redetermination of eligibility. [Statutory Authority: RCW 74.04.005. 93-06-073 (Order 3520), § 388-37-050, filed 3/2/93, effective 4/2/93. Statutory Authority: 1987 c 406. 87-18-005 (Order 2525), § 388-37-050, filed 8/21/87. Statutory Authority: RCW 74.08.090. 84-19-046 (Order 2152), § 388-37-050, filed 9/17/84; 83-08-025 (Order 1955), § 388-37-050, filed 3/30/83; 82-22-021 (Order 1894), § 388-37-050, filed 10/26/82; Order 1102, § 388-37-050, filed 3/2/76; Order 943, § 388-37-050, filed 6/28/74; Order 904, § 388-37-050, filed 1/31/74; Order 841, § 388-37-050, filed 8/9/73.] Repealed by 93-16-058 (Order 3559), filed 7/29/93, effective 8/29/93. Statutory Authority: RCW 74.08.090.
- 388-37-100 Progressive evaluation process. [Statutory Authority: RCW 74.08.090. 85-15-090 (Order 2259), § 388-37-100, filed 7/24/85.] Repealed by 93-16-058 (Order 3559), filed 7/29/93, effective 8/29/93. Statutory Authority: RCW 74.08.090.
- 388-37-110 Determination of severity—General definitions. [Statutory Authority: RCW 74.08.090. 88-15-013 (Order 2652), § 388-37-110, filed 7/8/88; 85-15-090 (Order 2259), § 388-37-110, filed 7/24/85.] Repealed by 93-16-058 (Order 3559), filed 7/29/93, effective 8/29/93. Statutory Authority: RCW 74.08.090.
- 388-37-115 Progressive evaluation process Step I—Review of medical documentation. [Statutory Authority: 1991 c 10 and 126. 91-20-051 (Order 3249), § 388-37-115, filed 9/24/91, effective 10/25/91. Statutory Authority: RCW 74.08.090. 85-15-090 (Order 2259), § 388-37-115, filed 7/24/85.] Repealed by 93-16-058 (Order 3559), filed 7/29/93, effective 8/29/93. Statutory Authority: RCW 74.08.090.
- 388-37-120 Progressive evaluation process Step II—Severity of mental impairments. [Statutory Authority: 1987 c 406. 87-18-005 (Order 2525), § 388-37-120, filed 8/21/87. Statutory Authority: RCW 74.08.090. 85-15-090 (Order 2259), § 388-37-120, filed 7/24/85.] Repealed by 93-16-058 (Order 3559), filed 7/29/93, effective 8/29/93. Statutory Authority: RCW 74.08.090.
- 388-37-130 Progressive evaluation process Step III—Severity of physical impairments. [Statutory Authority: RCW 74.08.090. 88-15-013 (Order 2652), § 388-37-130, filed 7/8/88; 85-15-090 (Order 2259), § 388-37-130, filed 7/24/85.] Repealed by 93-16-058 (Order 3559), filed 7/29/93, effective 8/29/93. Statutory Authority: RCW 74.08.090.
- 388-37-135 Alcoholism/drug addiction. [Statutory Authority: RCW 74.04.050. 92-03-047 (Order 3306), § 388-37-135, filed 1/10/92, effective 2/10/92. Statutory Authority: 1987 c 406. 87-18-005 (Order 2525), § 388-37-135, filed 8/21/87. Statutory Authority: RCW 74.08.090. 85-15-090 (Order 2259), § 388-37-135, filed 7/24/85.] Repealed by 93-16-058 (Order 3559), filed 7/29/93, effective 8/29/93. Statutory Authority: RCW 74.08.090.
- 388-37-140 Progressive evaluation process Step IV—Multiple impairments. [Statutory Authority: RCW 74.08.090. 89-01-047 (Order 2733), § 388-37-140, filed 12/14/88; 88-15-013 (Order 2652), § 388-37-140, filed 7/8/88. Statutory Authority: 1987 c 406. 87-18-005 (Order 2525), § 388-37-140, filed 8/21/87. Statutory Authority: RCW 74.08.090. 85-15-090 (Order 2259), § 388-37-140, filed 7/24/85.] Repealed by 93-16-058 (Order 3559), filed 7/29/93, effective 8/29/93. Statutory Authority: RCW 74.08.090.
- 388-37-150 Progressive evaluation process Step V—Functional capacities—Mental impairments. [Statutory Authority: RCW 74.08.090. 85-15-090 (Order 2259), § 388-37-150, filed 7/24/85.] Repealed by 93-16-058 (Order 3559), filed 7/29/93, effective 8/29/93. Statutory Authority: RCW 74.08.090.
- 388-37-160 Progressive evaluation process Step V—Functional capacities—Physical impairments. [Statutory Authority: RCW 74.08.090. 88-15-013 (Order 2652), § 388-37-160, filed 7/8/88; 85-15-090 (Order 2259), § 388-37-160, filed

Chapter 388-40 WAC

ALCOHOL/DRUG PROGRAMS

- 7/24/85.] Repealed by 93-16-058 (Order 3559), filed 7/29/93, effective 8/29/93. Statutory Authority: RCW 74.08.090.
- 388-37-170 Evaluation of vocational factors for Steps VI and VII. [Statutory Authority: RCW 74.08.090. 88-15-013 (Order 2652), § 388-37-170, filed 7/8/88; 85-15-090 (Order 2259), § 388-37-170, filed 7/24/85.] Repealed by 93-16-058 (Order 3559), filed 7/29/93, effective 8/29/93. Statutory Authority: RCW 74.08.090.
- 388-37-180 Progressive evaluation process Step VI—Evaluation of capacity to perform past work. [Statutory Authority: RCW 74.08.090. 85-15-090 (Order 2259), § 388-37-180, filed 7/24/85.] Repealed by 93-16-058 (Order 3559), filed 7/29/93, effective 8/29/93. Statutory Authority: RCW 74.08.090.
- 388-37-190 Progressive evaluation process Step VII—Assessment of capacity to perform other work. [Statutory Authority: RCW 74.08.090. 88-15-013 (Order 2652), § 388-37-190, filed 7/8/88; 85-15-090 (Order 2259), § 388-37-190, filed 7/24/85.] Repealed by 93-16-058 (Order 3559), filed 7/29/93, effective 8/29/93. Statutory Authority: RCW 74.08.090.
- 388-37-300 GAU CWEP—Purpose. [Statutory Authority: SHB 2983, 1992. 92-17-006 (Order 3433), § 388-37-300, filed 8/6/92, effective 9/6/92.] Repealed by 93-16-058 (Order 3559), filed 7/29/93, effective 8/29/93. Statutory Authority: RCW 74.08.090.
- 388-37-310 GAU CWEP—Definitions. [Statutory Authority: SHB 2983, 1992. 92-17-006 (Order 3433), § 388-37-310, filed 8/6/92, effective 9/6/92.] Repealed by 93-16-058 (Order 3559), filed 7/29/93, effective 8/29/93. Statutory Authority: RCW 74.08.090.
- 388-37-320 GAU CWEP—Participation requirement. [Statutory Authority: SHB 2983, 1992. 92-17-006 (Order 3433), § 388-37-320, filed 8/6/92, effective 9/6/92.] Repealed by 93-16-058 (Order 3559), filed 7/29/93, effective 8/29/93. Statutory Authority: RCW 74.08.090.
- 388-37-330 GAU CWEP—Exemptions. [Statutory Authority: SHB 2983, 1992. 92-17-006 (Order 3433), § 388-37-330, filed 8/6/92, effective 9/6/92.] Repealed by 93-16-058 (Order 3559), filed 7/29/93, effective 8/29/93. Statutory Authority: RCW 74.08.090.
- 388-37-340 GAU CWEP—Placements. [Statutory Authority: SHB 2983, 1992. 92-17-006 (Order 3433), § 388-37-340, filed 8/6/92, effective 9/6/92.] Repealed by 93-16-058 (Order 3559), filed 7/29/93, effective 8/29/93. Statutory Authority: RCW 74.08.090.
- 388-37-350 GAU CWEP—Placement agencies. [Statutory Authority: SHB 2983, 1992. 92-17-006 (Order 3433), § 388-37-350, filed 8/6/92, effective 9/6/92.] Repealed by 93-16-058 (Order 3559), filed 7/29/93, effective 8/29/93. Statutory Authority: RCW 74.08.090.
- 388-37-360 GAU CWEP—Scope of services. [Statutory Authority: SHB 2983, 1992. 92-17-006 (Order 3433), § 388-37-360, filed 8/6/92, effective 9/6/92.] Repealed by 93-16-058 (Order 3559), filed 7/29/93, effective 8/29/93. Statutory Authority: RCW 74.08.090.
- 388-37-370 GAU CWEP—Good cause for refusal or failure to participate. [Statutory Authority: SHB 2983, 1992. 92-17-006 (Order 3433), § 388-37-370, filed 8/6/92, effective 9/6/92.] Repealed by 93-16-058 (Order 3559), filed 7/29/93, effective 8/29/93. Statutory Authority: RCW 74.08.090.
- 388-37-380 GAU CWEP—Sanctions for refusal or failure to participate. [Statutory Authority: SHB 2983, 1992. 92-17-006 (Order 3433), § 388-37-380, filed 8/6/92, effective 9/6/92.] Repealed by 93-16-058 (Order 3559), filed 7/29/93, effective 8/29/93. Statutory Authority: RCW 74.08.090.

WAC 388-37-010 through 388-37-380 Repealed.

See Disposition Table at beginning of this chapter.

WAC

388-40-010 through 388-40-110 Repealed.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 388-40-010 Alcoholism and drug detoxification program—Eligible persons. [Statutory Authority: RCW 74.50.080. 90-21-125 (Order 3089), § 388-40-010, filed 10/23/90, effective 11/23/90. Statutory Authority: 1989 1st ex.s. c 18. 89-18-025 (Order 2851), § 388-40-010, filed 8/29/89, effective 9/29/89. Statutory Authority: 1987 c 406. 87-18-006 (Order 2526), § 388-40-010, filed 8/21/87. Statutory Authority: RCW 74.08.090. 82-20-023 (Order 1884), § 388-40-010, filed 9/29/82; 81-10-011 (Order 1643), § 388-40-010, filed 4/27/81.] Repealed by 93-19-039 (Order 3632), filed 9/8/93, effective 10/9/93. Statutory Authority: RCW 74.08.090.
- 388-40-020 Alcoholism and Drug Addiction Treatment and Support Act (ADATSA)—Program description. [Statutory Authority: 1989 1st ex.s. c 18. 89-18-025 (Order 2851), § 388-40-020, filed 8/29/89, effective 9/29/89. Statutory Authority: 1987 c 406. 87-18-006 (Order 2526), § 388-40-020, filed 8/21/87.] Repealed by 93-19-039 (Order 3632), filed 9/8/93, effective 10/9/93. Statutory Authority: RCW 74.08.090.
- 388-40-030 ADATSA services. [Statutory Authority: 1989 1st ex.s. c 18. 89-18-025 (Order 2851), § 388-40-030, filed 8/29/89, effective 9/29/89. Statutory Authority: 1987 c 406. 87-18-006 (Order 2526), § 388-40-030, filed 8/21/87.] Repealed by 93-19-039 (Order 3632), filed 9/8/93, effective 10/9/93. Statutory Authority: RCW 74.08.090.
- 388-40-040 Financial eligibility requirements. [Statutory Authority: 1989 1st ex.s. c 18. 89-18-025 (Order 2851), § 388-40-040, filed 8/29/89, effective 9/29/89. Statutory Authority: RCW 74.50.010. 88-13-110 (Order 2635), § 388-40-040, filed 6/21/88. Statutory Authority: 1987 c 406. 87-18-006 (Order 2526), § 388-40-040, filed 8/21/87.] Repealed by 93-19-039 (Order 3632), filed 9/8/93, effective 10/9/93. Statutory Authority: RCW 74.08.090.
- 388-40-050 Incapacity requirements for ADATSA treatment. [Statutory Authority: 1989 1st ex.s. c 18. 89-24-037 (Order 2908), § 388-40-050, filed 12/1/89, effective 1/1/90; 89-18-025 (Order 2851), § 388-40-050, filed 8/29/89, effective 9/29/89. Statutory Authority: 1987 c 406. 87-18-006 (Order 2526), § 388-40-050, filed 8/21/87.] Repealed by 93-19-039 (Order 3632), filed 9/8/93, effective 10/9/93. Statutory Authority: RCW 74.08.090.
- 388-40-055 Incapacity requirements for ADATSA shelter. [Statutory Authority: RCW 74.50.080. 90-21-125 (Order 3089), § 388-40-055, filed 10/23/90, effective 11/23/90. Statutory Authority: 1989 1st ex.s. c 18. 89-18-025 (Order 2851), § 388-40-055, filed 8/29/89, effective 9/29/89.] Repealed by 93-19-039 (Order 3632), filed 9/8/93, effective 10/9/93. Statutory Authority: RCW 74.08.090.
- 388-40-060 Eligibility determination and review—Time frame. [Statutory Authority: 1989 1st ex.s. c 18. 89-18-025 (Order 2851), § 388-40-060, filed 8/29/89, effective 9/29/89. Statutory Authority: 1987 c 406. 87-18-006 (Order 2526), § 388-40-060, filed 8/21/87.] Repealed by 93-19-039 (Order 3632), filed 9/8/93, effective 10/9/93. Statutory Authority: RCW 74.08.090.
- 388-40-070 SSI referral requirements. [Statutory Authority: 1987 c 406. 87-18-006 (Order 2526), § 388-40-070, filed 8/21/87.] Repealed by 93-19-039 (Order 3632), filed 9/8/93, effective 10/9/93. Statutory Authority: RCW 74.08.090.
- 388-40-080 ADATSA assessment centers—Role. [Statutory Authority: 1989 1st ex.s. c 18. 89-18-025 (Order 2851), § 388-40-080, filed 8/29/89, effective 9/29/89. Statutory Authority:

- RCW 74.08.090. 89-01-093 (Order 2740), § 388-40-080, filed 12/21/88. Statutory Authority: RCW 74.50.010. 88-13-110 (Order 2635), § 388-40-080, filed 6/21/88. Statutory Authority: 1987 c 406. 87-18-006 (Order 2526), § 388-40-080, filed 8/21/87.] Repealed by 93-19-039 (Order 3632), filed 9/8/93, effective 10/9/93. Statutory Authority: RCW 74.08.090.
- 388-40-090 ADATSA treatment modalities—Description of services, requirements, and limitations. [Statutory Authority: RCW 74.50.080. 90-21-125 (Order 3089), § 388-40-090, filed 10/23/90, effective 11/23/90. Statutory Authority: 1989 1st ex.s. c 18. 89-18-025 (Order 2851), § 388-40-090, filed 8/29/89, effective 9/29/89. Statutory Authority: RCW 74.50.010. 88-13-110 (Order 2635), § 388-40-090, filed 6/21/88. Statutory Authority: 1987 c 406. 87-18-006 (Order 2526), § 388-40-090, filed 8/21/87.] Repealed by 93-19-039 (Order 3632), filed 9/8/93, effective 10/9/93. Statutory Authority: RCW 74.08.090.
- 388-40-091 Availability of treatment—Priority groups. [Statutory Authority: RCW 74.50.080. 90-21-125 (Order 3089), § 388-40-091, filed 10/23/90, effective 11/23/90. Statutory Authority: 1989 1st ex.s. c 18. 89-18-025 (Order 2851), § 388-40-091, filed 8/29/89, effective 9/29/89.] Repealed by 93-19-039 (Order 3632), filed 9/8/93, effective 10/9/93. Statutory Authority: RCW 74.08.090.
- 388-40-095 ADATSA treatment—Living allowance. [Statutory Authority: RCW 74.50.010. 88-13-110 (Order 2635), § 388-40-095, filed 6/21/88.] Repealed by 93-19-039 (Order 3632), filed 9/8/93, effective 10/9/93. Statutory Authority: RCW 74.08.090.
- 388-40-100 ADATSA shelter services. [Statutory Authority: RCW 74.50.080. 90-21-125 (Order 3089), § 388-40-100, filed 10/23/90, effective 11/23/90. Statutory Authority: 1989 1st ex.s. c 18. 89-18-025 (Order 2851), § 388-40-100, filed 8/29/89, effective 9/29/89. Statutory Authority: RCW 74.08.090. 89-01-093 (Order 2740), § 388-40-100, filed 12/21/88. Statutory Authority: RCW 74.50.010. 88-13-110 (Order 2635), § 388-40-100, filed 6/21/88. Statutory Authority: 1987 c 406. 87-18-006 (Order 2526), § 388-40-100, filed 8/21/87.] Repealed by 93-19-039 (Order 3632), filed 9/8/93, effective 10/9/93. Statutory Authority: RCW 74.08.090.
- 388-40-110 ADATSA protective payee requirements. [Statutory Authority: 1989 1st ex.s. c 18. 89-18-025 (Order 2851), § 388-40-110, filed 8/29/89, effective 9/29/89. Statutory Authority: RCW 74.50.010. 88-23-020 (Order 2723), § 388-40-110, filed 11/7/88; 88-13-110 (Order 2635), § 388-40-110, filed 6/21/88.] Repealed by 93-19-039 (Order 3632), filed 9/8/93, effective 10/9/93. Statutory Authority: RCW 74.08.090.

WAC 388-40-010 through 388-40-110 Repealed.
See Disposition Table at beginning of this chapter.

Chapter 388-41 WAC

MEDICAL AUDIT DISPUTE RESOLUTION

WAC

| | |
|------------|---------------------------|
| 388-41-001 | Authority. |
| 388-41-003 | Purpose. |
| 388-41-010 | Definitions. |
| 388-41-020 | Audit dispute conference. |

WAC 388-41-001 Authority. These rules are promulgated under RCW 74.09.290, department audit and investigations, and RCW 74.08.090, rules and regulations.

[Statutory Authority: RCW 74.08.090 and 74.09.290. 93-24-058 (Order 3674), § 388-41-001, filed 11/24/93, effective 12/25/93.]

WAC 388-41-003 Purpose. The purpose of this chapter is to establish within the department, an audit dispute resolution process for medical providers.

[Statutory Authority: RCW 74.08.090 and 74.09.290. 93-24-058 (Order 3674), § 388-41-003, filed 11/24/93, effective 12/25/93.]

WAC 388-41-010 Definitions. (1) "Department" means the state department of social and health services.

(2) "Medical provider" means an institution, agency or individual who has a signed agreement with the department to furnish medical care and goods and/or services to recipients and who is eligible to receive payment from the department.

(3) "Sum certain" means a fixed amount of money due the department which will not change.

[Statutory Authority: RCW 74.08.090 and 74.09.290. 93-24-058 (Order 3674), § 388-41-010, filed 11/24/93, effective 12/25/93.]

WAC 388-41-020 Audit dispute conference. (1) A medical provider may dispute findings, identified in the draft audit report, to the office of nursing home/hospital audit (ONHHA) within forty-five days of receipt of the draft report. The medical provider's request shall include a statement specifying which portions of the draft audit are disputed. Unsubstantiated verbal information or instructions allegedly given by medical assistance administration (MAA) personnel to a provider will not be considered or disputed.

(2) At the providers request, the ONHHA shall hold a post audit conference after which a written decision regarding the disputed issues will be sent to all participating parties. Subsequent to the post audit conference and issuance of a written decision regarding the outcome, the ONHHA shall issue the final audit report.

(3) Except for nursing homes governed by WAC 388-96-904, when a dispute of audit findings continues, after ONHHA has issued the final report, the medical provider may submit a request for a second level dispute conference to the department, office of vendor services (OVS), contracts section.

(4) OVS-conducted dispute conference shall be informal and shall not be governed by the hearing procedure in the Administrative Procedure Act (chapter 34.05 RCW). The OVS-conducted resolution process shall:

(a) Constitute the final administrative remedy available under the contract; and

(b) Precede any action in a judicial or quasi-judicial tribunal.

(5) A medical provider's request for a second level final audit dispute conference shall:

(a) Be in writing;

(b) Be limited to disputed issues identified under subsection (1) of this section;

(c) State the provider's name, address, and core provider agreement number; and

(d) Be mailed to Office of Vendor Services, P. O. Box 45811, Olympia, Washington 98504, within thirty calendar days from the date the final audit report was received by the provider.

(6) Unless otherwise specified the department shall not consider a request for a final audit dispute conference which

does not meet the time period specified in subsection (5)(d) of this section.

(7) Following receipt of a request for a dispute conference, OVS shall, within ninety days:

(a) Determine when the dispute conference will be held; and

(b) Notify participants of the date and time of the conference.

(8) The department may grant the following extensions:

(a) ONHHA may grant extensions of time at their discretion if requested within the forty-five day period referenced under subsection (1) of this section;

(b) OVS may grant extensions of time at their discretion if requested within the thirty calendar days referenced under subsection (5)(d) of this section.

(9) ONHHA publication of a final audit report and identification of a sum certain due the department shall constitute the department's final audit position.

[Statutory Authority: RCW 74.08.090 and 74.09.290. 93-24-058 (Order 3674), § 388-41-020, filed 11/24/93, effective 12/25/93.]

Chapter 388-42 WAC

FUNERAL EXPENSE

WAC

388-42-020 through 388-42-150 Repealed.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 388-42-020 Funeral and interment assistance—Definitions. [Statutory Authority: RCW 74.08.120. 93-05-021 (Order 3513), § 388-42-020, filed 2/10/93, effective 3/13/93; 92-16-015 (Order 3422), § 388-42-020, filed 7/23/92, effective 8/23/92. Statutory Authority: RCW 74.08.090. 84-11-071 (Order 2100), § 388-42-020, filed 5/22/84, effective 7/1/84; 81-17-026 (Order 1691), § 388-42-020, filed 8/12/81; 81-10-011 (Order 1643), § 388-42-020, filed 4/27/81; 78-10-058 (Order 1340), § 388-42-020, filed 9/22/78; Order 612, § 388-42-020, filed 9/27/71; Order 538, § 388-42-020, filed 3/31/71, effective 5/1/71; Order 278, § 388-42-020, filed 2/14/68; Order 242, § 388-42-020, filed 10/20/67; Regulation 15.10, filed 1/24/64.] Repealed by 93-13-134 (Order 3576), filed 6/23/93, effective 7/24/93. Statutory Authority: RCW 74.08.090 and 1993 1st sp. sess. c 24.
- 388-42-025 Available services. [Statutory Authority: RCW 74.08.120. 93-05-021 (Order 3513), § 388-42-025, filed 2/10/93, effective 3/13/93; 92-16-015 (Order 3422), § 388-42-025, filed 7/23/92, effective 8/23/92. Statutory Authority: RCW 74.08.090. 84-11-071 (Order 2100), § 388-42-025, filed 5/22/84, effective 7/1/84.] Repealed by 93-13-134 (Order 3576), filed 6/23/93, effective 7/24/93. Statutory Authority: RCW 74.08.090 and 1993 1st sp. sess. c 24.
- 388-42-030 General eligibility. [Statutory Authority: RCW 74.08.120. 92-16-015 (Order 3422), § 388-42-030, filed 7/23/92, effective 8/23/92. Statutory Authority: RCW 74.08.090. 84-11-071 (Order 2100), § 388-42-030, filed 5/22/84, effective 7/1/84; 81-17-026 (Order 1691), § 388-42-030, filed 8/12/81; 78-10-058 (Order 1340), § 388-42-030, filed 9/22/78; Order 612, § 388-42-030, filed 9/27/71; Order 538, § 388-42-030, filed 3/31/71, effective 5/1/71; Order 371, § 388-42-030, filed 8/7/69; Order 314, § 388-42-030, filed 10/31/68; Order 242, § 388-42-030, filed 10/20/67; Regulation 15.20, filed 1/24/64.] Repealed by 93-13-134 (Order 3576), filed 6/23/93, effective 7/24/93.

388-42-040

388-42-100

388-42-110

388-42-115

388-42-125

388-42-150

Statutory Authority: RCW 74.08.090 and 1993 1st sp. sess. c 24.

Resources. [Statutory Authority: RCW 74.08.090. 86-11-023 (Order 2376), § 388-42-040, filed 5/14/86; 84-11-071 (Order 2100), § 388-42-040, filed 5/22/84, effective 7/1/84; 81-17-026 (Order 1691), § 388-42-040, filed 8/12/81; Order 538, § 388-42-040, filed 3/31/71, effective 5/1/71; Order 242, § 388-42-040, filed 10/20/67; Regulation 15.30, filed 1/24/64.] Repealed by 93-13-134 (Order 3576), filed 6/23/93, effective 7/24/93. Statutory Authority: RCW 74.08.090 and 1993 1st sp. sess. c 24.

Decedent's estate. [Statutory Authority: RCW 74.08.090. 84-11-071 (Order 2100), § 388-42-100, filed 5/22/84, effective 7/1/84; Order 1176, § 388-42-100, filed 12/23/76; Order 538, § 388-42-100, filed 3/31/71, effective 5/1/71; Order 371, § 388-42-100, filed 8/1/69; Order 242, § 388-42-100, filed 10/20/67; Regulation 15.36, filed 12/31/65; Regulation 15.36, filed 1/24/64.] Repealed by 93-13-134 (Order 3576), filed 6/23/93, effective 7/24/93. Statutory Authority: RCW 74.08.090 and 1993 1st sp. sess. c 24.

Interment of two or more bodies in one grave. [Statutory Authority: RCW 74.08.090. 84-11-071 (Order 2100), § 388-42-110, filed 5/22/84, effective 7/1/84; 81-17-026 (Order 1691), § 388-42-110, filed 8/12/81; Order 612, § 388-42-110, filed 9/27/71; Order 538, § 388-42-110, filed 3/31/71, effective 5/1/71; Order 371, § 388-42-110, filed 8/1/69; Order 278, § 388-42-110, filed 2/14/68; Order 242, § 388-42-110, filed 10/20/67; Regulation 15.40, filed 1/24/64.] Repealed by 93-13-134 (Order 3576), filed 6/23/93, effective 7/24/93. Statutory Authority: RCW 74.08.090 and 1993 1st sp. sess. c 24.

Application. [Statutory Authority: RCW 74.08.090. 84-11-071 (Order 2100), § 388-42-115, filed 5/22/84, effective 7/1/84; 81-17-026 (Order 1691), § 388-42-115, filed 8/12/81; Order 612, § 388-42-115, filed 9/27/71.] Repealed by 93-13-134 (Order 3576), filed 6/23/93, effective 7/24/93. Statutory Authority: RCW 74.08.090 and 1993 1st sp. sess. c 24.

Fair hearing. [Statutory Authority: RCW 74.08.090. 84-11-071 (Order 2100), § 388-42-125, filed 5/22/84, effective 7/1/84; 81-17-026 (Order 1691), § 388-42-125, filed 8/12/81; Order 538, § 388-42-125, filed 3/31/71, effective 5/1/71; Order 242, § 388-42-125, filed 10/20/67; Regulation 15.50, filed 1/24/64.] Repealed by 93-13-134 (Order 3576), filed 6/23/93, effective 7/24/93. Statutory Authority: RCW 74.08.090 and 1993 1st sp. sess. c 24.

Maximum cost standards. [Statutory Authority: RCW 74.08.120. 93-05-021 (Order 3513), § 388-42-150, filed 2/10/93, effective 3/13/93; 92-16-015 (Order 3422), § 388-42-150, filed 7/23/92, effective 8/23/92. Statutory Authority: RCW 74.08.090. 91-06-005 (Order 3142), § 388-42-150, filed 2/21/91, effective 3/24/91; 90-10-031 (Order 2973), § 388-42-150, filed 4/25/90, effective 5/26/90; 88-18-023 (Order 2682), § 388-42-150, filed 8/30/88. Statutory Authority: 1987 c 7. 87-24-073 (Order 2563), § 388-42-150, filed 12/2/87. Statutory Authority: RCW 74.08.090. 85-24-052 (Order 2310), § 388-42-150, filed 12/2/85; 84-11-071 (Order 2100), § 388-42-150, filed 5/22/84, effective 7/1/84; 82-06-050 (Order 1772), § 388-42-150, filed 3/3/82; 81-17-026 (Order 1691), § 388-42-150, filed 8/12/81; 80-11-055 (Order 1532), § 388-42-150, filed 8/20/80; 79-10-083 (Order 1434), § 388-42-150, filed 9/21/79; 78-10-058 (Order 1340), § 388-42-150, filed 9/22/78; Order 1247, § 388-42-150, filed 10/10/77; Order 1052, § 388-42-150, filed 9/10/75; Order 907, § 388-42-150, filed 2/14/74; Order 612, § 388-42-150, filed 9/27/71; Order 538, § 388-42-150, filed 3/31/71, effective 5/1/71; Order 378, § 388-42-150, filed 8/7/69; Order 255, § 388-42-150, filed 11/8/67; Regulation 15.60, filed 1/24/64.] Repealed by 93-13-134 (Order 3576), filed 6/23/93, effective 7/24/93. Statutory Authority: RCW 74.08.090 and 1993 1st sp. sess. c 24.

WAC 388-42-020 through 388-42-150 Repealed.
See Disposition Table at beginning of this chapter.

Chapter 388-43 WAC

DEAF AND HARD OF HEARING SERVICES

WAC

| | |
|------------|---|
| 388-43-001 | Scope. |
| 388-43-002 | Regional centers. |
| 388-43-003 | Services. |
| 388-43-005 | Definitions. |
| 388-43-010 | Eligibility requirements. |
| 388-43-020 | Approval of application for initial device or request for replacement device. |
| 388-43-030 | Denial of initial application or request for replacement device. |
| 388-43-040 | Application renewal process. |
| 388-43-050 | Notice of approval or denial. |
| 388-43-060 | Review by department. |
| 388-43-070 | Distribution. |
| 388-43-080 | Training. |
| 388-43-090 | Ownership and liability. |
| 388-43-100 | TRS advisory committee appointment. |
| 388-43-110 | Telecommunications relay service. |

WAC 388-43-001 Scope. (1) The office of deaf and hard of hearing services (ODHHS) within the department of social and health services (DSHS):

- (a) Provides DSHS information relating to deaf, hard of hearing, and/or deaf-blind;
- (b) Provides DSHS technical assistance regarding deafness;
- (c) Provides DSHS training and workshops on deafness; and
- (d) Assists DSHS in securing sign language interpreters services for DSHS deaf clients.

(2) ODHHS maintains and oversees the telecommunications access services (TDD relay and distribution program), and serves as administrator responsible for the DSHS advisory committee on deafness.

[Statutory Authority: RCW 43.20A.720, 43.20A.725 and 43.20A.730. 94-02-042 (Order 3691), § 388-43-001, filed 12/30/93, effective 1/30/94.]

WAC 388-43-002 Regional centers. The office of deaf and hard of hearing services (ODHHS) shall contract with regional centers for the deaf and hard of hearing.

[Statutory Authority: RCW 43.20A.720, 43.20A.725 and 43.20A.730. 94-02-042 (Order 3691), § 388-43-002, filed 12/30/93, effective 1/30/94.]

WAC 388-43-003 Services. (1) Within the available funds, contractors shall provide quality human services for a person who is deaf or hard of hearing.

(2) Within available funds, and as specified by contract, the department shall ensure the Washington regional service centers provide:

- (a) Information services relating to deafness services;
- (b) Coordination among private and public agencies, the office of deaf and hard of hearing services (ODHHS), regions, and the deaf community;
- (c) Training and consultative services to public and private agencies;
- (d) Advocacy for a deaf or hard of hearing client;

(e) Assistance to a deaf or hard or hearing client in applying for and securing programs and services from DSHS;

(f) Assistance and perform other duties relating to deafness as required by the contract; and

(g) Share information among local deaf and hard of hearing organizations.

[Statutory Authority: RCW 43.20A.720, 43.20A.725 and 43.20A.730. 94-02-042 (Order 3691), § 388-43-003, filed 12/30/93, effective 1/30/94.]

WAC 388-43-005 Definitions. The following definitions shall apply in this chapter, unless the context otherwise requires:

(1) "Amplifier" means an electrical device for use with a telephone which amplifies the sounds being received during a telephone call or a telephone with built-in amplification.

(2) "Applicant" means a person who applies for a teletypewriter (hereinafter TTY), amplifier, telebraille, large visual display, or signal device.

(3) "Audiologist" means a person who has a masters or doctoral degree in audiology and a certificate of clinical competence in audiology from the American Speech, Hearing, and Language Association.

(4) "Deaf" means a condition of severe or complete absence of auditory sensitivity where the primary effective receptive communication mode is visual or tactile, or both.

(5) "Deaf-blind" means a hearing loss and a visual impairment that require use of a TTY to communicate effectively on the telephone, and may require a specific telecommunications device for a person with limited sight, as certified under WAC 388-43-010.

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

(7) "Distribution center" means a facility under contract to DSHS services including but not limited to:

- (a) Providing literature about TAS programs;
- (b) Providing space for qualified trainers to instruct recipients in the use of telecommunications equipment;
- (c) Point of contact for persons to communicate with ODHHS or TAS.

(8) "Federal poverty level guidelines" means the poverty level established by P.L. 97-35 § 52 (codified at 42 USC § 9747), § 673(2) (codified at 42 USC § 99202(2)) as amended; and the Poverty Income Guideline updated annually in the Federal Register.

(9) "Hard of hearing" means a condition of some absence of auditory sensitivity with residual hearing which may be sufficient to process linguistic information through audition with or without amplification under favorable listening conditions, or a condition of other auditory handicapping conditions.

(10) "Hearing disabled" means a hearing loss that requires use of either a TTY, telebraille, large visual display or an amplifier to communicate effectively on the telephone, and may require the use of a signal device to indicate when the telephone is ringing, as certified under WAC 388-43-010.

(11) "ODHHS" means the office of deaf and hard of hearing services, department of social and health services.

(12) "Official application date" means the date the department received the completed telecommunications equipment application form.

(13) "Qualified trainer" means a person knowledgeable about the appropriate use of TTYs, amplifiers, telebrailles, and/or signal devices, capable of instructing recipients with differing hearing and vision disabilities.

(14) "Recipient" means a person who or organization which has received a state-issued TTY, amplifier, telebraille, large visual display, or signal device.

(15) "School age" means a child five years to seventeen years of age.

(16) "Signal device" means a electronic device that alerts a hearing impaired or deaf-blind recipient of an incoming telephone call.

(17) "Speech disabled" means a speech disability that requires the use of a TTY to communicate effectively on the telephone.

(18) "TAS" means the telecommunications access service, governed by the office of deaf and hard of hearing services, department of social and health services.

(19) "Telebraille" means an electrical device for use with a telephone and TTY that utilizes a braille display to receive messages.

(20) "Telecommunications equipment/device" means amplifier, TTY, telebraille, large visual display, and signaling devices.

(21) "Telecommunications relay center" means a facility authorized by DSHS to provide telecommunications relay services.

(22) "Telecommunications relay service (TRS)" means a telephone service through facilities equipped with specialized equipment and staffed by communications assistants who relay conversations between people who use TTYs and people who use the general telephone network.

(23) "Teletypewriter (TTY)" means an electrical device for use with a telephone that utilizes a keyboard, acoustic coupler, and display screen to transmit and receive messages. Also known as "TDD" (telecommunications device for the deaf) or "TT" (text telephone).

[Statutory Authority: RCW 43.20A.720, 43.20A.725 and 43.20A.730. 94-02-042 (Order 3691), § 388-43-005, filed 12/30/93, effective 1/30/94.]

WAC 388-43-010 Eligibility requirements. (1) An eligible applicant shall:

- (a) Be hearing or speech disabled or deaf-blind; and
- (b) Be resident of Washington state; and
- (c) Be at least school age as defined under WAC 388-43-005(15); and

(d) Meet total annual family income and family size requirements as set forth under section 020 of this chapter.

(2) An eligible applicant shall be certified in writing as hearing disabled, speech disabled, or deaf-blind by one of the following:

(a) A person licensed to practice medicine in the state of Washington;

(b) An audiologist in Washington as specified under WAC 388-43-005;

(c) A vocational rehabilitation counselor in a local division of vocational rehabilitation office;

(d) A deaf specialist or coordinator at one of the community service centers for the deaf and hard of hearing in the state.

(e) A deaf-blind specialist or coordinator at Helen Keller regional office, Washington deaf-blind service center, or eye specialist; or

(f) A certified speech pathologist practicing in the state of Washington.

(3) TAS may require additional documentation to determine if the applicant meets the eligibility requirements under sections 010 and 020 of this chapter.

(4) At the time an applicant applies for equipment, the applicant shall provide the department information on family income and family size.

(5) At the time an applicant applies for equipment, the department shall notify the applicant of the legal consequences if the applicant provides false information.

(6) The department shall ensure an eligible organization meets the following criteria:

(a) The organization must provide a copy of the certificate of incorporation as a nonprofit organization and its bylaws, to indicate that the intent of the organization is to represent the hearing or speech disabled or deaf-blind persons statewide;

(b) The organization must have represented hearing or speech disabled or deaf-blind persons statewide in the last three years; and

(c) The organization must have a telephone number which is either listed or available through statewide publicity for the hearing disabled.

[Statutory Authority: RCW 43.20A.720, 43.20A.725 and 43.20A.730. 94-02-042 (Order 3691), § 388-43-010, filed 12/30/93, effective 1/30/94.]

WAC 388-43-020 Approval of application for initial device or request for replacement device. (1) An applicant shall fill out an:

(a) Application form; and

(b) Declaration of income statement.

(2) If the department determines an applicant is eligible, TAS shall approve the application except as provided under WAC 388-43-030 (1)(a) or (b).

(3) An eligible applicant's reported total family income and family size described under this subsection shall determine the applicant's level of financial responsibility in obtaining the equipment under the following federal poverty guidelines:

(a) Federal Poverty Level (Annual Income)

| Family Size | 100% | 166% | 177% | 189% | 200% |
|-------------|----------|----------|----------|----------|----------|
| 1 | 6,970.0 | 11,570.2 | 12,336.9 | 13,173.3 | 13,940.0 |
| 2 | 9,430.0 | 15,653.8 | 16,691.1 | 17,822.7 | 18,860.0 |
| 3 | 11,890.0 | 19,737.4 | 21,045.3 | 22,472.1 | 23,780.0 |
| 4 | 13,450.0 | 23,821.0 | 25,399.5 | 27,121.5 | 28,700.0 |
| 5 | 16,810.0 | 27,904.6 | 29,753.7 | 31,770.9 | 33,620.0 |
| 6 | 19,270.0 | 31,988.2 | 34,107.9 | 36,420.3 | 38,540.0 |
| 7 | 21,730.0 | 36,071.8 | 38,462.1 | 41,069.7 | 43,460.0 |
| 8 | 24,190.0 | 40,155.4 | 42,816.3 | 45,719.1 | 48,380.0 |
| *9 | 26,650.0 | 44,239.0 | 47,170.5 | 50,368.5 | 53,300.0 |
| *10 | 29,110.0 | 48,322.6 | 51,524.7 | 55,017.9 | 58,220.0 |
| *11 | 31,570.0 | 52,406.2 | 55,878.9 | 59,667.3 | 63,140.0 |
| *12 | 34,030.0 | 56,489.8 | 60,233.1 | 64,316.7 | 68,060.0 |

* More than 8 = Add \$2,460.00 for each additional person

(b) Sliding Scale of Participation

(Percent of equipment cost applicant is required to pay)

| Percent of Federal Poverty Level | Client Pays Percent of Equipment Cost |
|-------------------------------------|--|
| 0 - 165 | 0 |
| 166 - 176 | 25 |
| 177 - 188 | 50 |
| 189 - 199 | 75 |
| 200 and above | 100 |

(4) A recipient of equipment shall own the equipment, with the exception of a telebraille and tactile signalling device, if the department distributed the equipment before May 15, 1993. When a telecommunications device distributed before May 15, 1993 breaks after warranty has expired, the recipient shall renew his or her application for equipment as an original applicant as described under this chapter.

(5) The department shall provide an eligible recipient initial or replacement equipment based on the availability of equipment and/or funds.

(6)(a) Family size is an individual or an individual and the individual's spouse, if not legally separated, and the individual's dependents;

(b) Dependent means a relative who depends on the family income for at least half of their support.

(7) Income includes, but is not limited to:

(a) Earned income, such as wages and tips;

(b) Unearned income, such as interest, dividends, and pensions;

(c) Family's share of income from S corporations¹, partnerships, estates, and trusts;

(d) Gains from the sale or exchange (including barter) of real estate, securities, coins, gold, silver, gems, or other property;

(e) Gain from the sale or exchange of the family's main home;

(f) Accumulation distributions from trusts;

(g) Original issue discount, distribution from SEPs² and DECs³;

(h) Amounts received in place of wages from accident and health plans if the employer paid for the policy;

(i) Bartering income;

(j) Tier 2 and supplemental annuities under the Railroad Retirement Act;

(k) Life insurance proceeds from a policy the family cashed in if the proceeds are more than the premiums paid;

(l) Endowments;

(m) Lump-sum distribution;

(n) Prizes and awards;

(o) Gambling winnings;

(p) Social Security;

(q) Capital gains;

(r) Child support received.

¹ An S corporation is a domestic corporation with one class of stock having 35 or less shareholders who are US citizens.

² An SEP is a Simplified Employee Pension.

³ A DEC is a deductible Employee Contribution.

[Statutory Authority: RCW 43.20A.720, 43.20A.725 and 43.20A.730. 94-02-042 (Order 3691), § 388-43-020, filed 12/30/93, effective 1/30/94.]

WAC 388-43-030 Denial of initial application or request for replacement device. (1) Denial of initial

application. TAS shall deny an original application for a TTY, amplifier, telebraille, large visual display, or signal device if an applicant:

(a) Does not meet the eligibility requirements of WAC 388-43-010; or

(b) Has already been issued a similar device from TAS.

(2) Denial of replacement request. TAS shall deny a request for replacement of a TTY, amplifier, telebraille, large visual display, or signal device if the recipient:

(a) Reported a family income of one hundred sixty-five percent and above on the federal poverty level; or

(b) Subjected a previously issued device, either through negligence or intent, to abuse, misuse, unauthorized repair, or other negligent or intentional conduct which resulted in damage to the equipment; or

(c) Failed to file with the police a report of stolen equipment within fifteen working days of discovering the theft; or

(d) Failed to file with the police or the fire department a report of fire having damaged the equipment within fifteen working days of the incident of the fire; or

(e) Lost the equipment; or

(f) Failed to obtain approval from the department before moving or traveling out of state with state-loaned equipment.

[Statutory Authority: RCW 43.20A.720, 43.20A.725 and 43.20A.730. 94-02-042 (Order 3691), § 388-43-030, filed 12/30/93, effective 1/30/94.]

WAC 388-43-040 Application renewal process. (1)

An applicant may renew application for telecommunications equipment when two years have elapsed since the initial distribution or when the equipment breaks, whichever comes later.

(2) When either two years have elapsed since initial distribution or the equipment breaks, the applicant shall:

(a) Complete a new application including recent information on total annual family income and family size.

(b) Undergo the same procedures as first-time applicants.

[Statutory Authority: RCW 43.20A.720, 43.20A.725 and 43.20A.730. 94-02-042 (Order 3691), § 388-43-040, filed 12/30/93, effective 1/30/94.]

WAC 388-43-050 Notice of approval or denial. (1)

Approved applications. When an original application has been approved, TAS shall inform the applicant in writing of:

(a) The official date the department received the applicant's completed application form;

(b) The time line by which a qualified trainer will contact the applicant.

(2) A qualified trainer shall notify the eligible applicant:

(a) That the applicant was approved to receive a TTY, amplifier, telebraille, large visual display, or signal device; and

(b) To arrange for training and distribution.

(3) Denied applications. If the department denies an original application, TAS shall inform the applicant in writing of:

(a) The official date the applicant's completed application form was received by the department;

(b) The reasons for the denial; and

(c) Any applicable procedures for appeal, as well as the circumstances under which the applicant may re-apply.

[Statutory Authority: RCW 43.20A.720, 43.20A.725 and 43.20A.730. 94-02-042 (Order 3691), § 388-43-050, filed 12/30/93, effective 1/30/94.]

WAC 388-43-060 Review by department. (1) An applicant or recipient, whose application for an original or replacement device governed under this chapter has been denied, may request the department to review this decision. The applicant or recipient shall:

(a) Submit this request in writing to TAS specifying the basis for the request; and

(b) Ensure TAS receives this request within thirty days of the receipt of the denial notice.

(2) Within thirty days after TAS has received the request for review by ODHHS, the department shall inform the applicant or recipient in writing of the disposition of the request.

(3) If the applicant or recipient disagrees with the decision by the department, the applicant or recipient may appeal as described under chapters 10-08 and 388-08 WAC.

[Statutory Authority: RCW 43.20A.720, 43.20A.725 and 43.20A.730. 94-02-042 (Order 3691), § 388-43-060, filed 12/30/93, effective 1/30/94.]

WAC 388-43-070 Distribution. (1) The department shall issue personal service contracts to qualified persons or agencies to act as qualified trainers. The department shall ensure reasonable accessibility to such training for a person with a hearing or speech disability or for a person who is deaf-blind.

(2) A qualified trainer shall have various responsibilities, which include, but are not limited to:

(a) Conducting individual and group training for the applicants in the use of the equipment;

(b) Conducting individual and group training for the applicants in the use of the telecommunications relay service;

(c) Requiring all recipients, legal guardians, or legal custodians to sign:

(i) A conditions of acceptance form for state-owned equipment; or

(ii) A statement of rights and responsibilities for client-owned equipment.

(d) Distributing TTYs, amplifiers, telebrailles, large visual displays, and signal devices to applicants; and

(e) Submitting monthly reports and billing as required by TAS.

(3) In the use of any devices distributed under this chapter, neither the TAS nor the contracted qualified trainers shall provide:

(a) Replacement batteries for any telecommunications equipment;

(b) Replacement paper for TTYs;

(c) Replacement light bulbs for signal devices;

(d) Payment of the recipient's telephone bill; or

(e) Any other extraneous cost incurred by the recipient.

[Statutory Authority: RCW 43.20A.720, 43.20A.725 and 43.20A.730. 94-02-042 (Order 3691), § 388-43-070, filed 12/30/93, effective 1/30/94.]

WAC 388-43-080 Training. (1) The qualified trainers shall provide training on proper equipment use and care to all recipients, legal guardians, or legal custodians.

(2) The qualified trainers shall be responsible for determining the training needs of the recipients and the time and length of training that would be most appropriate.

(3) The department shall not issue a device until an applicant has demonstrated ability to properly utilize all equipment issued to the applicant. The department may waive this requirement through a written release in which the applicant attests that the applicant has the ability to properly utilize all equipment issued to the applicant.

(4) If the applicant is seventeen years of age or younger, the applicant's legal guardian or legal custodian shall attend the training on appropriate equipment use and care.

[Statutory Authority: RCW 43.20A.720, 43.20A.725 and 43.20A.730. 94-02-042 (Order 3691), § 388-43-080, filed 12/30/93, effective 1/30/94.]

WAC 388-43-090 Ownership and liability. (1) The department shall provide TTYs, amplifiers, telebrailles, large visual displays, and signal devices to a person eligible under subsection (1)(a), (b), and (c) of this section at no charge in addition to the basic exchange rate if:

(a) The person is eligible for participation in the Washington telephone assistance program under RCW 80.36.470;

(b) The person's annual family income is equal to or less than one hundred sixty-five percent of the federal poverty level; or

(c) The person is a child five years to seventeen years of age whose parent or guardian has a family income less than or equal to two hundred percent of the federal poverty level.

(2) After determining the person may be eligible to receive the telecommunications equipment at no charge, the department shall:

(a) Loan the equipment as needed by the applicant; and

(b) Ensure the applicant understands that the equipment remains the sole property of the state of Washington.

(3) A recipient, the recipient's legal guardian, or the recipient's legal custodian shall return a state-loaned TTY and/or other device to the TAS or appropriate distribution center when the recipient:

(a) Moves from a permanent Washington residence to a location outside of Washington;

(b) Does not have need of the state-loaned telecommunications device; or

(c) Has been notified by TAS to return the device.

(4) A recipient, the recipient's legal guardian, or the recipient's legal custodian shall be liable for any damage to or loss of any device issued under this chapter.

(5) TAS may deny a replacement request if a previously issued device:

(a) Was neglected, abused, misused, or abused through unintentional conduct causing damage;

(b) Was not reported as stolen or burned to either police or fire department within fifteen working days; or

(c) Was lost.

(6) TAS shall establish policies for the sale or salvage of any device returned and not appropriate for reassignment.

(7) A person shall not remove a state-owned TTY, amplifier, telebraille, large visual display, or other signal device from the state of Washington for a period longer than ninety days without the written permission of TAS.

(8) TAS may grant permission to remove a state-owned TTY, amplifier, telebraille, large visual display, or signal device from the state for more than ninety days after determining it is in the best interest of the recipient and the department.

(9) A person eligible under subsection (1)(b) of this section with a family income greater than one hundred sixty-five percent and less than or equal to two hundred percent of the federal poverty level shall be assessed a charge for the cost of TTYs, amplifiers, telebrailles, large visual displays, and signal devices based on a sliding scale of charges established under WAC 388-43-020 (2)(a) and (b).

(10) The department shall determine all TTYs, amplifiers, telebrailles, large displays, and signal devices under chapter 304, Laws of 1987, for which the recipient paid all or part of the equipment's cost to be the sole property of the recipient. The department shall determine the level of financial responsibility toward the purchase of the equipment by the federal poverty level guidelines as described under WAC 388-43-020 (2)(a) and (b).

(11) The department shall provide an eligible recipient a two-year warranty on equipment valued at four hundred dollars or more.

(12) Limiting the number of TTYs per household. The department shall consider that the telecommunications equipment needs of all household members have been met when one TTY has been issued to that household, unless exceptional circumstances are defined and approved by the department.

(13) The department shall receive payment before an eligible recipient receives a TTY, amplifier, telebraille, large visual display, or a signal device.

(14) A recipient shall sign and agree to warranty requirements on a TTY, telebraille, or large visual display at the time the recipient purchases this equipment.

(15) A recipient shall not receive a financial refund for the return of a TTY, amplifier, telebraille, large visual display, or signal device unless:

(a) The equipment is returned to the TAS office within thirty days after it was received by the client; and

(b) The equipment is clean, in good condition and in its original packaging.

(16) The department shall charge a person, eligible under subsection (1)(b) of this section whose income exceeds two hundred percent of the federal poverty level, the entire cost to the department of purchasing the equipment provided to that person.

(17) The department may waive part or all of the charges assessed under sections 010 and 020 if the department finds that:

(a) The eligible person requires telebraille equipment or other equipment of similar cost; or

(b) The charges normally assessed for the equipment under this subsection would create an exceptional or undue hardship on the eligible person.

(18) The department may determine certification of family income by the eligible person, the person's guardian, or head of household as sufficient to determine eligibility.

[Statutory Authority: RCW 43.20A.720, 43.20A.725 and 43.20A.730. 94-02-042 (Order 3691), § 388-43-090, filed 12/30/93, effective 1/30/94.]

WAC 388-43-100 TRS advisory committee appointment. (1) The office of ODHHS and TAS shall select members for the TRS advisory committee per current DSHS procedures as mandated by the department's division of legislative and community relations. The TRS advisory committee shall include representation from:

(a) Major statewide organizations representing persons with hearing or speech disabilities;

(b) Organizations for persons with hearing or speech disabilities located in areas of the state with high populations of such persons;

(c) Organizations that reflect the different geographic regions of the state;

(d) The department;

(e) The Washington utilities and transportation commission;

(f) Local telephone exchange companies; and

(g) Agencies providing services to persons with hearing or speech disabilities, provided the persons are not employees or board members of an organization or agency under contract with ODHHS or TAS.

(2) The committee's voting members shall consist of thirteen persons or less.

(3) A member's term of office on the committee shall be two years with the possibility of re-appointment for the second term.

(4) Members as described under subsection (1) of this section shall have voting rights. Technical advisors to the committee shall serve as ex-officio members.

(5) The committee shall determine the appointment of the chairperson for that committee by vote of the membership.

(6) The committee shall submit reports four or more times per year to the administrators and operators of the TRS statewide relay service. The committee shall:

(a) Report on the extent to which the relay system is meeting the needs of disabled citizens in the state; and

(b) Include program elements that are successful, program elements in need of improvement, and any recommendations from the committee.

(7) The committee shall establish eligibility criteria for statewide organizations representing persons with hearing or speech disabilities in obtaining telecommunications devices under RCW 43.20A.725(1). In order to apply for equipment through the department, the organization shall be representing persons who are hearing or speech disabled and/or deaf-blind. The committee shall decide in which offices the equipment shall be installed if an organization has more than one office.

(8) The committee shall provide consultation to the department on the activities and money spent by the department for the TAS program.

[Statutory Authority: RCW 43.20A.720, 43.20A.725 and 43.20A.730. 94-02-042 (Order 3691), § 388-43-100, filed 12/30/93, effective 1/30/94.]

WAC 388-43-110 Telecommunications relay service. The department shall award contracts for the operation and maintenance of the statewide telecommunications relay service.

[Statutory Authority: RCW 43.20A.720, 43.20A.725 and 43.20A.730. 94-02-042 (Order 3691), § 388-43-110, filed 12/30/93, effective 1/30/94.]

Chapter 388-47 WAC
JOB OPPORTUNITIES AND BASIC SKILLS
TRAINING PROGRAM

WAC

388-47-115 Funding approval of education and JOBS components.

WAC 388-47-115 Funding approval of education and JOBS components. (1) For the purpose of plan approval initial approving authority begins with the employment security department. The department of social and health services shall:

(a) Review approved plans within thirty calendar days of initial approval.

(b) Review disapproved plans within ten calendar days of denial.

(c) Review if the plan clearly violates department policy or whether the department has information which clearly indicates a concern with the plan.

(d) Joint agency administrative review will be conducted at the local level of any initial approval with which the department does not concur.

(2) The contractor shall fund approvable JOBS plan components in accordance with the following priorities:

(a) First priority shall be given to participants in an approved educational, training or employment plan whose JOBS or FIP plan is in process and is being re-authorized;

(b) Second priority shall be given to volunteers included in the target groups specified under WAC 388-47-070(1);

(c) Third priority shall be given to participants volunteering for basic education and job ready participants volunteering for intensive job search, on-the-job training or the work supplementation program;

(d) Fourth priority shall be given to all other recipients.

(3) Separate allocation may be established for each priority group.

(4) The contractor shall accept all employability plans approved under the family independence program (FIP) as approved under JOBS effective July 1, 1993.

(5) The contractor shall limit plan approval subject to the availability of funds and to a specific component.

(6) Funding approval for child care participants in a tribal JOBS program shall be subject to the provisions of this section.

(7) The contractor shall create a local obligational register. When funds have been exhausted for a priority group, a local waiting list shall be established. Ranking within each priority shall be on a first come first served basis using the date of request for participation in JOBS or FIP.

(8) If the funds appropriated for JOBS are available, the contractor shall approve the plan for the highest ranked person on the waiting list and obligate sufficient funds from the obligational register to cover the cost of:

(a) Training or education, component costs, child care, and support services necessary to complete the approved plan; or

(b) For participants in a tribal JOBS program, the cost of child care necessary to complete the approved plan.

(9) The contractor shall limit plan approval through the end of the state biennium. In obligating funds, the contrac-

tor shall obligate funds through the completion of the plan or the end of the biennium, whichever is earlier. Priority for subsequent years is established in subsection (2) of this section.

(10) The contractor's approval of a plan shall be by specific components. Requests to change to another component shall be subject to the availability of funds and other applicable criteria for component approval. If the contractor does not approve a change in components because of lack of funds, the contractor shall place the person on a waiting list.

(11) For self-initiated training that is approvable, the contractor will place the person on a local waiting list and if funds are available provide necessary child care and support services as provided in the approved plan. The contractor shall not pay for tuition, books, or other fees.

(12) A participant may choose to participate in training without child care and support services. For such persons, the contractor shall:

(a) Place the person on a local waiting list;

(b) Approve the plan subject to review of child care and support service needs when partial funds are available; and

(c) At such time as funds are available to fund the remainder of the plan offer support services.

(13) Participants shall utilize other funding sources such as Pell grants before JOBS funds are used. Plan approval shall be pending until grant or aid resources have been determined.

(14) Total JOBS costs shall not exceed the maximum of four thousand five hundred dollars per participant excluding child care.

[Statutory Authority: RCW 74.04.057, 93-12-060 (Order 3563), § 388-47-115, filed 5/27/93, effective 7/1/93. Statutory Authority: RCW 74.04.050, 92-12-045 (Order 3398), § 388-47-115, filed 5/29/92, effective 7/1/92; 91-02-092 (Order 3129), § 388-47-115, filed 12/31/90, effective 1/31/91.]

Chapter 388-49 WAC

FOOD ASSISTANCE PROGRAMS

(Formerly chapter 388-54 WAC)

WAC

388-49-015

General provisions.

388-49-020

Definitions.

388-49-060

Interview process.

388-49-080

Expedited service.

388-49-120

Application disposition.

388-49-200

Residents of institutions.

388-49-220

Group living arrangements.

388-49-430

Resources—Vehicles.

388-49-450

Income—Earned.

388-49-470

Income—Exclusions.

388-49-500

Income—Deductions.

388-49-505

Utility allowances.

388-49-510

Income eligibility standards.

388-49-520

Prospective income budgeting.

388-49-535

Special circumstances—Income budgeting.

388-49-550

Monthly allotments.

388-49-560

Issuance.

388-49-610

Changes—Prospective budgeting.

388-49-700

Fair hearings—Continuation of benefits pending.

WAC 388-49-015 General provisions. (1) The rules in this chapter are for the purpose of administering the food stamp program. Rules and definitions in other chapters of Title 388 of the Washington Administrative Code do not

apply to provisions of this chapter unless specifically identified.

(2) The department of social and health services shall administer the food stamp program in accordance with an approved plan with the food and nutrition service (FNS) of the United States Department of Agriculture.

(3) The department shall comply with all FNS directives to reduce, suspend, or terminate all or any portion of the food stamp program.

(4) During a presidential or FNS-declared disaster, the department shall certify affected households in accordance with FNS instructions.

(5) The department shall retain:

(a) Food stamp case records for three years from the month of closure of each record; and

(b) Fiscal and accountable documents for three years from the date of fiscal or administrative closure.

(6) The department shall not discriminate against any applicant or participant in any aspect of program administration for reason of:

(a) Age;

(b) Race;

(c) Color;

(d) Sex;

(e) Handicap;

(f) Religious creed;

(g) Political beliefs; or

(h) National origin.

(7) The department shall display nondiscrimination posters provided by FNS in all offices administering the food stamp program.

(8) The department shall fully translate into the primary language of the limited English proficient applicants and recipients:

(a) Written notices of denial, termination, or reduction of benefits; and

(b) Written requests for additional information.

(9) A person believing the person has been subject to discrimination may file a written complaint with the:

(a) Food and nutrition service; or

(b) State office for equal opportunity.

(10) The department shall restrict use or disclosure of information obtained from applying or participating households to:

(a) A person directly connected with the administration or enforcement of the provisions of:

(i) The Food Stamp Act or regulations;

(ii) Other federal assistance programs; or

(iii) Federally assisted state programs providing assistance on a means-tested basis to a low-income person.

(b) A person directly connected with the verification of immigration status of aliens applying for food stamp benefits, through the systematic alien verification for entitlements (SAVE) program, to the extent the information is necessary to identify the person for verification purposes;

(c) An employee of the Comptroller General's Office of the United States for audit examination authorized by any other provision of law; and

(d) A local, state, or federal law enforcement official, upon written request, for the purpose of investigating an alleged violation of the Food Stamp Act or regulations. The written request shall include the:

(i) Identity of the person requesting the information;

(ii) Authority of the person to make the request;

(iii) Violation being investigated; and

(iv) Identity of the person about whom the information is requested.

(11) The department shall use information obtained through the systematic alien verification for entitlements (SAVE) program only for the purposes of:

(a) Verifying the validity of documentation of alien status presented by an applicant;

(b) Verifying a person's eligibility for benefits;

(c) Investigating whether a participating household received benefits to which the household was not entitled, if a person was previously certified to receive benefits on the basis of eligible alien status; and

(d) Assisting in or conducting administrative disqualification hearings, or criminal or civil prosecutions based on receipt of food stamp benefits to which a participating household was not entitled.

(12) The department shall make the household's case file available to the household or household's representative for inspection during regular office hours as provided in chapter 388-320 WAC.

(13) The department shall make the following program information available to the public upon request during regular office hours:

(a) Federal regulations, federal procedures in FNS notices and policy memos, and the state plan of operation at the state office; and

(b) Washington Administrative Code and the *Food Stamp Procedures Manual* at the local office.

(14) The coupon allotment provided any eligible household shall not be considered income or resources for any purpose under any federal, state, or local laws.

(15) The department shall not permit a volunteer or other person not an employee of the department to conduct a certification interview or certify a food stamp applicant except:

(a) During a presidential or FNS-declared disaster; or

(b) A Social Security Administration (SSA) employee for a Supplemental Security Income (SSI) household as provided in WAC 388-49-040.

(16) The office of special investigation of the department, designated as the state law enforcement bureau, shall enter into an agreement with FNS to issue food stamps to state and local law enforcement agencies for the purpose of law enforcement and investigative activities.

(17) Redemption of food stamps shall be in accordance with 7 United States Code (USC) 2024 and 7 Code of Federal Regulations (CFR) 278.

(18) Misuse of food stamps issued under WAC 388-49-015(16) shall be a violation of RCW 9.91.140.

(19) The provisions of Title 18 of the United States Code, "Crimes and Criminal Procedures," relative to counterfeiting, misuse, and alteration of obligations of the United States are applicable to food coupons.

[Statutory Authority: RCW 74.04.510 and Washington vs. Sunchal Park-King Co. 92-1-03967-9. 93-13-132 (Order 3574), § 388-49-015, filed 6/23/93, effective 7/24/93. Statutory Authority: RCW 74.04.510. 89-18-058 (Order 2866), § 388-49-015, filed 9/1/89, effective 10/2/89; 89-07-001 (Order 2770), § 388-49-015, filed 3/2/89; 88-18-058 (Order 2685), § 388-

49-015, filed 9/1/88. Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-015, filed 12/31/87.]

WAC 388-49-020 Definitions. (1) "Administrative disqualification hearing" means a formal hearing to determine whether or not a person committed an intentional program violation.

(2) "Administrative error overissuance" means any overissuance caused solely by:

(a) Department action or failure to act when the household properly and accurately reported all the household's circumstances to the department; or

(b) For households determined categorically eligible under WAC 388-49-180(1), department action or failure to act which resulted in the household's improper eligibility for public assistance, provided a claim can be calculated based on a change in net food stamp income and/or household size.

(3) "Administrative law judge" means an employee of the office of administrative hearings empowered to preside over adjudicative proceedings.

(4) "Aid to families with dependent children (AFDC) program" means the federally funded public assistance program for dependent children and their families authorized under Title IV-A of the Social Security Act.

(5) "Allotment" means the total value of coupons a household is certified to receive during a calendar month.

(6) "Application process" means the filing and completion of an application form, interview or interviews, and verification of certain information.

(7) "Authorized representative" means an adult non-household member sufficiently aware of household circumstances designated, in writing, by the head of the household, spouse, or other responsible household member to act on behalf of the household.

(8) "Beginning months" means the first month the household is eligible for benefits, and the month thereafter. The first beginning month cannot follow a month in which a household was certified eligible to receive benefits.

(9) "Benefit level" means the total value of food stamps a household is entitled to receive based on household income and circumstances.

(10) "Boarder" means an individual residing with the household, except a person described under WAC 388-49-190 (2)(a), (b), (c), or (d) who is a:

(a) Person paying reasonable compensation to the household for lodging and meals; or

(b) Foster child.

(11) "Budget month" means the first month of the monthly reporting cycle; the month for which the household reports their circumstances.

(12) "Certification period" means definite period of time within which the household has been determined eligible to receive food stamps.

(13) "Child" means someone seventeen years of age or younger, and under parental control.

(14) "Collateral contact" means oral contact in person or by telephone with someone outside of the household to confirm the household's circumstances.

(15) "Commercial boarding home" means an enterprise offering meals and lodging for compensation with the intent of making a profit.

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

(17) "Dependent care deduction" means costs incurred by a household member for care provided by a nonhousehold member when the care is necessary for a household member to seek, accept, or continue employment, or attend training or education preparatory to employment.

(18) "Destitute household" means a household with a migrant or seasonal farmworker with little or no income at the time of application and in need of immediate food assistance.

(19) "Disabled person" means a person who meets one of the following criteria:

(a) Receives Supplemental Security Income (SSI) under Title XVI of the Social Security Act;

(b) Receives disability or blindness payments under Titles I, II, XIV, or XVI of the Social Security Act;

(c) Is a veteran:

(i) With service-connected or nonservice-connected disability rated or paid as total under Title 38 of the United States Code (USC); or

(ii) Considered in need of regular aid and attendance, or permanently housebound under Title 38 of the USC.

(d) Is a surviving:

(i) Spouse of a veteran and considered in need of aid and attendance, or permanently housebound; or

(ii) Child of a veteran and considered permanently incapable of self-support under Title 38 of the USC;

(e) A surviving spouse or child of a veteran and:

(i) Entitled to compensation for service-connected death or pension benefits for a nonservice-connected death under Title 38 of the USC; and

(ii) Has a disability considered permanent under section 221(i) of the Social Security Act.

(f) Receives disability retirement benefits from a federal, state, or local government agency because of a disability considered permanent under section 221(i) of the Social Security Act;

(g) Receives an annuity payment as part of the Railroad Retirement Act of 1974 under:

(i) Section 2 (a)(1)(iv) and is determined eligible to receive Medicare by the Railroad Retirement Board; or

(ii) Section 2 (a)(1)(v) and is determined disabled based on the criteria under Title XVI of the Social Security Act.

(h) Is a recipient of disability-related medical assistance under Title XIX of the Social Security Act.

(20) "Documentary evidence" means written confirmation of a household's circumstances.

(21) "Documentation" means the process of recording the source, date, and content of verifying information.

(22) "Elderly person" means a person sixty years of age or older.

(23) "Eligible food" means:

(a) For a homeless food stamp household, meals prepared and served by an authorized homeless meal provider; or

(b) For a blind or a disabled resident, meals prepared and served by a group living arrangement facility.

(24) "Entitlement" means the food stamp benefit a household received including a disqualified household member.

(25) "Equity value" means fair market value less encumbrances.

(26) "Expedited services" means providing food stamps within five calendar days to an eligible household which:

(a) Has liquid resources of one hundred dollars or less; and

(b) Has gross monthly income under one hundred fifty dollars; or

(c) Has combined gross monthly income and liquid resources which are less than the household's current monthly rent or mortgage and either the:

(i) Standard utility allowance as set forth in WAC 388-49-505; or

(ii) Actual utility costs, whichever is higher; or

(d) Includes all members who are homeless individuals; or

(e) Includes a destitute migrant or seasonal farmworker.

(27) "Fair hearing" means an adjudicative proceeding in which the department hears and decides an applicant/recipient's appeal from the department's action or decision.

(28) "Fair market value" means the value at which a prudent person might sell the property if the person was not forced to sell.

(29) "Food coupon" means food stamps and the two terms are interchangeable.

(30) "Food coupon authorization (FCA) card" means the document issued by the local or state office to authorize the allotment the household is eligible to receive.

(31) "Food stamp monthly reporting cycle" means the three-month reporting cycle consisting of the budget month, the process month, and the payment month.

(32) "Gross income eligibility standard" means one hundred thirty percent of the federal poverty level for the forty-eight contiguous states.

(33) "Group living arrangement" means a public or private nonprofit residential setting which:

(a) Serves no more than sixteen blind or disabled residents as defined under WAC 388-49-020(19); and

(b) Is certified by the appropriate state agency under section 1616(e) of the Social Security Act.

(34) "Head of household" means:

(a) The person designated by the household to be named on the case file, identification card, and FCA card;

(b) For employment services or the voluntary quit provision, the household member who is the principal wage earner with the greatest source of earned income in the two months prior to the month of violation, including members not required to register, provided:

(i) The employment involves at least twenty hours per week; and

(ii) The person is not living with a parent or a person fulfilling that role who is:

(A) Registered for work,

(B) Exempt from work registration because of registration in a Title IV-A or IV-C work program of the Social Security Act, as amended, or the receipt of unemployment compensation, or

(C) Employed or self-employed and working a minimum of thirty hours per week, or receiving weekly earnings equal to the federal minimum wage multiplied by thirty hours.

(35) "Home visit" means a personal contact at the person's residence by a department employee. The home visit shall be scheduled in advance with the household.

(36) "Homeless individual" means a person lacking a fixed and regular nighttime residence or a person whose primary nighttime residence is a:

(a) Supervised shelter designed to provide temporary accommodations;

(b) Halfway house or similar institution providing temporary residence for persons needing institutionalization;

(c) Temporary accommodation in the residence of another person; or

(d) Place not designed for, or ordinarily used as, a regular sleeping accommodation for humans.

(37) "Homeless meal provider" means a public or private nonprofit establishment (for example, soup kitchen, temporary shelter, mission, or other charitable organizations) feeding homeless persons, approved by the division of income assistance (DIA) and authorized by food and nutrition service (FNS).

(38) "Household" means the basic client unit in the food stamp program.

(39) "Household disaster" means when food coupons, food purchased with food coupons, or food coupon authorization cards are destroyed by a natural disaster, such as flood, fire, etc.

(40) "Identification card" means the document identifying the bearer as eligible to receive and use food stamps.

(41) "Inadvertent household error overissuance" means any overissuance caused by either:

(a) Misunderstanding or unintended error by a household;

(i) Not determined categorically eligible under WAC 388-49-180(1); or

(ii) Determined categorically eligible under WAC 388-49-180(1) if a claim can be calculated based on a change in net food stamp income and/or household size; or

(b) Social Security Administration action or failure to take action which resulted in the household's categorical eligibility, if a claim can be calculated based on a change in net food stamp income and/or household size.

(42) "Ineligible household member" means the member excluded from the food stamp household because of:

(a) Disqualification for intentional program violation;

(b) Failure to apply for or provide a Social Security number;

(c) Failure to comply with work requirements as described under WAC 388-49-360;

(d) Status as an ineligible alien;

(e) Status as an ineligible student; or

(f) Failure to sign the application attesting to the member's citizenship or alien status.

(43) "Institution" means any place of residence (private or public) providing maintenance and meals for two or more persons.

(44) "Institution of higher education" means any institution normally requiring a high school diploma or equivalency certificate for enrollment. This includes any two-year or four-year college. Also included is any course in a trade or vocational school that normally requires a high school diploma or equivalency for admittance to the course.

(45) "Intentional program violation," after August 8, 1983, means intentionally:

- (a) Making a false or misleading statement;
- (b) Misrepresenting, concealing, or withholding facts; or
- (c) Committing any act constituting a violation of the Food Stamp Act, the food stamp program regulations, or any state statute relating to the use, presentation, transfer, acquisition, receipt, or possession of food stamp coupons or FCAs.

Intentional program violation which ended before August 8, 1983, consists of any action by a person or persons to knowingly, willfully, and with deceitful intent:

- (a) Make a false statement to the department; either orally or in writing, to obtain benefits to which the household is not entitled;
- (b) Conceal information to obtain benefits to which the household is not entitled;
- (c) Alter authorization cards or coupons to obtain benefits to which the household is not entitled;
- (d) Use coupons to buy expensive or conspicuous nonfood items;
- (e) Use or possess improperly obtained coupons or authorization cards; and
- (f) Trade or sell coupons or authorization cards.

(46) "Intentional program violation overissuance" means any overissuance caused by an intentional program violation.

(47) "Live-in attendant" means a person residing with a household to provide medical, housekeeping, child care, or other similar personal services.

(48) "Lump sum" means money received in the form of a nonrecurring payment including, but not limited to:

- (a) Income tax refunds,
- (b) Rebates,
- (c) Retroactive payments, and
- (d) Insurance settlements.

(49) "Mandatory fees" means those fees charged to all students within a certain curriculum. Transportation, supplies, and textbook expenses are not uniformly charged to all students and are not considered as mandatory fees.

(50) "Migrant farmworker" means a person working in seasonal agricultural employment who is required to be absent overnight from the person's permanent residence.

(51) "Net income eligibility standard" means the federal income poverty level for the forty-eight contiguous states.

(52) "Nonhousehold member" means a person who is not considered a member of the food stamp household such as a:

- (a) Roomer;
- (b) Live-in attendant; or
- (c) Person who does not purchase and prepare meals with the food stamp household.

(53) "Nonstriker" means any person:

(a) Exempt from work registration the day before the strike for reasons other than their employment;

(b) Unable to work as a result of other striking employees, e.g., truck driver not working because striking newspaper pressmen not printing output;

(c) Not part of the bargaining unit on strike but not wanting to cross picket line due to fear of personal injury or death; or

(d) Unable to work because workplace is closed to employees by employer in order to resist demands of employees, e.g., a lockout.

(54) "Offset" means reduce restored benefits by any overissue (claim) owed by the household to the department.

(55) "Overissuance" means the amount of coupons issued to a household in excess of the amount eligible to receive.

(56) "Overpayment" means the same as "overissuance" and shall be the preferred term used in procedures.

(57) "Payment month" means the third month of the budget cycle; the month in which the food stamp allotment is affected by information reported on the monthly report for the budget month.

(58) "Period of intended use" means the period for which an FCA or food coupon is intended to be used.

(59) "Post secondary education" means a school not requiring a high school diploma or equivalency for enrollment. This includes trade school, vocational schools, business colleges, beauty schools, barber schools, etc.

(60) "Process month" means the second month of the monthly reporting cycle; the month in which the monthly report is to be returned by the household to the local office.

(61) "Project area" means the county or similar political subdivision designated by the state as the administrative unit for program operations.

(62) "Prospective budgeting" means the computation of a household's income based on income received or anticipated income the household and department are reasonably certain will be received during the month of issuance.

(63) "Prospective eligibility" means the determination of eligibility based on prospective budgeting rules and other household circumstances anticipated during the month of issuance.

(64) "Quality control review" means a review of a statistically valid sample of cases to determine the accuracy of budgeting, issuance, denial, withdrawal, and termination actions taken by the department.

(65) "Quality control review period" means the twelve-month period from October 1 of each calendar year through September 30 of the following calendar year.

(66) "Recent work history" means receipt of earned income in one of the two months prior to the payment month.

(67) "Recertification" means approval of continuing benefits based on an application submitted prior to the end of the current certification period.

(68) "Resident of an institution" means a person residing in an institution that provides the person with the majority of meals as part of the institution's normal service.

(69) "Retrospective budgeting" means the computation of a household's income for a payment month based on actual income received in the corresponding budget month of the monthly reporting cycle.

(70) "Retrospective eligibility" means the determination of eligibility based on retrospective budgeting rules and other circumstances existing in the budget month.

(71) "Roomer" means a person to whom a household furnishes lodging, but not meals, for compensation.

(72) "Seasonal farmworker" means a person working in seasonal agricultural employment who is not required to be absent overnight from the person's permanent residence.

(73) "Shelter costs" means:

(a) Rent or mortgage payments plus taxes on a dwelling and property;

(b) Insurance on the structure only, unless the costs for insuring the structure and its contents cannot be separated;

(c) Assessments;

(d) Utility costs such as heat and cooking fuel, cooling and electricity, water, garbage, and sewage disposal;

(e) Standard basic telephone allowance;

(f) Initial installation fees for utility services; and

(g) Continuing charges leading to shelter ownership such as loan repayments for the purchase of a mobile home including interest on such payments.

(74) "Shelter for battered women and children" means a public or private nonprofit residential facility serving battered women and children.

(75) "Sibling" means a natural or an adopted brother, sister, half brother, half sister, or stepbrother or stepsister.

(76) "Sponsor" means a person who executed an affidavit of support or similar agreement on behalf of an alien as a condition of the alien's admission into the United States as a permanent resident.

(77) "Sponsored alien" means an alien lawfully admitted for permanent residence who has an affidavit of support or similar agreement executed by a person on behalf of the alien as a condition of the alien's admission into the United States as a permanent resident.

(78) "Spouse" means:

(a) Married under applicable state law; or

(b) Living with another person and holding themselves out to the community as husband and wife by representing themselves as such to relatives, friends, neighbors, or trades people.

(79) "Striker" means any person:

(a) Involved in a strike or concerted stoppage of work by employees including stoppage due to expiration of a collective bargaining agreement; or

(b) Involved in any concerted slowdown or other concerted interruption of operations by employees.

(80) "Student" means any person:

(a) At least eighteen but less than fifty years of age;

(b) Physically and mentally fit for employment; and

(c) Enrolled at least half time in an institution of higher education.

(81) "Systematic alien verification for entitlements (SAVE)" means the immigration and naturalization service (INS) program whereby the department may verify the validity of documents provided by aliens applying for food stamp benefits by obtaining information from a central data file.

(82) "Temporary disability" means a nonpermanent physical illness or injury that incapacitates beyond the initial issuance month.

(83) "Thrifty food plan" means the diet required to feed a family of four as determined by the United States Department of Agriculture. The cost of the diet is the basis for all allotments, taking into account the household size adjustments based on a scale.

(84) "Under parental control" means living with the parent or any adult other than the parent. A person is not under parental control when that person is:

(a) Receiving an AFDC grant as the person's own payee;

(b) Receiving, as the person's own payee, gross income equal to, or exceeding, the AFDC grant payment standard as described under WAC 388-29-100 (3)(b); or

(c) Married.

(85) "Vehicle" means any device for carrying or conveying persons and objects, including travel by land, water, or air.

(86) "Vendor payment" means money payments not owed or payable directly to a household, but paid to a third party for a household expense, such as:

(a) A payment made in money on behalf of a household whenever another person or organization makes a direct payment to either the household's creditors or a person or organization providing a service to the household; or

(b) Rent or mortgage payments, made to landlords or mortgagees by the department of housing and urban development or by state or local housing authorities.

(87) "Verification" means the use of documentation or third-party information to establish the accuracy of statements on the application. Sources of verification shall be documentary evidence, collateral contacts, or a home visit.

[Statutory Authority: RCW 74.04.510 and 7 CFR 271.2. 93-11-041 (Order 3551), § 388-49-020, filed 5/12/93, effective 7/1/93. Statutory Authority: RCW 74.04.050. 92-11-059 (Order 3390), § 388-49-020, filed 5/19/92, effective 6/19/92. Statutory Authority: RCW 74.04.510. 91-16-065 (Order 3224), § 388-49-020, filed 8/1/91, effective 9/1/91; 91-10-096 (Order 3170), § 388-49-020, filed 5/1/91, effective 6/1/91; 90-12-057 (Order 3015), § 388-49-020, filed 5/31/90, effective 7/1/90; 89-18-035 (Order 2854), § 388-49-020, filed 8/29/89, effective 9/29/89; 89-07-001 (Order 2770), § 388-49-020, filed 3/2/89. Statutory Authority: RCW 74.04.050. 88-16-081 (Order 2662), § 388-49-020, filed 8/2/88. Statutory Authority: RCW 74.04.510. 88-08-080 (Order 2618), § 388-49-020, filed 4/6/88. Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-020, filed 12/31/87.]

WAC 388-49-060 Interview process. (1) The department shall conduct a face-to-face interview before certification and recertification. The person the department interviews shall be:

(a) Any responsible household member; or

(b) An authorized representative.

(2) The person the department interviews may bring any person to the interview.

(3) Unless waived, the department shall conduct the interview at the:

(a) CSO; or

(b) Social Security Administration district office for SSI households.

(4) The department shall waive the required office interview if the household:

(a) Does not have a responsible member able to visit the office because of hardships; and

(b) Is unable to appoint an authorized representative; and

(c) Requests a waiver; or

(d) Consists solely of recipients of aid to families with dependent children or general assistance grant assistance and:

(i) The food stamp recertification date is the same as the redetermination date for the assistance grant; and

(ii) The redetermination for the assistance grant does not require a face-to-face interview; and

(iii) The department conducts a face-to-face interview at least once every twelve months.

(5) If the department waives the required office interview, the department shall conduct the interview:

(a) Through a scheduled home visit; or

(b) Over the telephone.

[Statutory Authority: RCW 74.04.050 (7 CFR 273.2 (e)(i)). 94-01-066, (Order 3680), § 388-49-060, filed 12/8/93, effective 1/8/94. Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-060, filed 12/31/87.]

WAC 388-49-080 Expedited service. (1) The department shall provide expedited service for applying households when the household:

(a) Has liquid resources of one hundred dollars or less; and

(b) Has gross monthly income under one hundred fifty dollars; or

(c) Has combined gross monthly income and liquid resources which are less than the household's current monthly rent or mortgage and either the:

(i) Standard utility allowance as set forth in WAC 388-49-505; or

(ii) Actual utilities costs, whichever is higher; or

(d) Includes all members who are homeless individuals; or

(e) Includes a destitute migrant or seasonal farm worker whose liquid resources do not exceed one hundred dollars.

(2) The department shall provide food stamps to households eligible for expedited service by the end of the fifth calendar day following the date the application was filed.

(3) The department shall provide food stamps to residents of drug and alcohol treatment centers and group living arrangements eligible for expedited service, by the fifth calendar day following the date of application.

(4) When certifying a household eligible for expedited service, the department shall:

(a) Verify the applicant's identity through readily available documentary evidence, or if this is unavailable, through a collateral contact; or

(b) Verify the identity of the authorized representative who applies on behalf of the household; and

(c) Make a reasonable effort to complete verification as described in WAC 388-49-110 within the expedited processing standards;

(d) Require the applicant to register for work unless exempt or the authorized representative is applying for the household;

(e) Attempt to register other nonexempt household members for work without delaying expedited benefits;

(f) Issue benefits within five calendar days for expedited service; and

(g) Assist the household in obtaining necessary verification.

(5) The department shall not limit the number of times a household may receive expedited service provided the household:

(a) Completes the postponed verification requirements; or

(b) Was certified under the thirty-day processing standard since the last expedited certification.

(6) When a household is entitled to expedited service and a waiver of the office interview, the department shall:

(a) Conduct an out-of-office interview; and

(b) Complete the application process within the expedited service standard.

[Statutory Authority: RCW 74.04.050, Administrative Notice 93-53 and 7 CFR 274.2 (b)(3). 93-22-026 (Order 3654), § 388-49-080, filed 10/27/93, effective 11/27/93. Statutory Authority: RCW 74.04.510. 91-12-043 (Order 3187), § 388-49-080, filed 6/4/91, effective 7/5/91; 90-23-072 (Order 3097), § 388-49-080, filed 11/20/90, effective 12/21/90; 90-12-055 (Order 3013), § 388-49-080, filed 5/31/90, effective 7/1/90. Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-080, filed 12/31/87.]

WAC 388-49-120 Application disposition. (1) The department shall provide a household which completes the initial application process an opportunity to participate no later than thirty days following the date the application was filed.

(2) The department shall consider the date the application is filed as the date the:

(a) Application is received in the correct community services office (CSO) except for conditions described under subsection (2)(b) and (c) of this section; or

(b) Application is received in the Social Security Administration District Office (SSADO) from a noninstitutionalized household consisting solely of persons applying, or eligible, for Supplemental Security Income (SSI); or

(c) Applicant is released from a public institution when the person applied for SSI and food stamps through the SSADO before release.

(3) The department shall send a written approval or denial notice to all applicants as soon as a determination of eligibility and benefit level is made based on documentary evidence provided by the applicant. Such written notice shall be issued no later than thirty days after the date the application is filed.

(4) The department shall send the denial notice on the last working day before the thirtieth day when the thirtieth day falls on a weekend or a holiday.

(5) Except for denial notices described in section (3) and (4) above, the department shall send a denial notice after ten days when the household fails to respond to a written request for documentary evidence to establish eligibility.

(6) The department shall issue benefits to eligible households who have been denied, as described in subsection (5) of this section, when the household provides requested documentary evidence. Benefits shall be provided from:

(a) The date of application if the evidence is provided by the end of the initial thirty day period; or

(b) The day the household provided the missing verification if the evidence is provided by the end of the second thirty day period.

(7) The department shall delay the written notice until the thirtieth day when the household has been denied food stamps with an eligibility decision pending for AFDC or SSI.

(8) The household may voluntarily withdraw the application any time before the eligibility determination.

[Statutory Authority: RCW 74.04.510. 93-14-087 (Order 3540), § 388-49-120, filed 7/1/93, effective 8/1/93; 91-14-082 (Order 3195), § 388-49-120, filed 7/1/91, effective 8/1/91. Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-120, filed 12/31/87.]

WAC 388-49-200 Residents of institutions. Residents of institutions are not eligible for participation in the food stamp program unless they are:

(1) Residents of federally subsidized housing for the elderly built under section 202 of the Housing Act of 1959 or section 236 of the National Housing Act;

(2) Residents in a drug or alcohol treatment and rehabilitation program;

(3) Residents of group living arrangements who are blind or disabled as defined under WAC 388-49-020(19);

(4) Women and children residing in a shelter for battered women and children; or

(5) Residents of public or private nonprofit shelters for homeless persons.

[Statutory Authority: RCW 74.04.510 and 7 CFR 273.1(e). 93-11-042 (Order 3550), § 388-49-200, filed 5/12/93, effective 7/1/93. Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-200, filed 12/31/87.]

WAC 388-49-220 Group living arrangements. (1) A resident of a group living arrangement may apply for food stamps provided:

(a) The resident is blind or disabled as defined under WAC 388-49-020(19); and

(b) The group living arrangement is administered by a nonprofit organization certified by a state agency.

(2) A resident may apply:

(a) Through an authorized representative of the group home and be certified as a one-person household; or

(b) On the resident's own behalf and be certified according to the number of people in the person's household.

(3) An authorized representative shall:

(a) Be aware of the resident's circumstances;

(b) Receive and use the food coupon allotment for meals served to the resident; and

(c) Notify the department of changes in income, resources, or circumstances within ten days of the change.

(4) When the treatment facility acts as the authorized representative, the facility shall:

(a) Be responsible for any misrepresentation or intentional program violation;

(b) Assume total liability for food coupons held on behalf of the resident; and

(c) Send a monthly list of participating residents signed by an official to the CSO.

[Statutory Authority: RCW 74.04.510 and 7 CFR 273.1 (e)(1)(iii). 93-11-043 (Order 3549), § 388-49-220, filed 5/12/93, effective 7/1/93. Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-220, filed 12/31/87.]

WAC 388-49-430 Resources—Vehicles. (1) The department shall exclude the entire value of a licensed vehicle if it is:

(a) Used for income-producing purposes over fifty percent of the time it is in use. A vehicle excluded under this provision because the vehicle is used by a self-employed farmer shall retain its exclusion for one year from the date

the household member terminates self-employment from farming;

(b) Annually producing income consistent with its fair market value;

(c) Essential to the employment of a household member, an ineligible alien, or a disqualified person whose resources are considered available to the household. This exclusion applies only if the vehicle is necessary for long distance travel other than daily commuting;

(d) Necessary for subsistence hunting or fishing;

(e) Used as the household's home; or

(f) Necessary to transport one of the following persons who has a temporary or permanent physical disability:

(i) Household member;

(ii) Ineligible alien whose resources are available to the household; or

(iii) Disqualified person whose resources are available to the household.

The exclusion is limited to one vehicle per physically disabled person.

(2) The department shall exclude the entire value of unlicensed vehicles:

(a) Driven by an Indian tribal member on those reservations not requiring vehicle licensing; and

(b) Meeting one of the provisions in subsection (1) of this section.

(3) The department shall continue the exclusions described in subsections (1) and (2) of this section when the vehicle is not in use because of temporary unemployment.

(4) The department shall:

(a) Determine the fair market value of all licensed vehicles not excluded in subsections (1) and (2) of this section by the value of those vehicles as listed in publications written for the purpose of providing guidance to automobile dealers and loan companies; and

(b) Count the fair market value of each vehicle in excess of four thousand five hundred dollars toward the household's resource maximum.

(5) The department shall determine the equity value of all licensed vehicles except:

(a) Those excluded in subsections (1) and (2) of this section;

(b) One licensed vehicle per household regardless of the use of the vehicle; and

(c) Any other licensed vehicle used for:

(i) Transportation to and from employment;

(ii) Seeking employment; or

(iii) Transportation for training or education which is preparatory to employment.

(6) The department shall count the equity value of licensed and unlicensed vehicles not excluded in subsections (1), (2), and (5) of this section toward the household's maximum allowable resource limit.

(7) The department shall consider the value of a countable vehicle to be the greater amount of either:

(a) Fair market value in excess of four thousand five hundred dollars; or

(b) Equity value.

[Statutory Authority: RCW 74.04.050 and 7 CFR 273.8(h). 93-16-044 (Order 3605), § 388-49-430, filed 7/28/93, effective 8/28/93. Statutory Authority: RCW 74.04.510. 91-16-064 (Order 3226), § 388-49-430, filed 8/1/91, effective 9/1/91; 89-18-030 (Order 2857), § 388-49-430, filed

8/29/89, effective 9/29/89. Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-430, filed 12/31/87.]

WAC 388-49-450 Income—Earned. (1) The department shall consider the following as earned income:

- (a) Wages and salaries;
- (b) Gross income from self-employment, including total gain from the sale of any capital goods or equipment related to the business, and excluding the cost of doing business. Self-employment income includes:
 - (i) Income from rental property if a household member is managing the property an average of twenty hours or more a week; and
 - (ii) Payments from a roomer; and
 - (iii) Payments from a boarder except for child foster care payments.
- (c) Training allowances from vocational and rehabilitative programs:
 - (i) Recognized by federal, state, or local governments; and
 - (ii) Are not a reimbursement.
- (d) Payments under Title I of the Domestic Volunteer Service Act;
- (e) Advance on wages;
- (f) Earnings by persons nineteen years of age and older from on-the-job training programs under JTPA;
- (g) Money from the sale of blood or blood plasma; and
- (h) Military basic allowance for quarters and basic allowance for subsistence in lieu of provided housing and/or food.

(2) The department shall verify gross nonexempt earned income except for expedited service households:

- (a) Prior to initial certification;
- (b) At reapplication if amount has changed more than twenty-five dollars; and
- (c) On a monthly basis for households subject to monthly reporting.

[Statutory Authority: RCW 74.04.510 and 1992 § 479B. 93-17-032 (Order 3614), § 388-49-450, filed 8/11/93, effective 9/11/93. Statutory Authority: RCW 74.04.510. 89-11-101 (Order 2800), § 388-49-450, filed 5/24/89; 89-05-032 (Order 2762), § 388-49-450, filed 2/13/89. Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-450, filed 12/31/87.]

WAC 388-49-470 Income—Exclusions. (1) The department shall exclude the following income:

- (a) Money withheld from an income source to repay a prior overpayment from that same income source except for money withheld to recoup an intentional public assistance program overpayment;
- (b) Income specifically excluded by any federal statute from consideration as income in the food stamp program;
- (c) The earned income of household members who are:
 - (i) Seventeen years of age or under; and
 - (ii) Attending school at least half time.
- (d) Infrequent or irregular income, received during a three-month period by a prospectively budgeted household, that:
 - (i) Cannot be reasonably anticipated as available; and
 - (ii) Shall not exceed thirty dollars for all household members.

(e) Loans, including those from private individuals and commercial institutions, other than educational loans where repayment is deferred;

- (f) Nonrecurring lump sum payments;
- (g) The cost of producing self-employment income;
- (h) Educational assistance financed in whole or in part with Title IV funds or issued by the Bureau of Indian Affairs;

(i) Educational expenses earmarked by the school or actually paid by the student for:

- (i) Tuition;
 - (ii) Mandatory fees, including rental or purchase of equipment, materials, and supplies related to pursuing the course of study;
 - (iii) Books;
 - (iv) Supplies;
 - (v) Transportation; and
 - (vi) Miscellaneous personal expenses.
- (j) Reimbursements for past or future expenses to the extent the reimbursements do not:

- (i) Exceed the actual expense; and
- (ii) Represent a gain or benefit to the household.
- (k) Any gain or benefit not in money;
- (l) Vendor payments as defined in WAC 388-49-020;
- (m) Money received and used for the care and maintenance of a third-party beneficiary who is not a household member;

(n) Supplemental payments or allowances made under federal, state, or local laws for the purpose of offsetting increased energy costs;

(o) Energy allowances included in AFDC, continuing general assistance, and refugee assistance grants.

| Number in Grant Assistance Unit | Energy Exclusion |
|---------------------------------|------------------|
| 1 | \$ 55 |
| 2 | 71 |
| 3 | 86 |
| 4 | 102 |
| 5 | 117 |
| 6 | 133 |
| 7 | 154 |
| 8 or more | 170 |

(p) Support payments owed to a household member, but specified by the support court order or other legally binding written support or alimony agreement to go directly to a third-party beneficiary rather than to the household;

(q) Support payments on behalf of a household member, not required by the support court order or other legally binding written support or alimony agreement and paid directly to a third party rather than to the household;

(r) Payments from the individual and family grant program;

(s) Public assistance payments:

- (i) Over and above the regular warrant amount;
- (ii) Not normally a part of the regular warrant; and
- (iii) Paid directly to a third party on behalf of the household.

(t) From Jobs Training Partnership Act programs:

- (i) Allowances; and

(ii) Earnings from on-the-job training by household members under parental control and eighteen years of age and younger.

(u) Cash donations based on need:

(i) Received directly by the household;

(ii) From one or more private, nonprofit, charitable organizations; and

(iii) Not exceeding three hundred dollars in any federal fiscal year quarter.

(v) Earned income credit.

(2) When earnings or amount of work performed by a household member described in subsection (1)(c) of this section, cannot be differentiated from the earnings or work performed by other household members, the department shall:

(a) Prorate the earnings equally among the working members; and

(b) Exclude the household member's pro rata share.

(3) When the intended beneficiaries of a single payment for care and maintenance of a third-party beneficiary include both household members and persons not in the household, the department shall exclude:

(a) Any identifiable portion intended and used for the care and maintenance of the person out of the household; or

(b) The lessor of:

(i) The actual amount used from a single payment for the care of a person outside the household; or

(ii) A pro rata share of the single payment when the single payment does not identify the portion intended for the care of the person outside the household.

[Statutory Authority: RCW 74.04.510 and 1992 § 479B. 93-17-032 (Order 3614), § 388-49-470, filed 8/11/93, effective 9/11/93. Statutory Authority: RCW 74.04.510 and 7 CFR 273.9 (b)(5), (c)(2), and (c)(6). 92-22-051 (Order 3475), § 388-49-470, filed 10/28/92, effective 12/1/92. Statutory Authority: RCW 74.04.510 and Public Law 102-237. 92-11-063 (Order 3392), § 388-49-470, filed 5/19/92, effective 6/19/92. Statutory Authority: RCW 74.04.510. 92-03-119 (Order 3316), § 388-49-470, filed 1/21/92, effective 2/21/92; 91-06-004 (Order 3141), § 388-49-470, filed 2/21/91, effective 3/24/91; 90-15-028 (Order 3040), § 388-49-470, filed 7/13/90, effective 8/13/90; 89-24-040 (Order 2911), § 388-49-470, filed 12/1/89, effective 1/1/90; 89-11-101 (Order 2800), § 388-49-470, filed 5/24/89; 88-21-096 (Order 2716), § 388-49-470, filed 10/19/88; 88-08-079 (Order 2617), § 388-49-470, filed 4/6/88. Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-470, filed 12/31/87.]

WAC 388-49-500 Income—Deductions. (1) The department shall allow the following deductions when computing net income:

(a) A standard deduction of one hundred thirty-one dollars per household per month;

(b) An earned income deduction of twenty percent of gross earned income except as provided in WAC 388-49-640(8);

(c) A dependent care deduction of the actual amount incurred not to exceed one hundred sixty dollars per dependent when care is necessary for a household member to:

(i) Seek, accept, or continue employment; or

(ii) Attend training or education preparatory to employment.

(d) A deduction for nonreimbursable monthly medical expenses over thirty-five dollars incurred by an elderly or disabled household member;

(e) Shelter costs in excess of fifty percent of the household's income after deducting the standard, earned income,

medical, and dependent care deductions. The shelter deduction shall not exceed two hundred seven dollars; and

(f) An excess shelter deduction for the monthly amount exceeding fifty percent of the household's monthly income after all applicable deductions for households containing an elderly or disabled person.

(2) A household's shelter costs may include:

(a) Costs for a home not occupied because of employment, training away from the home, illness, or abandonment caused by casualty loss or natural disaster shall be allowed if the:

(i) Household intends to return to the home;

(ii) Current occupants, if any, are not claiming shelter costs for food stamp purposes; and

(iii) Home is not being leased or rented during the household's absence.

(b) Charges for the repair of the home substantially damaged or destroyed due to a natural disaster;

(c) The standard utility allowance when a household incurs any separate utility charges for heating or cooling costs. A household may incur a separate utility charge when the household:

(i) Has not yet received a billing for utilities;

(ii) Is billed monthly by the landlord for actual usage as determined through individual metering; or

(iii) Shares residence and utility costs with other persons, in which case the deduction is for the household's prorated share of the standard allowance.

(d) Actual utility costs rather than the standard utility allowance if the household is:

(i) Not entitled to the standard utility allowance; or

(ii) Requesting use of actual utility bills. A monthly telephone standard shall be allowed for households incurring telephone expenses if the household is not entitled to claim the standard utility allowance.

(e) A shelter amount of one hundred thirty-seven dollars when all household members are homeless as specified under WAC 388-49-020(36) and the household incurs or expects to incur:

(i) Monthly shelter costs no greater than one hundred thirty-seven dollars; or

(ii) Unverified shelter costs exceeding one hundred thirty-seven dollars.

(3) A household may switch between actual utility costs and the standard utility allowance:

(a) At each recertification; and

(b) One additional time during each twelve-month period following the initial certification action.

(4) The department shall provide excess medical or shelter deductions effective with supplemental security income (SSI) eligibility when households:

(a) Become categorically eligible within the time limits specified under WAC 388-49-120 and 388-49-150 after a food stamp application;

(b) Receive food stamps as a nonassistance household until becoming categorically eligible; or

(c) Become categorically eligible after denial of nonassistance food stamps.

(5) The department shall not provide a deduction for that portion of a deductible expense, described under this section, paid by an excluded:

(a) Reimbursement; or

(b) Vendor payment, except for Low Income Home Energy Assistance Act (LIHEAA) payments.

(6) The department shall verify:

(a) Dependent care costs including changes, except in prospective budgeting; and

(b) Medical expenses and the reimbursement amounts resulting in a deduction:

(i) At recertification, if the amount has changed more than twenty-five dollars; and

(ii) On a monthly basis for a household subject to monthly reporting.

(c) Actual shelter costs for homeless households when such costs exceed the amount in subsection (2)(e) of this section.

(7) If medical reimbursement cannot be verified, the department shall certify the household without allowing the deduction, except in prospective budgeting.

[Statutory Authority: RCW 74.04.510 and 7 CFR 273.9 (a)(3), (d)(1), (d)(5)(i) and (ii). 93-23-033 (Order 3666), § 388-49-500, filed 11/10/93, effective 12/11/93. Statutory Authority: RCW 74.04.510 and 7 CFR 273.9(a). 92-22-055 (Order 3473), § 388-49-500, filed 10/28/92, effective 11/28/92. Statutory Authority: RCW 74.04.510 and 7 CFR 273.9 (e)(5)(i). 92-09-031 (Order 3367), § 388-49-500, filed 4/7/92, effective 5/8/92. Statutory Authority: RCW 74.04.510. 91-23-090 (Order 3292), § 388-49-500, filed 11/19/91, effective 12/20/91; 90-23-074 (Order 3099), § 388-49-500, filed 11/20/90, effective 12/21/90; 90-12-054 (Order 3012), § 388-49-500, filed 5/31/90, effective 7/1/90; 89-23-083 (Order 2901), § 388-49-500, filed 11/17/89, effective 12/18/89; 88-23-085 (Order 2726), § 388-49-500, filed 11/18/88; 88-08-078 (Order 2616), § 388-49-500, filed 4/6/88. Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-500, filed 12/31/87.]

WAC 388-49-505 Utility allowances. (1) The department shall:

(a) Establish an annualized standard utility allowance for use in calculating shelter costs;

(b) Obtain FNS approval of the methodology used to establish the standard utility allowance;

(c) Establish a separate annualized telephone allowance;

(d) Obtain FNS approval of the methodology used to establish the telephone allowance.

(2) The annual standard utility allowance shall be two hundred seven dollars.

(3) The monthly telephone standard shall be twenty-seven dollars.

[Statutory Authority: RCW 74.04.510 and 7 CFR 273.9 (d)(6)(vi) and Letter of Approval from Food and Nutrition Services. 93-18-024 (Order 3626), § 388-49-505, filed 8/25/93, effective 10/1/93. Statutory Authority: RCW 74.04.510 and 7 CFR 273.9(a). 92-22-055 (Order 3473), § 388-49-505, filed 10/28/92, effective 11/28/92. Statutory Authority: RCW 74.04.510. 91-08-013 (Order 3154), § 388-49-505, filed 3/26/91, effective 4/26/91; 89-23-083 (Order 2901), § 388-49-505, filed 11/17/89, effective 12/18/89; 88-23-085 (Order 2726), § 388-49-505, filed 11/18/88. Statutory Authority: RCW 74.04.050. 88-04-042 (Order 2593), § 388-49-505, filed 1/28/88.]

WAC 388-49-510 Income eligibility standards. (1) Categorically eligible households, as described in WAC 388-49-180, are not subject to the provisions of this section.

(2) The department shall determine eligibility on the basis of gross income and net food stamp income except for households in subsection (3) of this section.

(3) The department shall determine eligibility on the basis of net food stamp income for households containing an elderly or disabled member.

(4) The gross and net monthly maximum income standards as established by the department of agriculture are as follows:

Gross Monthly Income Standard

| Household Size | Maximum Standard |
|------------------------|------------------|
| 1 | \$ 756 |
| 2 | 1,022 |
| 3 | 1,289 |
| 4 | 1,555 |
| 5 | 1,822 |
| 6 | 2,088 |
| 7 | 2,355 |
| 8 | 2,621 |
| 9 | 2,888 |
| 10 | 3,155 |
| Each additional person | + 267 |

Net Monthly Income Standard

| Household Size | Maximum Standard |
|------------------------|------------------|
| 1 | \$ 581 |
| 2 | 786 |
| 3 | 991 |
| 4 | 1,196 |
| 5 | 1,401 |
| 6 | 1,606 |
| 7 | 1,811 |
| 8 | 2,016 |
| 9 | 2,221 |
| 10 | 2,426 |
| Each additional person | + 205 |

[Statutory Authority: RCW 74.04.510 and 7 CFR 273.9 (a)(3), (d)(1), (d)(5)(i) and (ii). 93-23-033 (Order 3666), § 388-49-510, filed 11/10/93, effective 12/11/93. Statutory Authority: RCW 74.04.510 and 7 CFR 273.9(a). 92-22-055 (Order 3473), § 388-49-510, filed 10/28/92, effective 11/28/92. Statutory Authority: RCW 74.04.510. 91-23-090 (Order 3292), § 388-49-510, filed 11/19/91, effective 12/20/91; 90-23-074 (Order 3099), § 388-49-510, filed 11/20/90, effective 12/21/90; 89-23-083 (Order 2901), § 388-49-510, filed 11/17/89, effective 12/18/89; 88-23-085 (Order 2726), § 388-49-510, filed 11/18/88. Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-510, filed 12/31/87.]

WAC 388-49-520 Prospective income budgeting.

(1) The department shall budget income, income deductions, and income exclusions prospectively for the first two beginning months, except for student financial aid.

(2) The department shall budget income, income deductions, and income exclusions prospectively for the entire certification period for:

(a) Households in which all adult members are elderly or disabled and do not have earned income;

(b) Migrant households;

(c) Seasonal farmworker households; and

(d) Households in which all members are homeless individuals.

(3) The department shall budget the following income, income deductions, and income exclusions prospectively, except as provided under WAC 388-49-535(7):

(a) Public assistance as defined under WAC 388-22-030 except for Supplemental Security Income (SSI); and

(b) Income from a new household member for the first two months of participation when the:

- (i) Household timely reports the new member; and
- (ii) New member has not received benefits within the last calendar month.

[Statutory Authority: RCW 74.04.510, 74.04.570 and 7 CFR 273.21 (f)(2)(iii). 93-17-030 (Order 3611), § 388-49-520, filed 8/11/93, effective 9/11/93. Statutory Authority: RCW 74.04.510. 92-16-018 (Order 3425), § 388-49-520, filed 7/23/92, effective 9/1/92; 92-03-086 (Order 3311), § 388-49-520, filed 1/15/92, effective 2/15/92; 91-12-025 (Order 3184), § 388-49-520, filed 5/31/91, effective 7/1/91; 90-17-117 (Order 3051), § 388-49-520, filed 8/21/90, effective 9/21/90. Statutory Authority: RCW 74.04.050. 88-16-082 (Order 2663), § 388-49-520, filed 8/2/88; 88-02-031 (Order 2575), § 388-49-520, filed 12/31/87.]

WAC 388-49-535 Special circumstances—Income budgeting. The department shall:

(1) Budget additional public assistance payments either prospectively or retrospectively, using only the amount authorized for the month the income is received.

(2) Budget countable student financial aid retrospectively.

(3) Annualize and then prorate the following income to determine eligibility and benefit levels in the beginning months if:

(a) Self-employment income is received other than monthly; or

(b) Contract income is received in less than one year.

(c) After the first beginning months, the department shall use actual income received in the corresponding budget month.

(4) When a participating household member establishes a new household:

(a) Remove that member from the prior household; and

(b) Use the method of income budgeting that was in effect in the prior household.

(5) Consider either prospectively or retrospectively over the period the expense is intended to cover, expenses that have been averaged if the household:

(a) Has expenses that fluctuate or are billed less often than monthly; and

(b) Chooses to have the expenses averaged.

(6) When adding or deleting a household member, add or delete that person's income, following change of circumstance rules in WAC 388-49-610.

(7) Consider income exclusions and deductions retrospectively in households having income budgeted both prospectively and retrospectively.

[Statutory Authority: RCW 74.04.510, 74.04.570 and 7 CFR 273.21 (f)(2)(iii). 93-17-030 (Order 3611), § 388-49-535, filed 8/11/93, effective 9/11/93. Statutory Authority: RCW 74.04.510. 91-12-025 (Order 3184), § 388-49-535, filed 5/31/91, effective 7/1/91. Statutory Authority: RCW 74.04.050. 88-16-082 (Order 2663), § 388-49-535, filed 8/2/88.]

WAC 388-49-550 Monthly allotments. (1) The department shall determine the value of the allotment a household receives.

(2) The monthly allotment shall equal the thrifty food plan (TFP) for the household size reduced by thirty percent of the household's net income. The department shall use the monthly allotment standards as established by the food and nutrition service.

| Household Size | Thrifty Food Plan |
|------------------------|-------------------|
| 1 | 112 |
| 2 | 206 |
| 3 | 295 |
| 4 | 375 |
| 5 | 446 |
| 6 | 535 |
| 7 | 591 |
| 8 | 676 |
| 9 | 761 |
| 10 | 846 |
| Each additional member | + 85 |

(3) The department shall issue to households, except for households as specified in subsection (4) of this section, a prorated coupon allotment for the number of days remaining from the date of application to the end of the initial month of eligibility.

(a) The department shall base the allotment on a thirty-day month.

(b) The department shall not issue an allotment for less than ten dollars.

(4) The department shall issue a full month allotment to migrant and seasonal farmworker households applying within thirty days after a prior certification ends.

(5) The department shall determine the value of the monthly allotment a household receives by:

(a) Multiplying the household's net monthly income by thirty percent;

(b) Rounding the product up to the next whole dollar if it ends with one through ninety-nine cents; and

(c) Subtracting the result from the thrifty food plan for the appropriate household size.

(6) One- and two-person households shall receive a minimum monthly allotment of ten dollars except in the initial benefit month when the department shall not issue an allotment for less than ten dollars.

(7) The department shall issue an identification card to each certified household.

[Statutory Authority: RCW 74.04.510 and 7 CFR 273.10 (c)(4)(ii)(F). 93-22-028 (Order 3656), § 388-49-550, filed 10/27/93, effective 11/27/93. Statutory Authority: RCW 74.04.510. 91-23-088 (Order 3290), § 388-49-550, filed 11/19/91, effective 12/20/91; 90-23-077 (Order 3102), § 388-49-550, filed 11/20/90, effective 12/21/90; 89-22-132 (Order 2894), § 388-49-550, filed 11/1/89, effective 12/2/89; 89-05-031 (Order 2760), § 388-49-550, filed 2/13/89; 88-23-082 (Order 2728), § 388-49-550, filed 11/18/88. Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-550, filed 12/31/87.]

WAC 388-49-560 Issuance. (1) The department shall issue food coupons through a:

(a) Food coupon authorization (FCA) system staggered through the tenth of the month; or

(b) Direct coupon mail out system staggered through the tenth of the month.

(2) For FCAs issued on or after the twentieth of the month, the department shall issue a valid FCA:

(a) Until the end of the month and issue a valid replacement FCA if the household is unable to transact the FCA before the expiration date; or

(b) For the current month's benefits valid in the following month.

(3) The department shall issue the prorated allotment for the initial month and the allotment for the first full month at the same time for eligible households applying on the sixteenth of the month or after, except for households ineligible for the initial month or the second month.

(4) The department shall not transact or restore an FCA with an expired validity date, except as specified under WAC 388-49-560(2).

(5) The department shall maintain issuance records for a period of three years from the month of origin.

[Statutory Authority: RCW 74.04.050 and 7 CFR 274.2 (b)(3). 93-22-027 (Order 3655), § 388-49-560, filed 10/27/93, effective 11/27/93. Statutory Authority: RCW 74.04.050 and 7 CFR 274.3 (e)(1). 93-04-069 (Order 3509), § 388-49-560, filed 1/29/93, effective 3/1/93. Statutory Authority: RCW 74.04.050. 92-15-039 (Order 3417), § 388-49-560, filed 7/9/92, effective 8/9/92; 90-12-084 (Order 3022), § 388-49-560, filed 6/1/90, effective 7/2/90; 88-02-031 (Order 2575), § 388-49-560, filed 12/31/87.]

WAC 388-49-610 Changes—Prospective budgeting.

(1) The department shall act on changes occurring in the first beginning month, changes for households described under WAC 388-49-520(2), and changes in the income described under WAC 388-49-520(3) which affect benefit increases as follows:

(a) If the change is verified within ten days after the change is reported, budget the change for the next allotment; or

(b) If the change is not verified within ten days after the change is reported, budget the change for the next allotment after the verification is received.

(2) The department shall act on changes affecting a benefit decrease following adverse action notice rules in WAC 388-49-600 unless the household requests:

(a) A fair hearing; and

(b) Continuation of benefits.

[Statutory Authority: RCW 74.04.510. 93-13-133 (Order 3575), § 388-49-610, filed 6/23/93, effective 7/24/93. Statutory Authority: RCW 74.04.050. 88-16-080 (Order 2661), § 388-49-610, filed 8/2/88; 88-02-031 (Order 2575), § 388-49-610, filed 12/31/87.]

WAC 388-49-700 Fair hearings—Continuation of benefits pending. (1) The department shall continue benefits at the contested or previous level pending a fair hearing if:

(a) The client requests a hearing within the period specified by the notice of adverse action;

(b) The certification period is not expired;

(c) The household does not waive continuation of benefits; and

(d) Households subject to monthly reporting submit a completed monthly report timely for each month of continued benefits.

(2) The department shall reduce or terminate benefits if a hearing request is not made within the period specified in the notice, unless failure to make the request is for good cause.

(3) Once continued or reinstated, the department shall not reduce or terminate benefits before receipt of the hearing decision unless:

(a) The certification period expires;

(b) The administrative law judge issues a preliminary determination, in writing, stating:

(i) The sole issue is one of federal law or regulations; and

(ii) The household's claim the department improperly computed benefits or misapplied such law or regulation is invalid.

(c) The household fails to request a new hearing after receiving a notice of adverse action on a change occurring pending the hearing decision;

(d) A mass change occurs while the hearing decision is pending; or

(e) A household whose certification period expired has made a timely application for a new certification period pending receipt of a hearing decision.

(4) For households subject to monthly reporting, the department shall continue benefits within five working days from the day the:

(a) Request for continued benefits is received for an issue other than nonreceipt of a monthly report; or

(b) Completed monthly report is returned when termination is solely for failure to submit a monthly report, and the completed monthly report is submitted by the last day of the payment month.

(5) The department shall act on reported changes without regard to the matter at issue in the hearing:

(a) During the certification period;

(b) When a monthly report is received; or

(c) When a timely application is made for a new certification period pending receipt of a hearing decision.

(6) The department shall promptly inform the household in writing if benefits are reduced or terminated pending the hearing decision.

(7) The department shall establish a claim for all overissuances if the department's action is upheld by the hearing decision.

[Statutory Authority: RCW 74.04.050. 93-04-034 (Order 3505), § 388-49-700, filed 1/27/93, effective 2/27/93. Statutory Authority: RCW 74.04.510. 92-12-042 (Order 3395), § 388-49-700, filed 5/29/92, effective 7/1/92; 89-22-131 (Order 2893), § 388-49-700, filed 11/1/89, effective 12/2/89. Statutory Authority: RCW 74.04.050. 88-02-031 (Order 2575), § 388-49-700, filed 12/31/87.]

Chapter 388-51 WAC

JOB OPPORTUNITIES AND BASIC SKILLS TRAINING PROGRAM CHILD CARE AND OTHER WORK-RELATED SUPPORTIVE SERVICES AND TRANSITIONAL CHILD CARE

WAC

388-51-020

Definitions.

388-51-040

Assurances and responsibilities under JOBS, income assistance, and transitional child care.

388-51-110

JOBS, income assistance, and transitional child care programs.

388-51-115

JOBS, income assistance, and transitional child care programs—Eligible children and recipients.

388-51-120

JOBS, income assistance, and transitional child care program—Payment.

388-51-123

JOBS, income assistance, and transitional child care programs—Effective dates.

388-51-125

Repealed.

388-51-130

Income assistance and transitional child care programs—Effect on eligibility and payments.

388-51-135

JOBS, income assistance, and transitional child care—Hearings.

| | |
|------------|--|
| 388-51-150 | Repealed. |
| 388-51-155 | Transitional child care—Purpose and initial eligibility. |
| 388-51-160 | Transitional child care—Co-payment. |
| 388-51-170 | Transitional child care—Ongoing eligibility. |
| 388-51-180 | Child care overpayments. |
| 388-51-200 | Repealed. |
| 388-51-210 | Other supportive services. |
| 388-51-250 | Transitional supportive services. |
| 388-51-260 | Supportive services overpayments. |
| 388-51-300 | Repealed. |

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

| | |
|------------|--|
| 388-51-125 | Jobs and income assistance child care program—Responsibilities. [Statutory Authority: 1991 c 16. 92-08-033, § 388-51-125, filed 3/24/92, effective 4/24/92.] Repealed by 93-12-059 (Order 3566), filed 5/27/93, effective 7/1/93. Statutory Authority: Family Support Act P.L. 100-485, ESHB 1330 and 1991 c 16 § 211. |
| 388-51-150 | Other supportive services. [Statutory Authority: RCW 74.04.050. 91-02-086 (Order 3126), § 388-51-150, filed 12/31/90, effective 1/31/91.] Repealed by 93-12-059 (Order 3566), filed 5/27/93, effective 7/1/93. Statutory Authority: Family Support Act P.L. 100-485, ESHB 1330 and 1991 c 16 § 211. |
| 388-51-200 | Transitional supportive services. [Statutory Authority: RCW 74.04.050. 91-02-086 (Order 3126), § 388-51-200, filed 12/31/90, effective 1/31/91.] Repealed by 93-12-059 (Order 3566), filed 5/27/93, effective 7/1/93. Statutory Authority: Family Support Act P.L. 100-485, ESHB 1330 and 1991 c 16 § 211. |
| 388-51-300 | Transitional child care. [Statutory Authority: RCW 74.08.090. 90-06-032 (Order 2944), § 388-51-300, filed 3/1/90, effective 4/1/90.] Repealed by 93-12-059 (Order 3566), filed 5/27/93, effective 7/1/93. Statutory Authority: Family Support Act P.L. 100-485, ESHB 1330 and 1991 c 16 § 211. |

WAC 388-51-020 Definitions. Except as specified in this chapter, terms used under chapter 388-51 WAC shall have the same meaning applied to the AFDC program, as terms defined under chapters 388-22 WAC and 388-29, and to the JOBS program under chapter 388-47 WAC.

(1) "Able" means physically and/or mentally capable of caring for a child in a responsible manner.

(2) "Applicable standards" means standards and practices related to child care under chapter 388-73 WAC or, in the case of a tribal JOBS program, tribal law.

(3) "Child care overpayment" means any child care payment received by or for an assistance unit for a month which exceeds the amount the unit was eligible to receive.

(4) "Co-payment" means the computed amount which the parent pays toward the child's cost of care.

(5) "JOBS" means the job opportunities and basic skills training program for eligible AFDC families which assists obtaining education, training, and employment needed to avoid long-term welfare dependence.

(6) "Support services" means child care, and other services provided for under federal law, that may be required enabling an AFDC applicant or recipient to pursue employment, education, and training under chapter 388-47 WAC.

[Statutory Authority: Family Support Act P.L. 100-485, ESHB 1330 and 1991 c 16 § 211. 93-12-059 (Order 3566), § 388-51-020, filed 5/27/93, effective 7/1/93. Statutory Authority: RCW 74.04.050. 91-02-086 (Order 3126), § 388-51-020, filed 12/31/90, effective 1/31/91.]

WAC 388-51-040 Assurances and responsibilities under JOBS, income assistance, and transitional child care. (1) The department shall assure:

(a) Supportive services needed to enable a participant with an approved employability plan to participate in accordance with that approved plan in the JOBS program;

(b) Child care services meet applicable standards of state or tribal law as described under WAC 388-15-170(8);

(c) An entity providing child care allows parental access;

(d) The child's individual needs are taken into account when the department provides or arranges for child care and other supportive services; and

(e) Child care provided or claimed for payment is related to a person's JOBS program participation or employment hours.

(2) The department shall:

(a) Inform applicants or recipients about child care and supportive services available under this chapter;

(b) Respond to requests for child care services within a reasonable period of time;

(c) Inform applicants or recipients of the types and locations of child care services available to help them select child care services;

(d) Inform applicants or recipients of the child care options for which the department can make payment as described under WAC 388-51-110. The department shall:

(i) Provide information on transitional child care to all families terminating from AFDC; and

(ii) Include information on how to request transitional child care in the informational material provided to families terminating from AFDC.

(e) Inform applicants or recipients of their rights and responsibilities in relation to child care and support services;

(f) Provide timely child care payments to the provider; and

(g) Provide advance and adequate notice to recipients of reduction, suspension, or termination of child care benefits.

(3) The recipient shall:

(a) Choose the provider and make the child care arrangements;

(b) Immediately notify the department of any change in providers;

(c) Pay the in-home care giver when the department pays the applicant or recipient for in-home care;

(d) Pay any required co-payment;

(e) Supply the department with necessary information to allow payment to the authorized provider; and

(f) Immediately notify the provider when the department discontinues or changes the child care authorization.

(4) The provider shall provide:

(a) Parental access;

(b) Constant supervision of a child under care throughout the time such person is the provider;

(c) Developmentally appropriate activities for a child under provider's care; and

(d) Access to attendance records by appropriate state and federal government representatives.

(5) The provider shall meet licensing and contracting requirements as required under chapters 388-150 and 388-155 WAC.

[Statutory Authority: Family Support Act P.L. 100-485, ESHB 1330 and 1991 c 16 § 211. 93-12-059 (Order 3566), § 388-51-040, filed 5/27/93, effective 7/1/93. Statutory Authority: RCW 74.04.050. 91-02-086 (Order 3126), § 388-51-040, filed 12/31/90, effective 1/31/91.]

WAC 388-51-110 JOBS, income assistance, and transitional child care programs. (1) The department shall guarantee child care by:

(a) Paying providers for center care or family day care when the provider is:

(i) Licensed under chapter 74.15 RCW and either chapters 388-73, 388-150, or 388-155 WAC;

(ii) Exempt from licensure under chapter 74.15 RCW and chapters 388-73, 388-150, or 388-155 WAC;

(iii) A tribal day care center meeting the requirements of tribal law and certified by the department;

(iv) A child care facility, certified by the department, on a military installation; or

(v) A child care facility operated on public school property by a school district.

(b) Paying the recipient for in-home care provided the care taker meets the requirements as described under WAC 388-15-170 (7) and (8). In-home care shall include care given in the child's home or in a relative's home if the relative is:

(i) An adult sibling living outside the child's home; or

(ii) Grandparents, aunts, uncles, or first cousins.

(c) Allowing the dependent care earnings disregard for employed AFDC recipients. The department shall allow a disregard when the household:

(i) Received AFDC on October 13, 1988, based on application of the dependent care disregard, and has remained continuously eligible for grant assistance since that time. Such households shall have the option to use the disregard or state-paid child care;

(ii) Was employed on September 30, 1991, and has not converted to the state-paid, child care system; or

(iii) Is subject to retrospective budgeting and is converting to state-paid child care. When the household incurred child care costs in the corresponding budget month, the department shall allow both state-paid, child care and a child care earnings disregard for the month of conversion and the month thereafter.

(2) Within the child care guarantee of this section, the department shall authorize payment for child care to allow:

(a) An AFDC applicant or recipient to participate in:

(i) JOBS orientation or assessment;

(ii) Job search that is part of an approved employability plan under chapter 388-47 WAC; or

(b) An AFDC recipient to participate in:

(i) Work-related barrier removal activities, as approved by the department for participation in employment or activities under chapter 388-47 WAC;

(ii) In an approved education or training or other component activity under chapter 388-47 WAC; or

(iii) Employment, either to accept or maintain.

(c) A family eligible for transitional child care to participate in employment activities.

(3) The department shall take the individual needs of the child into account.

(4) The department shall not guarantee child care for two-parent households where one parent is able and available

to care for the children. See "able" as defined under section 020 of this chapter.

[Statutory Authority: Family Support Act P.L. 100-485, ESHB 1330 and 1991 c 16 § 211. 93-12-059 (Order 3566), § 388-51-110, filed 5/27/93, effective 7/1/93. Statutory Authority: 1991 c 16. 92-08-033, § 388-51-110, filed 3/24/92, effective 4/24/92.]

WAC 388-51-115 JOBS, income assistance, and transitional child care programs—Eligible children and recipients. (1) The department shall authorize necessary child care if the dependent child is:

(a) Included in the same assistance unit as the recipient; or

(b) For transitional child care, meets the requirements of WAC 388-51-170(4); or

(c) Included in the household, but is not in the recipient's assistance unit because the child is receiving SSI benefits or foster care benefits under Title IV-E of the Social Security Act; and

(d) Twelve years of age or younger; or

(e) Physically or mentally (including emotionally) incapable of self-care, as verified by a licensed medical practitioner or licensed or certified psychologist; or

(f) Under court supervision.

(2) The department shall not authorize child care to a recipient not included in the assistance unit because the recipient is:

(a) An undocumented alien;

(b) A recipient of SSI; or

(c) A nonneedy relative.

(3) The department shall authorize JOBS and income assistance child care to employed recipients not included in the assistance unit due to a sanction with children meeting the requirements of subsection (1) of this section.

[Statutory Authority: Family Support Act P.L. 100-485, ESHB 1330 and 1991 c 16 § 211. 93-12-059 (Order 3566), § 388-51-115, filed 5/27/93, effective 7/1/93. Statutory Authority: 1991 c 16. 92-08-033, § 388-51-115, filed 3/24/92, effective 4/24/92.]

WAC 388-51-120 JOBS, income assistance, and transitional child care program—Payment. (1) The department's payment for child care shall not exceed the local market rate for child care. The department shall establish the market rate based on representative samples of local child care providers.

(2) The child care rates shall be as published by the department.

(3) The department's payment for child care shall:

(a) Relate to a person's hours of participation under chapter 388-47 WAC or hours of employment; and

(b) Include transportation time between the place of employment or participation site for activity under chapter 388-47 WAC and the child care provider.

(4) The department may authorize child care payments for JOBS or income assistance child care for up to two weeks for a person waiting to enter education or training, or other component activity approved under chapter 388-47 WAC, or employment.

(5) The department may authorize JOBS, income assistance, or transitional child care for a period not to exceed one month when:

(a) Child care arrangements would otherwise be lost; and

(b) The component activity or employment is scheduled to begin within that period.

(6) The department may pay for initial one-time fees for registration or equipment which are required by an authorized child care provider if such fees are:

(a) Required of all parents whose child is in care; and

(b) Needed to maintain a child care arrangement.

(7) The department shall not pay ongoing annual registration fees.

(8) Notwithstanding WAC 388-51-110 (1)(b), the department may establish a protective payee due to mismanagement when the recipient fails to pay the in-home care provider when:

(a) The department has issued a child care warrant to the correct address and twelve or more working days have passed since the issuance date; and

(b) The recipient has not reported the warrant lost, stolen, or destroyed.

[Statutory Authority: Family Support Act P.L. 100-485, ESHB 1330 and 1991 c 16 § 211. 93-12-059 (Order 3566), § 388-51-120, filed 5/27/93, effective 7/1/93. Statutory Authority: 1991 c 16. 92-08-033, § 388-51-120, filed 3/24/92, effective 4/24/92.]

WAC 388-51-123 JOBS, income assistance, and transitional child care programs—Effective dates. (1) The department shall authorize JOBS and income assistance child care for:

(a) Orientation or assessment, to coincide with participation in orientation or assessment provided the household has applied for assistance;

(b) Employment, to coincide with the start of employment or the date of eligibility for assistance, whichever is later, so long as the employment is timely reported by the eighteenth day of the process month. If the employment is not timely reported, the effective date for child care benefits shall be the date of request for child care;

(c) Other approved activities, to coincide with the date of request for child care or the date the activity commenced or was approved, whichever is later.

(2) The department shall authorize transitional child care for eligible families as required under WAC 388-51-155(3).

(3) The department shall provide timely notice to recipients for changes in payment when the change results in a discontinuation, suspension, reduction, termination, or forces a change in child care arrangements:

(a) Except, as required under WAC 388-51-120 (4) and (5), the department shall terminate child care benefits to coincide with the termination of a component activity or assistance, provided timely notice for the change in child care has been given; and

(b) Timely notice requirements shall not apply for other changes in the manner of payment.

[Statutory Authority: Family Support Act P.L. 100-485, ESHB 1330 and 1991 c 16 § 211. 93-12-059 (Order 3566), § 388-51-123, filed 5/27/93, effective 7/1/93. Statutory Authority: 1991 c 16. 92-08-033, § 388-51-123, filed 3/24/92, effective 4/24/92.]

WAC 388-51-125 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-51-130 Income assistance and transitional child care programs—Effect on eligibility and payments.

(1) Except as provided under WAC 388-28-570 (6)(a)(iv), 388-51-110 (1)(c), and subsections (2) and (3) of this section, the department shall determine AFDC eligibility and payment amounts without the dependent care disregard for households subject to the income assistance child care program.

(2) The department shall determine payment amounts with the dependent care disregard for households receiving both state-paid child care and the earnings disregard for the month of conversion and the month thereafter.

(3) When eligible, an employed applicant's eligibility for income assistance child care starts with the first day of AFDC eligibility.

(4) The department shall not consider the child care benefits provided under this chapter as income or resources when determining AFDC, food stamp program eligibility, or payment amount. Income received as a child care provider shall be treated according to the requirements under chapters 388-28 and 388-49 WAC.

[Statutory Authority: Family Support Act P.L. 100-485, ESHB 1330 and 1991 c 16 § 211. 93-12-059 (Order 3566), § 388-51-130, filed 5/27/93, effective 7/1/93. Statutory Authority: 1991 c 16. 92-08-033, § 388-51-130, filed 3/24/92, effective 4/24/92.]

WAC 388-51-135 JOBS, income assistance, and transitional child care—Hearings.

(1) Applicants or recipients shall be entitled to fair hearings under chapter 388-08 WAC on any action affecting child care benefits except for changes resulting from a change in policy or law.

(2) Recipients of JOBS and income assistance child care payments shall not be eligible for continued child care benefits pending the outcome of a fair hearing.

(3) Recipients of transitional child care benefits are eligible for continued benefits pending the outcome of a fair hearing. Continued benefits may not extend beyond the family's twelve-month eligibility period.

[Statutory Authority: Family Support Act P.L. 100-485, ESHB 1330 and 1991 c 16 § 211. 93-12-059 (Order 3566), § 388-51-135, filed 5/27/93, effective 7/1/93. Statutory Authority: 1991 c 16. 92-08-033, § 388-51-135, filed 3/24/92, effective 4/24/92.]

WAC 388-51-150 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-51-155 Transitional child care—Purpose and initial eligibility. (1) The department shall:

(a) Guarantee transitional child care to families who become ineligible for AFDC as described under subsection (2) of this section; and

(b) Permit such AFDC-ineligible families to accept or retain employment.

(2) A family shall be eligible for transitional child care provided the family:

(a) Is ineligible for AFDC due solely or in part because of increased hours of, or increased income from, employment or the loss of income disregards due to time limitations;

(b) Received AFDC in three or more of the six months immediately preceding the first month of ineligibility; and

(c) Request orally or in writing transitional child care benefits and provides the information necessary for determining eligibility and fees.

(3) A family's eligibility for transitional child care shall begin with the first month the AFDC family is ineligible for AFDC for reasons described under subsection (2) of this section, and shall continue for a period of twelve consecutive months.

(4) Families may begin receiving child care in any month during the twelve-month eligibility period. The department shall allow retroactive benefits for child care paid by an eligible family during this twelve-month period when the:

(a) Provider meets requirements as described under WAC 388-51-110(1); and

(b) Family requests benefits during the twelve-month period.

[Statutory Authority: Family Support Act P.L. 100-485, ESHB 1330 and 1991 c 16 § 211. 93-12-059 (Order 3566), § 388-51-155, filed 5/27/93, effective 7/1/93.]

WAC 388-51-160 Transitional child care—Co-payment. (1) The caretaker relative shall contribute to the transitional child care cost based on the family's ability to pay according to a sliding scale based on the AFDC need standard as described under WAC 388-29-001(15) and 388-29-100(1).

(a) Families with gross income, at or below one hundred percent of the needs standard, shall contribute five dollars per month toward the transitional child care cost.

(b) Families with gross income exceeding one hundred percent of the needs standard shall contribute toward the transitional child care cost at the rate of twenty-five percent of the income exceeding one hundred percent of the needs standard, but not less than five dollars per month.

(c) In computing the effects of income on transitional child care co-payment levels, AFDC rules as described under chapter 388-28 WAC shall apply.

(d) The department shall calculate co-payments for the transitional child care total cost without regard to the number of children receiving care.

(2) The department shall calculate co-payments:

(a) At the time of the initial eligibility determination;

(b) When monthly income decreases; and/or

(c) When household size increases.

(3) A person failing to pay the required co-payment shall be subject to termination as required under WAC 388-51-170 (1)(c).

(4) A family shall pay the co-payment for transitional child care directly to the child care provider.

[Statutory Authority: Family Support Act P.L. 100-485, ESHB 1330 and 1991 c 16 § 211. 93-12-059 (Order 3566), § 388-51-160, filed 5/27/93, effective 7/1/93.]

WAC 388-51-170 Transitional child care—Ongoing eligibility. (1) A family's eligibility for transitional child care ceases to exist for a remaining portion of the twelve-month period when the caretaker relative:

(a) Terminates employment without good cause. Good cause for failure to retain employment includes, but is not limited to:

(i) Physical, mental, or emotional inability to perform the required activity;

(ii) Court-ordered appearance or temporary incarceration;

(iii) Family or individual emergency or crises;

(iv) Breakdown in transportation arrangements, with no readily accessible alternate transportation;

(v) Inclement weather preventing a person and others similarly situated from traveling to, or participating in, the prescribed employment;

(vi) The nature of the employment is hazardous to the individual;

(vii) The employment wages do not meet minimum wage standards or are not customary for the work in the community;

(viii) The employment was obtained due to a vacancy caused by a labor dispute;

(ix) Refusal to accept major medical treatment needed to continue employment, for example, major surgery;

(x) Refusal to continue employment when the wages, less mandatory payroll deductions and necessary work-related expenses, do not equal or exceed the family's AFDC cash benefit;

(xi) Illness or incapacity of another household member requiring the caretaker relative's care; or

(xii) Child care problems and/or loss of a child care provider.

(b) Fails to cooperate with the department in establishing and enforcing child support obligations;

(c) Fails to pay required co-payment fees; or

(d) Child is no longer dependent, except for deprivation by unemployment.

(2) A family's eligibility for child care shall be reinstated only when:

(a) The caretaker relative loses a job with good cause and finds another job, the department may qualify the family for the remaining portion of the twelve-month eligibility period; or

(b) Back co-payment fees are paid or satisfactory arrangements are made to make full payments.

(3) Siblings of children eligible for transitional child care, if needy and otherwise eligible, who enter or return to a household, shall be eligible to receive transitional child care benefits.

(4) The department shall not consider transitional child care benefits as income or resources when determining AFDC or food stamp program eligibility or payment amount. Income received as a child care provider shall be treated according to chapters 388-28 and 388-49 WAC.

[Statutory Authority: Family Support Act P.L. 100-485, ESHB 1330 and 1991 c 16 § 211. 93-12-059 (Order 3566), § 388-51-170, filed 5/27/93, effective 7/1/93.]

WAC 388-51-180 Child care overpayments. (1) In those areas not expressly covered under WAC 388-51-180, recipients of JOBS, income assistance, and/or transitional child care benefits shall be subject to and covered by chapter 388-44 WAC.

(2) The department shall include, but not limit a child care overpayment to:

(a) Vendor payments for child care provided during a period when a child was not eligible for public assistance;

(b) Payments made pending a fair hearing when the fair hearing decision subsequently finds against the client;

(c) Payments made during the ten-day advance notice period when the client is ineligible for payment; and

(d) Continued payments received by the recipient because the appropriate ten-day advance period extends into the next month.

(3) The department shall calculate the amount of the child care overpayment based on the amount of child care payment the client or the child care provider receives for which the assistance unit was not entitled.

(4) When establishing an overpayment, the department shall reduce any child care overpayment by the amount of any child care underpayment where applicable.

(5) The department shall recover overpayments from:

(a) The assistance unit which was overpaid;

(b) Any assistance unit of which a member of the overpaid assistance unit has subsequently become a member; or

(c) Any member of the overpaid assistance unit whether or not currently a recipient.

(6) When a provider has claimed payment for child care services not provided, the department shall establish the overpayment in the provider's name.

(7) The department shall attempt recovery of an overpayment in all cases:

(a) Of fraud;

(b) Involving current recipients of child care benefits; and

(c) Where cost of recovery does not exceed the overpayment amount.

(8) In recovering overpayments from a family currently receiving child care benefits, the department shall consider a family's income level and financial obligations, including household expenses, when determining repayment requirements. Such families shall retain a reasonable amount of funds to meet the needs of the assistance unit.

(9) The department may only make recovery of child care overpayments from current Title IV-A child care recipients from child care benefits. Recovery may not interfere with child care arrangements.

(10) The department may make any recoveries of child care overpayments from AFDC benefit payments only on a voluntary request from a family receiving AFDC benefits.

(11) The department shall recover overpayments from families no longer receiving child care payments as required under WAC 388-44-150.

[Statutory Authority: Family Support Act P.L. 100-485, ESHB 1330 and 1991 c 16 § 211. 93-12-059 (Order 3566), § 388-51-180, filed 5/27/93, effective 7/1/93.]

WAC 388-51-200 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-51-210 Other supportive services. The department and the JOBS contractor may provide other supportive services payment or reimbursement for other supportive services expenses enabling a person to participate in the JOBS program.

(1) The expenditures for a participant's supportive services shall be subject to the maximum limits as indicated in the state's supportive services plan.

(2) Supportive services shall be as outlined in the JOBS supportive services state plan and shall include but not be limited to:

(a) Transportation costs;

(b) Tools and equipment;

(c) License fees, including union initiation fees and licenses required by law, employer, or union for participation in JOBS or employment; and

(d) One-time work-related expenses necessary for a participant to accept or maintain employment. These expenses shall be allowed only when:

(i) The participant has a bona fide job expected to last thirty days or more;

(ii) Other funds are not available; and

(iii) Such expenses are required for the type of work.

[Statutory Authority: Family Support Act P.L. 100-485, ESHB 1330 and 1991 c 16 § 211. 93-12-059 (Order 3566), § 388-51-210, filed 5/27/93, effective 7/1/93.]

WAC 388-51-250 Transitional supportive services.

The department or the contractor may provide transitional supportive services, as outlined in the JOBS supportive services state plan, to a JOBS participant who loses eligibility for AFDC.

(1) Services provided within thirty days following AFDC termination include, but are not limited to transportation, one-time work-related expenses, and social services; and

(2) Counseling services for job retention may be provided for up to ninety days following AFDC termination.

[Statutory Authority: Family Support Act P.L. 100-485, ESHB 1330 and 1991 c 16 § 211. 93-12-059 (Order 3566), § 388-51-250, filed 5/27/93, effective 7/1/93.]

WAC 388-51-260 Supportive services overpayments. (1) In those areas not expressly covered by WAC 388-51-260, it is the intent of the department that recipients of JOBS and/or transitional supportive services benefits be subject to and covered by chapter 388-44 WAC.

(2) "Supportive services overpayment" means any supportive service payment received by or for an assistance unit or JOBS participant that exceeds the amount the unit was eligible to receive.

(3) The amount of the supportive services overpayment shall be the amount of payment received by the assistance unit or vendor for which the assistance unit was not entitled.

(4) For current recipients of supportive services benefits, recovery of support services overpayments may be made only from support services benefits. Any recovery of an overpayment may be made from AFDC benefit payments only upon voluntary request from a family receiving AFDC benefits.

(5) Recovery of overpayments from families no longer receiving supportive services payments follow WAC 388-44-150.

[Statutory Authority: Family Support Act P.L. 100-485, ESHB 1330 and 1991 c 16 § 211. 93-12-059 (Order 3566), § 388-51-260, filed 5/27/93, effective 7/1/93.]

WAC 388-51-300 Repealed. See Disposition Table at beginning of this chapter.

Chapter 388-60 WAC DOMESTIC VIOLENCE PERPETRATOR PROGRAM STANDARDS

WAC

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|------------|---|
| 388-60-005 | Scope. |
| 388-60-120 | Treatment focus. |
| 388-60-130 | Treatment modality. |
| 388-60-140 | Program policies and procedures. |
| 388-60-150 | Treatment staff qualifications. |
| 388-60-160 | Orientation and continuing professional education requirements. |
| 388-60-170 | Cooperation with domestic violence victim programs. |
| 388-60-180 | Knowledge of law and justice system practices. |

WAC 388-60-005 Scope. The scope of this chapter is to establish domestic violence perpetrator program standards. As authorized under ESHB 1884, April 1991 and RCW 26.50.150, programs providing treatment to perpetrators only of domestic violence shall meet this chapter's domestic violence perpetrator program standards that:

- (1) Accept perpetrators of domestic violence into treatment to satisfy court orders; or
- (2) Represent the programs as ones that treat domestic violence perpetrators.

[Statutory Authority: 1992 HB 1884. 93-10-024 (Order 3539), § 388-60-005, filed 4/28/93, effective 5/29/93.]

WAC 388-60-120 Treatment focus. (1) The program shall focus treatment primarily on ending the physical, sexual, and psychological violence, holding the perpetrator accountable for:

- (a) Such perpetrator's violence; and
 - (b) Changing such perpetrator's behavior.
- (2) The program shall base the perpetrator's treatment on strategies and philosophies which do not blame the victim. The program shall include education about individual, cultural, and family dynamics of domestic violence.

[Statutory Authority: 1992 HB 1884. 93-10-024 (Order 3539), § 388-60-120, filed 4/28/93, effective 5/29/93.]

WAC 388-60-130 Treatment modality. (1) The domestic violence perpetrator programs shall require participants to participate in weekly group treatment sessions unless there is a documented, clinical reason for another modality. Other therapies may be concomitant with the weekly group treatment sessions described under this chapter, but may not substitute for the domestic violence perpetrator program treatment sessions. The department shall define other examples of therapies as:

- (a) Individual therapy;
- (b) Marital therapy;
- (c) Family therapy;
- (d) Substance abuse evaluations or therapy;
- (e) Medication reviews; or
- (f) Psychiatric interviews.

(2) The foremost goal of a perpetrator's treatment is to increase the victim's safety by changing the perpetrator's abusive behavior. Concomitant marital or family therapy may not be consistent with the goal of victim safety. In such cases, the program should not pursue these concomitant with domestic violence perpetrator treatment.

[Statutory Authority: 1992 HB 1884. 93-10-024 (Order 3539), § 388-60-130, filed 4/28/93, effective 5/29/93.]

WAC 388-60-140 Program policies and procedures. The program complying with the Washington standards for domestic violence perpetrator programs shall adopt and implement treatment program policies and procedures which address, at a minimum, the following issues:

- (1) Victim safety. The program shall:
 - (a) Have policies and procedures which adequately assess the safety of the victim of the perpetrator.
 - (b) Take the following steps to protect the safety of the victim:
 - (i) Notify the victim of the applicant's acceptance or rejection for treatment services;
 - (ii) Encourage victims to make plans to protect themselves and their children; and
 - (iii) Inform victims of the availability of outreach, advocacy, emergency services, and safety planning offered by domestic violence victim programs.
- (2) Nondiscrimination. The programs shall not discriminate against any applicant based on:
 - (a) Race;
 - (b) Age;
 - (c) Gender;
 - (d) Disability;
 - (e) Religion;
 - (f) Marital status;
 - (g) Political affiliation;
 - (h) Educational attainment;
 - (i) Socio-economic class;
 - (j) Ethnicity;
 - (k) National origin; or
 - (l) Sexual orientation.

When feasible, the programs shall provide culturally sensitive services. The programs shall review program curricula, publications, and audio-visual materials to ensure adherence to these standards of cultural sensitivity and nondiscrimination.

(3) Screening authority and responsibilities. The programs shall operate within the following scope of authority and responsibility:

- (a) Authority to accept or reject all referrals;
- (b) Develop and utilize criteria for acceptance or rejection for treatment services; and
- (c) Accept responsibility to and shall have authority to impose any conditions on participation in treatment services that the program deems appropriate.
 - (4) Rights of participants.
 - (a) The programs shall acknowledge the:
 - (i) Obligation to provide the highest level of quality service to participants; and
 - (ii) Rights of participants to be treated with respect and dignity.

(b) Program staff, board, and volunteers shall:

(i) Not engage in, condone, or tolerate acts of sexual harassment or exploitation of employees, student interns, program participants, or battered victims of participants; and

(ii) Establish a climate in all relationships with colleagues and participants based on respect for one another.

(5) Confidentiality.

(a) Right to confidentiality. Programs shall adhere to the standards of confidentiality promulgated in chapter 18.19 RCW for registered counselors. Communications between the participant and the program shall be confidential unless specifically exempted from confidentiality by the participant's release of information or by law.

(b) Waiver of confidentiality—mandatory releases. To facilitate communication necessary for periodic safety checks and case monitoring, the program shall require the perpetrator to sign the following releases:

(i) A release for the program to:

(A) Inform the victim and victim's community advocates and legal advocates that the perpetrator is in treatment with the program; and

(B) Provide information for safety purposes to the victim and the victim's community/legal advocates.

(ii) A release to prior and current treatment agencies to provide information on the perpetrator to the program; and

(iii) A release for the program to provide information on the perpetrator to relevant legal entities including:

(A) Lawyers;

(B) Courts;

(C) Parole;

(D) Probation;

(E) Child protective services; and

(F) Child welfare services.

(iv) A release for the program to notify any person whose safety appears to be at risk for the participant's potential for violence and lethality, including but not limited to:

(A) The victim;

(B) Any children;

(C) Significant others;

(D) Victims advocates; or

(E) Police.

(c) Optional releases. Programs may require a participant to sign a release permitting the program to provide the victim with periodic reports regarding the participant's participation. Programs are not required to obtain this release or to provide this information to victims.

(d) Victim confidentiality. The program shall treat information provided by the victim to the program as confidential unless the victim provides explicit permission for the disclosure of the information. If a new offense has occurred, the victim will be asked to contact the appropriate law enforcement agency and the local domestic violence victim's program.

(e) Confidentiality in group activities. The program counseling and educational groups shall be:

(i) Confidential, except as provided under subsection (5)(b) of this section; and

(ii) Closed to those other than participants, program staff and/or volunteer group leaders, and others specifically invited by the group leaders. Others specifically invited by group leaders may include:

(A) Professionals and those offering interpretation services for the deaf and/or hearing impaired or language translation/interpretation; and

(B) Others bringing specific information critical to the group.

(f) The program shall obtain a written agreement for confidentiality with all participants and invited guests. The confidentiality agreement shall prohibit disclosure of identities of participants or participant-specific information except as specific participants provide written permission for disclosure.

(g) The program shall only audio or video tape group sessions when all participants grant a written consent. The consent form shall detail the specific uses for the tape to which the participant consents. The program shall obtain additional consent statements from each participant to permit use of the tape for other than the purposes specified in the original consent.

(6) Intake/assessment. The program shall conduct an individual, complete, clinical intake/assessment interview of a perpetrator and compile a written document, including, at a minimum:

(a) Current and past violence history;

(b) A complete diagnostic evaluation;

(c) A substance abuse assessment;

(d) History of threats of homicide or suicide;

(e) History of ideation of homicide or suicide;

(f) A lethality risk assessment;

(g) Possession of, access to, or a history of use of weapons;

(h) Degree of obsessiveness and dependency on the perpetrator's victim;

(i) History of episodes of rage;

(j) History of depression and other mental health problems;

(k) History of having sexually abused the battered victim and others;

(l) History of the perpetrator's domestic violence victimization and/or sexual abuse victimization;

(m) Access to the battered victim;

(n) Criminal history;

(o) Assessment of cultural issues;

(p) Assessment of learning disabilities, literacy, and special language needs; and

(q) Review of other diagnostic evaluations of the perpetrator.

(7) Treatment plan.

(a) The program shall base a participant's treatment on the clinical intake/assessment. The program shall develop a treatment plan that adequately and appropriately addresses the needs of the individual participant.

(b) The program shall:

(i) Evaluate whether a participant should be required to engage in drug and alcohol, mental health, or other treatment services while the person is a participant in the program;

(ii) Develop a treatment plan accordingly; and

(iii) Make appropriate referrals outside the agency. If treatment by other providers is contra-indicated, then the program shall determine prioritization of treatment;

(iv) Determine the sequence of adjunct services if concurrent treatment is not clinically appropriate.

(c) Programs shall consider issues relating to the participant's prior victimization in designing the treatment plan.

(i) Programs shall consider the appropriateness of domestic violence victim services for participants who present extensive histories of prior victimization.

(ii) In light of consistent research findings that victims of domestic violence are female in ninety-five percent of domestic violence incidents, the program shall give special consideration to female participants with regard to prior domestic violence victimization.

(8) Contract with program participants. The program shall require a participant to enter into a formal contract for services. The program's contract shall include, at a minimum, the following elements:

(a) Statement of program treatment philosophy consistent with these program standards, including:

- (i) No victim blaming;
- (ii) Stop all forms of battering;
- (iii) Holding the abuser accountable; and
- (iv) Primary concern for the safety of victims.
- (b) An Agreement to cooperate with program rules;
- (c) An agreement to:
 - (A) Stop violent and threatening behaviors;
 - (B) Be nonabusive and noncontrolling in relationships;
 - (C) Develop and adhere to a responsibility plan;
 - (D) Comply with all court orders;
 - (E) Cooperate with the rules for group participation; and
 - (F) Execute all necessary documents for release of

information to battered victims, law enforcement, the courts, probation, and others as appropriate and as described under subsection (5)(b) and (c) of this section.

(d) Attendance policies and consequences of inadequate attendance;

(e) The expectation of active participation, including sharing personal experiences, values, and attitudes, and completing group activities and assignments;

(f) Other program expectations, such as written exams, concurrent treatment requirements, rules regarding possession of weapons, and any other conditions on participation in the program;

(g) Criteria for administrative and contractual discharge and completion of treatment;

(h) The right to confidentiality within the specified limits, and the requirement that participants safeguard the confidentiality of other group members;

(i) Duty of the program to warn and protect victims, law enforcement, and third parties related to any risk of serious harm posed by the participant;

(j) Requirement that the participant:

(i) Provide documents related to prior violence, prior or concurrent treatment services; or

(ii) Execute appropriate releases to authorize document provision by others with whom the participant has had privileged communication.

(k) Fees/methods of payment; and

(l) Drug and alcohol policy, including the requirement that the client attend sessions free of drugs or alcohol.

(9) Program educational curriculum requirements. The program shall identify and utilize an educational curriculum

for program participants. The program shall address at least the following topics and issues:

(a) Belief systems which legitimize and sustain violence against women, and/or use of violence or threat of violence to establish power and control over a partner;

(b) Definitions of abuse, battering, and domestic violence as described in the program standards within this chapter;

(c) Accountability of batterers for their actions and the need to avoid victim-blaming;

(d) Forms of abuse including:

- (i) Physical;
- (ii) Emotional and sexual abuse;
- (iii) Economic manipulation or domination;
- (iv) Property destruction;
- (v) Stalking;
- (vi) Terroristic threat; and
- (vii) Acts jeopardizing the well-being and safety of battered partners, children, pets, other family members, and friends.

(e) Washington state law and practice regarding domestic violence;

(f) Opportunities for each participant to identify all of their abusive conduct, the pattern of that conduct, and cultural supports which legitimize or excuse that conduct;

(g) Techniques for achieving nonabusive or noncontrolling conduct;

(h) Opportunities to examine values or beliefs which facilitate abuse;

(i) Adverse legal and social consequences for batterers;

(j) Impact of abuse and battering of children and incompatibility of violence and abuse with responsible parenting;

(k) Necessity of meeting financial and legal obligations to family members; and

(l) Opportunity and assistance for a participant to develop a responsibility plan to ensure accountability for the participant's commitment to divest all abusive power and control over the victim.

(10) Minimum treatment period. The program shall:

(a) Define the minimum treatment period as the period of time required for the participant to complete the criteria for completion of treatment defined by the program. The program may not define satisfactory completion of treatment solely as a certain period of time or a certain number of sessions; and

(b) At a minimum, equate the treatment period to twelve or more months of accountability to the program. The program's twelve-month minimum treatment period shall include attendance at a minimum of:

(i) Twenty-six weekly group sessions to the completion of treatment criteria as described under subsection (11) of this section; and

(ii) Continue with monthly face-to-face contact with the treatment provider until the twelve-month period is complete.

(11) Satisfactory completion of treatment. The program shall establish written criteria for satisfactory completion of treatment. At a minimum, the program shall include the following criteria for completion of treatment:

(a) Completion of the minimum treatment period requirements;

(b) Attendance at weekly group sessions and all other required treatment periods;

(c) Cooperation with group rules throughout treatment services;

(d) Cessation of violence and threats of violence while a participant in the program;

(e) Cessation of other abusive and controlling conduct while a participant in the program;

(f) Adherence to the participant's responsibility plan;

(g) Compliance with court orders; and

(h) Compliance with other conditions and provisions of the contract for treatment services, such as compliance with substance abuse treatment requirement.

(12) Notification of completion of treatment. The program shall:

(a) Notify the court of completion of treatment by any court-mandated participant;

(b) When feasible, notify the victim of completion of treatment by the participant; and

(c) Specify only that the participant has been given a contractual discharge which is based on adequate compliance with the contract and any court order.

(13) Reoffense and noncompliance. The program shall establish and implement written policies regarding consequences for reoffense and noncompliance with program policies.

(14) Termination without completion of treatment.

(a) The program shall develop guidelines for discharge so that:

(i) Discharge decisions are uniform and predictable; and

(ii) Discrimination does not occur against any participant, except as the program is not able to provide adequate treatment services based on the stage of its current development, personnel, or resources, based on:

(A) Race;

(B) Age;

(C) Gender;

(D) Disability;

(E) Religion;

(F) Marital status;

(G) Political affiliation;

(H) Educational attainment;

(I) Socio-economic class;

(J) Ethnicity;

(K) National origin; or

(L) Sexual orientation.

(b) The program shall document, in writing, noncompliance with the program participant contract, with a court order, probation agreement, or group rules.

(c) The program shall determine if termination of a participant's treatment without completion shall be made when the following circumstances occur:

(i) Continued abuse, particularly physical violence;

(ii) Failure to maintain regular attendance;

(iii) Failure to make appropriate use of the treatment program;

(iv) Failure to comply with other treatment conditions or provisions which are part of the participant's contract, such as involvement in a recovery program for drugs and alcohol, failure to continue involvement with mental health treatment;

(v) Failure to pay fees;

(vi) Violation of any of the group rules; and

(vii) Violation of any provisions of a court order.

(d) The program shall use consistent procedures to notify the court of termination without completion of court-mandated clients.

(e) The program shall establish and maintain procedures for notification of victims of termination without completion of treatment.

[Statutory Authority: 1992 HB 1884. 93-10-024 (Order 3539), § 388-60-140, filed 4/28/93, effective 5/29/93.]

WAC 388-60-150 Treatment staff qualifications.

(1) Paid and volunteer treatment staff.

(a) All paid and volunteer staff with direct treatment contact with participants shall be:

(i) Registered as counselors or certified as mental health professionals as required under chapter 18.19 RCW; and

(ii) Free of criminal convictions involving moral turpitude.

(b) Each paid or volunteer staff person, including persons providing supervision, shall have participated in:

(i) A minimum of thirty hours of training in domestic violence from an established domestic violence victim program; and

(ii) A minimum of thirty hours of training from:

(A) An established domestic violence perpetrator treatment services program complying with these program standards; or

(B) Out-of-state domestic violence perpetrator treatment program which would meet these standards.

(c) During the two-year period beginning on the date of adoption of these standards, a program which has not yet completed administrative procedures for certification but which meets those requirements shall be deemed an "established domestic violence perpetrator treatment program complying with these program standards."

(d) Each paid or volunteer staff person providing direct treatment to participants shall have completed a minimum of two hundred fifty hours of a combination of supervised direct treatment contact with perpetrators and domestic violence victim advocacy services. Of the required two hundred fifty hours, a paid or volunteer staff person shall complete a minimum of one hundred twenty-five hours in supervised direct treatment contact with perpetrators.

(e) Each paid or volunteer staff person providing direct treatment to participants shall hold at least a bachelor's degree, or year-for-year experience equivalent to a bachelor's degree.

(2) Trainees. The program shall consider as a trainee a paid or volunteer staff person who has not completed a minimum of two hundred fifty hours of a combination of supervised direct treatment contact with perpetrators and domestic violence victim advocacy services. A trainee may serve as a co-facilitator of groups, but a trainee may not have sole responsibility for facilitation of groups, except in programs in which a qualified supervisor is present on-site, as defined under subsection (3) of this section.

(3) Staff providing supervision of treatment staff.

(a) Each program shall have at least one person providing supervision to paid and volunteer treatment staff who meets all of the following requirements:

(i) Has a minimum of three years of experience working with both perpetrators and victims of domestic violence;

(ii) Has had a minimum of one year of experience in group facilitation;

(iii) Has completed a minimum of five hundred hours of supervised direct treatment contact with perpetrators and domestic violence victim advocacy services. Of the five hundred hours, the person providing supervision shall complete a minimum of two hundred fifty hours in supervised direct treatment contact with perpetrators; and

(iv) Holds at least a master's degree or year-for-year experience equivalent to a master's degree.

(b) Either on-site or off-site supervision may be provided by a person meeting the qualifications required under subsection (3)(a) of this section. The programs shall establish and implement policies, procedures, and supervision schedules ensuring adequate supervision for all treatment staff.

[Statutory Authority: 1992 HB 1884. 93-10-024 (Order 3539), § 388-60-150, filed 4/28/93, effective 5/29/93.]

WAC 388-60-160 Orientation and continuing professional education requirements. (1) The program shall provide orientation for new paid and volunteer staff to acquaint the staff with the program's philosophy, organization, curriculum, policies, procedures, and goals.

(2) The program shall provide paid and volunteer staff with ongoing training and supervision by a trainer with expertise in domestic violence victim services and perpetrator treatment.

(3) A paid or volunteer staff:

(a) Member having direct treatment contact with participants shall complete a minimum of twenty hours of continuing professional education within each calendar year;

(b) Member's education shall include four or more hours of training per year on issues of sexism, racism, and homophobia, and their relationship to domestic violence;

(c) Member's training in domestic violence, alcohol/drug abuse, mental health, or other issues relating to the treatment of domestic violence perpetrators shall qualify that member's training as continuing professional education; and

(d) Member may obtain continuing professional education through classes, seminars, workshops, video or audio tapes, or other self-study programs.

[Statutory Authority: 1992 HB 1884. 93-10-024 (Order 3539), § 388-60-160, filed 4/28/93, effective 5/29/93.]

WAC 388-60-170 Cooperation with domestic violence victim programs. The program shall show evidence of establishing and maintaining cooperative relationships with local domestic violence victim programs, including:

(1) Evidence of establishment of referral mechanisms between the domestic violence victim services programs; and

(2) Batterer treatment programs.

[Statutory Authority: 1992 HI 1884. 93-10-024 (Order 3539), § 388-60-170, filed 4/28/93, effective 5/29/93.]

WAC 388-60-180 Knowledge of law and justice system practices. The program shall show evidence of an understanding of the laws pertaining to domestic violence

and the operation of the justice system. At a minimum, programs shall be familiar with:

(1) State laws regulating the response to domestic violence by the criminal justice system;

(2) Relief available to victims of domestic violence afforded by:

(a) Washington domestic violence law and civil protection orders;

(b) Criminal no-contact orders; and

(c) Civil restraining orders.

(3) Local law enforcement, prosecution, and court and probation policies regarding domestic violence cases.

[Statutory Authority: 1992 HB 1884. 93-10-024 (Order 3539), § 388-60-180, filed 4/28/93, effective 5/29/93.]

Chapter 388-62 WAC

REPATRIATED UNITED STATES CITIZENS— ASSISTANCE

WAC

388-62-020 through 388-62-200 Repealed.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

388-62-020 United States (U.S.) repatriates—Program objectives. [Statutory Authority: RCW 74.08.090. 91-17-060 (Order 3231), § 388-62-020, filed 8/20/91, effective 9/20/91; Order 546, § 388-62-020, filed 3/31/71, effective 5/1/71; Regulation 26.10, filed 1/24/64.] Repealed by 93-12-054 (Order 3560), filed 5/26/93, effective 6/26/93. Statutory Authority: RCW 74.08.090.

388-62-025 United States (U.S.) repatriates—Definitions. [Statutory Authority: RCW 74.08.090. 91-17-060 (Order 3231), § 388-62-025, filed 8/20/91, effective 9/20/91.] Repealed by 93-12-054 (Order 3560), filed 5/26/93, effective 6/26/93. Statutory Authority: RCW 74.08.090.

388-62-035 United States (U.S.) repatriates—Department responsibilities. [Statutory Authority: RCW 74.08.090. 91-17-060 (Order 3231), § 388-62-035, filed 8/20/91, effective 9/20/91; Order 969, § 388-62-035, filed 9/13/74; Order 546, § 388-62-035, filed 3/31/71, effective 5/1/71; Regulation 26.21, filed 1/24/64.] Repealed by 93-12-054 (Order 3560), filed 5/26/93, effective 6/26/93. Statutory Authority: RCW 74.08.090.

388-62-070 United States (U.S.) repatriates—Eligibility. [Statutory Authority: RCW 74.08.090. 91-17-060 (Order 3231), § 388-62-070, filed 8/20/91, effective 9/20/91; Order 1082, § 388-62-070, filed 12/24/75; Order 546, § 388-62-070, filed 3/31/71, effective 5/1/71; Regulation 26.40, filed 1/24/64.] Repealed by 93-12-054 (Order 3560), filed 5/26/93, effective 6/26/93. Statutory Authority: RCW 74.08.090.

388-62-075 United States (U.S.) repatriates—Standards of assistance. [Statutory Authority: RCW 74.08.090. 91-17-060 (Order 3231), § 388-62-075, filed 8/20/91, effective 9/20/91; Order 969, § 388-62-075, filed 9/13/74; Order 546, § 388-62-075, filed 3/31/71, effective 5/1/71; Regulation 26.41, filed 1/24/64.] Repealed by 93-12-054 (Order 3560), filed 5/26/93, effective 6/26/93. Statutory Authority: RCW 74.08.090.

388-62-080 United States (U.S.) repatriates—Resources. [Statutory Authority: RCW 74.08.090. 91-17-060 (Order 3231), § 388-62-080, filed 8/20/91, effective 9/20/91; Order 546, § 388-62-080, filed 3/31/71, effective 5/1/71; Regulation 26.42, filed 1/24/64.] Repealed by 93-12-054 (Order 3560), filed 5/26/93, effective 6/26/93. Statutory Authority: RCW 74.08.090.

- 388-62-095 United States (U.S.) repatriates—Assistance payments—Types of grants. [Statutory Authority: RCW 74.08.090. 91-17-060 (Order 3231), § 388-62-095, filed 8/20/91, effective 9/20/91; Order 546, § 388-62-095, filed 3/31/71, effective 5/1/71; Regulation 26.51, filed 1/24/64.] Repealed by 93-12-054 (Order 3560), filed 5/26/93, effective 6/26/93. Statutory Authority: RCW 74.08.090.
- 388-62-135 United States (U.S.) repatriates—Care and protection of children. [Statutory Authority: RCW 74.08.090. 91-17-060 (Order 3231), § 388-62-135, filed 8/20/91, effective 9/20/91; Order 969, § 388-62-135, filed 9/13/74; Order 546, § 388-62-135, filed 3/31/71, effective 5/1/71; Regulation 26.61, filed 1/24/64.] Repealed by 93-12-054 (Order 3560), filed 5/26/93, effective 6/26/93. Statutory Authority: RCW 74.08.090.
- 388-62-190 United States (U.S.) repatriates—Safeguarding information. [Statutory Authority: RCW 74.08.090. 91-17-060 (Order 3231), § 388-62-190, filed 8/20/91, effective 9/20/91; Order 969, § 388-62-190, filed 9/13/74; Order 546, § 388-62-190, filed 3/31/71, effective 5/1/71; Regulation 26.82, filed 1/24/64.] Repealed by 93-12-054 (Order 3560), filed 5/26/93, effective 6/26/93. Statutory Authority: RCW 74.08.090.
- 388-62-200 United States (U.S.) repatriates—Reimbursement and assignment of claims. [Statutory Authority: RCW 74.08.090. 91-17-060 (Order 3231), § 388-62-200, filed 8/20/91, effective 9/20/91; Order 969, § 388-62-200, filed 9/13/74; Order 546, § 388-62-200, filed 3/31/71, effective 5/1/71; Regulation 26.90, filed 1/24/64.] Repealed by 93-12-054 (Order 3560), filed 5/26/93, effective 6/26/93. Statutory Authority: RCW 74.08.090.

WAC 388-62-020 through 388-62-200 Repealed.
See Disposition Table at beginning of this chapter.

Chapter 388-70 WAC

CHILD WELFARE SERVICES—FOSTER CARE— ADOPTION SERVICES—SERVICES TO UNMARRIED PARENTS

WAC

- 388-70-520 Adoption support for children—Definitions.

WAC 388-70-520 Adoption support for children—Definitions. As used in these rules:

- (1) "Adoption" means the granting of the adoption decree consistent with chapter 26.33 RCW.
- (2) "Adoption support payment" means the financial remuneration resulting from an agreement whereby the department continues financial responsibility beyond the legal consummation of the adoption.
- (3) "Agreement" means a contract between the prospective adoptive parent and the department providing adoption support payments following the completion of the adoption support agreement signed by all parties.
- (4) "Corrective-rehabilitative services" shall include, but not be limited to:
 - (a) Medical care;
 - (b) Psychological services;
 - (c) Physical therapy;
 - (d) Prosthesis;
 - (e) Speech and hearing therapy;
 - (f) Cosmetic surgery; or
 - (g) Orthodontia.
- (5) "Department" means the department of social and health services.

(6) "Family" means any prospective parent having the character, judgment, sense of responsibility, and disposition making the prospective parent suitable as an adoptive parent of a child, but lacking the necessary resources to care for a hard-to-place for adoption child.

(7) "Hard-to-place for adoption child" means a child registered for three months with the Washington Adoption Resource Exchange (WARE) or the Northwest Adoption Exchange (NWAE) without identifying a nonsubsidized adoptive family resource. The child's registration with the exchanges is not necessary when:

(a) A foster parent desires to adopt a child having been in the foster parent's home for six months or more before a child is legally free for adoption;

(b) The child has close emotional ties to the current foster family which, if severed, may cause emotional damage to the child; and

(c) The foster family is identified as the adoptive family of choice by the agency staff having responsibility for the child.

(8) "Secretary" means the secretary of department or the secretary's designee.

(9) "Special needs" is the department's designation given to a child when the child presents a specific factor or condition the department reasonably concludes may prevent the child's placement with an adoptive parent without providing adoption support. The child's special need factors or conditions may include but are not limited to:

- (a) Ethnic background;
- (b) Age;
- (c) Inclusion in a sibling group;
- (d) Medical diagnosis; or
- (e) Physical, mental, or emotional handicap.

(10) "The act" means the statutes authorizing adoption support codified as RCW 74.13.100 through 74.13.145.

[Statutory Authority: RCW 43.20A.550. 93-07-030 (Order 3524), § 388-70-520, filed 3/10/93, effective 4/10/93. Statutory Authority: RCW 43.20A.550 and HB 2602. 90-23-076 (Order 3101), § 388-70-520, filed 11/20/90, effective 12/21/90; Order 1037, § 388-70-520, filed 7/29/75.]

Chapter 388-74 WAC

CHILD WELFARE SERVICES—COMPLAINTS

WAC

- 388-74-010 Child welfare services complaint resolution definitions.
388-74-030 Complaint procedure.

WAC 388-74-010 Child welfare services complaint resolution definitions. (1) "Complaints office" means the office within the department responsible for handling complaints regarding child welfare services.

(2) "Division of children and family services (DCFS)" means the division within the department responsible for administering child welfare services programs.

[Statutory Authority: RCW 74.13.045 and chapter 74.13 RCW. 93-12-053 (Order 3558), § 388-74-010, filed 5/26/93, effective 6/26/93.]

WAC 388-74-030 Complaint procedure. The complaints office shall be responsible for handling complaints and grievances from clients, foster parents, and other affected persons who do not have other remedies available

through judicial review or adjudicative proceedings. The complaints office may inquire into, determine fact, and facilitate the resolution of disputes and complaints regarding a department policy or procedure or the application of such a policy or procedure as required under RCW 74.13.045.

(1) A client, foster parent, or other person shall have the right to question or aggrieve actions or decisions concerning the application of policies and procedures related to child welfare programs administered under chapter 74.13 RCW.

(a) A client, foster parent, or other person shall have the right to initiate the complaint process by requesting a review by the supervisor of the DCFS social worker, after the complainant has made a reasonable effort to resolve the matter with the social worker.

(b) When a complaint remains unresolved at the supervisory level, the complainant may request further review by the area manager.

(c) When a complaint remains unresolved at the area manager level, the complainant may request review by the regional administrator.

(d) At any time during the regional complaint resolution process, a client, foster parent, staff person, or other person may request the complaints office to facilitate resolution.

(2) The regional administrator or chief of complaints office may convene a panel review to review complaints which remain unresolved by the regional complaint resolution process.

(a) The person requesting a panel review shall have made a reasonable attempt and have failed to resolve the grievance before a panel review will be convened to attempt to resolve the issue.

(b) The office responsible for handling complaints and the DCFS regional administrator shall convene a regional panel comprised of at least the following members:

(i) The DCFS regional administrator's designee who shall be from an administrative unit other than where the complaint originated;

(ii) One person from the complaints office;

(iii) At least one person not employed by the division of children and family services; and

(iv) If the complainant is a foster parent, a foster parent not involved in the complaint and from an office other than where the complaint originated.

(c) The panel conducting the review may examine the complaint, the complainant's file, and any other relevant material. The complainant, division staff, and others may be asked to provide verbal or written information to the panel.

(d) The designated panel chairperson shall submit the written findings and recommendations from the panel to the DCFS director and to the assistant secretary responsible for child welfare programs who will issue a final written decision.

(e) The response of the assistant secretary is final and terminates the review process. If new information relevant to this decision emerges within thirty days of the final decision, the regional administrator and the chief of the complaints office shall consider the information and may reconvene the panel.

(3) The panel review shall not apply in circumstances where the complainant has the right under Title 13, 26, or 74

RCW to seek resolution of the complaint through judicial review or through an adjudicative proceeding.

(4) The panel review process shall not apply to:

(a) Contract rate setting or contested standard rate payments, contested rate payments, or exceptional payments above standard rates; and

(b) Disputes or decisions regarding written personal service contracts or financial agreements.

(5) A person's participation in the complaint process shall not affect the right of any person to seek other statutorily or constitutionally permitted remedies.

(6) Nothing in this chapter shall be construed to create substantive or procedural rights for any person.

[Statutory Authority: RCW 74.13.045 and chapter 74.13 RCW. 93-12-053 (Order 3558), § 388-74-030, filed 5/26/93, effective 6/26/93.]

Chapter 388-77A WAC

FAMILY INDEPENDENCE PROGRAM EXPIRATION

WAC

| | |
|-------------|---|
| 388-77A-010 | Purpose. |
| 388-77A-020 | Benefit change limitations. |
| 388-77A-030 | Standards of assistance—Family independence program (FIP) households entitled to employment incentive payments earned in May and June 1993. |
| 388-77A-040 | Transitional child care. |
| 388-77A-041 | Medical benefits. |
| 388-77A-050 | Fair hearing—Continuation of benefits. |
| 388-77A-055 | Pretermination redetermination. |

WAC 388-77A-010 Purpose. Chapter 74.21 RCW authorizing the family independence program (FIP) expires on June 30, 1993. The department shall convert FIP enrollees to regular AFDC, food assistance, medical assistance and the job opportunities basic skills and training program (JOBS) in the five FIP demonstration sites and the ten remaining FIP and AFDC combined sites on July 1, 1993.

[Statutory Authority: RCW 74.04.057. 93-12-058 (Order 3561), § 388-77A-010, filed 5/27/93, effective 7/1/93.]

WAC 388-77A-020 Benefit change limitations. (1) The department shall not change an enrollee's benefits and/or services as a result of this program change prior to July 1, 1993.

(2) The department shall not change an enrollee's benefits before the enrollee receives written notice of the proposed action.

[Statutory Authority: RCW 74.04.057. 93-12-058 (Order 3561), § 388-77A-020, filed 5/27/93, effective 7/1/93.]

WAC 388-77A-030 Standards of assistance—Family independence program (FIP) households entitled to employment incentive payments earned in May and June 1993. (1) The department shall pay to households who are eligible for AFDC at the end of the FIP demonstration project on June 30, 1993, an incentive payment when all of the following conditions apply:

(a) The household is eligible to receive a July 1993 AFDC IV-A grant payment;

(b) The household received a FIP-IV-A grant payment in June of 1993;

(c) An eligible member of the household earned a FIP employment incentive in May of 1993;

(d) The household was in a retrospective budgeting cycle for the report month of May; and

(e) The income earned and the hours worked are reported by the eighteenth of the process month, unless there is good cause for late reporting.

(2) The department shall pay to households who are eligible for AFDC at the end of the FIP demonstration project on June 30, 1993, an incentive payment when all of the following conditions apply:

(a) The household is eligible to receive an August 1993 AFDC IV-A grant payment;

(b) The household received a FIP-IV-A grant payment in June of 1993;

(c) An eligible member of the household earned a FIP employment incentive in June of 1993;

(d) The household was in a retrospective budgeting cycle for the report month of June; and

(e) The income earned and the hours worked are reported by the eighteenth of the process month, unless there is good cause for late reporting.

(3) For the purpose of this rule, the incentive payment shall be calculated in the following manner:

(a) The department shall determine what the FIP-IV-A cash assistance would have been using under WAC 388-77A-030(4);

(b) The department shall determine what IV-A cash benefits the household is eligible to receive under the AFDC chapter 388-28 WAC;

(c) The department shall compare the amounts in subsection (4) of this section and chapter 388-28 WAC. If the amount determined under subsection (4) is greater, the department shall issue a supplement to bring the AFDC IV-A payment up to the amount the household would have received on FIP.

(4) For the purpose of this rule FIP-IV-A cash assistance benefits shall be calculated as follows:

(a) The department shall deduct nonexempt income, less disregards, from the sum of the applicable AFDC payment standard, the incentive, and authorized additional requirements. The department shall round the amount to be issued down to the nearest dollar;

(b) The department's benchmark standard for FIP assistance units shall be equal to the sum of the applicable AFDC payment standard for households with shelter costs plus eighty percent of the thrifty food plan;

(c) The department shall treat earned income as follows:

(i) In computing income for FIP Title IV-A assistance, the only deduction the department shall allow is ten percent from gross earned income. The department shall disallow this deduction when earnings are reported after the eighteenth of the process month without good cause for late reporting;

(ii) In addition to income exempted under the AFDC program in chapter 388-28 WAC, the department shall exempt from the FIP calculation the earnings of a child seventeen years of age or younger.

(d) The department shall treat unearned income the same as AFDC as described under chapter 388-28 WAC;

(e) The department shall provide enrollees who are employed with incentive benefits as follows:

(i) Fifteen percent of the benchmark standard for enrollees working half-time (seventy-five to one hundred forty-nine hours per month);

(ii) Thirty-five percent of the benchmark standard for enrollees working full-time (one hundred fifty or more hours per month).

(f) Incentives shall not be provided for earnings:

(i) Reported after the eighteenth day of the process month unless good cause exists for late reporting; or

(ii) That are exempt or disregarded, except when the earnings are produced by an adult member in the assistance unit.

(g) Incentives for self-employed enrollees with an approved self-employment plan will be based on:

(i) The enrollee's declaration of the hours worked for six consecutive months starting with the first month the enrollee is entitled to an incentive for self-employment; and

(ii) Thereafter, the hours worked as computed by dividing the enrollee's gross income by the federal minimum wage.

(h) The incentive paid shall be the highest for which the assistance unit qualifies. The department shall not allow more than one incentive per assistance unit;

(i) Incentives shall be rounded down to the nearest dollar;

(j) Incentive payment shall be disregarded in the food stamp calculations.

[Statutory Authority: RCW 74.04.057. 93-12-058 (Order 3561), § 388-77A-030, filed 5/27/93, effective 7/1/93.]

WAC 388-77A-040 Transitional child care. (1) The department shall find a person receiving family independence program (FIP) noncash child care on June 30, 1993, eligible for family support act (FSA) child care based on FSA requirements as of July 1, 1993.

(2) The following households shall be eligible for FSA transitional child care for up to twelve months effective July 1, 1993:

(a) Those with earnings less than one hundred thirty-five percent of the benchmark plus incentives but over the payment standard on June 30, 1993; and

(b) Those who are not eligible for a IV-A cash payment on July 1, 1993, due to the termination of FIP employment incentives on June 30, 1993.

(3) A person the department determines eligible for FSA child care under subsections (1) and (2) shall continue to receive FSA child care for the remainder of the time authorized under FIP.

[Statutory Authority: RCW 74.04.057. 93-12-058 (Order 3561), § 388-77A-040, filed 5/27/93, effective 7/1/93.]

WAC 388-77A-041 Medical benefits. (1) The department shall find a person receiving medical benefits under WAC 388-83-029(4) on June 30, 1993:

(a) Eligible for extended medical benefits under WAC 388-83-029 as of July 1, 1993; and

(b) Subject to reporting requirements as of July 1, 1993.

(2) The department shall find:

(a) A person receiving FIP transitional medical benefits under WAC 388-77-037 and 388-83-029(6) on June 30, 1993; and

(b) Households not eligible for a IV-A cash payment on July 1, 1993, due to the termination of FIP employment incentives on June 30, 1993:

(i) Eligible for extended medical assistance benefits under WAC 388-83-029 (3) and (5) as of July 1, 1993; and

(ii) Not subject to reporting requirements under WAC 388-83-029 as of July 1, 1993.

(3) The department shall determine a person eligible for extended medical assistance benefits to be eligible for these benefits for the remainder of the certification period as authorized under FIP.

[Statutory Authority: RCW 74.04.057. 93-12-058 (Order 3561), § 388-77A-041, filed 5/27/93, effective 7/1/93.]

WAC 388-77A-050 Fair hearing—Continuation of benefits. (1) When a FIP enrollee files a request for fair hearing according to chapter 388-08 WAC within the advance notice period, assistance shall not be continued when the sole issue is one of state or federal law requiring automatic grant adjustment for classes of recipients unless the reason for an individual appeal is an incorrect grant, benefit, or service computation.

(2) The following specific FIP program components require automatic grant adjustments for FIP enrollees as a result of the expiration of the FIP law:

(a) Discontinuance of the FIP program effective June 30, 1993;

(b) Discontinuance of qualifying for FIP five percent, fifteen percent and thirty-five percent incentive payments effective June 30, 1993; HOWEVER, any factual issue concerning budgeting of earnings or the availability of incentive payments for earnings received in May and June of 1993 is one of individual benefit computation for which continued Title IV-A benefits shall be provided;

(c) Discontinuance of FIP food cash assistance rather than food stamp benefits effective June 30, 1993;

(d) Discontinuance of payment of a full grant for persons living in supplied shelter; HOWEVER, any factual issue on whether shelter is supplied is one of individual benefit computation for which continued Title IV-A benefits shall be provided.

(3) When benefits are continued pending a fair hearing the continued payment shall not exceed the maximum payment standard in effect for the AFDC program on July 1, 1993.

[Statutory Authority: RCW 74.04.057. 93-12-058 (Order 3561), § 388-77A-050, filed 5/27/93, effective 7/1/93.]

WAC 388-77A-055 Pretermination redetermination.

(1) Prior to termination of benefits received by an enrollee under FIP, the department shall determine whether, effective July 1, 1993, the enrollee is eligible for assistance under ongoing non-FIP programs. Enrollees shall have their eligibility and benefits determined according to the rules for these programs. AFDC eligibility rules regarding income, work quarters, and excess real property are contained in WAC 388-24-074, 388-28-425, and 388-28-570.

(2) Advance and adequate notice of termination of FIP benefits shall also include notice of approval or denial of eligibility for assistance under the program specified in subsection (1) of this section.

(3) Any notice of denial, or of continued services with reduced benefits, shall include the reason(s) for such eligibility determination.

[Statutory Authority: RCW 74.04.057. 93-12-058 (Order 3561), § 388-77A-055, filed 5/27/93, effective 7/1/93.]

Chapter 388-81 WAC

MEDICAL CARE—ADMINISTRATION—GENERAL

WAC

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|------------|--|
| 388-81-043 | Administrative appeal—Rate—Contractor/provider. |
| 388-81-047 | Recovery from estates. |
| 388-81-060 | Medicare cost sharing. |
| 388-81-065 | Medical care client co-payment. |
| 388-81-100 | Patient requiring regulation (PRR). |
| 388-81-175 | Audit dispute resolution. |
| 388-81-200 | Appeal of adverse department action—Contractor/provider. |

WAC 388-81-043 Administrative appeal—Rate—Contractor/provider. (1) Right to an administrative appeal. Any enrolled contractor/provider of medical services, except nursing facilities governed by WAC 388-96-904, shall have a right to an administrative appeal anytime the contractor/provider disagrees with the reimbursement rate.

(2) First level of appeal. A contractor/provider wishing to contest an action described in subsection (1) of this section files an appeal with the medical assistance administration (MAA).

(a) Unless a written rate notification specifies otherwise, the department shall make retroactive rate adjustments only when a contractor/provider files a rate appeal. The rate appeal requesting retroactive rate adjustment shall be made within sixty calendar days after being notified of an action or determination the contractor/provider wishes to challenge. The notification date of an action or determination shall be the date of the written rate notification letter. The department shall not consider for retroactive adjustments, a contractor/provider rate adjustment appeal filed after the sixty-day period described in this subsection.

(b) The appeal shall include a statement of the specific issue being appealed, supporting documentation, and a request for recalculation of the rate. MAA may request additional documentation to complete the review. MAA may conduct an audit of the documentation provided in order to complete the review.

(c) When a portion of a rate is appealed, MAA may review all components of the reimbursement rate.

(d) MAA shall issue a decision or request additional information within sixty calendar days of the receipt of the rate appeal request. When additional information is necessary, the contractor/provider shall have forty-five calendar days to submit the information. MAA shall issue a decision within thirty calendar days of receipt of complete information.

(e) Unless the written rate notification specifies otherwise, increases in rates resulting from an appeal shall be effective retroactively to the effective date of the rate

change. The appeal shall be filed within sixty calendar days after the written rate notification letter that the contractor/provider is challenging. Increases in rates, resulting from a rate appeal filed after the sixty-day period described under subsection (2)(a) of this section, shall be effective the date the appeal is filed with MAA. Appeals resulting in rate decreases shall be effective on the date specified in the appeal decision notification. The effective date shall not be before the date of the appeal decision notification. Rate changes subject to the provisions of fraudulent practices as described under RCW 74.09.210 are exempt from these provisions.

(f) MAA may grant extensions of time at MAA's discretion if requested within the sixty-day period referenced under subsection (2)(a) of this section.

(3) Second level of appeal. When the contractor/provider disagrees with an adverse rate review decision, the contractor/provider may file a request for a dispute conference with the MAA. "Dispute conference" for this section means an informal administrative hearing for the purpose of resolving contractor/provider disagreements with any of the department actions, described under subsection (1) of this section, not resolved at the first level of appeal. The dispute conference is not governed by the Administrative Procedure Act chapter 34.05 RCW.

(a) A contractor/provider shall file a request for a dispute conference within thirty calendar days following receipt of the adverse review decision. The department shall not consider dispute conference requests submitted after the thirty day period of the first level decision date.

(b) MAA shall conduct the dispute conference within ninety calendar days of the receipt of request.

(c) The conference chairperson shall issue the final decision within thirty calendar days of the conference.

(d) MAA may grant extensions of time for extenuating circumstances.

(e) The effective date of dispute conference decisions regarding rate changes shall be the same as specified under subsection (2)(e) of this section.

(f) The dispute conference shall be the final level of administrative appeal within the department and precede judicial action.

(4) MAA shall construe failure on the part of the contractor/provider to attempt to resolve disputed rates as provided in this section as an abandonment of the dispute.

[Statutory Authority: RCW 74.08.090, 93-24-059 (Order 3675), § 388-81-043, filed 11/24/93, effective 12/25/93; 90-12-063 (Order 3021), § 388-81-043, filed 5/31/90, effective 7/1/90; 89-05-029 (Order 2758), § 388-81-043, filed 2/13/89; 84-02-053 (Order 2061), § 388-81-043, filed 1/4/84.]

WAC 388-81-047 Recovery from estates. (1) The department shall recover the cost of public assistance benefits provided under a program under chapter 74.09 RCW provided to a client, who was sixty-five years of age or older, upon the client's death, except:

- (a) When there is a surviving spouse; or
- (b) When there is a surviving child:
 - (i) Twenty years of age and under; or
 - (ii) Blind or disabled as defined under chapter 388-92 WAC; or

(c) For family heirlooms, collectibles, antiques, papers, jewelry, photos, or other personal effects that have been held

in the possession of the deceased client to which a surviving child may otherwise be entitled not to exceed a total fair market value of two thousand dollars.

(2) The department shall assert and enforce a claim against the estate of the deceased client for the debt in subsection (1) of this section, in accordance with chapter 11.40 RCW.

(3) The department shall file a lien against any real property which was in the name of the client just before the client's death.

(a) The department shall file the lien with the county auditor of the county in which the property is located; and

(b) The department shall deem the lien effective as of the date of the client's death; and

(c) The department's recovery of property shall be upon the next sale or transfer of the property.

(4) If a surviving spouse or child, as defined under subsection (1)(b) of this section, is discovered or contacts the department before recovery, the department shall release the lien.

(5) The term "child" shall include both natural and adopted children.

(6) The value of the estate shall be the total estate value less any liabilities on any real property outstanding at the time of the client's death.

[Statutory Authority: RCW 74.08.090 and 1993 c 272, 93-16-045 (Order 3606), § 388-81-047, filed 7/28/93, effective 8/28/93. Statutory Authority: RCW 74.08.090 and 43.20B.140, 92-07-029 (Order 3338), § 388-81-047, filed 3/10/92, effective 4/10/92. Statutory Authority: RCW 74.08.090, 88-03-050 (Order 2585), § 388-81-047, filed 1/19/88.]

WAC 388-81-060 Medicare cost sharing. (1) Subject to limitations under chapter 388-87 WAC, the department shall pay, for an otherwise eligible person:

(a) Supplementary medical insurance Part B, under Title XVIII of the Social Security Act;

(b) Coinsurance; and

(c) Deductibles.

(2) In addition to subsection (1) of this section, the department shall pay Part A, under Title XVIII of the Social Security Act, for a person eligible under WAC 388-82-140.

(3) The department shall pay only the Part A premium, under Title XVIII of the Social Security Act, for a person eligible under WAC 388-82-160.

(4) The department shall pay only the Part B premium, under Title XVIII of the Social Security Act, for a person eligible under WAC 388-82-150.

[Statutory Authority: RCW 74.08.090 and House—Congressional Record Section 4501(b) of OBRA, 93-04-024 (Order 3502), § 388-81-060, filed 1/27/93, effective 2/27/93. Statutory Authority: RCW 74.08.090, 90-18-006 (Order 3060), § 388-81-060, filed 8/23/90, effective 9/23/90; 89-05-029 (Order 2758), § 388-81-060, filed 2/13/89; 81-10-014 (Order 1646), § 388-81-060, filed 4/27/81; Order 911, § 388-81-060, filed 3/1/74; Order 833, § 388-81-060, filed 7/26/73; Order 299, § 388-81-060, filed 9/6/68.]

WAC 388-81-065 Medical care client co-payment.

(1) The department shall require a client to pay one dollar for each office call, eyeglasses or contact lens fitting fee, and prescription drug dispensing fee to the following providers, unless the client meets an exemption in subsection (2) of this section:

(a) Physicians and persons working under the physician's supervision, advanced registered nurse practitioners, podiatrists, and optometrists;

(b) Dentists and hygienists;

(c) Opticians, optometrists, and ophthalmologists when providing eyeglasses and contact lenses;

(d) Health departments; and

(e) Pharmacists.

(2) The following services do not require client copayments:

(a) Family planning services;

(b) Services provided to a client under twenty-one years of age;

(c) Services provided to a client who resides in a medical institution;

(d) Hospice services;

(e) Services provided to a pregnant woman, including services during the sixty-day postpartum;

(f) Emergency services as defined under WAC 388-80-005;

(g) Services provided in a certified rural health clinic or Indian health clinic;

(h) Services covered by private insurance or Medicare; and

(i) Services provided by a community mental health or chemical dependency treatment center.

(3) For clients enrolled in a department managed care plan or the primary care case management program, under WAC 388-86-009, 388-86-00902, and chapter 388-538 WAC, copayments only apply for dental services.

(4) The provider shall be responsible for determining when a client meets the criteria listed in subsection (2) of this section.

(5) The provider shall not deny services based on the client's inability to pay the copayment.

[Statutory Authority: RCW 74.08.090 and SB 5304, § 231. 93-16-036 (Order 3596), § 388-81-065, filed 7/28/93, effective 9/1/93.]

WAC 388-81-100 Patient requiring regulation (PRR). (1) The department shall operate a patient requiring regulation (PRR) program to identify clients overutilizing, unnecessarily, or inappropriately obtaining medical care under the federal and state-funded medical programs. The department may restrict such clients to primary care provider and pharmacy for medical care.

(2) The purpose of the PRR program shall be to:

(a) Protect the client's health and safety;

(b) Provide continuity of medical care;

(c) Avoid duplication of services by providers; and

(d) Avoid excessive, contraindicated, or potentially harmful use of prescription medications.

(3) For the purposes of this section, "primary care provider (PCP)" means a physician specializing in internal or general medicine or a physician or an advanced registered nurse practitioner specializing in adult health care or family practice, who agrees to provide, manage and coordinate an eligible client's medical care.

(4) The department shall designate staff to determine the client's overuse, inappropriate, or unnecessary usage of medical care by reviewing medical assistance administration (MAA) payment records and other medical information.

(5) Nurse advisors, physicians and pharmacy consultants, and the drug utilization and education (DUE) council shall establish the medical review guidelines and references sources that the department uses for such determinations.

(6) The department established the following levels of utilization during a three-month period as medical review guidelines for the PRR program:

(a) Services from four different physicians;

(b) Prescriptions from four different pharmacies;

(c) Ten prescriptions received;

(d) Two emergency room visits; or

(e) Four prescribers.

(7) MAA shall notify the client in writing that the client is assigned to PRR, when the information indicates the client overuses medical services, or uses a medical services inappropriately or unnecessarily as determined by the department's review of the:

(a) Records which indicate a client's use of medical services exceed the guidelines under subsection (6) of this section; and

(b) Client's diagnoses, the history of services provided or other medical information supplied by the health care provider.

(8) The department shall notify the client of the right to:

(a) A fair hearing as required under chapter 388-08 WAC; and

(b) Continue not restricted when a fair hearing is timely requested.

(9) A client shall respond to the department's notice within twenty calendar days, by:

(a) Selecting a PCP and pharmacy;

(b) Requesting assistance in selecting a PCP and pharmacy; or

(c) Submitting additional medical information.

(10) The department shall assign a PCP and pharmacy for any client who fails to select a PCP and pharmacy within twenty calendar days, unless the client requests a fair hearing. The selected or assigned PCP and pharmacy shall be located in the client's local geographic area or be reasonably accessible to the client.

(11) The client shall not change a selected PCP or pharmacy for six months, except when the:

(a) Client moves to a new residence outside the designated geographic area of the providers;

(b) PCP or pharmacy moves from the client's geographical area;

(c) PCP or pharmacy refuses to continue as the designated provider; or

(d) Client selects a PCP or pharmacy other than the department assigned PCP or pharmacy under subsection (9) of this section.

(12) The department shall assign a client to the program for a period of twenty-four months and shall review the client's utilization at the end of the twenty-four month period. The client shall remain restricted if the client continues to meet the over utilization criteria in subsection (6) of this section and shall be reviewed at least twenty-four months thereafter.

(13) When department designates a PCP and pharmacy for the client, the department shall issue a medical identifica-

tion card identifying the client as a patient requiring regulation.

(14) When an emergency occurs as defined under WAC 388-80-005, a provider other than the selected PCP may see the client.

(15) The PCP may refer the client to a specialist(s).

(16) The department shall pay only for MAA covered services authorized by the PCP, referred specialist, or selected pharmacy. The department shall apply billing limitations as described under WAC 388-87-010 and 388-87-015.

(17) The client shall be responsible for payment of covered services not authorized by the PCP, referred specialists or selected pharmacist.

[Statutory Authority: RCW 74.08.090. 93-11-047 (Order 3544), § 388-81-100, filed 5/12/93 effective 6/12/93.]

WAC 388-81-175 Audit dispute resolution. Medical care providers may appeal audit findings as described under chapter 388-41 WAC.

[Statutory Authority: RCW 74.08.090. 93-24-059 (Order 3675), § 388-81-175, filed 11/24/93, effective 12/25/93.]

WAC 388-81-200 Appeal of adverse department action—Contractor/provider. (1) A medical care contractor/provider may appeal medical assistance administration (MAA) contract action involving termination, nonrenewal, or other adverse MAA action concerning the contract by filing a request for a dispute conference with the MAA. Adverse action involving medical audit disputes shall be covered under chapter 388-41 WAC and rates under WAC 388-81-043.

(2) "Dispute conference," for this section, means an informal administrative procedure, not governed by the Administrative Procedure Act, chapter 34.05 RCW. A dispute conference shall be the only and final administrative appeal level within the department and shall precede judicial action.

(3) Unless otherwise specified, the contractor/provider shall provide a written request for a dispute conference within thirty calendar days of the receipt of the department's notice.

(4) Contractor/provider request for a dispute conference shall include a statement of the actions appealed and supporting justification.

(5) The department shall not consider a contractor/provider request for a dispute conference filed after thirty calendar days of the receipt of adverse action notice. The contractor/provider shall forfeit the right to a dispute conference.

(6) MAA shall conduct the dispute conference within ninety calendar days of the receipt of dispute request.

(7) MAA may request additional information within thirty calendar days of receipt of the request for a dispute conference. When additional information is requested, the contractor/provider shall have thirty calendar days to submit the information. MAA shall schedule the conference within thirty calendar days of the receipt of the complete information.

(8) The dispute conference chairperson shall issue the final decision within thirty calendar days of the hearing.

(9) MAA may grant extensions of time for extenuating circumstances.

[Statutory Authority: RCW 74.08.090. 93-24-059 (Order 3675), § 388-81-200, filed 11/24/93, effective 12/25/93.]

Chapter 388-82 WAC

MEDICAL CARE—PROGRAM DESCRIBED— LIMITATIONS

WAC

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| 388-82-010 | Persons eligible for medical assistance. |
| 388-82-115 | Categorically needy medical assistance eligibility. |
| 388-82-140 | Qualified Medicare beneficiaries eligible for Medicare cost sharing. |
| 388-82-150 | Special low-income Medicare beneficiaries (SLMB) eligible for Medicare cost sharing. |
| 388-82-160 | Hospital premium insurance enrollment for the working disabled. |

WAC 388-82-010 Persons eligible for medical assistance. Medical assistance is available to any categorically needy person who is:

(1) Receiving or eligible to receive cash assistance under:

(a) Aid to families with dependent children (AFDC) or family independence program (FIP); or

(b) Supplemental security income (SSI) including a grandfathered person and a person with an essential spouse; or

(c) State supplemental payment to a person as assistance based on need in supplementation of SSI benefits. This payment includes mandatory state supplement or optional state supplement as defined under WAC 388-80-005(61). The ineligible spouse of an SSI beneficiary receiving a state supplement payment for the ineligible spouse is not eligible for categorically needy medical assistance.

(2) A person under twenty-one years of age:

(a) Who meets the one-person AFDC financial requirements and is in:

(i) Foster care; or

(ii) Subsidized adoption; or

(iii) A nursing facility, or intermediate care facility for mentally retarded (ICF/MR); or

(iv) An approved inpatient psychiatric facility.

(b) Meeting the eligibility requirements under WAC 388-83-033.

(3) A pregnant woman meeting the eligibility requirements under WAC 388-83-032;

(4) In a medical facility and:

(a) Who would be eligible for cash assistance if the person was not institutionalized. This includes all categorically needy groups; or

(b) SSI categorically related and would not be eligible for cash assistance including only aged, blind, and disabled groups if the person was not institutionalized and the person's gross income does not exceed the three hundred percent SSI benefit cap.

(5) Not receiving cash assistance because of special provisions as defined under WAC 388-83-130;

(6) Not an inmate of a public institution;

(7) Sixty-five years of age or older, a patient in an institution for mental diseases (IMD), and eligible under subsection (4)(a) and (b) of this section;

(8) A person eligible for and accepting of hospice services, as described under WAC 388-86-047, and who shall be:

(a) SSI categorically related with gross income less than three hundred percent of the SSI benefit CAP; or

(b) AFDC categorically related.

(9) Blind or disabled under SSI criteria, as described under WAC 388-92-015, and the person receives continuing state-funded cash assistance.

[Statutory Authority: RCW 74.08.090, 93-04-033 (Order 3508), § 388-82-010, filed 1/27/93, effective 2/27/93; 91-15-014 (Order 3203), § 388-82-010, filed 7/9/91, effective 8/9/91; 91-06-003 (Order 3140), § 388-82-010, filed 2/21/91, effective 3/24/91; 90-04-013 (Order 2932), § 388-82-010, filed 1/29/90, effective 3/1/90; 88-09-037 (Order 2620), § 388-82-010, filed 4/15/88; 86-11-025 (Order 2378), § 388-82-010, filed 5/14/86; 82-21-024 (Order 1891), § 388-82-010, filed 10/13/82; 82-06-003 (Order 1766), § 388-82-010, filed 2/18/82; 82-01-001 (Order 1725), § 388-82-010, filed 12/3/81; 81-16-033 (Order 1685), § 388-82-010, filed 7/29/81; 81-11-046 (Order 1655), § 388-82-010, filed 5/20/81; 80-13-020 (Order 1542), § 388-82-010, filed 9/9/80; 78-10-077 (Order 1346), § 388-82-010, filed 9/27/78; Order 1202, § 388-82-010, filed 4/1/77; Order 1137, § 388-82-010, filed 7/29/76; Order 1044, § 388-82-010, filed 8/14/75; Order 995, § 388-82-010, filed 12/31/74; Order 952, § 388-82-010, filed 7/16/74; Order 911, § 388-82-010, filed 3/1/74; Order 382, § 388-82-010, filed 8/27/69; Order 300, § 388-82-010, filed 9/6/68; Order 264 (part), § 388-82-010, filed 11/24/67.]

WAC 388-82-115 Categorically needy medical assistance eligibility. The department shall classify as eligible for categorically needy medical assistance:

(1) A client who:

(a) In August 1972, received:

(i) Old age assistance (OAA);

(ii) Aid to blind (AB);

(iii) Aid to families with dependent children (AFDC); or

(iv) Aid to the permanently and totally disabled (APTD); and

(b) Received retirement, survivors, and disability insurance (RSDI) benefits; and

(c) Is ineligible for OAA, AB, AFDC, or APTD solely because of the twenty percent increase in Social Security benefits under P.L. 92-336.

(2) A client who:

(a) Was entitled to RSDI benefits in August 1972; and

(b) Is ineligible for AFDC, family independence program (FIP), or supplemental security income (SSI) solely because of the twenty percent increase in Social Security benefits under P.L. 92-336.

(3) A family unit which becomes ineligible for AFDC before April 1, 1990, solely because of increased hours or increased income from employment shall remain categorically eligible for medical assistance (MA) for four calendar months beginning with the month of ineligibility provided:

(a) The family received AFDC in at least three of the six months immediately preceding the month of ineligibility; and

(b) A member of such family continues to be employed.

(4) A current client of Title II, Social Security Administration (SSA) benefits who:

(a) Was a concurrent client of Title II and SSI benefits;

(b) Is ineligible for SSI benefits and/or state supplementary payments (SSP); and

(c) Would be eligible for SSI benefits if the following are deducted from the current Title II benefit amount:

(i) All Title II cost-of-living benefit increases under P.L. 94-566, Section 503 received by the recipient since termination from SSI/SSP; and

(ii) All Title II cost-of-living benefit increases received during the time period in (c)(i) of this subsection by the client's spouse and/or other financially responsible family member living in the same household.

(5) An SSI client, after January 1, 1981, who continues to be eligible for medical assistance (MA) under P.L. 96-265 and 99-643.

(6) A pregnant woman, with no other eligible children, who is ineligible for AFDC cash assistance solely because she has not reached the sixth month of pregnancy.

(7) A client who is denied AFDC or FIP cash payments solely because of a departmental recovery of an overpayment.

(8) A child meeting residence, citizenship, and Social Security Number requirements whose family income is:

(a) Under one hundred eighty-five percent of the federal poverty level (FPL) for a child under one year of age; or

(b) Under one hundred thirty-three percent of the FPL for a child under six years of age;

(c) Under one hundred percent of the FPL for a child under eighteen years of age; or

(d) Effective January 1, 1993, under one hundred percent of the FPL for a child eighteen years of age.

(9) A family unit shall remain categorically eligible for medical assistance for nine calendar months beginning with the month of ineligibility for AFDC, when terminated before April 1, 1990, from AFDC financial assistance solely because of:

(a) The loss of the thirty dollars plus one-third exemption; or

(b) The thirty-dollar income exemption.

(10) A child, born to a woman eligible for and receiving medical assistance on the date of the child's birth, from the date of birth for a period of one year when the child remains a member of the mother's household.

(11) A family unit ineligible for AFDC or FIP financial assistance as a result (wholly or partly) of the collection or increased collection of child or spousal support for four months beginning with the month of ineligibility; provided the family unit:

(a) Received AFDC or FIP financial assistance in at least three of the six months immediately preceding the month of ineligibility; and

(b) Became ineligible for AFDC or FIP on or after August 16, 1984.

(12) A pregnant woman who does not meet the deprivation requirements of AFDC or FIP financial assistance if:

(a) She would meet the AFDC or FIP financial assistance income requirements if the number in the household is increased by one before being compared to the payment standard; and

(b) She meets the AFDC or FIP financial assistance resource requirements.

(13) An alien denied AFDC, FIP, or SSI cash assistance solely because of deeming of income of the alien's sponsors.

(14) A current disabled client receiving widow's or widower's benefits under section 202 (e) or (f) of the Social Security Act if the disabled client:

(a) Was entitled to a monthly insurance benefit for December 1983 under Title II of the Social Security Act;

(b) Was entitled to and received a widow's or widower's benefit for January 1984 based on a disability under section 202 (e) or (f) of the Social Security Act;

(c) Became ineligible for SSI/SSP in the first month in which the increase provided under section 134 of P.L. 98-21 was paid to the client;

(d) Has been continuously entitled to a widow's or widower's benefit under section 202 (e) or (f) of the act;

(e) Would be eligible for SSI/SSP benefits if the amount of that increase, and any subsequent cost-of-living increases provided under section 215(i) of the act, were disregarded;

(f) Is fifty through fifty-nine years of age; and

(g) Filed an application for Medicaid coverage before July 1, 1988.

(15) Effective January 1, 1991, any person receiving Title II widow/widower benefits under section 202 (e) or (f) of the SSA, if the person:

(a) Is not eligible for the hospital insurance benefits under Medicare Part A of Title XVIII;

(b) Received SSI/SSP payments in the month before receiving such Title II benefits;

(c) Became ineligible for SSI/SSP due to receipt of or increase in such Title II benefits; and

(d) Would be eligible for SSI/SSP if the amount of such Title II benefits or increase in such Title II benefits under section 202 (e) or (f) of the SSA, and any subsequent cost-of-living increases provided under section 215(i) of the act were disregarded.

(16) A family unit suspended from FIP financial assistance because of increased earned income. This period of eligibility shall not exceed twelve months as determined by WAC 388-77-737.

(17) A family unit which becomes ineligible for FIP before April 1, 1990, solely because of increased hours of employment for four calendar months beginning with the month of ineligibility provided:

(a) The family unit received FIP in at least three of the six months immediately preceding the month of ineligibility;

(b) A member of such family continues to be employed.

(18) A disabled or blind client receiving Title II disabled adult childhood (DAC) benefits under section 202(d) of the SSA if the client:

(a) Has attained eighteen years of age;

(b) Lost SSI/SSP on or after July 1, 1988, due to receipt of or increase in DAC benefits; and

(c) Would be eligible for SSI/SSP if the amount of the DAC benefits or increase under section 202(d) of the SSA and any subsequent cost-of-living increases provided under section 215(i) of the SSA act were disregarded.

[Statutory Authority: RCW 74.08.090, CFR 435.712 and 435.724. 93-06-037 (Order 3516), § 388-82-115, filed 2/24/93, effective 3/27/93. Statutory Authority: RCW 74.08.090. 92-03-046 (Order 3307), § 388-82-115, filed 1/10/92, effective 2/10/92; 90-06-033 (Order 2945), § 388-82-115, filed 3/1/90, effective 4/1/90; 88-24-024 (Order 2734), § 388-82-115, filed 12/2/88; 88-17-063 (Order 2673), § 388-82-115, filed 8/17/88; 88-09-037 (Order 2620), § 388-82-115, filed 4/15/88; 87-01-097 (Order 2453), § 388-82-115, filed 12/22/86; 86-11-025 (Order 2378), § 388-82-115, filed 5/14/86; 85-16-046 (Order 2262), § 388-82-115, filed 7/31/85; 85-11-032

(Order 2231), § 388-82-115, filed 5/15/85; 85-05-015 (Order 2205), § 388-82-115, filed 2/13/85; 84-04-069 (Order 2074), § 388-82-115, filed 2/1/84; 83-17-005 (Order 1995), § 388-82-115, filed 8/5/83; 81-23-046 (Order 1721), § 388-82-115, filed 11/18/81; 81-10-014 (Order 1646), § 388-82-115, filed 4/27/81.]

WAC 388-82-140 Qualified Medicare beneficiaries eligible for Medicare cost sharing. (1) The department shall provide Medicare cost sharing under WAC 388-81-060(2) for a person:

(a) Meeting the general nonfinancial requirements under chapter 388-83 WAC;

(b) Entitled to Medicare hospital insurance benefits, Part A, under Title XVIII of the Social Security Act;

(c) Having resources, as determined under chapter 388-92 WAC, not exceeding twice the maximum supplemental security income (SSI) resource limits; and

(d) Having a total countable income, as determined under chapter 388-92 WAC, except as specified in subsection (2) of this section, not exceeding one hundred percent of the federal poverty level (FPL). One hundred percent of the current FPL is:

| | Family Size | Monthly |
|------|-------------|---------|
| (i) | One | \$ 581 |
| (ii) | Two | 786 |

(2) The department shall not consider a person's Social Security cost of living allowance increase until April 1, of each year.

[Statutory Authority: RCW 74.08.090 and Federal Register Volume 58, Number 28. 93-11-049 (Order 3548), § 388-82-140, filed 5/12/93, effective 6/12/93. Statutory Authority: RCW 74.08.090 and 42 CFR 124.505(b). 92-11-057 (Order 3389), § 388-82-140, filed 5/19/92, effective 6/19/92. Statutory Authority: RCW 74.08.090. 91-07-011 (Order 3150), § 388-82-140, filed 3/11/91, effective 4/11/91; 90-12-045 (Order 2987), § 388-82-140, filed 5/31/90, effective 7/1/90; 89-24-039 (Order 2910), § 388-82-140, filed 12/1/89, effective 1/1/90; 89-11-057 (Order 2798), § 388-82-140, filed 5/17/89; 89-05-029 (Order 2758), § 388-82-140, filed 2/13/89.]

WAC 388-82-150 Special low-income Medicare beneficiaries (SLMB) eligible for Medicare cost sharing.

(1) The department shall provide Medicare cost sharing under WAC 388-81-060(4) for a person:

(a) Meeting the general nonfinancial requirements under chapter 388-83 WAC;

(b) Entitled to Medicare hospital insurance benefits, Part A, under Title XVIII of the Social Security Act;

(c) Having resources, as determined under chapter 388-92 WAC, not exceeding twice the maximum supplemental security income (SSI) resource limits; and

(d) Having a total countable income, as determined under chapter 388-92 WAC, over one hundred percent of the federal poverty level (FPL) but not exceeding one hundred ten percent of the FPL. One hundred ten percent of the current FPL is:

| | Family Size | Monthly Income |
|------|-------------|----------------|
| (i) | One | \$ 639 |
| (ii) | Two | 864 |

(2) Effective January 1, 1995, the department shall find a person eligible, under subsection (1)(d) of this section, whose total countable income does not exceed one hundred twenty percent of the FPL.

[Statutory Authority: RCW 74.08.090 and Federal Register Volume 58, Number 28. 93-11-049 (Order 3548), § 388-82-150, filed 5/12/93, effective 6/12/93. Statutory Authority: RCW 74.08.090 and House—Congressional Record Section 4501(b) of OBRA. 93-04-024 (Order 3502), § 388-82-150, filed 1/27/93, effective 2/27/93.]

WAC 388-82-160 Hospital premium insurance enrollment for the working disabled. The department shall pay premiums for Medicare Part A for a person:

- (1) Who is not otherwise entitled for medical assistance;
- (2) Entitled to enroll for Medicare hospital insurance benefits, Part A, under section 1818A of the Social Security Act;
- (3) Having resources, as determined under chapter 388-92 WAC, not exceeding twice the maximum supplemental security income (SSI) resource limits; and
- (4) Having a total countable family income, as determined under chapter 388-92 WAC, not exceeding two hundred percent of the current federal poverty level (FPL). Two hundred percent of the current FPL is:

| | Family Size | Monthly |
|-----|-------------|----------|
| (a) | One | \$ 1,162 |
| (b) | Two | 1,572 |

[Statutory Authority: RCW 74.08.090 and Federal Register Volume 58, Number 28. 93-11-049 (Order 3548), § 388-82-160, filed 5/12/93, effective 6/12/93. Statutory Authority: RCW 74.08.090 and 42 CFR 124.505(b). 92-11-057 (Order 3389), § 388-82-160, filed 5/19/92, effective 6/19/92. Statutory Authority: RCW 74.08.090. 91-11-086 (Order 3180), § 388-82-160, filed 5/21/91, effective 6/21/91; 90-18-006 (Order 3060), § 388-82-160, filed 8/23/90, effective 9/23/90.]

Chapter 388-83 WAC MEDICAL CARE—ELIGIBILITY

WAC

| | |
|--------------|---|
| 388-83-006 | Medical care services. |
| 388-83-012 | Assignment of rights. |
| 388-83-015 | Citizenship and alien status. |
| 388-83-017 | Social Security number. |
| 388-83-020 | Age. |
| 388-83-026 | Availability of resources—General. |
| 388-83-029 | Medical extensions. |
| 388-83-031 | Continuation of eligibility for pregnant women. |
| 388-83-03101 | Postpregnancy family planning extension. |
| 388-83-032 | Pregnant women. |
| 388-83-033 | Children—Eligible to nineteen years of age. |
| 388-83-041 | Income—Eligibility. |
| 388-83-046 | Relative financial responsibility for AFDC-related programs. |
| 388-83-130 | Eligibility—Special situations. |
| 388-83-200 | Community options program entry system (COPES). |
| 388-83-210 | Community alternatives program (CAP) and outward bound residential alternatives (OBRA) program. |
| 388-83-220 | Coordinated community AIDS service alternatives (CASA) program. |

WAC 388-83-006 Medical care services. (1) The department shall provide state-funded medical care services within the limitations set forth under these rules and regulations to any client certified as eligible to receive:

- (a) Continuing general assistance; or
- (b) Alcohol and drug addiction services provided under the Alcoholism and Drug Addiction Treatment and Support Act chapter 74.50 RCW.

(2) The client shall furnish the medical care provider with a medical identification card or other adequate verification of eligibility from the department.

[Statutory Authority: RCW 74.08.090. 93-17-038 (Order 3620), § 388-83-006, filed 8/11/93, effective 9/11/93. Statutory Authority: 1987 c 406. 87-19-091 (Order 2539), § 388-83-006, filed 9/17/87. Statutory Authority: RCW 74.08.090. 83-17-006 (Order 1996), § 388-83-006, filed 8/5/83; 81-16-033 (Order 1685), § 388-83-006, filed 7/29/81; 81-10-014 (Order 1646), § 388-83-006, filed 4/27/81.]

WAC 388-83-012 Assignment of rights. (1) As a condition of eligibility for any medical program, a client shall assign to the state of Washington all right, title, and interest to any medical care support available as a result of:

- (a) A court order;
 - (b) An administrative agency order; or
 - (c) Any third-party payments for medical care.
- (2) The client shall assign rights of payment to any medical care support the client may have in his or her own behalf or on the behalf of any other client for whom the client can legally assign such rights.

(3) As assignee of the eligible client's right to receive medical support payments, the department may sign coordination of benefit forms or other forms, as necessary, to ensure the efficient and proper payment of medical care support.

[Statutory Authority: RCW 74.08.090. 93-22-030 (Order 3658), § 388-83-012, filed 10/27/93, effective 11/27/93; 92-11-061 (Order 3385), § 388-83-012, filed 5/19/92, effective 6/19/92; 89-12-080 (Order 2809), § 388-83-012, filed 6/7/89; 84-23-027 (Order 2168), § 388-83-012, filed 11/14/84.]

WAC 388-83-015 Citizenship and alien status. (1) The department shall provide Medicaid to an otherwise eligible person who is:

- (a) A citizen of the United States; or
- (b) A North American Indian born in Canada:
 - (i) Claiming fifty percent Indian blood; or
 - (ii) Claiming fifty percent or less Indian blood and maintains United States residency since before December 25, 1952; or

(c) An alien lawfully admitted for permanent residence or otherwise permanently residing under color of law (PRUCOL) in the United States; or

(d) An alien who is lawfully present in the United States according to provisions of sections 203 (a)(7), 207(c), 208, and 212 (d)(5) of the Immigration and Nationality Act (INA); or

(e) An alien granted lawful temporary residence, or permanent residence according to provisions of section 245(a), 210, 210(f) and 210A of INA and sections 202 and 302 of the Immigration Reform and Control Act (IRCA) unless five years from the date Immigration and Naturalization Service (INS) grants lawful temporary resident status has not passed; or

(f) An alien approved by the INS under the family unity program, unless five years from the date INS grants lawful temporary resident status for the petitioning relative has not passed.

(2) When an alien as described under subsection (1)(e) or (f) of this section has not passed the five-year disqualification period, the department shall provide Medicaid to an otherwise eligible person when the alien is:

- (a) Aged, blind, or disabled;
- (b) Seventeen years of age or under;
- (c) Pregnant; or
- (d) A Cuban/Haitian entrant as defined under sections 501 (e)(1) and (2)(A) of P.L. 96-422.

(3) When an alien as described under subsection (1)(e) or (f) of this section is still under the five-year disqualification period, and is not described under subsection (2) of this section, the department shall provide medical care and services as necessary for treatment of the alien's emergency medical condition as defined under WAC 388-80-005(22).

(4) For all other aliens, when such alien meets the eligibility requirements of a medical assistance program as described under chapters 388-82, 388-83, 388-92, 388-95, or 388-99 WAC, the department shall provide Medicaid as follows:

(a) Full scope medical services for a pregnant woman; or

(b) Medical care and services as necessary for treatment of the alien's emergency medical condition as defined under WAC 388-80-005(22).

[Statutory Authority: RCW 74.08.090, 93-16-042 (Order 3603), § 388-83-015, filed 7/28/93, effective 8/28/93. Statutory Authority: RCW 74.08.090 and Section 301 - Family Unity of Immigration Act of 1990, P.L. 101-649, 93-08-111 (Order 3532), § 388-83-015, filed 4/7/93, effective 5/8/93. Statutory Authority: RCW 74.08.090, 89-11-057 (Order 2798), § 388-83-015, filed 5/17/89; 87-06-005 (Order 2472), § 388-83-015, filed 2/19/87; 81-10-014 (Order 1646), § 388-83-015, filed 4/27/81; Order 967, § 388-83-015, filed 8/29/74; Order 264 (part), § 388-83-015, filed 11/24/67.]

WAC 388-83-017 Social Security number. (1) As a condition of eligibility, each medical program client shall:

(a) Furnish a Social Security number; or

(b) Apply for a Social Security number if the number is unknown or has not been issued.

(2) The department shall provide Medicaid for a period of one year for a child born to a woman eligible for and receiving medical assistance on the date of the child's birth, before the department shall require an application for a Social Security number, if:

(a) The child remains a member of the mother's household; and

(b) The mother continues to live in Washington state.

(3) The client shall report a new Social Security number to the department within twenty days of its receipt.

(4) The department shall not deny, delay, or terminate medical care to a client pending issuance of a Social Security number when the client meets the requirement in subsection (1)(b) of this section.

(5) When the client fails or refuses to comply with the requirement in subsection (1) of this section, for each person included in the assistance unit, the department shall not determine eligibility for such person. The department shall exclude such person from the assistance unit and deny medical care for that person. See WAC 388-83-033 for a child not eligible for a Medicaid program because the child does not have a Social Security number.

(6) The department shall assist a client in obtaining a Social Security number by:

(a) Referring the client to the nearest Social Security office; and

(b) Furnishing to the client from department records any verification requested by the Social Security administration.

[Statutory Authority: RCW 74.08.090, 93-18-025 (Order 3627), § 388-83-017, filed 8/25/93, effective 9/25/93; 85-03-072 (Order 2194), § 388-83-017, filed 1/17/85; 81-10-014 (Order 1646), § 388-83-017, filed 4/27/81; Order 1056, § 388-83-017, filed 9/25/75.]

WAC 388-83-020 Age. The department shall consider the age of a client to determine the appropriate category of medical program or services.

[Statutory Authority: RCW 74.08.090, 93-18-025 (Order 3627), § 388-83-020, filed 8/25/93, effective 9/25/93; 81-16-033 (Order 1685), § 388-83-020, filed 7/29/81; 81-10-014 (Order 1646), § 388-83-020, filed 4/27/81; Order 264 (part), § 388-83-020, filed 11/24/67.]

WAC 388-83-026 Availability of resources—General. (1) The department shall consider resources available when the client or spouse:

(a) Owns the resource; and

(b) Has the authority to convert the resource to cash; and

(c) Is not legally restricted from using the resource for the person's support and maintenance.

(2) The department shall exempt noncash resources when the client:

(a) Applies for categorically needy or medically needy medical assistance; and

(b) Can not convert the noncash resource to cash within twenty work days; and

(c) Makes an ongoing attempt to convert the noncash resources to cash.

(3) The department shall consider the availability of a sales contract under WAC 388-92-045(2).

[Statutory Authority: RCW 74.08.090, 93-06-038 (Order 3518), § 388-83-026, filed 2/24/93, effective 3/27/93; 90-23-068 (Order 3093), § 388-83-026, filed 11/20/90, effective 12/21/90.]

WAC 388-83-029 Medical extensions. (1) See WAC 388-83-031 for extensions for a pregnant woman.

(2) A family unit ineligible for AFDC or FIP cash assistance because of the collection or increased collection of child or spousal support shall be eligible for medical assistance for four months beginning with the month of ineligibility provided the family unit:

(a) Is eligible for and received AFDC or FIP cash assistance in three or more of the six months immediately preceding the month of ineligibility; and

(b) Continues to meet all AFDC/FIP criteria except income.

(3) The department shall find eligible for medical assistance, an AFDC family unit which becomes ineligible for cash assistance because of:

(a) Income from, or hours of, employment of the caretaker relative; or

(b) The loss of the thirty dollars plus one-third earned income deduction; or

(c) The loss of the thirty dollar earned income deduction. Such AFDC family unit described under subsections (3)(a), (b), or (c) of this section shall remain eligible for medical assistance for six calendar months when the family unit:

(i) Received AFDC or FIP in three or more of the six months immediately preceding the month of ineligibility; and
(ii) Includes a child.

(4) Beginning with the month of ineligibility, a FIP family unit becoming ineligible solely because of hours of the caretaker relative's employment shall remain eligible for medical assistance for six calendar months when the family unit:

(a) Received FIP or AFDC in three or more of the six months immediately preceding the month of ineligibility; and
(b) Includes a child.

(5) The AFDC/FIP family unit, under subsections (3) or (4) of this section, shall be:

(a) Eligible for six additional calendar months of extended medical assistance provided the family unit:

(i) Continues to include a child; and
(ii) Received medical assistance for the entire six-month extension under subsections (3) or (4) of this section; and

(iii) Reports any family earnings and child care costs related to the employment of the caretaker relative for the preceding three-month period. The client shall report by the twenty-first day of the fourth month of the initial extension, unless good cause is established.

(b) Terminated from the six additional calendar months of extended medical assistance when the:

(i) Family's average gross monthly earned income, less the cost of the child care related to the employment of the caretaker relative, exceeds one hundred eighty-five percent of the federal poverty level when averaged over the immediately preceding three-month period; or

(ii) Family fails to report family earned income and child care costs related to the employment of the caretaker relative for the immediately preceding three-month period by the twenty-first day of the first and fourth months of the additional extension period, unless good cause is established; or

(iii) Caretaker relative has no earnings in one or more of the previous three months, unless lack of earnings is due to good cause.

(6) A family unit suspended from FIP cash assistance because of increased earned income shall be eligible for extended medical assistance. This period of the family unit's eligibility shall not exceed twelve months as determined under WAC 388-77-737.

(7) An AFDC or FIP family member is not eligible for the extensions in subsections (3), (4), (5), or (6) of this section when the department finds the person ineligible for AFDC or FIP in any of the six months before the extension because of fraud.

(8) The department shall determine a FIP client eligible for a four-month medical extension when the client is found ineligible for:

(a) FIP cash assistance because of hours of employment; and

(b) AFDC or FIP in the prior six months because of a fraud.

[Statutory Authority: RCW 74.08.090, 93-13-131 (Order 3573), § 388-83-029, filed 6/23/93, effective 7/24/93; 93-01-034 (Order 3488), § 388-83-029, filed 12/9/92, effective 1/9/93; 90-12-060 (Order 3018), § 388-83-029, filed 5/31/90, effective 7/1/90.]

WAC 388-83-031 Continuation of eligibility for pregnant women. The department shall continue Medicaid eligibility for a woman who was eligible for and received Medicaid on the last day of pregnancy through the end of the month in which the sixtieth day from the end of pregnancy occurs.

[Statutory Authority: RCW 74.08.090, 93-17-035 (Order 3617), § 388-83-031, filed 8/11/93, effective 9/11/93; 86-21-002 (Order 2430), § 388-83-031, filed 10/2/86.]

WAC 388-83-03101 Postpregnancy family planning extension. A woman eligible for medical care from the department during her pregnancy shall continue to be eligible for family planning services until the end of the twelfth month following the date the pregnancy ends.

[Statutory Authority: RCW 74.08.090, 93-16-035 (Order 3595), § 388-83-03101, filed 7/28/93, effective 9/1/93.]

WAC 388-83-032 Pregnant women. (1) The department shall find a verifiably pregnant woman eligible for Medicaid as categorically needy, if the pregnant woman meets:

(a) The income requirements of this section; and

(b) Citizenship, Social Security number, and residence requirements under chapter 388-83 WAC.

(2) When a pregnant woman applies on or before the last day of pregnancy, the department shall find her eligible for continued Medicaid coverage through the end of the month containing the sixtieth day from the day pregnancy ends.

(3) Income eligibility:

(a) Total family income shall not exceed one hundred eighty-five percent of the federal poverty level (FPL). One hundred eighty-five percent of the current FPL is:

| | Family Size | Monthly |
|--------|-------------|----------|
| (i) | One | \$ 1,075 |
| (ii) | Two | 1,454 |
| (iii) | Three | 1,833 |
| (iv) | Four | 2,212 |
| (v) | Five | 2,592 |
| (vi) | Six | 2,971 |
| (vii) | Seven | 3,350 |
| (viii) | Eight | 3,729 |

(ix) For family units with nine members or more, add \$379 to the monthly income for each additional member.

(b) The department shall determine family income:

(i) According to AFDC methodology, except the department shall:

(A) Exclude the income of the unmarried father of the unborn or unborns unless the income is actually contributed; and

(B) Determine eligibility as if the unborn or unborns are born.

(ii) By applying the special situations as required under WAC 388-83-130.

(c) The department shall consider the provisions of WAC 388-83-130(1) in determining countable income for a pregnant minor.

(4) The department shall not consider resources in determining the pregnant woman's eligibility.

(5) Changes in family income shall not affect eligibility for medical assistance for the pregnant woman during pregnancy and when eligible under subsection (2) of this section through the end of the month that contains the sixtieth day from the last day of pregnancy:

(a) Once the department determines a pregnant woman eligible under this section; or

(b) If, at any time while eligible for and receiving medical assistance, a pregnant woman meets the eligibility requirements of this section.

[Statutory Authority: RCW 74.08.090 and Federal Register Volume 58, Number 28. 93-11-049 (Order 3548), § 388-83-032, filed 5/12/93, effective 6/12/93. Statutory Authority: RCW 74.08.090 and 42 CFR 124.505(b). 92-11-057 (Order 3389), § 388-83-032, filed 5/19/92, effective 6/19/92. Statutory Authority: RCW 74.08.090. 91-10-100 (Order 3174), § 388-83-032, filed 5/1/91, effective 6/1/91; 90-24-027 (Order 3105), § 388-83-032, filed 11/30/90, effective 12/31/90; 90-12-052 (Order 3010), § 388-83-032, filed 5/31/90, effective 7/1/90; 89-22-034 (Order 2884), § 388-83-032, filed 10/27/89, effective 11/27/89; 89-11-057 (Order 2798), § 388-83-032, filed 5/17/89; 88-23-084 (Order 2730), § 388-83-032, filed 11/18/88; 88-19-033 (Order 2695), § 388-83-032, filed 9/12/88; 88-11-063 (Order 2626), § 388-83-032, filed 5/17/88; 87-17-042 (Order 2521), § 388-83-032, filed 8/17/87.]

WAC 388-83-033 Children—Eligible to nineteen years of age. (1) The department shall find a child who has not yet attained nineteen years of age eligible for Medicaid when the child meets citizenship, residence, and Social Security Number requirements under this chapter and the income requirement corresponding to the age levels under the following subsections:

(a) A child under nineteen years of age shall be eligible as categorically needy when the family income is equal to or less than one hundred percent of the federal poverty level (FPL). One hundred percent of the current FPL is:

| | Family Size | Monthly |
|--------|-------------|---------|
| (i) | One | \$ 581 |
| (ii) | Two | 786 |
| (iii) | Three | 991 |
| (iv) | Four | 1,196 |
| (v) | Five | 1,401 |
| (vi) | Six | 1,606 |
| (vii) | Seven | 1,811 |
| (viii) | Eight | 2,016 |

(ix) For family units with more than eight members, add \$205 to the monthly income for each additional member.

(b) A child one year of age, but under six years of age, shall be eligible as categorically needy when the total family countable income does not exceed one hundred thirty-three percent of the FPL. One hundred thirty-three percent of the current FPL is:

| | Family Size | Monthly |
|--------|-------------|---------|
| (i) | One | \$ 773 |
| (ii) | Two | 1,045 |
| (iii) | Three | 1,318 |
| (iv) | Four | 1,590 |
| (v) | Five | 1,863 |
| (vi) | Six | 2,136 |
| (vii) | Seven | 2,408 |
| (viii) | Eight | 2,681 |

(ix) For family units with more than eight members, add \$273 to the monthly income for each additional member.

(c) An infant under one year of age shall be eligible as categorically needy when the infant is a member of a family whose total family countable income does not exceed one hundred eighty-five percent of the current FPL. See income guidelines as described under WAC 388-83-032 (3)(a).

(2) The department shall:

(a) Find an infant under one year of age eligible as categorically needy when the infant:

(i) Is born to a woman eligible for and receiving medical assistance on the date of the infant's birth; and

(ii) Remains a member of the mother's household.

(b) Not consider citizenship; application for, or possession of, a Social Security number; income; or resource requirements for infants under this subsection.

(3) Regardless of citizenship; or application for, or possession of a Social Security number, the department shall determine a child from birth to eighteen years of age, eligible for state-funded medical services with the same medical coverage as categorically needy, if the:

(a) Child is not eligible for any federally-funded Medicaid program; and

(b) Child's total family countable income does not exceed one hundred percent of the current FPL. See income guidelines as described under subsection (1)(a) of this section.

(4) The department shall determine family income according to AFDC methodology, and apply the special situations as required under WAC 388-83-130.

(5) The department shall not consider resources in determining eligibility of a child under this section.

(6) A child shall remain eligible under this section until the later of the end of the month:

(a) Of the child's birthday that exceeds the age requirement; or

(b) In which the child receives inpatient services if:

(i) The child is receiving inpatient services on the last day of the month of the child's birthday that exceeds the age requirement; and

(ii) The child's stay for inpatient services continues into the following month or months; and

(iii) Except for the age requirement, the child would be eligible for assistance under this section.

(7) A child eligible under subsection (3) of this section if pregnant, shall remain eligible:

(a) Regardless of the changes in family income; and

(b) Through the end of the month including the sixtieth day from the day the pregnancy ends.

[Statutory Authority: RCW 74.08.090 and Federal Register Volume 58, Number 28. 93-11-049 (Order 3548), § 388-83-033, filed 5/12/93, effective 6/12/93. Statutory Authority: RCW 74.08.090 and CFR 435.712 and 435.724. 93-06-037 (Order 3516), § 388-83-033, filed 2/24/93, effective 3/27/93. Statutory Authority: RCW 74.08.090 and 42 CFR 124.505(b). 92-11-057 (Order 3389), § 388-83-033, filed 5/19/92, effective 6/19/92. Statutory Authority: RCW 74.08.090. 92-03-083 (Order 3308), § 388-83-033, filed 1/15/92, effective 2/15/92; 91-11-085 (Order 3179), § 388-83-033, filed 5/21/91, effective 6/21/91; 90-24-027 (Order 3105), § 388-83-033, filed 11/30/90, effective 12/31/90; 90-12-043 (Order 2985), § 388-83-033, filed 5/31/90, effective 7/1/90; 89-22-034 (Order 2884), § 388-83-033, filed 10/27/89, effective 11/27/89.]

WAC 388-83-041 Income—Eligibility. (1) For continuing cash assistance clients, the department shall find a person eligible for medical care programs without a separate determination of eligibility.

(2) For a noncash medical assistance client, the department shall determine countable income according to AFDC, or SSI methodology, except the department shall:

(a) Budget income prospectively as defined under WAC 388-28-483;

(b) Not use mandatory monthly income reporting;

(c) Consider financial responsibility of relatives as described under WAC 388-92-025 for SSI-related clients and WAC 388-83-046 for clients unrelated to SSI;

(d) Exclude lump sum payments as described under WAC 388-92-045;

(e) Consider the AFDC earned income exemption as described under WAC 388-83-130; and

(f) Consider the principle and interest payment from a sales or real estate contract as described under WAC 388-92-045 (2)(a) as unearned income;

(g) Consider the interest payment from a sales or real estate contract as described under WAC 388-92-045 (2)(b) as unearned income;

(h) Require clients to take all necessary steps to obtain any annuities, pensions, retirement, and disability benefits to which they are entitled, unless they can show good cause for not doing so. The client's annuities, pensions, retirement, and disability benefits may include, but are not limited to, veteran's compensation and pensions, OASDI benefits, railroad retirement benefits, and unemployment compensation;

(i) Allow child care expenses the client pays as an income deduction;

(j) Exempt earned income tax credit refunds and payments, the person receives on or after January 1, 1991, during the month of receipt and the following month; and

(k) Consider trusts as described under WAC 388-92-041.

[Statutory Authority: RCW 74.08.090 and OBRA 1993, 93-23-031 (Order 3665), § 388-83-041, filed 11/10/93, effective 12/11/93. Statutory Authority: RCW 74.08.090, 93-06-038 (Order 3518), § 388-83-041, filed 2/24/93, effective 3/27/93; 92-09-030 (Order 3366), § 388-83-041, filed 4/7/92, effective 5/8/92; 91-09-017 (Order 3132), § 388-83-041, filed 4/9/91, effective 5/10/91.]

WAC 388-83-046 Relative financial responsibility for AFDC-related programs. (1) When determining eligibility for medical care programs, the department shall consider:

(a) The family unit living in the same household as including all family members when determining program relationship;

(b) A relative to be financially responsible only as follows:

(i) The natural or adoptive parent or stepparent to a child under nineteen years of age living in the same household; and

(ii) Spouse to spouse living in the same household.

(c) As a separate medical assistance unit (MAU) the following family member living in the same household, when all family members are not eligible for a categorically needy medical care program:

(i) A child with countable income or resources;

(ii) A child in common of unmarried parents;

(iii) Each unmarried parent of a child in common with such parent's separate children, if any; or

(iv) A nonresponsible caretaker relative.

(d) Family members, other than those described under subsection (1)(c), in the same MAU; and

(e) A pregnant minor as not living in the same household as her parent regardless of whether she lives with her parent. See subsections (4)(b) and (5)(b) of this section.

(2) The department shall consider income and resources jointly for spouses and the spouses' children living in the same household unless the exceptions in this section are met. See WAC 388-92-025 for the financial responsibility requirements for SSI-related clients.

(3) When determining eligibility for medical care, the department shall not consider the countable income or resources of a child available to any person other than the child.

(4) The department shall consider the income of a parent of a child under nineteen years of age;

(a) Living in the same household, available to the child, whether or not actually contributed, as follows:

(i) A parent's income shall be allocated to each child for whom the parent is financially responsible; and

(ii) A parent shall be allowed one hundred percent of the federal poverty level (FPL) for the parent and other members of the parent's MAU. The department shall allocate income in excess of one hundred percent of the FPL on a prorated basis to all children under nineteen years of age in separate MAUs for whom the parent is financially responsible.

(b) Not living in the same household, only to the extent of the parent's income is actually contributed to the child.

(5) The department shall consider the resources of a parent of a child under nineteen years of age:

(a) Living in the same household, available to the child whether or not actually contributed. A parent's countable resources shall be:

(i) Prorated; and

(ii) Allocated in equal shares to:

(A) The parent; and

(B) Each person for whom the parent is financially responsible.

(b) Not living in the same household, only to the extent of the parent's resources are actually contributed to the child.

(6) When determining medical care eligibility, the department shall not consider available, unless actually contributed to the client, the income and resources of a:

(a) Stepparent who is not legally liable for support of the stepchildren;

(b) Grandparent;

(c) Legal guardian other than the parent of the client;

(d) Alien sponsor; or

(e) Sibling.

(7) The department shall determine each MAU's medical care eligibility using:

(a) The MAU's countable income and resources; and

(b) Household size for the number of persons in the MAU.

(8) For each separate MAU, the department shall exempt one vehicle as described under WAC 388-28-435 when such vehicle is owned by a person in the MAU.

[Statutory Authority: RCW 74.08.090 and Sneeve vs. Kizer, 9th Circuit Court decision, United States Court of Appeals D.C. #CV-89-1932-TEH. 93-19-037 (Order 3630), § 388-83-046, filed 9/8/93, effective 10/9/93. Statutory Authority: RCW 74.08.090. 93-11-045 (Order 3546), § 388-83-046, filed 5/12/93, effective 6/12/93.]

WAC 388-83-130 Eligibility—Special situations. (1) The department shall not allow the AFDC earned income exemption of thirty dollars plus one-third of remainder to a client:

(a) Applying solely for medical assistance, except for a family applying for medical assistance who received AFDC or FIP cash assistance in any of the four preceding months; and

(b) After the client receives the thirty dollars plus one-third income disregard for a maximum of four consecutive months. A client is not eligible for the disregard until the client does not receive AFDC or FIP cash assistance for twelve consecutive months.

(2) The department shall consider an AFDC client terminated from cash assistance as eligible for Medicaid when termination was solely due to the AFDC client:

(a) Ceasing to attend school; or

(b) Refusing to participate in the Job Opportunities and Basic Skills Training (JOBS) program.

(3) The department shall not consider the transfer of a resource when determining Medicaid eligibility for a person who is not institutionalized. If the client is institutionalized, refer to chapter 388-95 WAC.

[Statutory Authority: RCW 74.08.090 and Sneeve vs. Kizer, 9th Circuit Court decision, United States Court of Appeals D.C. #CV-89-1932-TEH. 93-19-037 and 93-19-083 (Orders 3630 and 3630A), § 388-83-130, filed 9/8/93 and 9/15/93, effective 10/9/93 and 10/16/93. Statutory Authority: RCW 74.08.090, CFR 435.712 and 435.724. 93-06-037 (Order 3516), § 388-83-130, filed 2/24/93, effective 3/27/93. Statutory Authority: RCW 74.08.090. 91-10-100 (Order 3174), § 388-83-130, filed 5/1/91, effective 6/1/91; 90-12-060 (Order 3018), § 388-83-130, filed 5/31/90, effective 7/1/90; 88-17-062 (Order 2672), § 388-83-130, filed 8/17/88; 86-20-015 (Order 2424), § 388-83-130, filed 9/22/86; 84-02-055 (Order 2063), § 388-83-130, filed 1/4/84; 82-10-062 (Order 1801), § 388-83-130, filed 5/5/82; 81-23-046 (Order 1721), § 388-83-130, filed 11/18/81; 81-16-033 (Order 1685), § 388-83-130, filed 7/29/81; 81-10-014 (Order 1646), § 388-83-130, filed 4/27/81.]

WAC 388-83-200 Community options program entry system (COPEs). (1) The department shall determine a person eligible for COPEs when a person is eighteen years of age or over and:

(a) Meets the categorically needy eligibility requirements for an SSI-related institutionalized person. For the purposes of COPEs, a person is considered institutionalized as of the date all eligibility criteria, except institutionalized status, is met;

(b) Requires the level of care provided in a nursing facility;

(c) Has a department-approved plan of care that meets the eligibility requirements for COPEs personal care as described under WAC 388-15-610 (1)(f);

(d) Is able and chooses to reside at home with community support services, in a congregate care facility, or in a licensed adult family home; and

(e) Effective October 31, 1992, has received COPEs services on or after April 1, 1992 or applied for COPEs services between April 1, 1992 and October 31, 1992 under WAC 388-15-610(3).

(2) The department shall not require participation in the cost of COPEs care by a person:

(a) Receiving SSI; or

(b) Remaining eligible for SSI under section 1619(b) of the Social Security Act, but not receiving a cash grant.

(3) The department shall allocate available income of the SSI-related COPEs client as described under WAC 388-95-360 (1), (2), (3), (4)(c), (d), (e), (f), and (g) and (6). The client shall retain an amount equal to the medically needy income level (MNIL) for one person for the client's maintenance needs.

(4) The SSI-related client residing in an adult family home or congregate care facility shall:

(a) Retain from a maintenance needs amount a specified personal needs allowance as described under WAC 388-29-130 and 388-29-280; and

(b) Pay the lessor of the remaining maintenance needs amount or the facility room and board rate to the facility for the cost of board and room.

(5) The department shall include the remaining income after allocations as the participation amount for COPEs services as described under WAC 388-15-620.

[Statutory Authority: RCW 74.08.090. 93-11-044 (Order 3547), § 388-83-200, filed 5/12/93, effective 6/12/93; 92-24-039 (Order 3481), § 388-83-200, filed 11/25/92, effective 12/26/92; 91-16-059 (Order 3220), § 388-83-200, filed 8/1/91, effective 9/1/91; 90-12-050 (Order 3008), § 388-83-200, filed 5/31/90, effective 7/1/90; 85-13-063 (Order 2243), § 388-83-200, filed 6/18/85. Statutory Authority: RCW 74.08.044. 84-12-033 (Order 2103), § 388-83-200, filed 5/30/84. Statutory Authority: RCW 74.08.090. 83-18-030 (Order 2020), § 388-83-200, filed 8/31/83; 83-08-024 (Order 1954), § 388-83-200, filed 3/30/83.]

WAC 388-83-210 Community alternatives program (CAP) and outward bound residential alternatives (OBRA) program. (1) The department shall determine an eligible person for CAP is a person:

(a) Meeting the requirements and eligible for services of the division of developmental disabilities and disabled according to SSI rules;

(b) Meeting the categorically needy eligibility requirements for an SSI-related institutionalized person. For the purposes of CAP and OBRA, a person is considered institutionalized as of the date all eligibility criteria, except institutionalized status, is met;

(c) The department assesses as requiring the level of care provided in an intermediate care facility for the mentally retarded (IMR);

(d) For whom the department approves an individual plan of care describing the provided community support services; and

(e) Able and choosing to reside in the community with community support services according to the plan of care.

(2) The department shall determine an eligible person for the OBRA home and community-based services program is a person:

(a) Meeting the CAP eligibility standards in WAC 388-83-210(1) of this section; and

(b) Residing in a medicaid nursing facility at the time of application for OBRA services.

(3) The department shall not require participation in the cost of CAP or OBRA services by a person:

(a) Receiving SSI; or

(b) Remaining eligible for SSI under section 1619(b) of the Social Security Act, but not receiving a cash grant.

(4) The department shall allocate available total income, including amounts disregarded in determining eligibility, of a SSI-related CAP or OBRA client as follows:

(a) For a client residing in the client's residence, including a client receiving intensive tenant support services, an amount equal to a maximum of three hundred percent of the SSI federal benefit rate for one person shall be protected for the client's maintenance needs;

(b) For a client residing in a state-contracted or state-operated group home, adult family home, or congregate care facility, the following amounts shall be protected for the client's maintenance needs:

(i) A specified personal needs allowance, as described under WAC 388-29-130 and 388-29-280;

(ii) An amount equal to the monthly room and board cost for the facility where the client resides;

(iii) The first twenty dollars per month of earned or unearned income; and

(iv) The first sixty-five dollars plus one-half of the remaining earned income not previously excluded.

(c) For a client described in subsection (3)(b) of this section, the maximum amount allowed for any client's individual maintenance needs shall not exceed three hundred percent of the SSI federal benefit rate. A client shall not be allowed an individual maintenance needs deduction of less than the SSI payment standard;

(d) For a client with a spouse at home who is not receiving CAP or OBRA services, an amount is protected for the spouse's maintenance needs as computed in WAC 388-95-360 (4)(d);

(e) For a client with a dependent relative residing with the spouse not receiving CAP or OBRA services, an amount is protected for the relative's maintenance needs as computed in WAC 388-95-360 (4)(e);

(f) Amounts for incurred medical expenses not subject to third-party payment shall be protected, including:

(i) Medicare and other health insurance premiums, deductibles, or coinsurance charges; and

(ii) Necessary medical care recognized under state law but not covered under Medicaid.

(g) Income remaining after deductions in subsection (4)(a), (b), (c), (d), (e), and (f) of this section will be the participation amount for CAP or OBRA services.

[Statutory Authority: RCW 74.08.090, 93-11-044 (Order 3547), § 388-83-210, filed 5/12/93, effective 6/12/93; 92-24-039 (Order 3481), § 388-83-210, filed 11/25/92, effective 12/26/92; 90-12-050 (Order 3008), § 388-83-210, filed 5/31/90, effective 7/1/90; 85-13-063 (Order 2243), § 388-83-210, filed 6/18/85; 84-04-066 (Order 2071), § 388-83-210, filed 2/1/84.]

WAC 388-83-220 Coordinated community AIDS service alternatives (CASA) program. (1) The department shall determine an eligible person for CASA is a person:

(a) Meeting the categorically needy eligibility requirements for an SSI-related institutionalized person. For the purposes of CASA, the department shall consider a person institutionalized the date the person meets other eligibility criteria, except institutional status;

(b) Having a diagnosis of acquired immune deficiency syndrome or disabling class IV human immunodeficiency virus disease or P2 HIV/AIDS diagnosis, if fourteen years of age or under, as defined by the centers for disease control or Washington state department of health;

(c) Determined medically at risk of need for the level of hospital-provided care;

(d) Certified by the person's physician or nurse practitioner as in the terminal stage of life;

(e) Agreeing to receive services in the person's own home, a licensed congregate care facility, or adult family home; and

(f) Having a department-approved and department of health approved plan of care.

(2) The department shall not require participation in the cost of CASA services by a person:

(a) Receiving SSI; or

(b) Remaining eligible for SSI under section 1619(b) of the Social Security Act, but not receiving a cash grant.

(3) The department shall allocate available total income, including amounts disregarded in determining eligibility of a SSI-related CASA client residing at home, as follows:

(a) The client retains as maintenance needs an amount equal to the medically needy income level (MNIL) for one person; and

(b) As described under WAC 388-95-360 (1), (2), (3), (4)(c), (d), (e), (f), and (g), (5), and (6).

(4) The department shall allocate available total income, including amounts disregarded in determining eligibility of a SSI-related CASA client residing in an adult family home or congregate care facility as follows:

(a) The client shall retain a specified personal needs allowance as described under WAC 388-29-130 or 388-29-280;

(b) As described under WAC 388-95-360 (1), (2), (3), (4)(c), (d), (e), (f), and (g), (5), and (6); and

(c) Pay remaining income up to the MNIL to the facility for the cost of board and room.

(5) The SSI-related CASA client's income remaining after deductions in subsection (3) or (4) of this section shall be the participation amount for CASA services.

(6) When the department has determined that the client has financial participation under subsection (5) of this section, the department shall require the client to meet the participation obligation to remain eligible.

[Statutory Authority: RCW 74.08.090, 93-11-044 (Order 3547), § 388-83-220, filed 5/12/93, effective 6/12/93; 92-24-039 (Order 3481), § 388-83-220, filed 11/25/92, effective 12/26/92; 90-17-118 (Order 3052), § 388-83-220, filed 8/21/90, effective 9/21/90.]

Chapter 388-84 WAC

MEDICAL CARE—APPLICATION

WAC

388-84-105

Medical application.

388-84-110

Application—Disposition.

388-84-115

Effective date of eligibility.

WAC 388-84-105 Medical application. (1) The department shall accept and process applications for medical programs as described under subsections of WAC 388-38-

010, 388-38-030, 388-38-040, 388-38-045, and 388-38-050 except as specified under this section.

(2) The department shall accept applications for medical programs without delay.

(a) The department shall provide clients with:

- (i) A Civil Rights Act explanation;
 - (ii) Fair hearing information;
 - (iii) Early and periodic screening, diagnosis, and treatment (EPSDT) information also known as the healthy kids program, when appropriate; and
 - (iv) Family planning information, when appropriate.
- (v) The special supplemental food program for women, infants and children's (WIC) information, when appropriate.

(b) The request for medical programs shall be on a department designated form.

(c) A relative or representative may complete the application on a client's behalf, when the client is unable to complete the application or if the client dies.

(3) The department shall complete the application process by conducting a face-to-face interview in the local community services office CSO, unless the client:

(a) Or the client's representative requests the office interview be waived and the:

- (i) Client is unable to come to the CSO; or
- (ii) Client has no representative to complete the interview; or
- (iii) Client is unable to name a representative to complete the interview; and

(iv) Department has adequate information to determine eligibility for medical programs without a face-to-face interview.

(b) Is a pregnant woman and the application is for a pregnancy-related medical program.

(c) Is a child eighteen years of age or younger and the application is for a medical program for children.

(4) When the client meets the requirements of subsection (3), the department may complete the application process through:

- (a) A face-to-face interview in the client's home;
- (b) A telephone interview; or
- (c) The mail.

(5) The department shall find clients who receive continuing cash assistance eligible for a medical program without a separate application.

(6) An aged, blind, or disabled client ineligible for SSI benefits solely because of the spouse's income level shall apply for a medical program.

(7) A Washington state resident temporarily out of the state may make application to the CSO in the resident's area of the state through either a person or agency acting in the client's behalf.

[Statutory Authority: RCW 74.08.090, 93-21-001 (Order 3649), § 388-84-105, filed 10/6/93, effective 11/6/93. Statutory Authority: RCW 74.08.090 and CFR 435.712 and 435.724, 93-06-037 (Order 3516), § 388-84-105, filed 2/24/93, effective 3/27/93. Statutory Authority: RCW 74.08.090, 91-23-083 (Order 3285), § 388-84-105, filed 11/19/91, effective 12/20/91; 91-05-011 (Order 3138), § 388-84-105, filed 2/7/91, effective 3/10/91; 88-17-062 (Order 2672), § 388-84-105, filed 8/17/88; 81-16-033 (Order 1685), § 388-84-105, filed 7/29/81; 81-10-014 (Order 1646), § 388-84-105, filed 4/27/81.]

WAC 388-84-110 Application—Disposition. (1) The department shall act on a request for medical assistance within:

(a) Sixty calendar days for a client requiring a disability decision;

(b) Forty-five calendar days for all other categories except a pregnant woman as described under subsection (1)(c) of this section; and

(c) Fifteen working days for a pregnant woman, including an interview within five working days if an interview is requested by the client.

(d) When applying subsection (1) (a), (b), or (c) of this section, the department shall count as day one the date following the date of application.

(2) The department shall:

(a) Not use the standards for timely processing of applications as a waiting period for determining eligibility; and

(b) Act on each application as quickly as possible.

(3) When the department has otherwise acted promptly at all stages of the application process, the department may extend the time standard if the department cannot reach a timely eligibility decision because the:

(a) Client or an examining physician delays or fails to provide information or fails to take a required action; or

(b) Eligibility determination depends upon out-of-state or intercity correspondence and no other verification is available to establish the eligibility factor at issue; or

(c) Eligibility determination depends on receipt of medical expense documentation as described under WAC 388-99-030 and 388-100-020.

(4) The department shall notify a medical program client of departmental action by letter.

(5) Approval, denial, or withdrawal of the application for medical assistance, medical care services, or the limited casualty program will follow cash assistance standards and criteria in chapter 388-38 WAC, with the exception of WAC 388-38-110. For time limits for disposal of a medical application, subsections (1), (2) and (3) of this section shall apply.

(6) The department may rescind a denial and approve assistance based on a denied application when:

(a) The client, within thirty days from the date of denial, provides additional information needed to establish eligibility; or

(b) Following this thirty-day period, the client:

(i) Timely requests a fair hearing to appeal the denial; and

(ii) Provides the additional information needed to establish eligibility.

[Statutory Authority: RCW 74.08.090, 93-21-001 (Order 3649), § 388-84-110, filed 10/6/93, effective 11/6/93; 89-24-035 (Order 2906), § 388-84-110, filed 12/1/89, effective 1/1/90; 86-17-022 (Order 2409), § 388-84-110, filed 8/12/86; 86-11-022 (Order 2375), § 388-84-110, filed 5/14/86; 86-01-002 (Order 2314), § 388-84-110, filed 12/5/85; 82-01-001 (Order 1725), § 388-84-110, filed 12/3/81; 81-10-014 (Order 1646), § 388-84-110, filed 4/27/81.]

WAC 388-84-115 Effective date of eligibility. (1) The effective date of eligibility for medical assistance shall be no earlier than the third month before the month of application provided:

(a) The medical services received were covered; and

(b) The client would have been eligible had the client applied; and

(c) The client meets all categorically needy eligibility factors.

(2) The effective date of eligibility for categorically needy medical assistance shall be the first day of the month when the client is eligible at any time during that month.

(3) The effective date of eligibility for medical assistance for an SSI beneficiary shall be the first day of the month the beneficiary applies for SSI.

(4) See WAC 388-99-055 for effective date of eligibility for the medically needy program.

(5) See WAC 388-100-020 for effective date of eligibility for the medically indigent program.

[Statutory Authority: RCW 74.08.090, 93-16-041 (Order 3602), § 388-84-115, filed 7/28/93, effective 8/28/93; 89-11-002 (Order 2791), § 388-84-115, filed 5/4/89; 82-01-001 (Order 1725), § 388-84-115, filed 12/3/81; 81-10-014 (Order 1646), § 388-84-115, filed 4/27/81.]

Chapter 388-86 WAC

MEDICAL CARE—SERVICES PROVIDED

WAC

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|--------------|---|
| 388-86-005 | Services available to recipients of categorical needy medical assistance. |
| 388-86-008 | Repealed. |
| 388-86-00902 | Mandatory prepaid health care plans. |
| 388-86-012 | Audiometric services. |
| 388-86-021 | Dentures. |
| 388-86-022 | School medical services for special education students. |
| 388-86-024 | Enhanced benefits for pregnant women. |
| 388-86-035 | Family planning. |
| 388-86-047 | Hospice services. |
| 388-86-071 | Private duty nursing services. |
| 388-86-073 | Occupational therapy. |
| 388-86-090 | Physical therapy. |
| 388-86-098 | Speech therapy services. |
| 388-86-120 | Medical care services. |
| 388-86-200 | Limits on scope of medical program services. |
| 388-86-300 | Chemical dependency outpatient services. |

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

| | |
|------------|--|
| 388-86-008 | Recipient overutilization. [Statutory Authority: RCW 74.08.090, 89-24-038 (Order 2909), § 388-86-008, filed 12/1/89, effective 1/1/90; 85-09-002 (Order 2220), § 388-86-008, filed 4/4/85; 82-17-069 (Order 1865), § 388-86-008, filed 8/18/82; 82-01-001 (Order 1725), § 388-86-008, filed 12/3/81; 80-13-020 (Order 1542), § 388-86-008, filed 9/9/80; 78-02-024 (Order 1265), § 388-86-008, filed 1/13/78.] Repealed by 93-11-047 (Order 3544), filed 5/12/93, effective 6/12/93. Statutory Authority: RCW 74.08.090. |
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WAC 388-86-005 Services available to recipients of categorical needy medical assistance. (1) The department shall provide the following Title XIX mandatory services:

- (a) Early and periodic screening diagnosis and treatment services to an eligible person twenty years of age or under;
- (b) Family planning services;
- (c) Federally qualified health center services;
- (d) Home health agency services;
- (e) Inpatient and outpatient hospital care;
- (f) Medicare certified rural health clinic services;
- (g) Other laboratory and x-ray services;

- (h) Skilled nursing home care;
- (i) Certified registered nurse practitioner services; and
- (j) Physicians' services in the office or away from the office as needed for necessary and essential medical care.

(2) The department shall provide the following Title XIX optional services:

- (a) Anesthesia services;
- (b) Blood;
- (c) Chiropractic services;
- (d) Drugs and pharmaceutical supplies;
- (e) Eyeglasses and examination;
- (f) Hearing aids and examinations;
- (g) Hospice services;
- (h) Licensed midwife services;
- (i) Maternity support services;
- (j) Oxygen;
- (k) Personal care services;
- (l) Physical therapy services;
- (m) Private duty nursing services;
- (n) Surgical appliances;
- (o) Prosthetic devices and certain other aids to mobility;

and

- (p) Dental services.

(3) The department shall limit organ transplants to the cornea, heart, heart-lung, kidney, kidney-pancreas, liver, pancreas, single lung, and bone marrow.

(4) The department shall provide treatment, dialysis, equipment, and supplies for acute and chronic nonfunctioning kidneys when the client is in the home, hospital, or kidney center as described under WAC 388-86-050(12).

(5) The department shall provide detoxification and medical stabilization to chemically using pregnant women in a hospital.

(6) The department shall provide detoxification of acute alcohol or other drug intoxication only in a certified detoxification center or in a general hospital having a detoxification provider agreement with the department.

(7) The department shall provide outpatient chemical dependency treatment in programs qualified under chapter 275-25 WAC and certified under chapter 275-19 WAC or its successor.

- (8) For services available under the:

(a) Limited casualty program-medically needy, see chapter 388-99 WAC; and

(b) Limited casualty program-medically indigent, see chapter 388-100 WAC.

(9) The department may require a second opinion and/or consultation before the approval of any elective surgical procedure.

(10) The department shall designate diagnoses that may require surgical intervention:

(a) Performed in other than a hospital in-patient setting; and

(b) Requiring prior approval by the department for a hospital admission.

(11) The department shall assure the availability of necessary transportation to and from medical services covered under a client's medical program.

[Statutory Authority: RCW 74.08.090, 93-17-038 (Order 3620), § 388-86-005, filed 8/11/93, effective 9/11/93; 92-03-084 (Order 3309), § 388-86-005, filed 1/15/92, effective 2/15/92; 90-17-122 (Order 3056), § 388-86-005, filed 8/21/90, effective 9/21/90; 90-12-051 (Order 3009), § 388-86-005,

filed 5/31/90, effective 7/1/90; 89-18-033 (Order 2860), § 388-86-005, filed 8/29/89, effective 9/29/89; 89-13-005 (Order 2811), § 388-86-005, filed 6/8/89; 88-06-083 (Order 2600), § 388-86-005, filed 3/2/88. Statutory Authority: 1987 1st ex.s. c 7. 88-02-034 (Order 2580), § 388-86-005, filed 12/31/87. Statutory Authority: RCW 74.08.090, 87-12-050 (Order 2495), § 388-86-005, filed 6/1/87; 84-02-052 (Order 2060), § 388-86-005, filed 1/4/84; 83-17-073 (Order 2011), § 388-86-005, filed 8/19/83; 83-01-056 (Order 1923), § 388-86-005, filed 12/15/82; 82-10-062 (Order 1801), § 388-86-005, filed 5/5/82; 82-01-001 (Order 1725), § 388-86-005, filed 12/3/81; 81-16-033 (Order 1685), § 388-86-005, filed 7/29/81; 81-10-015 (Order 1647), § 388-86-005, filed 4/27/81; 80-15-034 (Order 1554), § 388-86-005, filed 10/9/80; 78-06-081 (Order 1299), § 388-86-005, filed 6/1/78; 78-02-024 (Order 1265), § 388-86-005, filed 1/13/78; Order 994, § 388-86-005, filed 12/31/74; Order 970, § 388-86-005, filed 9/13/74; Order 911, § 388-86-005, filed 3/1/74; Order 858, § 388-86-005, filed 9/27/73; Order 781, § 388-86-005, filed 3/16/73; Order 738, § 388-86-005, filed 11/22/72; Order 680, § 388-86-005, filed 5/10/72; Order 630, § 388-86-005, filed 11/24/71; Order 581, § 388-86-005, filed 7/20/71; Order 549, § 388-86-005, filed 3/31/71, effective 5/1/71; Order 453, § 388-86-005, filed 5/20/70, effective 6/20/70; Order 419, § 388-86-005, filed 12/31/69; Order 264 (part); § 388-86-005, filed 11/24/67.]

WAC 388-86-008 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-86-00902 Mandatory prepaid health care plans. (1) The department shall enroll designated program category clients residing in the service area of a mandatory enrollment prepaid health care plan, except as provided in subsections (5) and (6) of this section.

(2) For the purposes of this section, "mandatory prepaid health care plan" shall be referred to as "a plan." A plan means the department shall:

(a) Require a client in a specified service area who is eligible for a designated program category to join a health care plan; and

(b) Pay a premium to a health care plan for contracted health care provided to the client.

(3) The department may offer optional enrollment to additional program category eligible groups with the agreement of a plan.

(4) Timely provision of services means a client shall have the right to receive medically necessary health care without unreasonable delay.

(5) Before enrolling in a plan, a client may request an exemption from enrolling. The department may exempt the client, for whom medically necessary care is required, and a contracted plan is unable to provide the medically necessary care. In making the exemption determination, the department's consideration shall include, but not be limited to whether:

(a) Distance makes it unreasonably difficult for the client to obtain medical care; or

(b) The absence of services accessible to disabled persons makes it unreasonably difficult for the client to obtain medical care.

(6) Tribal Indians eligible under subsection (1) of this section may choose to enroll in a plan. Once enrolled in a plan, the Tribal Indian can only be disenrolled according to subsection (12) of this section.

(7) Emergencies and emergency transportation services are exempt from a plan's routine medical care authorization procedures. Emergency service means a situation in which a person requires immediate medical services to avoid placing a person's health in serious jeopardy or alleviate a

condition manifesting itself by acute symptoms, including severe pain, discomfort, or emergency active labor and delivery.

(a) The client shall not be responsible for determining, or for the cost of determining, if an emergency exists.

(b) If an emergency exists, the client shall not be financially responsible for any services rendered.

(c) If an emergency does not exist, and a plan will not authorize further services, the client shall be financially responsible for further services received only if the client is informed and agrees, in writing, to the responsibility before receiving the services as described under WAC 388-87-010(7).

(8) A client aggrieved by a decision of a plan or the department has the right to a fair hearing as required under chapter 388-08 WAC:

(a) Except as provided in subdivision (b) and (c) of this subsection, a client shall exhaust a plan's grievance procedure before requesting a fair hearing. A plan's grievance procedure shall result in a written decision stating the basis for the decision. The client has the right to request a fair hearing if the decision is adverse or the written decision is not received within thirty days from the date a plan received the grievance. A plan may be a party to the fair hearing.

(b) In any case where a plan denies a client urgently needed medical care, a client need only provide a written grievance to a plan before or when requesting a fair hearing.

(c) A client requesting exemption from enrolling in a plan shall file a written request with the department. If not satisfied with the department's decision, the client may request a fair hearing. A plan may be a party to the fair hearing.

(9) Each client enrolled in a plan shall have a primary care provider (PCP):

(a) Clients shall have an opportunity to choose a PCP from current plan providers;

(b) A plan shall assign a client not choosing a participating provider to a PCP;

(c) Clients shall have the right to change their PCP:

(i) One time during a twelve-month period for any reason; and

(ii) For subsequent changes during the twelve-month period the client shall first show good cause.

(d) When requesting a change of PCP the client shall notify a plan of the:

(i) Desired change including the name of the new PCP; and

(ii) Reason for the desired change.

(10) The client shall have the right to a second opinion by another participating physician or specialist of a plan:

(a) When the client needs more information as to the medical necessity of medical treatment recommended by the PCP; or

(b) If the client believes the PCP is not authorizing medically necessary care.

(11) When medically necessary, the PCP shall make a prompt referral to another participating physician or specialist of a plan.

(12) The department may terminate enrollment of a client in a plan when a:

(a) Client loses eligibility for a plan; or

(b) Client requests disenrollment under the same considerations as subsection (5) of this section; or

(c) Plan requests disenrollment of the client, in writing, and a:

(i) Plan establishes the client's behavior is:

(A) Inconsistent with a plan's rules and regulations, such as intentional misconduct; or

(B) Such that it becomes medically nonfeasible to safely or prudently provide medical care; and

(ii) Plan's requested disenrollment is approved by the medical assistance administration. The medical assistance administration shall:

(A) Make a decision on the requested disenrollment within fifteen days of the receipt of the request; and

(B) Notify the client ten days in advance of the effective date of disenrollment for any approved disenrollment.

(13) A plan shall not request disenrollment of a client solely due to an adverse change in the client's health.

(14) The department shall require a plan to appoint a medical director or designee who:

(a) Shall be responsible for the plan's quality assurance program and shall review all plan grievances; and

(b) Furnishes the medical assistance administration with a copy of all written grievances and a plan's response to such grievances.

(15) On at least an annual basis, the department shall arrange for and a plan shall permit an independent, external review of the quality of client services provided or arranged by a plan.

(16) This section shall apply to contracts in effect before July 1, 1993. See chapter 388-538 WAC for contracts effective July 1, 1993.

[Statutory Authority: RCW 74.08.090, 93-17-039 (Order 3621), § 388-86-00902, filed 8/11/93, effective 9/11/93; 92-13-029 (Order 3401), § 388-86-00902, filed 6/9/92, effective 7/10/92.]

WAC 388-86-012 Audiometric services. The department shall pay for hearing evaluations involving audiometric equipment when:

(1) An approved audiologist, physician, or an advanced registered nurse practitioner provides the service to:

(a) Categorically needy clients of Medicaid;

(b) Medically needy children under twenty-one years of age; or

(c) State-funded children's health program clients.

(2) The audiometric services shall relate to the provision of a hearing aid, a healthy kids/EPSTD screening service, or to a medical condition; and

(3) The audiometric services shall not be available for routine or group screenings, except under healthy kids/EPSTD services as specified under WAC 388-86-027.

[Statutory Authority: RCW 74.08.090, 93-06-039 (Order 3515), § 388-86-012, filed 2/24/93, effective 3/27/93; 82-01-001 (Order 1725), § 388-86-012, filed 12/3/81; 81-06-003 (Order 1610), § 388-86-012, filed 2/19/81; 80-13-020 (Order 1542), § 388-86-012, filed 9/9/80; 78-02-024 (Order 1265), § 388-86-012, filed 1/13/78; Order 1202, § 388-86-012, filed 4/1/77.]

WAC 388-86-021 Dentures. (1) The department shall provide complete and all-acrylic partial dentures and modification, repair, and adjustment of dentures to clients of medical care programs with the following limitations:

(a) Prior approval is needed for:

(i) Replacement dentures or partial dentures less than ten years old; and

(ii) Rebases on dentures and partial dentures.

(b) The department shall approve only one:

(i) Rebasing of dentures or partial dentures:

(A) In a five-year period; and

(B) The rebased dentures or partial dentures must be at least three years of age or older.

(ii) Relining of dentures or partial dentures:

(A) In a five-year period; and

(B) The relined dentures or partial dentures must be six months of age or older.

(2) Exceptions to the limitations under subsection (1)(b) of this section shall be granted when medical necessity is documented.

[Statutory Authority: RCW 74.08.090, 93-11-048 (Order 3543), § 388-86-021, filed 5/12/93, effective 6/1/93; 90-12-046 (Order 2988), § 388-86-021, filed 5/31/90, effective 7/1/90; 88-15-010 (Order 2649), § 388-86-021, filed 7/8/88; 81-16-033 (Order 1685), § 388-86-021, filed 7/29/81.]

WAC 388-86-022 School medical services for special education students. (1) The department shall pay school districts or educational service districts (ESD) for medical services to an eligible categorically needy or medically needy child when a school district or ESD furnishes the medical services to a special education student as part of the child's individualized education program (IEP) or individualized family service plan (IFSP).

(2) Such medical services shall be provided by:

(a) Qualified Medicaid providers as described under WAC 388-87-005;

(b) Psychologists, licensed by the state of Washington or granted an educational staff associate certificate (ESA) by the state board of education; or

(c) A person trained and supervised by a:

(i) Licensed registered nurse;

(ii) Licensed physical therapist or physiatrist;

(iii) Licensed occupational therapist; or

(iv) Speech pathologist or audiologist, who has been granted a certificate of clinical competence by the American speech, hearing, and language association or a person who completed the equivalent educational and work experience necessary for such a certificate.

(3) The department shall require recommendations and referrals to be updated at least annually.

(4) The department shall pay for school-based medical services according to the department-established rate or the billed amount, whichever is lower.

(5) The department shall not pay individual school practitioners who provide school-based medical services.

(6) The department shall require school districts or ESD to pursue third-party resources for medical services billed to Medicaid.

[Statutory Authority: RCW 74.08.090, 93-21-002 (Order 3650), § 388-86-022, filed 10/6/93, effective 11/6/93; 92-22-052 (Order 3474), § 388-86-022, filed 10/28/92, effective 11/28/92; 90-17-119 and 90-18-033 (Orders 3053 and 3053A), § 388-86-022, filed 8/21/90 and 8/27/90, effective 9/21/90 and 9/1/90.]

WAC 388-86-024 Enhanced benefits for pregnant women. (1) The department shall provide enhanced benefits to a Medicaid client during each pregnancy and through the

end of the month containing the sixtieth day after the pregnancy ends.

(2) The enhanced benefits include:

(a) Maternity support services, by a provider approved by the division of parent-child health services, consisting of:

- (i) Nursing assessment and/or counseling visit;
- (ii) Psychosocial assessment and/or counseling visit;
- (iii) Nutrition assessment and/or counseling visit;
- (iv) Community health worker visit; and
- (v) Child birth/parenting education.

(b) Outpatient alcohol and drug treatment consisting of:

(i) A chemical dependency assessment by an Alcohol and Drug Abuse Treatment and Service Act assessment center or the outpatient treatment provider as defined under chapter 275-19 WAC or its successor; and

(ii) Chemical dependency treatment.

(c) Vitamins and nonprescription drugs as listed in the department's formulary; and

(d) Transportation as provided under WAC 388-86-085.

(3) The client shall have the freedom of choice:

- (a) To receive maternity support services;
- (b) Of qualified maternity support services providers;

and

(c) To be referred for outpatient alcohol and drug treatment, unless ordered by the court.

(4) The department shall pay per client a maximum of:

(a) Ten contacts for assessment/counseling and community health worker visits under subsection (2)(a) of this section. The department shall pay for additional contacts when the maternity support services provider documents the need for additional contacts;

(b) One contact for child birth/parenting education; and

(c) One contact for an alcohol and drug treatment assessment under subsection (2)(b) of this section.

[Statutory Authority: RCW 74.08.090. 93-17-038 (Order 3620), § 388-86-024, filed 8/11/93, effective 9/11/93; 90-23-069 (Order 3094), § 388-86-024, filed 11/20/90, effective 12/21/90; 89-22-035 (Order 2885), § 388-86-024, filed 10/27/89, effective 11/27/89.]

WAC 388-86-035 Family planning. (1) The department shall inform clients of the availability of family planning services including information about the synthetic progestin capsule implant form of contraception.

(2) For the purpose of this section, "family planning services" mean services to plan the number of one's children by use of contraceptive techniques.

(3) For eligible clients, the department shall provide physicians' services, advanced registered nurse practitioners' services, clinic or hospital services, laboratory services, supplies and drugs needed in conjunction with family planning.

[Statutory Authority: RCW 74.08.090. 93-16-035 (Order 3595), § 388-86-035, filed 7/28/93, effective 9/1/93; 81-16-033 (Order 1685), § 388-86-035, filed 7/29/81; 81-10-015 (Order 1647), § 388-86-035, filed 4/27/81; Order 1203, § 388-86-035, filed 4/1/77; Order 781, § 388-86-035, filed 3/16/73; Order 264 (part), § 388-86-035, filed 11/24/67.]

WAC 388-86-047 Hospice services. (1) For the purposes of this section, hospice services means a medically-directed, interdisciplinary program of palliative services for a terminally ill client and the client's family.

(2) A Medicare Title XVIII certified hospice agency shall furnish hospice services.

(3) To be eligible for hospice services, a client shall:

(a) Be eligible under the Medicaid program;

(b) Be terminally ill, with a life expectancy of six months or less;

(c) Voluntarily request, in writing, to receive hospice services in place of other medical services for the terminal condition; and

(d) Be accepted by the designated hospice agency.

(4) While receiving hospice care, a client shall designate a hospice agency, and waive all rights to Medicaid payments for:

(a) Hospice care provided by a hospice other than the hospice designated or arranged by the designated hospice; and

(b) Medicaid services for treatment of the terminal or related condition for:

(i) Which hospice care is received; or

(ii) Services equivalent to the hospice care received; or

(iii) Services equivalent to the hospice care, except services of or arranged by the designated hospice.

(5) The client's hospice services shall include:

(a) Nursing care by or under the supervision of a registered nurse;

(b) Medical social services under the direction of a physician;

(c) Physician services provided by a doctor of medicine or osteopathy;

(d) Counseling services;

(e) Short-term inpatient care:

(i) Provided in a participating hospice inpatient unit, participating hospital, nursing facility or hospice care center, licensed under chapter 246-321 WAC; or

(ii) Provided in a nursing facility limited to respite care;

(iii) When the services conform to a written plan of care; and

(iv) When the unit, hospital, nursing facility or hospice care center meets the hospice staff and patient area standards.

(f) Medical appliances and supplies, including drugs and biologicals;

(g) Home health aide services, under the direction of a registered nurse; and

(h) Physical therapy, occupational therapy, and speech-language pathology services.

(6) Hospice coverage shall be available to a person for at least two hundred ten days. The department may subdivide the person's hospice coverage time into two or more periods.

(7) The department shall pay the Medicaid hospice rate for daily care as:

(a) Routine home;

(b) Continuous home;

(c) Inpatient respite; or

(d) General inpatient.

(8) A client may request voluntarily, in writing, to cancel hospice services.

[Statutory Authority: RCW 74.08.090. 93-16-040 (Order 3601), § 388-86-047, filed 7/28/93, effective 8/28/93; 92-13-030 (Order 3402), § 388-86-047, filed 6/9/92, effective 8/1/92. Statutory Authority: 1989 c 427. 89-18-034 (Order 2853), § 388-86-047, filed 8/29/89, effective 9/29/89.]

WAC 388-86-071 Private duty nursing services. (1) The department shall provide private duty nursing services when:

- (a) The client would otherwise be institutionalized;
- (b) The care is provided in a noninstitutional setting;
- (c) The services are medically necessary;
- (d) The client requires more nursing care than is available through home health nursing services;
- (e) A registered or licensed practical nurse provides the care under the direction of a physician; and

(f) The client meets the requirement of the:

- (i) Medically intensive home care program;
- (ii) Exceptional care program; or
- (iii) End-stage HIV/AIDS program.

(2) For the purpose of this section:

(a) "Medically eligible" means a client having a complex medical need that requires continuous skilled nursing care which can be provided safely outside an institution; and

(b) "Private duty nursing" means four hours or more of continuous skilled nursing services in the home to eligible clients with complex medical needs which cannot be managed within the scope of intermittent home health services.

(3) The division of development disabilities' medically intensive home care program (MIHCP) may authorize private duty nursing services to medically eligible children seventeen years of age and under when:

(a) Services meet the criteria for private duty nursing in subsection (1) of this section;

(b) The cost of private duty nursing does not exceed the cost of institutional care;

(c) Division of development disabilities gives prior approval to the overall plan of care; and

(d) Division of development disabilities may require a family member or other caregiver to participate in the nursing care for at least eight or more hours to supplement the overall plan of care.

(4) Aging and adult services administration may authorize up to sixteen hours per day of private duty nursing services under the exceptional care program (ECP) to a client eighteen years of age and over under criteria established by aging and adult services administration.

(5) The department may authorize private duty nursing services to medically eligible end-stage HIV/AIDS clients when:

(a) The private duty nursing services meet the criteria under subsection (1) of this section;

(b) The cost of private duty nursing does not exceed the cost of institutional care;

(c) Infusion therapy lasting for a continuous four hours requires continuous monitoring by a licensed nurse and the:

(i) Caregiver is unable to assume the care of the client or the client is unable to do self care; and

(ii) Client is homebound.

(d) Medical assistance administration gives prior approval to the overall plan of care.

(e) There is coordination with other agencies providing care to end-stage HIV/AIDS clients. The clients requiring over four hours of private duty nursing shall be referred to the appropriate agency.

(6) The client and/or family may pay for supplemental services, not covered in the approved plan of care, as provided in WAC 388-83-010(3).

(7) The department shall contract only with Washington state licensed home health agencies as providers for private duty nursing services.

[Statutory Authority: RCW 74.08.090, 93-18-002 (Order 3612), § 388-86-071, filed 8/18/93, effective 9/18/93; 91-23-079 (Order 3281), § 388-86-071, filed 11/19/91, effective 12/20/91; 87-06-002 (Order 2469), § 388-86-071, filed 2/19/87; 83-01-056 (Order 1923), § 388-86-071, filed 12/15/82.]

WAC 388-86-073 Occupational therapy. (1) The department shall pay for occupational therapy when the occupational therapy is provided:

(a) By a licensed occupational therapist;

(b) By a licensed occupational therapy assistant supervised by a licensed occupational therapist; or

(c) In schools, by an occupational therapy aide trained and supervised by a licensed occupational therapist.

(2) The department shall pay for occupational therapy:

(a) Effective September 1, 1993, as part of an outpatient treatment program for adults and children;

(b) By a home health agency as described under WAC 388-86-045;

(c) As part of the physical medicine and rehabilitation program as described under WAC 388-86-112;

(d) In a neuromuscular center; or

(e) By a school district or educational service district as part of an individual education program or individualized family service plan as described under WAC 388-86-022.

(3) The department shall not pay for occupational therapy when payment for occupational therapy is included as part of the reimbursement for other treatment programs including, but not limited to, hospital inpatient diagnosis related group services or nursing facility services.

(4) The department shall pay for the following occupational therapy services in a calendar year when the attending health professional determines the services are medically appropriate:

(a) One occupational therapy assessment;

(b) Two durable medical equipment needs assessments;

(c) Twelve occupational therapy sessions; and

(d) A maximum of twenty-four additional outpatient occupational therapy sessions if services are specifically identified in the medical assistance administration billing instructions and the diagnosis is associated with:

(i) A medically necessary condition for developmentally delayed clients;

(ii) Surgeries involving extremities:

(A) Fractures; or

(B) Open wounds with tendon involvement; or

(C) Dorsal rhizotomy.

(iii) Intracranial injuries;

(iv) Burns;

(v) Traumatic injuries;

(vi) Cerebral palsy;

(vii) Downs syndrome;

(viii) Meningomyelocele;

(ix) Severe oral/motor problems:

(A) Dyspraxia;

(B) Cleft palate and/or cleft lip; or

(C) That interfere with adequate nutrition.
 (x) Symptoms involving nervous and musculoskeletal systems:

- (A) Abnormality of gait; or
- (B) Lack of coordination; or

(xi) Post-completed/approved inpatient physical medicine and rehabilitation program when the client no longer needs nursing services but continues to require specialized outpatient therapy.

(e) Additional sessions when requested and approved through department of health's children with special health care needs program.

(5) For the purposes of this section, a "session" means not less than fifteen minutes and up to one hour of therapy in one day.

(6) The department shall pay for occupational therapy provided to a client eligible under the:

(a) Categorically needy, children's health, general assistance unemployable and ADATSA programs;

(b) Medically needy program only when the client is:

(i) Twenty years of age or younger and referred by a screening provider under the early and periodic screening, diagnosis and treatment program/healthy kids program as described under WAC 388-86-027; or

(ii) Receiving home health care services as described under WAC 388-86-045.

(c) Medically indigent program as part of the treatment program under home health care services as described under WAC 388-86-045

(7) The department shall pay for occupational therapy provided to a client receiving services from a school district or educational service district as part of an individual education program or individualized family service plan as described under WAC 388-86-022.

[Statutory Authority: RCW 74.08.090, 94-01-065 (Order 3679), § 388-86-073, filed 12/8/93, effective 1/8/94; 90-17-119 and 90-18-033 (Orders 3053 and 3053A), § 388-86-073, filed 8/21/90 and 8/27/90, effective 9/21/90 and 9/1/90.]

WAC 388-86-090 Physical therapy. (1) The department shall pay for physical therapy as an outpatient service when:

(a) The attending physician prescribes physical therapy;
 (b) A licensed physical therapist or physiatrist, a physical therapist assistant supervised by a licensed physical therapist, or, in schools, a physical therapy aide trained and supervised by a licensed physical therapist provides the treatment; and

(c) The therapy assists the client:

(i) In avoiding hospitalization or nursing facility care; or
 (ii) In becoming employable; or
 (iii) Who suffers from severe motor disabilities to obtain a greater degree of self-care or independence; or

(iv) As part of a treatment program intended to restore normal function of a body part following injury, surgery, or prolonged immobilization.

(2) The department shall pay for the following physical therapy services in a calendar year when the attending health professional determines the services are medically appropriate:

- (a) One medical diagnostic evaluation;
- (b) Twelve physical therapy sessions; and

(c) A maximum of twenty-four additional outpatient sessions, when the services are specifically identified in the medical assistance administration billing instructions and are for:

(i) Post-completed/approved inpatient physical medicine and rehabilitation program when the client no longer needs nursing services but continues to require specialized outpatient therapy; or

(ii) Medically necessary conditions for developmentally delayed clients;

(iii) Surgeries involving extremities:

- (A) Fractures;
- (B) Open wounds with tendon involvement; or
- (C) Dorsal rhizotomy.

(iv) Intracranial injuries;

(v) Burns;

(vi) Cerebral palsy;

(vii) Downs syndrome;

(viii) Meningomyelocele;

(ix) Traumatic injuries; or

(x) Symptoms involving nervous and musculoskeletal systems:

- (A) Abnormality of gait; and
- (B) Lack of coordination.

(d) Additional sessions when requested and approved through department of health's children with special health care needs program.

(3) For the purposes of this section, "session" means not less than fifteen minutes and up to one hour of therapy in one day.

(4) The department shall not pay for physical therapy when payment for physical therapy is included as part of the reimbursement for other treatment programs including, but not limited to, hospital inpatient diagnosis related group services and nursing facility services.

(5) The department shall pay for outpatient physical therapy for a client eligible under the:

(a) Categorically needy, children's health, general assistance unemployable and ADATSA programs;

(b) Medically needy program only when the client is:

(i) Twenty years of age or under and referred by a screening provider under the early and periodic screening, diagnosis, and treatment program/healthy kids program as described under WAC 388-86-027; or

(ii) Receiving home health care services as described under WAC 388-86-045.

(c) Medically indigent program when receiving home health care services as described under WAC 388-86-045.

(6) The department shall pay for outpatient physical therapy for a client receiving services provided by a school district or educational service district as part of an individual education program or individualized family service plan as described under WAC 388-86-022.

[Statutory Authority: RCW 74.08.090, 94-01-065 (Order 3679), § 388-86-090, filed 12/8/93, effective 1/8/94; 90-17-119 and 90-18-033 (Orders 3053 and 3053A), § 388-86-090, filed 8/21/90 and 8/27/90, effective 9/21/90 and 9/1/90; 89-05-029 (Order 2758), § 388-86-090, filed 2/13/89; 88-01-043 (Order 2568), § 388-86-090, filed 12/11/87; 86-02-031 (Order 2321), § 388-86-090, filed 12/27/85; 84-20-102 (Order 2159), § 388-86-090, filed 10/3/84; 81-16-033 (Order 1685), § 388-86-090, filed 7/29/81; 80-13-020 (Order 1542), § 388-86-090, filed 9/9/80; 78-02-024 (Order 1265), § 388-86-090, filed 1/13/78; Order 1202, § 388-86-090, filed 4/1/77; Order 1151, § 388-86-090, filed 9/8/76; Order 911, § 388-86-090, filed 3/1/74; Order

781, § 388-86-090, filed 3/16/73; Order 474, § 388-86-090, filed 8/19/70; Order 385, § 388-86-090, filed 8/27/69; Order 303, § 388-86-090, filed 9/6/68; Order 264 (part), § 388-86-090, filed 11/24/67.]

WAC 388-86-098 Speech therapy services. (1) The department shall pay for speech therapy for conditions which are the result of medically recognized diseases and defects.

(2) The department shall pay for speech therapy when the services are provided:

(a) By a speech pathologist or audiologist who has been granted a certificate of clinical competence by the American Speech, Hearing and Language Association;

(b) By a person who completed the equivalent educational and work experience necessary for such a certificate; or

(c) In schools as described under WAC 388-86-022, by a person trained and supervised by a speech pathologist or audiologist who has been granted a certificate of clinical competence by the American speech, hearing and language association or a person who has completed the equivalent educational and work experience necessary for such a certificate.

(3) The department shall pay for the following speech therapy services in a calendar year:

(a) One medical diagnostic evaluation;

(b) Twelve speech therapy sessions; and

(c) A maximum of twenty-four additional speech therapy sessions if the speech therapy service is for:

(i) Medically necessary conditions for developmentally delayed clients;

(ii) Cerebral palsy;

(iii) Severe oral/motor problems:

(A) Dyspraxia;

(B) Cleft palate and/or cleft lip; or

(C) That interfere with adequate nutrition.

(iv) Meningomyelocele;

(v) Neurofibromatosis; or

(vi) Downs syndrome.

(4) The department shall not pay for speech therapy when the speech therapy payment is part of the reimbursement for another treatment program including, but not limited to:

(a) Hospital inpatient diagnosis related group services; and

(b) Nursing facility services.

(5) The department shall pay for speech therapy provided to a client eligible under the:

(a) Categorically needy, children's health, general assistance unemployable and ADATSA programs;

(b) Medically needy program only when the client is:

(i) Twenty years of age and under and referred by a screening provider under the early and periodic screening, diagnosis, and treatment program/healthy kids program; or

(ii) Receiving home health care services as described under WAC 388-86-045.

(c) Medically indigent program when receiving home health care services as described under WAC 388-86-045.

(6) The department shall pay for speech therapy provided to a client receiving medical services from a school district or educational service district as part of an individual education program or individualized family service plan as described under WAC 388-86-022.

[Statutory Authority: RCW 74.08.090. 94-01-065 (Order 3679), § 388-86-098, filed 12/8/93, effective 1/8/94; 90-17-119 and 90-18-033 (Orders 3053 and 3053A), § 388-86-098, filed 8/21/90 and 8/27/90, effective 9/21/90 and 9/1/90; 88-15-010 (Order 2649), § 388-86-098, filed 7/8/88; 86-02-031 (Order 2321), § 388-86-098, filed 12/27/85; 82-10-062 (Order 1801), § 388-86-098, filed 5/5/82; 82-01-001 (Order 1725), § 388-86-098, filed 12/3/81; 81-16-033 (Order 1685), § 388-86-098, filed 7/29/81; 78-02-024 (Order 1265), § 388-86-098, filed 1/13/78; Order 1202, § 388-86-098, filed 4/1/77.]

WAC 388-86-120 Medical care services. (1) A medical care services client shall be eligible to receive the same scope of care (WAC 388-86-005) as a Medicaid client, except that the department shall not pay for the following services:

(a) Medical care outside the state of Washington other than in designated bordering cities as specified in chapter 388-82 WAC;

(b) Case management services;

(c) Dental services;

(d) Hospice services;

(e) Hospital inpatient and hospital outpatient services;

(f) Indian health center services;

(g) Personal care services;

(h) Outpatient chemical dependency treatment; and

(i) Chemical dependency Methadone services.

(2) The department shall only provide mental health services in community mental health centers and to the extent that the client meets the client definitions and priorities in the Community Mental Health Act.

(3) Eligibility for medical care services shall begin with the certification date under WAC 388-84-120. The department shall not retroactively certify for medical care services.

[Statutory Authority: RCW 74.08.090 and 74.09.035. 93-16-038 (Order 3598), § 388-86-120, filed 7/28/93, effective 8/28/93. Statutory Authority: RCW 74.08.090. 92-22-054 (Order 3477), § 388-86-120, filed 10/28/92, effective 11/28/92. Statutory Authority: 1987 1st ex.s. c 7. 88-02-034 (Order 2580), § 388-86-120, filed 12/31/87. Statutory Authority: 1987 c 406. 87-19-091 (Order 2539), § 388-86-120, filed 9/17/87. Statutory Authority: RCW 74.08.090. 85-21-062 (Order 2295), § 388-86-120, filed 10/16/85; 84-07-015 (Order 2084), § 388-86-120, filed 3/14/84; 83-17-006 (Order 1996), § 388-86-120, filed 8/5/83; 82-18-062 (Order 1869), § 388-86-120, filed 9/1/82; 81-16-033 (Order 1685), § 388-86-120, filed 7/29/81; 81-10-015 (Order 1647), § 388-86-120, filed 4/27/81; 80-15-034 (Order 1554), § 388-86-120, filed 10/9/80; 79-06-034 (Order 1402), § 388-86-120, filed 5/16/79; 79-01-002 (Order 1359), § 388-86-120, filed 12/8/78; 78-02-024 (Order 1265), § 388-86-120, filed 1/13/78; Order 1233, § 388-86-120, filed 8/31/77; Order 1172, § 388-86-120, filed 11/24/76; Order 1014, § 388-86-120, filed 3/14/75; Order 994, § 388-86-120, filed 12/31/74; Order 967, § 388-86-120, filed 8/29/74; Order 938, § 388-86-120, filed 5/23/74; Order 924, § 388-86-120, filed 4/15/74; Order 911, § 388-86-120, filed 3/1/74; Order 879, § 388-86-120, filed 11/29/73; Order 680, § 388-86-120, filed 5/10/72; Order 581, § 388-86-120, filed 7/20/71; Order 549, § 388-86-120, filed 3/31/71, effective 5/1/71; Order 501, § 388-86-120, filed 12/9/70; Order 453, § 388-86-120, filed 5/20/70, effective 6/20/70; Order 335, § 388-86-120, filed 2/3/69; Order 303, § 388-86-120, filed 9/6/68; Order 264 (part), § 388-86-120, filed 11/24/67.]

WAC 388-86-200 Limits on scope of medical program services. (1) The medical assistance administration (MAA) shall pay only for equipment, supplies, and services that are listed as covered in MAA published issuances, including Washington Administrative Code (WAC), billing instructions, numbered memoranda, and bulletins, and when the items or services are:

(a) Within the scope of an eligible client's medical care program;

- (b) Medically necessary;
- (c) Within accepted medical, dental, or psychiatric practice standards and are:
 - (i) Consistent with a diagnosis; and
 - (ii) Reasonable in amount and duration of care, treatment, or service.
- (d) Not listed under subsection (2) of this section; and
- (e) Billed according to the conditions of payment under WAC 388-87-010.

(2) Unless required under EPSDT/healthy kids program; included as part of a managed care plan service package; included in a waived program; or part of one of the Medicare programs for the qualified Medicare beneficiaries, the MAA shall specifically exclude from the scope of covered services:

- (a) Nonmedical equipment, supplies, personal or comfort items and/or services, including, but not limited to:
 - (i) Air conditioners or air cleaner devices, dehumidifiers, other environmental control devices, heating pads;
 - (ii) Enuresis (bed wetting) training equipment;
 - (iii) Recliner and/or geri-chairs;
 - (iv) Exercise equipment;
 - (v) Whirlpool baths;
 - (vi) Telephones, radio, television;
 - (vii) Any services connected to the telephone, television, or radio;
 - (viii) Homemaker services;
 - (ix) Utility bills; or
 - (x) Meals delivered to the home.

(b) Services, procedures, treatment, devices, drugs, or application of associated services which the department or HCFA consider investigative or experimental on the date the services are provided;

- (c) Physical examinations or routine checkups;
- (d) Cosmetic treatment or surgery, except for medically necessary reconstructive surgery to correct defects attributable to an accident, birth defect, or illness;
- (e) Routine foot care that includes, but not limited to:
 - (i) Medically unnecessary treatment of mycotic disease;
 - (ii) Removal of warts, corns, or calluses;
 - (iii) Trimming of nails and other hygiene care; or
 - (iv) Treatment of asymptomatic flat feet.

(f) More costly services when less costly equally effective services as determined by the department are available;

(g) Procedures, treatment, prosthetics, or supplies related to gender dysphoria surgery except when recommended after a multidisciplinary evaluation including but not limited to urology, endocrinology, and psychiatry;

(h) Care, testing, or treatment of infertility, frigidity, or impotency. This includes procedures for sterilization reversals and donor ovum, sperm, or womb;

- (i) Acupuncture, massage, or massage therapy;
- (j) Orthoptic eye training therapy;
- (k) Weight reduction and control services not provided in conjunction with a MAA medically approved program. This includes food supplements and educational products;

(l) Parts of the body, including organs tissues, bones, and blood;

(m) Blood and eye bank charges;

(n) Domiciliary or custodial care, excluding nursing facility care;

- (o) Hair pieces, wigs, or hair transplantation;
- (p) Biofeedback or other self-help care;
- (q) Home births;
- (r) Marital counseling or sex therapy; and
- (s) Any service specifically excluded by statute.

(3) Clients shall be responsible for payment as described under WAC 388-87-010 for services not covered under the client's medical care program.

[Statutory Authority: RCW 74.08.090. 93-16-037 (Order 3599), § 388-86-200, filed 7/28/93, effective 8/28/93; 93-11-086 (Order 3536), § 388-86-200, filed 5/19/93, effective 6/19/93.]

WAC 388-86-300 Chemical dependency outpatient services. (1) The department shall provide chemical dependency outpatient treatment services to a Medicaid client.

(2) The department shall provide a maximum of one hundred and fifteen hours of outpatient chemical dependency services per client in a twenty-four-month period. The department shall exclude from this limitation a client who is:

- (a) Participating in a youth chemical dependency treatment program;
- (b) Participating in a methadone chemical dependency treatment program; or
- (c) Pregnant or up to twelve months post pregnancy.

(3) The department shall provide exceptions to the service limitations under subsection (2) of this section for chemical dependency outpatient treatment services to a Medicaid client based on medical and clinical necessity.

[Statutory Authority: RCW 74.08.090. 93-17-038 (Order 3620), § 388-86-300, filed 8/11/93, effective 9/11/93.]

Chapter 388-87 WAC MEDICAL CARE—PAYMENT

WAC

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| 388-87-005 | Payment—Eligible providers defined. |
| 388-87-010 | Conditions of payment—General. |
| 388-87-075 | Payment—Laboratory services. |
| 388-87-200 | Payment for jail inmates medical care. |
| 388-87-250 | Third-party resources. |
| 388-87-300 | Payment—Co-payment. |

WAC 388-87-005 Payment—Eligible providers defined. (1) The following providers shall be eligible for enrollment to provide medical care to eligible clients:

(a) Persons currently licensed by the state of Washington to practice medicine, osteopathy, dentistry, optometry, podiatry, midwifery, nursing, dental hygiene, chiropractic, or physical, occupational, speech, or respiratory therapy;

(b) A hospital currently licensed by the department of health;

(c) A facility currently licensed and classified by the department as a nursing facility or an intermediate care facility for the mentally retarded (ICF-MR);

(d) A licensed pharmacy;

(e) A home health services agency licensed under chapter 70.127 RCW;

(f) A hospice care agency licensed under chapter 70.127 RCW;

(g) An independent (outside) laboratory certified to participate under Title XVIII or determined currently to meet the Medicare requirements for such participation;

(h) A company or person, not excluded in subsection (3) of this section, supplying items vital to the provision of medical services such as ambulance service, oxygen, eyeglasses, other appliances, or approved services not otherwise covered under this section;

(i) A provider of screening services having a signed agreement with the department to provide such services to eligible persons in the early and periodic screening and diagnosis and treatment (EPSDT) program;

(j) A qualified and approved center for the detoxification of acute alcohol or other drug intoxication conditions;

(k) A qualified and approved outpatient clinical community mental health center, an approved inpatient psychiatric facility, or Indian health service clinic;

(l) A chemical dependency facility:

(i) Certified by the division of alcohol and substance abuse under chapter 275-19 WAC, or its successor; and

(ii) Included in a coordinated continuum of chemical dependency services per a county plan under chapter 275-25 WAC or its successor.

(m) A Medicare-certified rural health clinic;

(n) A federally qualified health care center;

(o) Licensed or certified agencies or persons having a signed agreement with the department to provide coordinated community AIDS service alternatives program services:

(i) Home care agency personal care providers or self-employed independent contractors providing hourly attendant or respite care;

(ii) Facilities or agencies providing therapeutic-home-delivered meals;

(iii) Dietitians or nutritionists; and

(iv) Social workers, mental health counselors, or psychologists who are self-employed independent contractors or employed by various licensed or certified agencies.

(p) Approved prepaid health maintenance, prepaid health plans, or health insuring organizations;

(q) An out-of-state provider of services listed under subsection (1)(a) through (l) of this section subject to conditions specified under WAC 388-87-105;

(r) A Washington state school district or educational service district;

(s) A licensed birthing center; and

(t) A Medicare-certified ambulatory surgical center.

(2) The department shall not pay for services performed by the following practitioners:

(a) Acupuncturists;

(b) Sanipractors;

(c) Naturopaths;

(d) Homeopaths;

(e) Herbalists;

(f) Masseurs or manipulators;

(g) Christian Science practitioners or theological healers; and

(h) Any other licensed or unlicensed practitioners not otherwise specifically provided for under the rules of this chapter.

(3) Conditions of provider enrollment.

(a) Nothing in this section shall bind the department to enroll all eligible providers capable of delivering covered services. The department shall demonstrate the department's plan for service delivery creates adequate access to covered services.

(b) When a provider has a restricted professional license or has been terminated, excluded, or suspended from the Medicare/Medicaid programs, the department shall not enroll the provider unless the department determines the violations leading to the sanction or license restriction are not likely to be repeated. In the department's determination, the department shall consider whether the provider has been convicted of offenses related to the delivery of professional or other medical services not considered during the development of the previous sanction.

(c) The department shall not reinstate in the medical assistance program, a provider suspended from Medicare or suspended by the United States Department of Health and Human Services (DHHS) until DHHS notifies the department that the provider may be reinstated.

(d) Nothing in this subsection shall preclude the department from denying provider enrollment if, in the opinion of the medical director, medical assistance administration, the provider constitutes a danger to the health and safety of clients.

[Statutory Authority: RCW 74.08.090. 93-17-038 (Order 3620), § 388-87-005, filed 8/11/93, effective 9/11/93; 93-11-046 (Order 3545), § 388-87-005, filed 5/12/93, effective 6/12/93; 90-18-092 (Order 3064), § 388-87-005, filed 9/5/90, effective 10/6/90; 89-18-033 (Order 2860), § 388-87-005, filed 8/29/89, effective 9/29/89; 88-16-084 (Order 2665), § 388-87-005, filed 8/2/88; 87-12-056 (Order 2501), § 388-87-005, filed 6/1/87; 85-04-022 (Order 2198), § 388-87-005, filed 1/30/85; 83-17-073 (Order 2011), § 388-87-005, filed 8/19/83; 82-10-062 (Order 1801), § 388-87-005, filed 5/5/82; 82-01-001 (Order 1725), § 388-87-005, filed 12/3/81; 81-16-032 (Order 1684), § 388-87-005, filed 7/29/81; 81-10-016 (Order 1648), § 388-87-005, filed 4/27/81; 80-13-020 (Order 1542), § 388-87-005, filed 9/9/80; 78-10-077 (Order 1346), § 388-87-005, filed 9/27/78; Order 1233, § 388-87-005, filed 8/31/77; Order 1112, § 388-87-005, filed 4/15/76; Order 994, § 388-87-005, filed 12/31/74; Order 930, § 388-87-005, filed 4/25/74; Order 739, § 388-87-005, filed 11/22/72; Order 386, § 388-87-005, filed 8/27/69; Order 264 (part), § 388-87-005, filed 11/27/67.]

WAC 388-87-010 Conditions of payment—General.

(1) The department shall be responsible for payment of a medical service rendered to a client only when the:

(a) Service is within the scope of care of the medical assistance program under chapter 388-86 WAC;

(b) Service is properly authorized;

(c) Service is properly billed;

(d) Service is billed timely as described under WAC 388-87-015;

(e) Client is certified as eligible; and

(f) Third-party payment procedures are followed.

(2) The department shall be the payer of last resort.

(3) The department shall require a provider to accept Medicare assignment for claims involving clients eligible for both Medicare and Medicaid before any Medicaid reimbursement.

(4) The fees and rates the department establishes shall be the maximum allowable payment to providers for covered medical care and services to eligible clients.

(5) The provider shall be responsible for verifying whether a client has medical coverage for the dates of service.

(6) A provider shall not bill, demand, or otherwise collect reimbursement from a client, or from other persons on behalf of the client, for a service included in the client's medical program's scope of benefits. The client shall not be liable for payment for such services if the provider:

- (a) Does not properly bill the department for services the department is responsible to pay; or
- (b) Fails to satisfy the department's conditions for payment, including but not limited to:
 - (i) Obtaining prior approval when required;
 - (ii) Billing timely and according to department instructions;
 - (iii) Timely pursuing third-party liability and/or Medicare;
 - (iv) Providing nonemergent services to a client enrolled in a managed care plan without a managed care provider referral;
 - (v) Adequately documenting medical necessity;
 - (vi) Obtaining a nursing facility functional assessment of the client as required under WAC 388-88-095; or
 - (vii) Having the registration, certification, or license appropriate for the service provided.

(7) A hospital shall not bill, demand, or otherwise collect reimbursement from a medically indigent, general assistance-unemployable, or ADATSA client, or from other persons on behalf of such client, for inpatient or outpatient hospital services received during a period of eligibility.

(8) The department shall only pay for services included in the client's medical program's scope of benefits.

(9) A provider may bill a client for noncovered services only when the:

- (a) Client signs a specific written agreement with the provider before receiving the services and the agreement states the:
 - (i) Specific service provided;
 - (ii) Service is neither covered by the medical assistance program nor reimbursed as part of another service;
 - (iii) Client chooses to receive the specific service;
 - (iv) Client agrees to pay for the service; and
 - (v) Agreement is void and unenforceable and the client is under no obligation to pay the provider if the:
 - (A) Client's medical program covers the service; or
 - (B) Provider fails to satisfy department conditions of payment as described under WAC 388-87-010(6).
- (b) Client received reimbursement directly from a third party for services the department has no payment responsibility for;
- (c) Client refuses to execute legal signatures on insurance forms, billing documents, or other forms necessary to receive insurance payments for services rendered during a period of eligibility. The client shall be liable for charges that would have been covered by the insurance payment; or
- (d) Bill counts toward a spenddown liability, emergency medical expense requirement, or copayment as described under WAC 388-99-030, chapter 388-100 WAC, and WAC 388-87-200.

(10) Payment for any service a provider furnishes to a client may not be made to or through a factor who advances money to that provider for accounts receivable.

(11) The department shall not be responsible for payment for medical care and goods or/and services provided to a client:

(a) Enrolled in a department-contracted, prepaid medical plan when the plan covers the services; and

(b) Who fails to use the provider under contract unless the service is not covered by the prepaid plan.

(12) Payment for care under the medical assistance programs is retroactive for three months before the month of application provided the client was eligible when the care was received. The client need not be eligible at the time of actual application. The medical assistance administration (MAA) shall approve medical services that require approval for the retroactive period.

(13) Payment for care under the limited casualty program-medically indigent may be retroactive for seven days before the date of application if the client is otherwise eligible. Medical services that require approval shall be approved by the MAA for the retroactive period.

(14) The department may reimburse a provider for services rendered to a person subsequently determined ineligible at the time of service under the following conditions:

- (a) The ineligible person was certified at the time of service as financially and medically eligible;
- (b) Payment was not made from sources outside the department; and

(c) A request for such payment is submitted to and approved by the medical assistance administration.

(15) The department shall pay for billed medically necessary services on the basis of usual and customary charges or the rates the department establishes, whichever is lower.

(16) The department shall not authorize payment for well-child care except as provided under the EPSDT/healthy kids program. See WAC 388-86-027.

(17) In counties/areas where nonambulance transportation is provided as a medical service, the department shall base payment for medically necessary transportation services, provided by nonprofit organizations, on the operating costs incurred in providing the service but shall not exceed the rates established by the department. See WAC 388-87-035 for nonambulance transportation payment other than provided by a nonprofit organization.

[Statutory Authority: RCW 74.08.090. 93-22-030 (Order 3658), § 388-87-010, filed 10/27/93, effective 11/27/93; 93-01-036 (Order 3486), § 388-87-010, filed 12/9/92, effective 1/9/93; 91-17-062 (Order 3233), § 388-87-010, filed 8/20/91, effective 9/20/91; 91-07-011 (Order 3150), § 388-87-010, filed 3/11/91, effective 4/11/91; 89-22-036 (Order 2886), § 388-87-010, filed 10/27/89, effective 11/27/89; 88-06-083 (Order 2600), § 388-87-010, filed 3/2/88; 85-05-024 (Order 2207), § 388-87-010, filed 2/14/85; 83-17-006 (Order 1996), § 388-87-010, filed 8/5/83; 82-01-001 (Order 1725), § 388-87-010, filed 12/3/81; 81-16-032 (Order 1684), § 388-87-010, filed 7/29/81; 81-10-016 (Order 1648), § 388-87-010, filed 4/27/81; 80-13-020 (Order 1542), § 388-87-010, filed 9/9/80; 79-06-034 (Order 1402), § 388-87-010, filed 5/16/79; Order 1158, § 388-87-010, filed 10/6/76; Order 1015, § 388-87-010, filed 3/27/75; Order 938, § 388-87-010, filed 5/23/74; Order 911, § 388-87-010, filed 3/1/74; Order 879, § 388-87-010, filed 11/29/73; Order 844, § 388-87-010, filed 8/9/73; Order 794, § 388-87-010, filed 4/26/73; Order 782, § 388-87-010, filed 3/16/73; Order 778, § 388-87-010, filed 3/1/73; Order 766, § 388-87-010, filed 1/10/73; Order 739, § 388-87-010, filed 11/22/72; Order 697, § 388-87-010, filed 6/29/72; Order 636, § 388-87-010, filed 1/13/72; Order 582, § 388-87-010, filed 7/20/71; Order 485, § 388-87-010, filed 10/13/70; Order 406, § 388-87-010, filed 11/24/69; Order 336, § 388-87-010, filed 2/3/69; Order 304, § 388-87-010, filed 9/6/68; Order 264 (part), § 388-87-010, filed 11/24/67.]

WAC 388-87-075 Payment—Laboratory services.

(1) Effective August 1, 1993, the department shall only reimburse independent clinical laboratories which are registered under the Clinical Laboratory Improvement Amendments (CLIA) of 1988.

(2) Laboratories shall bill the department according to rates the department establishes.

(3) A medical practitioner using the services of an independent laboratory shall make request for services for a client in the same manner as a request for services for a private patient.

(4) An independent laboratory shall bill the department directly. The department shall not reimburse a medical practitioner for services referred to or performed by an independent laboratory.

(5) An independent laboratory shall not bill clients as described under WAC 388-87-010.

[Statutory Authority: RCW 74.08.090 and 42 CFR 493.1809 - Final Rules. 93-22-029 (Order 3657), § 388-87-075, filed 10/27/93, effective 11/27/93. Statutory Authority: RCW 74.08.090. 82-01-001 (Order 1725), § 388-87-075, filed 12/3/81; 81-16-032 (Order 1684), § 388-87-075, filed 7/29/81; 80-13-020 (Order 1542), § 388-87-075, filed 9/9/80; Order 995, § 388-87-075, filed 12/31/74; Order 485, § 388-87-075, filed 10/13/70; Order 406, § 388-87-075, filed 11/24/69; Order 264 (part), § 388-87-075, filed 11/24/67.]

WAC 388-87-200 Payment for jail inmates medical care. (1) The department shall directly reimburse the medical care provider in accordance with the rates and benefits set by the department, when a county or city jail inmate receives emergency or necessary medical care and meets the eligibility requirements for medical care programs authorized under chapter 74.09 RCW.

(2) The medical care provider and the governing unit as described under RCW 70.48.130, shall be responsible for payment for any remaining balance, including unpaid client liabilities that are a condition of eligibility.

(3) Total payment from all sources to the medical care provider for covered medical services provided to jail inmates eligible for coverage under chapter 74.09 RCW shall not exceed the amount the department pays for such services under the Medicaid program.

(4) The governing unit shall provide the department and medical care provider with information concerning the jail inmate's ability to pay for medical care.

(5) The governing unit or medical care provider may obtain reimbursement from the inmate for the cost of services not covered by the department, either directly or seek civil or criminal remedies. As part of a judgment and sentence, the courts may order a defendant to repay the medical costs incurred by the governing unit or medical care providers during confinement.

[Statutory Authority: RCW 74.08.090. 93-17-036 (Order 3618), § 388-87-200, filed 8/11/93, effective 9/11/93.]

WAC 388-87-250 Third-party resources. (1) The department shall require a provider to seek timely reimbursement from a third party when a client has available third-party resources except as described under subsections (2) and (3) of this section.

(2) The department shall pay for medical services and seek reimbursement from the liable third party when the claim is for:

- (a) Prenatal care;
- (b) Labor, delivery, and post-partum care (except inpatient hospital costs) for a pregnant woman; or
- (c) Preventive pediatric services as covered under the EPSDT/healthy kids program.

(3) The department shall pay for medical services and seek reimbursement from any liable third party when:

(a) The provider submits to the department documentation of billing the third party and the provider has not received payment after thirty days from the date of services; and

(b) The claim is for a covered service provided to a client on whose behalf the office of support enforcement is enforcing an absent parent to pay support.

For the purpose of this section, "is enforcing" means the absent parent:

- (i) Is not complying with an existing court order; or
- (ii) Received payment directly from the third party and did not pay for the medical services.

(4) The provider may not bill the department or the client for a covered service when a third party pays a provider the department rate, or more.

(5) The provider shall refund to the department, when the third party pays the provider after the department has reimbursed the provider, the amount of the:

- (a) Third-party payment when the payment is less than the department's maximum allowable rate; or
- (b) Department's payment when the third-party payment is equal to or greater than the department's maximum allowable rate.

(6) The department shall not be responsible for payment of medical services when the third-party benefits are available to pay for the client's medical services at the time the provider bills the department, except as described under subsections (2) and (3) of this section.

(7) The client shall be liable for charges for covered medical services that would be paid by the third party payment when the client:

- (a) Receives direct third-party reimbursement for such services; or
- (b) Fails to execute legal signatures on insurance forms, billing documents, or other forms necessary to receive insurance payments for services rendered. See WAC 388-83-012 for assignment of rights.

(8) The department shall consider an adoptive family a third-party resource for the medical expenses of the birth mother and child only when there is a written contract between the adopting family and either the birth mother, the attorney, the provider, or the adoption service, which specifies that the adopting family shall pay for the medical care associated with the pregnancy.

(9) A provider shall not refuse to furnish covered services to a client because of a third party's potential liability for the services.

(10) For third-party liability on personal injury litigation claims, the department shall be responsible for providing medical services as described under WAC 388-87-020.

[Statutory Authority: RCW 74.08.090. 93-22-030 (Order 3658), § 388-87-250, filed 10/27/93, effective 11/27/93.]

WAC 388-87-300 Payment—Co-payment. (1) Effective September 1, 1993, the department shall require a co-payment for selected services of the following providers:

- (a) Physicians;
- (b) Advanced registered nurse practitioners;
- (c) Health departments;
- (d) Podiatrists;
- (e) Dentists;
- (f) Dental hygienists;
- (g) Optometrists;
- (h) Opticians; and
- (i) Pharmacists.

(2) The provider shall be responsible for collecting the co-payment amount.

(3) Medical assistance administration shall deduct the co-payment amount from the provider reimbursement on the selected services as described under WAC 388-81-065.

(4) A provider may not deny services to a client unable to pay the co-payment amount, unless the client has a consistent history of not meeting co-payment responsibility. The provider's files must document such claim.

(5) A provider may not refuse to serve a medical assistance administration client subject to the co-payment requirement while continuing to serve a client who is not subject to co-payment requirements.

(6) A pharmacist shall not be subject to the reimbursement limitations in subsection (3) of this section when a client states the client is unable to pay the co-payment amount and the pharmacist documents such claim.

[Statutory Authority: RCW 74.08.090, 93-24-060 (Order 3676), § 388-87-300, filed 11/24/93, effective 12/25/93.]

Chapter 388-88 WAC

MEDICAL CARE—NURSING HOME CARE

WAC

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|------------|---|
| 388-88-080 | Repealed. |
| 388-88-095 | Nursing facility placement. |
| 388-88-096 | Preadmission screening and annual resident review (PASARR). |
| 388-88-097 | Preadmission screening. |
| 388-88-098 | Identification screening for current residents. |
| 388-88-099 | Repealed. |
| 388-88-102 | Repealed. |
| 388-88-130 | Repealed. |
| 388-88-145 | Repealed. |
| 388-88-150 | PASARR determination and appeal rights. |
| 388-88-155 | Utilization review. |
| 388-88-170 | Discharge planning and coordination. |
| 388-88-180 | Transfer and discharge rights, procedures, and appeals. |
| 388-88-190 | Relocation due to decertification, license revocation, closure. |

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

| | |
|------------|--|
| 388-88-080 | Utilization review. [Statutory Authority: RCW 18.51.070 and 74.42.620, 92-08-074, § 388-88-080, filed 3/30/92, effective 4/30/92. Statutory Authority: RCW 74.42.620, 89-11-017 (Order 2797), § 388-88-080, filed 5/10/89; 82-18-064 (Order 1871), § 388-88-080, filed 9/1/82; Order 1257, § 388-88-080, filed 12/21/77; Order 1168, § 388-88-080, filed 11/3/76; Order 342, § 388-88-080, filed 3/20/69; Order 264 (part), § 388-88-080, filed 11/24/67.] Repealed by 93-23-041 (Order 3669), filed 11/10/93, effective 12/11/93. Statutory Authority: RCW 18.51.070, |
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74.42.620 and 42 CFR 431, 483.12 and 483.100 through 483.138.

388-88-099 Specialized service assessments for current residents. [Statutory Authority: RCW 18.51.070 and 74.42.620, 92-08-074, § 388-88-099, filed 3/30/92, effective 4/30/92. Statutory Authority: RCW 74.42.620, 89-11-017 (Order 2797), § 388-88-099, filed 5/10/89.] Repealed by 93-23-041 (Order 3669), filed 11/10/93, effective 12/11/93. Statutory Authority: RCW 18.51.070, 74.42.620 and 42 CFR 431, 483.12 and 483.100 through 483.138.

388-88-102 Discharge planning and resident relocation. [Statutory Authority: RCW 18.51.070 and 74.42.620, 92-08-074, § 388-88-102, filed 3/30/92, effective 4/30/92. Statutory Authority: RCW 74.42.620, 82-18-064 (Order 1871), § 388-88-102, filed 9/1/82; Order 1257, § 388-88-102, filed 12/21/77; Order 1197, § 388-88-102, filed 3/17/77.] Repealed by 93-23-041 (Order 3669), filed 11/10/93, effective 12/11/93. Statutory Authority: RCW 18.51.070, 74.42.620 and 42 CFR 431, 483.12 and 483.100 through 483.138.

388-88-130 Completion of resident assessment instrument. [Statutory Authority: RCW 18.51.070 and 74.42.620, 92-08-074, § 388-88-130, filed 3/30/92, effective 4/30/92.] Repealed by 93-23-041 (Order 3669), filed 11/10/93, effective 12/11/93. Statutory Authority: RCW 18.51.070, 74.42.620 and 42 CFR 431, 483.12 and 483.100 through 483.138.

388-88-145 Notice of relocation determination and appeal rights. [Statutory Authority: RCW 18.51.070 and 74.42.620, 92-08-074, § 388-88-145, filed 3/30/92, effective 4/30/92.] Repealed by 93-23-041 (Order 3669), filed 11/10/93, effective 12/11/93. Statutory Authority: RCW 18.51.070, 74.42.620 and 42 CFR 431, 483.12 and 483.100 through 483.138.

WAC 388-88-080 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-88-095 Nursing facility placement. (1) Nursing facility care shall be requested by a person's attending physician or Christian Science practitioner before the person's admission to a Medicaid-certified facility.

(2) A Medicaid-certified nursing facility shall not admit any person unless an identification screen is completed as required under WAC 388-88-097.

(3) A person identified as having a serious mental illness or a developmental disability, as defined under 42 C.F.R. § 483.102 or as subsequently amended, shall be assessed under WAC 388-88-097 before the person's admission to a Medicaid-certified nursing facility.

(4) A Medicaid applicant or recipient shall not be admitted to a Medicaid-certified nursing facility unless the department has assessed and determined the person needs nursing facility care as defined under WAC 388-88-081.

(5) There shall be no payment for nursing facility services for a Medicaid applicant or recipient until the department has authorized such services.

(6) There shall be no retroactive payment authorized for any Medicaid applicant or recipient admitted to a nursing facility in violation of this section.

[Statutory Authority: RCW 18.51.070, 74.42.620 and 42 CFR 431, 483.12 and 483.100 through 483.138, 93-23-041 (Order 3669), § 388-88-095, filed 11/10/93, effective 12/11/93. Statutory Authority: RCW 18.51.070 and 74.42.620, 92-08-074, § 388-88-095, filed 3/30/92, effective 4/30/92. Statutory Authority: RCW 74.42.620, 89-06-050 (Order 2768), § 388-88-095, filed 2/28/89; Order 1257, § 388-88-095, filed 12/21/77; Order 1168, § 388-88-095, filed 11/3/76; Order 631, § 388-88-095, filed 11/24/71; Order 342, § 388-88-095, filed 3/20/69; Order 264 (part), § 388-88-095, filed 11/24/67.]

WAC 388-88-096 Preadmission screening and annual resident review (PASARR). (1) The department shall assess a nursing facility applicant or resident having a serious mental illness or developmental disability according to the preadmission screening and annual resident review requirements under 42 C.F.R. § 431 and § 483. Under the PASARR, the department, through a designee, shall determine whether a nursing facility applicant or resident having a serious mental illness or developmental disability needs nursing facility care and specialized services under 42 C.F.R. § 483.106. The department shall determine need for nursing facility care using the nursing facility care definition under WAC 388-88-081. Need for specialized services shall be determined as follows:

(a) For a nursing facility applicant or resident likely to have a serious mental illness, a qualified mental health professional, under chapter 275-56 WAC, shall verify whether the person has a serious mental illness and, if so, shall recommend whether the applicant needs specialized services;

(b) For a nursing facility applicant or resident likely to have a developmental disability, a licensed psychologist shall verify whether the person has a developmental disability. For a nursing facility applicant or resident verified by a psychologist as having a developmental disability, staff of the division of developmental disabilities shall assess and make a final determination as to whether the person requires specialized services.

(2) "Specialized services" for a person with mental retardation or related conditions is defined under 42 C.F.R. § 483.120 (a)(2), § 483.120(2), § 483.440 (a)(1). Specialized services does not include services to maintain a generally independent person who is able to function with little supervision or in the absence of a treatment program.

(3) "Specialized services" for a person having a serious mental illness is defined under 42 C.F.R. § 483.120 (a)(1). Specialized services are generally considered acute psychiatric inpatient care, emergency respite care or stabilization and crisis services.

(4) The department's designee may exempt a nursing facility applicant or resident from PASARR if the person:

(a) Is admitted directly from an acute care hospital after receiving acute inpatient care and certified by a physician as likely to require less than thirty days care in a nursing facility;

(b) Is certified by a physician to be terminally ill as defined under section 1861 (dd)(3)(A) of the Social Security Act;

(c) Has a severe physical illness such as coma, ventilator dependence, functioning at a brain stem level, or diagnoses which result in level of impairment so severe that the person could not be expected to benefit from specialized services. These diagnoses may include:

- (i) Chronic obstructive pulmonary disease;
- (ii) Parkinson's disease;
- (iii) Huntington's disease;
- (iv) Amyotrophic lateral sclerosis; or
- (v) Congestive heart failure.

(d) Has a primary diagnosis of dementia, including Alzheimer's disease or a related disorder;

(5) If a resident has continuously resided in a nursing facility for at least thirty months, and is determined by the department not to require nursing facility services, but to require specialized services for a serious mental illness or developmental disability, the department shall:

(a) Offer the resident the choice of remaining in the facility or of receiving services in an alternative appropriate setting;

(b) Inform the resident of the institutional and noninstitutional alternatives covered under the state Medicaid plan for the resident;

(c) Clarify the effect on eligibility for Medicaid services under the state plan if the resident chooses to leave the facility, including its effect on readmission to the facility.

(6) An annual resident review conducted by the department or its designee is required for all residents identified as having a serious mental illness or a developmental disability. The results of the PASARR determinations shall be present in the resident's record at the nursing facility.

[Statutory Authority: RCW 18.51.070, 74.42.620 and 42 CFR 431, 483.12 and 483.100 through 483.138. 93-23-041 (Order 3669), § 388-88-096, filed 11/10/93, effective 12/11/93.]

WAC 388-88-097 Preadmission screening. (1) A person requesting admission to a Medicaid-certified nursing facility shall be screened before admission to identify whether the person may have a serious mental illness or a developmental disability as defined under 42 C.F.R. 483.102 or as subsequently amended. The identification screen shall be performed by the referring hospital, physician, or other referral source or the nursing facility, using a standardized form specified by the department. The nursing facility shall place a copy of the completed form in each resident's clinical record.

(2) A nursing facility applicant identified through the identification screen as likely to have a serious mental illness or a developmental disability shall not be admitted to a Medicaid-certified nursing facility unless the person:

(a) Has been assessed under the preadmission screening and annual resident review (PASARR), as described under WAC 388-88-096;

(b) Has been transferred from one nursing facility to another nursing facility; or

(c) Has been exempted by the department from PASARR because the person:

(i) Has been admitted to the nursing facility for respite care, under WAC 248-14-298; or

(ii) Cannot accurately be diagnosed because of delirium; or

(iii) Has been readmitted to a nursing facility from an acute care hospital.

[Statutory Authority: RCW 18.51.070, 74.42.620 and 42 CFR 431, 483.12 and 483.100 through 483.138. 93-23-041 (Order 3669), § 388-88-097, filed 11/10/93, effective 12/11/93. Statutory Authority: RCW 18.51.070 and 74.42.620. 92-08-074, § 388-88-097, filed 3/30/92, effective 4/30/92. Statutory Authority: RCW 74.42.620. 89-06-050 (Order 2768), § 388-88-097, filed 2/28/89.]

WAC 388-88-098 Identification screening for current residents. (1) Each Medicaid-certified nursing facility shall have a completed identification screen for each resident, to identify a resident's likelihood of having a

serious mental illness or a developmental disability as defined under 42 C.F.R. § 483.102 or as subsequently amended. The nursing facility shall record this information on a form designated by the department.

(2) The nursing facility shall:

(a) Record the identification screen information or subsequent changes on the resident assessment instrument according to the schedule required under 42 C.F.R. § 483.20;

(b) Maintain the identification screen form and applicable PASARR assessment information in the resident's clinical record; and

(c) Refer each resident to the department or department's designee when the resident requires a PASARR assessment under WAC 388-88-096.

(4) The department shall deny payment to a nursing facility for any resident for whom an identification screen has not been completed as required under this section.

[Statutory Authority: RCW 18.51.070, 74.42.620 and 42 CFR 431, 483.12 and 483.100 through 483.138. 93-23-041 (Order 3669), § 388-88-098, filed 11/10/93, effective 12/11/93. Statutory Authority: RCW 18.51.070 and 74.42.620. 92-08-074, § 388-88-098, filed 3/30/92, effective 4/30/92. Statutory Authority: RCW 74.42.620. 89-11-017 (Order 2797), § 388-88-098, filed 5/10/89.]

WAC 388-88-099 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-88-102 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-88-130 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-88-145 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-88-150 PASARR determination and appeal rights. (1) A nursing facility applicant or resident who has been adversely impacted by a PASARR determination may appeal the department's determination of:

(a) Not in need of nursing facility care as defined under WAC 388-88-081 and 42 C.F.R. § 483.130 (m)(2),(5), or (6);

(b) Not in need of specialized services as defined under WAC 388-88-096 and 42 C.F.R. § 483.130 (m)(1),(2),(3), or (6); or

(c) Need for specialized services as defined under WAC 388-88-096, 42 C.F.R. § 483.130 (4), and (5) and 42 C.F.R. § 483.132 (a)(4).

(2) The nursing facility shall assist the nursing facility applicant or resident, or the person's representative, as needed in requesting a hearing to appeal the department's PASARR determination.

(3) If the department's PASARR determination requires that a resident be transferred or discharged, the department shall:

(a) Provide the required notice of transfer or discharge to the resident and, if known, a family member or the resident's representative thirty days or more before the date of transfer or discharge;

(b) Attach a hearing request form to the transfer or discharge notice;

(c) Inform the resident, in writing in a language and manner the resident can understand, that:

(i) An appeal request may be made any time up to ninety days from the date the resident receives the notice of transfer or discharge;

(ii) Transfer or discharge will be suspended when an appeal request is received by the office of appeals on or before the date of transfer or discharge set forth in the written transfer or discharge notice; and

(iii) That the resident shall be ineligible for Medicaid nursing facility payment:

(A) Thirty days after the receipt of written notice of transfer or discharge; or

(B) If the resident appeals under subsection (1)(a) of this section, thirty days after the final order is entered upholding the department's decision to transfer or discharge a resident.

(4) Aging and adult home and community services may grant extension of a resident's Medicaid nursing facility payment after the time specified in subsection (3)(c)(iii) of this section, when the department determines a location appropriate to the resident's medical and other needs is not available.

(5) The department shall:

(a) Send a copy of the required notice to the resident's attending physician, the nursing facility and, where appropriate, the resident's family member;

(b) Suspend transfer or discharge pending the outcome of the appeal when the resident's appeal request is received by the office of appeals on or before the date of transfer or discharge set forth in the written transfer or discharge notice, or before the resident is actually transferred or discharged; and

(c) Provide assistance to the resident for relocation necessitated by the department's PASARR determination.

(6) Resident appeals of PASARR determinations shall be in accordance with 42 C.F.R. § 431 Subpart E, Chapter 388-08 WAC, and the procedures defined in this section. In the event of a conflict between a provision in this chapter and a provision in Chapter 388-08 WAC, the provision in this chapter shall prevail.

[Statutory Authority: RCW 18.51.070, 74.42.620 and 42 CFR 431, 483.12 and 483.100 through 483.138. 93-23-041 (Order 3669), § 388-88-150, filed 11/10/93, effective 12/11/93.]

WAC 388-88-155 Utilization review. (1) To assure appropriate use of Medicaid services, the Medicaid-certified nursing facility shall:

(a) Be responsible to determine whether each resident's health has improved sufficiently so the resident no longer needs nursing facility care;

(b) Base such determination on an accurate, comprehensive assessment process and documentation by the resident's physician.

(2) When a nursing facility determines that a resident who is a Medicaid applicant or recipient no longer needs nursing facility care, except for residents the department is responsible to assess for PASARR under WAC 388-88-096(1), the nursing facility shall initiate transfer or discharge

in compliance with WAC 388-88-180 and 42 C.F.R. § 483.12, or as subsequently amended.

(3) When a nursing facility initiates a transfer or discharge of a Medicaid recipient under subsection (2) of this section:

(a) The resident shall be ineligible for Medicaid nursing facility payment:

(i) Thirty days after the receipt of written notice of transfer or discharge; or

(ii) If the resident appeals the facility determination, thirty days after the final order is entered upholding the nursing home's decision to transfer or discharge a resident.

(b) Aging and adult home and community services may grant extension of a resident's Medicaid nursing facility payment after the time specified in subsection (3)(a) of this section, when aging and adult home and community services staff determine:

(i) The nursing facility is making a good faith effort to relocate the resident; and

(ii) A location appropriate to the resident's medical and other needs is not available.

(4) Department designees may review any assessment or determination made by a nursing facility of a resident's need for nursing facility care.

[Statutory Authority: RCW 18.51.070, 74.42.620 and 42 CFR 431, 483.12 and 483.100 through 483.138. 93-23-041 (Order 3669), § 388-88-155, filed 11/10/93, effective 12/11/93.]

WAC 388-88-170 Discharge planning and coordination. (1) A resident has the right to attain or maintain the highest practicable physical, mental and psychosocial well-being, and to reside in the most independent setting. Therefore, the nursing home shall:

(a) Utilize a formal resident discharge planning system with identical policies and practices for all residents regardless of source of payment;

(b) Inform the resident or resident's representative in writing of the nursing home's discharge planning system when the resident is admitted or as soon as practical thereafter, including:

(i) Specific resources available to assist the resident in locating a lesser care setting;

(ii) The name of the nursing home's discharge coordinator; and

(iii) In the case of a Medicaid-certified nursing facility, the address and telephone number for the local aging and adult home and community services office.

(2) The nursing home shall prepare a detailed, written transfer or discharge plan for each resident determined to have potential for transfer or discharge within the next three months. The nursing home shall:

(a) In the case of a Medicaid resident, coordinate the plan with aging and adult home and community services staff;

(b) Develop and implement the plan with the active participation of the resident and, where appropriate, the resident's representative;

(c) Ensure the plan is an integral part of the resident's comprehensive plan of care and, as such, includes measurable objectives and timetables for completion;

(d) Incorporate in the plan relevant factors to include, but not be limited to, the resident's preferences, support system, assessments and plan of care, and the availability of appropriate resources to match the resident's preferences and needs;

(e) Identify in the plan specific options for more independent placement; and

(f) Provide in the plan for the resident's continuity of care and mitigation of potential transfer trauma, including, but not limited to, pretransfer visit to the new location whenever possible.

(3) For a resident whose transfer or discharge is not anticipated in the next three months, the nursing home shall:

(a) Document the specific reasons transfer or discharge is not anticipated in that timeframe;

(b) Review the resident's potential for transfer or discharge at the time of comprehensive care plan review; and

(c) Initiate discharge planning:

(i) When the resident's situation or status indicates transfer or discharge potential within the next three months; and

(ii) At the request of the resident or the resident's representative.

(4) Each resident has the right to request transfer or discharge and to choose a new location. If the resident chooses to leave, the nursing home shall assist with and coordinate the resident's transfer or discharge. The resident, resident's representative or nursing facility may request assistance from aging and adult home and community services in the transfer or discharge planning and implementation process.

(5) The nursing home shall coordinate all transfers and discharges, and communicate resident information in written form to the resident's new location. The nursing home shall ensure such information, at a minimum, includes:

(a) A brief recap of the resident's stay;

(b) A final summary of the resident's status at the time of transfer or discharge; and

(c) A post transfer or discharge plan of care.

(6) The nursing home shall ensure information in subsection (5) of this section is made available for release only to authorized persons and agencies with the consent of the resident or legal representative where appropriate.

[Statutory Authority: RCW 18.51.070, 74.42.620 and 42 CFR 431, 483.12 and 483.100 through 483.138. 93-23-041 (Order 3669), § 388-88-170, filed 11/10/93, effective 12/11/93.]

WAC 388-88-180 Transfer and discharge rights, procedures, and appeals. (1) The Medicare-certified skilled nursing facility and the Medicaid-certified nursing facility shall comply with all applicable federal requirements under 42 C.F.R. § 483.10 and § 483.12, or as subsequently amended, regarding resident transfer and discharge rights.

(2) The Medicare-certified skilled nursing facility and the Medicaid-certified nursing facility that initiates transfer or discharge shall:

(a) Provide the required notice of transfer or discharge to the resident and, if known, a family member or the resident's representative;

(b) Attach a department-designated hearing request form to the transfer or discharge notice;

(c) Inform the resident in writing in a language and manner the resident can understand, that:

(i) An appeal request may be made any time up to ninety days from the date the resident receives the notice of transfer or discharge; and

(ii) Transfer or discharge will be suspended when an appeal request is received by the office of appeals on or before the date of the transfer or discharge set forth in the written transfer or discharge notice; and

(d) Assist the resident, or the resident's representative, as needed in requesting a hearing to appeal the transfer or discharge decision.

(3) The Medicare-certified skilled nursing facility or the Medicaid-certified nursing facility shall suspend transfer or discharge pending the outcome of the appeal when the resident's appeal is received by the office of appeals on or before the date of the transfer or discharge set forth in the written transfer or discharge notice, or before the resident is actually transferred or discharged.

(4) The Medicaid-certified nursing facility shall send a copy of the federally required transfer or discharge notice to:

(a) Aging and adult home and community services in cases where the nursing facility has determined the resident's health has improved sufficiently so that the resident no longer needs the services provided by the facility; and

(b) The appropriate nursing home services district manager when the transfer or discharge is for any of the following reasons:

(i) The resident's needs cannot be met in the facility;

(ii) The health or safety of individuals in the facility is endangered; or

(iii) The resident has failed to pay for, or to have paid under Medicare or Medicaid, a stay at the facility.

(5) The state appeals process for facility transfers and discharges mandated by sections 1819 (e)(3) and 1919 (e)(3) of the Federal Social Security Act and federal regulations promulgated thereunder, is set forth in chapter 388-08 WAC and in this chapter. In such appeals, the following shall apply:

(a) In the event of a conflict between a provision in this chapter and a provision in chapter 388-08 WAC, the provision in this chapter shall prevail;

(b) The resident shall be the appellant and the skilled nursing facility or the nursing facility shall be the respondent;

(c) The department shall be notified of the appeal and may choose whether to participate in the proceedings. The role of the department is to represent the state's interest in assuring that skilled nursing facility and nursing facility transfer and discharge actions comply substantively and procedurally with the law and with federal requirements necessary for federal funds;

(d) When a nursing home's decision to transfer or discharge a resident from a nursing home is not upheld, and the resident has been relocated, the resident has the right to readmission immediately upon the first available bed in a semi-private room if the resident requires and is eligible for the services provided by the nursing home.

[Statutory Authority: RCW 18.51.070, 74.42.620 and 42 CFR 431, 483.12 and 483.100 through 483.138. 93-23-041 (Order 3669), § 388-88-180, filed 11/10/93, effective 12/11/93.]

WAC 388-88-190 Relocation due to decertification, license revocation, closure. (1) When the department or the federal Health Care Financing Administration terminates or does not renew a nursing home's Medicaid certification, or the department revokes or suspends the nursing home's license or orders emergency closure of a nursing home, the department shall:

(a) Notify residents and, when appropriate, resident representatives of the action; and

(b) Assist with residents' relocation and specify the location of possible alternative locations.

(2) When a resident's relocation occurs due to a nursing home's voluntary closure, or voluntary termination of its Medicaid contract:

(a) The nursing home shall:

(i) Send written notification, sixty days before closure or contract termination, to the appropriate nursing home services district manager and to all residents; and

(ii) Provide appropriate discharge planning and coordination; and

(b) The department may provide a resident assistance with relocation.

[Statutory Authority: RCW 18.51.070, 74.42.620 and 42 CFR 431, 483.12 and 483.100 through 483.138. 93-23-041 (Order 3669), § 388-88-190, filed 11/10/93, effective 12/11/93.]

Chapter 388-91 WAC MEDICAL CARE—DRUGS

WAC

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| 388-91-007 | Drugs—Drug discount agreement. |
| 388-91-010 | Drugs—Not requiring prior authorization. |
| 388-91-020 | Drugs—Requiring authorization. |

WAC 388-91-007 Drugs—Drug discount agreement.

(1) A supplemental drug discount agreement between each pharmaceutical manufacturer and the department is required. This agreement is to provide a supplemental drug discount in addition to the amount provided to the Medicaid program under the terms of their agreement with the federal Department of Health and Human Services.

(2) The supplemental drug discount shall be a percentage applied to the quarterly basic Health Care Financing Administration (HCFA) requested rebated amount. The discount will be assessed when the HCFA rebate amount, per labeler code, exceeds one thousand dollars in a reporting quarter.

[Statutory Authority: RCW 74.08.090. 94-01-094 (Order 3685), § 388-91-007, filed 12/14/93, effective 1/14/94.]

WAC 388-91-010 Drugs—Not requiring prior authorization. (1) The department shall publish a list of all drugs not requiring prior approval as described under subsections (3)(a) through (3)(e) and (4) of this section. The medical assistance administration may make changes to this list providing that action is in compliance with regulations governing the drug program and with acceptable management policies.

(2) The list described under subsection (1) of this section may include drugs which require prior approval only

because the manufacturer has not signed a supplemental drug discount agreement as specified under subsection (3)(f) of this section. The department shall publish a list of manufacturers who have signed a supplemental drug discount agreement and whose products may not require prior approval.

(3) The department's decision not to require authorization for drug preparations shall be based on the following criteria:

(a) The drug is established as a part of necessary and essential care for the condition for which the drug is used;

(b) The drug is in general use by physicians practicing in Washington;

(c) The drug is of moderate cost. The department shall use generic forms when the drug is listed under the department or federal maximum allowable cost (MAC) programs. When two preparations of equal effectiveness but disparate costs are presented, the department shall select the less expensive drug;

(d) The food and drug administration shall not have classified the drug as "less than effective";

(e) The drug is not experimental; and

(f) That the drug manufacturer/labeler sign a Washington state drug discount agreement.

(4) The department shall use the following process to determine when a drug preparation requires prior authorization:

(a) Review objective, scientific information and utilization data for appropriateness according to the criteria in subsection (3) of this section; or

(b) Provide for the potential appointment of an advisory committee by the secretary in accordance with RCW 43.20A.360 to review and advise the medical assistance administration whether the drug preparation requires prior authorization; and

(c) Make appropriate changes in the requirement of prior authorization as to a drug preparation when consistent with subsection (3) of this section, and may accept recommendations of the advisory committee providing that action is in compliance with regulations governing the program and with acceptable management policies.

(5) Until January 1, 1994 the department shall not require prior authorization for any new biological or drug that the federal Food and Drug Administration approves between July 1, 1993 through December 31, 1993.

[Statutory Authority: RCW 74.08.090, 94-01-094 (Order 3685), § 388-91-010, filed 12/14/93, effective 1/14/94; 91-23-084 (Order 3286), § 388-91-010, filed 11/19/91, effective 12/20/91; 86-01-080 (Order 2320), § 388-91-010, filed 12/18/85; 84-09-017 (Order 2090), § 388-91-010, filed 4/10/84; 81-16-032 (Order 1684), § 388-91-010, filed 7/29/81; 81-10-016 (Order 1648), § 388-91-010, filed 4/27/81; 80-15-034 (Order 1554), § 388-91-010, filed 10/9/80; 80-02-024 (Order 1473), § 388-91-010, filed 1/9/80; 79-06-034 (Order 1402), § 388-91-010, filed 5/16/79; 78-10-077 (Order 1346), § 388-91-010, filed 9/27/78; Order 682, § 388-91-010, filed 5/10/72; Order 632, § 388-91-010, filed 11/24/71; Order 583, § 388-91-010, filed 7/20/71; Order 461, § 388-91-010, filed 6/17/70, effective 8/1/70; Order 387, § 388-91-010, filed 8/27/69; Order 316, § 388-91-010, filed 10/31/68.]

WAC 388-91-020 Drugs—Requiring authorization.

(1) The pharmacist shall make a request to the department for drugs requiring prior authorization before dispensing the drug. The request shall be supported by the medical diagnosis and include proper justification for the drug. For

drugs requiring prior authorization solely because the drug manufacturer/labeler has failed to sign a Washington state drug discount agreement, the authorization may be obtained subsequent to filling the prescription.

(2) The department may pay for drugs requiring prior authorization which are prescribed without prior authorization only:

(a) In an acute emergency;

(b) If the physician can substantiate that a drug is mandatory; and

(c) When the department receives justification within seventy-two hours for consideration.

[Statutory Authority: RCW 74.08.090, 94-01-094 (Order 3685), § 388-91-020, filed 12/14/93, effective 1/14/94; 91-23-084 (Order 3286), § 388-91-020, filed 11/19/91, effective 12/20/91; 86-01-080 (Order 2320), § 388-91-020, filed 12/18/85; 85-11-034 (Order 2233), § 388-91-020, filed 5/15/85; 79-06-034 (Order 1402), § 388-91-020, filed 5/16/79; Order 1170, § 388-91-020, filed 11/24/76; Order 884, § 388-91-020, filed 12/17/73; Order 461, § 388-91-020, filed 6/17/70, effective 8/1/70; Order 316, § 388-91-020, filed 10/31/68.]

Chapter 388-92 WAC

MEDICAL CARE FOR PERSONS RECEIVING BENEFITS UNDER TITLE XVI OF SOCIAL SECURITY ACT—ELIGIBILITY—INCOME AND RESOURCE STANDARDS FOR APPLICANTS IN OWN HOME

WAC

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| 388-92-025 | Relative financial responsibility for SSI-related clients. |
| 388-92-027 | SSI-related income deeming. |
| 388-92-036 | SSI-related income exemptions. |
| 388-92-041 | Trusts. |
| 388-92-043 | Repealed. |
| 388-92-045 | Exempt resources. |

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

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| 388-92-043 | Transfer of resources without adequate consideration. [Statutory Authority: 1989 c 87, 89-18-032 (Order 2859), § 388-92-043, filed 8/29/89, effective 9/29/89. Statutory Authority: RCW 74.08.090, 84-04-068 (Order 2073), § 388-92-043, filed 2/1/84; 82-23-002 (Order 1897), § 388-92-043, filed 11/4/82; 82-10-017 (Order 1776), § 388-92-043, filed 4/28/82.] Repealed by 93-23-032 (Order 3664), filed 11/10/93, effective 12/11/93. Statutory Authority: RCW 74.08.090 and OBRA 1993. |
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WAC 388-92-025 Relative financial responsibility for SSI-related clients. (1) When determining program eligibility for medical care, the department shall limit relative financial responsibility from:

(a) The natural or adoptive stepparent or parent to a child under age eighteen living in the same household; and

(b) Spouse to spouse living in the same household;

(2) The department shall consider income and resources jointly for spouses when both spouses are SSI-related and live in the same household.

(3) The department shall consider income and resources separately for an institutionalized:

(a) Child as described under WAC 388-95-320(5); or

(b) Spouse as described under WAC 388-95-340.

(4) The department shall consider the income and resources of spouses as available to each other through the month in which they stop living together.

(5) The department shall follow WAC 388-83-200, 388-83-210, or 388-83-220 when one or both spouses are receiving community options program entry system (COPEs), community alternatives program (CAP), outward bound residential alternatives (OBRA), or coordinated community aids service alternatives (CASA) waived service program.

(6) The department shall allow a community spouse applying for medically needy a spousal deduction equal to the one-person medically needy income level (MNIL) less the spouse's income when:

(a) The community spouse is living in the same household as the spouse; and

(b) The spouse is receiving home and community based services.

(7) The department shall consider income and resources separately as of the first day of the month following the month of separation when spouses stop living together because of placement into a congregate care facility (CCF), adult family home (AFH), adult residential rehabilitation center/adult residential treatment facility (ARRC/ARTF), or division of developmental disability-group home (DDD-GH) facility when:

(a) Only one spouse enters the facility;

(b) Both spouses enter the same facility but have separate rooms; or

(c) Both spouses enter separate facilities.

(8) The department shall consider income and resources jointly when spouses are placed in a CCF, AFH, ARRC/ARTF, or DDD-GH facility and share a room.

[Statutory Authority: RCW 74.08.090. 93-11-045 (Order 3546), § 388-92-025, filed 5/12/93, effective 6/12/93; 92-14-051 (Order 3411), § 388-92-025, filed 6/25/92, effective 7/26/92; 89-24-036 (Order 2907), § 388-92-025, filed 12/1/89, effective 1/1/90; 84-17-012 (Order 2132), § 388-92-025, filed 8/3/84; 84-02-056 (Order 2064), § 388-92-025, filed 1/4/84; 82-10-062 (Order 1801), § 388-92-025, filed 5/5/82; 82-01-001 (Order 1725), § 388-92-025, filed 12/3/81; 81-16-032 (Order 1684), § 388-92-025, filed 7/29/81; 81-10-014 (Order 1646), § 388-92-025, filed 4/27/81; 80-13-020 (Order 1542), § 388-92-025, filed 9/9/80; 79-09-053 (Order 1427), § 388-92-025, filed 8/24/79; 79-06-034 (Order 1402), § 388-92-025, filed 5/16/79; 78-10-077 (Order 1346), § 388-92-025, filed 9/27/78; Order 1227, § 388-92-025, filed 8/8/77; Order 1158, § 388-92-025, filed 10/6/76; Order 1112, § 388-92-025, filed 4/15/76; Order 1067, § 388-92-025, filed 11/17/75; Order 1061, § 388-92-025, filed 10/8/75; Order 996, § 388-92-025, filed 12/31/74; Order 967, § 388-92-025, filed 8/29/74; Order 960, § 388-92-025, filed 8/13/74; Order 898, § 388-92-025, filed 1/25/74.]

WAC 388-92-027 SSI-related income deeming. (1)

At the client's option, the department shall consider an SSI-related person, living with a spouse or parent who is ineligible for SSI, as a separate medical assistance unit. The department shall deem income from a financially responsible spouse or parent to the SSI-related person as follows when determining:

(a) Categorically needy or medically needy eligibility for an SSI-related child, the department shall consider the income of the parents available to the SSI-related child except for:

(i) Income exemptions under WAC 388-92-036 including the twenty-dollar deduction and the sixty-five dollar plus one-half of the balance earned income deduction; and

(ii) A child's allowance for each SSI-ineligible child equal to one-half of the federal benefit rate (FBR) minus any income of that child; and

(iii) A parent's allowance equal to:

(A) One-person FBR for a single parent; or

(B) Two-person FBR for two parents.

(b) Categorically needy Medicaid for an SSI-related spouse, the department shall:

(i) Allow the financially responsible spouse the income exemptions under WAC 388-92-036 except the:

(A) Twenty-dollar deduction; and

(B) Sixty-five dollar plus one-half earned income deduction.

(ii) Deduct from the financially responsible spouse's income, a child's allowance for each SSI-ineligible child equal to one-half of the FBR minus any income of that child;

(iii) Deem from the financially responsible spouse:

(A) Zero income when the financially responsible spouse's income equals or is less than one-half of the FBR after allowing the income deductions in subsection (1)(b)(i) and (ii) of this section;

(B) All the financially responsible spouse's income when the income exceeds one-half of the FBR after allowing the income deductions in subsection (1)(b)(i) and (ii) of this section.

(c) Medically needy Medicaid for an SSI-related spouse, the department shall:

(i) Allow the financially responsible spouse the income deductions as in subsection (1)(b)(i) and (ii) of this section;

(ii) Deem from the financially responsible spouse:

(A) Zero income when the financially responsible spouse's income equals or is less than the one-person medically needy income level (MNIL) after allowing the income deductions in subsection (1)(b)(i) and (ii) of this section;

(B) The financially responsible spouse's income above the MNIL after allowing the income deductions in subsection (1)(b)(i) and (ii) of this section.

(iii) From the SSI-related spouse's income, allow an amount needed to bring the financially responsible spouse's income up to the MNIL.

(2) The department shall consider a person eligible for Medicaid when the person is denied SSI cash assistance solely because of income or resources deemed available from an alien sponsor.

[Statutory Authority: RCW 74.08.090. 93-11-045 (Order 3546), § 388-92-027, filed 5/12/93, effective 6/12/93.]

WAC 388-92-036 SSI-related income exemptions.

(1) The department shall exempt:

(a) Any public agency's refund of taxes paid on real property or on food;

(b) State public assistance and supplemental security income (SSI) based on financial need;

(c) Any portion of a grant, scholarship, or fellowship used to pay tuition, fees, or other necessary educational expenses at an educational institution;

(d) Income a client does not reasonably anticipate, or receives infrequently or irregularly, when such income does

not exceed twenty dollars per month if unearned, or ten dollars per month if earned;

(e) Any amount a client receives for the foster care of a child who lives in the same household, if the child is not SSI-eligible and was placed in such home by a public or nonprofit private child-placement or child-care agency;

(f) One-third of any payment for child support a parent receives from an absent parent for a minor child who is not institutionalized;

(g) The first twenty dollars per month of earned or unearned income, not otherwise excluded in subsection (1)(a) through (f) of this section, for a client at home. The department shall consider the exemption only once for a husband and wife. The department shall apply no such exemption on income paid on the basis of an eligible person's needs, which is totally or partially funded by the federal government or a private agency;

(h) Tax exempt payments Alaska natives receive under the Alaska Native Claims Settlement Act;

(i) Tax rebates or special payments exempted by other statutes;

(j) Compensation provided to volunteers in ACTION programs established by P.L. 93-113, the Domestic Volunteer Service Act of 1973;

(k) From the income of a single SSI-related parent or a married SSI-related parent whose spouse has no income, an amount to meet the needs of an ineligible minor child living in the household of an SSI-related parent. See WAC 388-92-027 when the SSI-related client has a spouse with income. The exemption is one-half of the one-person federal benefit rate (FBR) less any income of the child;

(l) Veteran's benefits designated for the veteran's:

(i) Dependent; or

(ii) Aid and attendance/housebound allowance and unusual medical expense allowance (UME). For an institutionalized client, see WAC 388-95-340(6).

(m) Title II Social Security Administration benefits. The department shall:

(i) Determine current client eligibility for categorically needy medical assistance under WAC 388-82-115(4), including all Title II cost of living adjustment (COLA) benefit increases received by the:

(A) Client since termination from SSI/SSP; or

(B) Client's spouse and/or other financially responsible family member living in the same household during the time period under subsection (1)(m)(i) of this section; and

(ii) Consider the total of the COLA benefit increases and the Title II Social Security Administration benefits in the cost of the institutionalized client's care.

(n) A fee a guardian charges as reimbursement for providing services;

(o) Income an ineligible or nonapplying spouse receives from a governmental agency for services provided to an eligible client, such as chore services;

(p) Certain cash payments a client receives from a governmental or nongovernmental medical or social service agency to pay for medical or social services;

(q) Restitution payment to a civilian of Japanese or Aleut ancestry under P.L. 100-383 and any interest earned from such payment;

(r) The amount of the expenses directly related to a client's impairment that allows the permanently and totally disabled client to continue to work;

(s) The amount of the blindness-related work expenses of a blind client;

(t) Interest earned on excluded burial funds and any appreciation in the value of an excluded burial arrangement which are left to accumulate and become part of the separately identified burial funds set aside on or after November 1, 1982;

(u) Earned income tax credit (EITC);

(v) Crime victim's compensation funds;

(w) Agent Orange Settlement Fund or any other funds established to settle Agent Orange liability claims under P.L. 101-201;

(x) Payments to certain survivors of the Holocaust under the Federal Republic of Germany's Law for Compensation of National Socialist Persecution or German Restitution Act. Interest earned on this income is not exempt;

(y) Payments to the injured person, the surviving spouse, children, grandchildren, or grandparents under the Radiation Exposure Compensation Act; and

(z) Payments under section 500 through 506 of the Austrian General Social Insurance Act. The department shall consider the earned interest from such payments as countable income.

(2) For the SSI-related client, the department shall exclude the first sixty-five dollars per month of earned income not excluded according to subsection (1) of this section, plus one-half of the remainder.

[Statutory Authority: RCW 74.08.090, 94-02-005 (Order 3689), § 388-92-036, filed 12/22/93, effective 1/22/94. Statutory Authority: RCW 74.08.090, POMS 830.660, 830.710, 830.715, 830.730, 830.740 and Federal Register change to CFR 20 Part 416, 93-08-112 (Order 3533), § 388-92-036, filed 4/7/93, effective 5/8/93. Statutory Authority: RCW 74.08.090, 89-24-036 (Order 2907), § 388-92-036, filed 12/1/89, effective 1/1/90.]

WAC 388-92-041 Trusts. (1) For the purposes of this section, a trust shall include any legal instrument similar to a trust.

(2) The department shall ensure this section does not apply to any trust or initial trust decree established:

(a) On or before April 6, 1986; and

(b) Solely for the benefit of a mentally retarded client who lives in an intermediate care facility for the mentally retarded.

(3) For trusts established on or before August 10, 1993, the department shall:

(a) Determine if the trust is established by the client, client's spouse, or the legal guardian for an incompetent client under which:

(i) The client may be the beneficiary of all or part of the payments from the trust;

(ii) The distribution of such payments is determined by one or more of the trustees; and

(iii) The trustees are permitted to use discretion with respect to the distribution of payments to the client.

(b) Consider available to the client the greatest amount of payments permitted to be distributed under the terms of the trust when the conditions defined under subsection (3)(a) of this section exist;

(c) Apply subsection (3)(b) of this section whether or not:

(i) The trust:

(A) Is irrevocable; or

(B) Is established for purposes other than to establish eligibility for medical assistance.

(ii) The trustees actually use the discretion permitted by the trust.

(d) For an irrevocable trust not meeting the description under subsection (3)(a) of this section, consider:

(i) The trust as an unavailable resource when the client establishes the trust for a beneficiary other than the client or the client's spouse;

(ii) As an available resource the amount of the trust's assets:

(A) The client may access; or

(B) The trustee of the trust distributes as actual payments to the client.

(iii) See WAC 388-95-395 for regulations concerning the transfer of assets.

(e) For a revocable trust, consider:

(i) The full amount of the trust as an available resource of the client when the trust is established by:

(A) The client;

(B) The client's spouse and the client lives with the spouse; or

(C) A person other than the client or the client's spouse only to the extent the client has access to the assets of the trust.

(D) Client withdrawal of funds from such trust shall not be considered as income.

(ii) Only the amounts paid to the client from the trust as an available resource when the trust is established by:

(A) The client's spouse and the client does not live with the spouse; or

(B) A person other than the client or the client's spouse and payments are distributed by a trustee of the trust.

(f) Waive the requirements of subsection (3) if undue hardship exists. Undue hardship includes but is not limited to situations in which:

(i) The trustee refused to disburse the funds from the trust and the client has filed and is actively pursuing litigation to require the trustee to disburse said funds; or

(ii) The client would be forced to go without life sustaining services because trust funds are not made available to pay for the services.

(4) For trusts established on or after August 11, 1993, the department shall follow subsection (3) of this section to determine eligibility for medical services received on or before September 30, 1993.

(5) For trusts established on or after August 11, 1993, the department shall follow subsections (6) through (14) of this section to determine eligibility for medical services received on or after October 31, 1993.

(6) The department shall consider a trust established by the client when:

(a) All or part of the assets, as defined under WAC 388-95-395, of the trust were from the client; and

(b) The trust was established, other than by will, by:

(i) The client or the client's spouse;

(ii) A person, including a court or administrative body, with legal authority to act in place of, or on behalf of, the client or the client's spouse; or

(iii) A person, including a court or administrative body, acting at the direction of or upon the request of the client or the client's spouse.

(7) The department shall consider available to the client only the assets contributed to the trust by the client when part of the trust assets were contributed by any other person.

(8) The department shall not consider:

(a) The purposes for which a trust is established;

(b) Whether the trustees have or exercise any discretion under the terms of the trust;

(c) Restrictions on when or whether distributions may be made from the trust; or

(d) Restrictions on the use of distributions from the trust.

(9) For a revocable trust established as described under subsection (6) of this section, the department shall consider:

(a) The full amount of a revocable trust as an available resource of the client;

(b) Payments from the trust to or for the benefit of the client as income of the client; and

(c) Any payments from the trust other than payments described under subsection (9)(b) of this section as a transfer of client assets.

(10) For an irrevocable trust established as described under subsection (6) of this section, the department shall consider:

(a) As an available resource to the client, the portions of a trust or the income from the trust from which payment can be made to or for the benefit of the client. When payment is made from such irrevocable trust, the department shall consider such payments as:

(i) Income to the client when payment is to or for the client's benefit; or

(ii) The transfer of an asset when payment is made to any person for any purpose other than for the client's benefit.

(b) As a transfer of assets, a trust from which a payment cannot be made to or for the client's benefit. For such trust, the department shall find:

(i) The transfer of assets is effective the date:

(A) Of the establishment of the trust; or

(B) On which payment to the client is precluded, if later.

(ii) The value of the trust includes any payments made from the trust after the effective date of the transfer.

(11) For a revocable or irrevocable trust established by persons or with funds other than as described under subsection (6) of this section, the department shall consider such trust under subsection (3)(e) of this section:

(12) The department shall not follow subsections (6) through (11) of this section for a trust containing:

(a) The assets of a person sixty-four years of age and younger who is disabled as defined by SSI criterion and the trust:

(i) Is established for the benefit of such person;

(ii) Is established by such person's parent, grandparent, legal guardian, or a court; and

(iii) Stipulates that the state will receive all amounts remaining in trust upon the death of the client up to the amount of Medicaid expended on behalf of such client.

(b) The assets of a person sixty-four years of age and younger who is disabled as defined by SSI criteria and the trust:

(i) Is managed by a nonprofit association and the nonprofit association:

(A) Maintains separate accounts for each trust beneficiary; and

(B) May only pool such separate accounts for investment and management of fund purposes;

(ii) Stipulates that the state will receive all amounts remaining in the client's account upon the death of the client up to the amount of Medicaid expended on the client's behalf.

(13) The department shall waive the application of this section if the client establishes undue hardship exists. Undue hardship includes, but is not limited to, situations where the client would be forced to go without life sustaining services.

(14) See WAC 388-95-395 for trusts the department determines a transfer of assets under this section.

[Statutory Authority: RCW 74.08.090 and OBRA 1993, 93-23-031 (Order 3665), § 388-92-041, filed 11/10/93, effective 12/11/93. Statutory Authority: RCW 74.08.090, 92-22-053 (Order 3476), § 388-92-041, filed 10/28/92, effective 11/28/92. Statutory Authority: RCW 74.08.090 and chapter 74.09 RCW, 87-10-022 (Order 2486), § 388-92-041, filed 5/1/87.]

WAC 388-92-043 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-92-045 Exempt resources. (1) The department shall exempt the following resources in determining eligibility for medical care programs:

(a) Home;

(i) A home means any shelter:

(A) In which the client has ownership interest; and

(B) The client uses as the principal place of residence. The department shall consider only one home as the client's principal place of residence.

(ii) Client's absence from the home shall not affect the home exemption. The client's home shall remain the principal place of residence as long as:

(A) The client intends to return home. The department shall accept the client's statement of intent without challenge; or

(B) A client's spouse or dependent relative uses the home during the client's absence. The department shall:

(I) Consider a person a dependent relative when such person is either financially or medically dependent on the client; and

(II) Accept the client's or dependent relative's written statement of dependency or relationship unless the department has reason to question such statement.

(iii) The department shall exempt the proceeds from the sale of the home providing the client uses the proceeds to purchase another home within three months of the receipt of the proceeds. Proceeds include real estate contracts, or any similar home financing arrangements, and the income produced.

(iv) The department shall evaluate transfers of the home by an institutional client or client's spouse under WAC 388-95-395.

(b) Household goods and personal effects;

(c) Automobile or automobiles;

(i) The department shall exempt one automobile regardless of its value if, for the client or a member of the client's household, the automobile is:

(A) Necessary for employment; or

(B) Necessary for the treatment of a specific or regular medical problem; or

(C) Modified for operation by, or transportation of, a handicapped person; or

(D) Necessary due to climate, terrain, distance, or similar factors to provide transportation to perform essential daily activities.

(ii) The department shall:

(A) Exempt one of the client's automobiles to the extent its current market value does not exceed four thousand five hundred dollars;

(B) Count any excess against the resource limit; and

(C) Exempt an automobile under this subdivision only if an automobile is not exempt under subsection (1)(c)(i) of this section.

(iii) The department shall treat the client's ownership of other automobiles as nonexempt resources and count the client's automobile equity value toward the resource limit.

(d) Property essential to self-support. The department shall exempt:

(i) Property regardless of value, when the client uses the property:

(A) In a trade or business;

(B) As an employee for work; or

(C) As authorized by the government for income producing activity.

(ii) Nonbusiness property up to six thousand dollars equity, when the client uses the property for producing goods or services essential to daily activities, solely for the client's household.

(iii) Nonbusiness property up to six thousand dollars equity, when the client uses the property to produce an annual income return of six percent or more of the exempt equity or is expected to produce at least a six percent return within a twenty-month period as long as the client:

(A) Currently uses the property in the activities described in (1)(d) of this section; or

(B) Is expected to resume using the property in the activities described in (1)(d) of this section within twelve months.

(e) Resources necessary to fulfill an approved plan for a blind or disabled client to achieve self-support as long as such plan remains in effect.

(f) Alaska Native Claims Settlement Act:

(i) Shares of stock held in a regional or village corporation;

(ii) Cash received from a native corporation, including cash dividends on stock received from a native corporation to the extent it does not exceed two thousand dollars per person per year;

(iii) Stock issued or distributed by a native corporation as a dividend or distribution on the stock;

- (iv) A partnership interest;
- (v) Land or an interest in land, including land or an interest in land received from a native corporation as a dividend or distribution on stock;
- (vi) An interest in a settlement trust.
- (g) Life insurance:
 - (i) The department shall exempt the total cash surrender value if the total face value of all the policies held by each person is one thousand five hundred dollars or less.
 - (ii) The cash surrender value applies to the resource limit if the face value of all the policies held by each person is over one thousand five hundred dollars.
 - (iii) When determining total face value in subsection (1)(g)(i) of this section, the department shall not include term or burial insurance with no cash surrender value.
 - (h) Restricted allotted land owned by an enrolled tribal member and spouse, if married, if such land cannot be sold, transferred, or otherwise disposed of without permission of other persons, the tribe, or an agency of the federal government.
 - (i) Insurance settlements the client receives from an insurance company for purposes of repairing or replacing a resource providing the client uses the total amount of the cash to repair or replace the exempt resource within nine months. The department may extend the nine-month period based on circumstances beyond the control of the client to a maximum of nine additional months. The department shall consider any cash not used within the time period as an available resource.
 - (j) Burial spaces for the client, the client's spouse, or any member of the client's immediate family.
 - (i) Burial spaces include conventional gravesites, crypts, mausoleums, urns, and other repositories customarily and traditionally used for the remains of deceased persons.
 - (ii) Burial spaces include a burial space purchase agreement as well as any interest accrued on and left to accumulate as part of the value of the burial space purchase agreement.
 - (iii) For purposes of subsection (1)(j) and (k) of this section, immediate family means a client's minor and adult children, including adopted children and stepchildren; a client's brothers, sisters, parents, adoptive parents, and the spouses of those persons. The department shall consider neither dependency nor living-in-the-same-household as factors in determining whether a person is an immediate family member.
 - (k) Burial funds:
 - (i) Funds specifically set aside for the burial arrangements of a client or the client's spouse shall not exceed one thousand five hundred dollars for each spouse. The department shall count burial funds in excess of this limit toward the resource limit in WAC 388-92-050.
 - (ii) The department shall require funds set aside for burial expenses be kept separate from all other resources and separately identified and designated as set aside for burial. If the exempt burial funds are mixed with other resources, the department shall not apply this exemption to any portion of the funds. The department may exempt designated burial funds retroactively back to the first day of the month in which the person intended the funds to be set aside for burial.

(iii) Funds set aside for burial include revocable burial contracts, burial trusts, other burial arrangements, cash, accounts, or other financial instruments with a definite cash value the person clearly designates as set aside for the person's or spouse's burial expenses.

(iv) The department shall reduce the one thousand five hundred dollar exemption by:

(A) The face value of the client's insurance policies owned by the person or spouse on the life of the person if the policies have been exempted as provided in subsection (1)(g) of this section; and

(B) Amounts in an irrevocable burial trust.

(v) The department shall exempt the interest earned on exempt burial funds and appreciation in the value of exempt burial arrangements if the exempt interest and appreciation are left to accumulate and become part of the separately identified burial fund.

(vi) When used for other purposes, the department shall consider as available income any exempt burial funds, interest, or appreciated values set aside for burial expenses if, at the first of the month of use when added to other nonexempt resources, the total exceeds the resource limit.

(l) Other resources considered exempt by federal statute.

(m) Retroactive SSI payments including benefits a client receives under the interim assistance reimbursement agreement with the Social Security Administration, or OASDI payments for six months following the month of receipt. This exemption applies to:

(i) Payments the client, spouse, or any other person receives that the department considers available to meet the client's needs;

(ii) SSI payments made to the client for benefits due for a month before the month of payment;

(iii) OASDI payments made to the client for benefits due for a month that is two or more months before the month of payment; and

(iv) Payments that remain in the form of cash, checking accounts or saving accounts. The department shall not apply this exemption once the retroactive payment has been converted to any other form.

(n) Payments for medical or social services, for one-calendar month following the month of receipt, certain cash payments an SSI person receives from a governmental or nongovernmental medical or social service agency to pay for medical or social services.

(o) Payments to persons of Japanese or Aleut ancestry for restitution to civilians relocated and interned during war time, under P.L. 100-383.

(p) The annuity payment of trust funds to Puyallup Tribal Indians received under P.L. 101-41.

(q) Funds received from the Agent Orange Settlement Fund or any other funds established to settle Agent Orange liability claims under P.L. 101-201.

(r) Payments to certain survivors of the Holocaust under the Federal Republic of Germany's law for compensation of National Socialist Persecution or German Restitution Act. Interest earned on conserved payment is not exempt.

(s) Unspent assistance payments the client receives because of a presidentially declared major disaster, under P.L. 93-288, are exempt for nine months from date of receipt.

(i) The exemption may extend an additional nine months, if circumstances beyond the client's control:

(A) Prevents the client from repairing or replacing the damaged or destroyed property; or

(B) Keeps the client from contracting for such repair or replacement.

(ii) Interest earned on the exempt resource is exempt for the period the exclusion applies.

(t) Earned income tax credit refunds and payments, received on or after January 1, 1991, during the month of receipt and the following month.

(u) Payments from a state administered victim's compensation program for a period of nine calendar months after the month of receipt.

(v) Payments, or interest accrued on payments received under the Radiation Exposure Compensation Act received by the injured person, the surviving spouse, children, grandchildren, or grandparents.

(w) Payments under section 500 through 506 of the Austrian General Social Insurance Act:

(i) The department shall not consider such payments as income or resources for determining eligibility or post eligibility;

(ii) The earned interest from such payments is countable income for the client.

(2) The department shall consider a sales contract:

(a) An exempt resource when the current market value of the contract:

(i) Is zero or the contract is unsalable; or

(ii) When combined with other resources, exceeds the resource limit; and

(A) The sales contract was executed on or before November 30, 1993; or

(B) The sales contract was executed on or after December 1, 1993; and

(I) Was received as compensation for the sale of the client's principal place of residence. For an institutionalized client, this rule shall apply only to the client's principal place of residence before institutionalization of the client; and

(II) Provides for an interest rate within prevailing rates at the time of sale; and

(III) Requires the repayment of a principal amount equal to the fair market value of the property; and

(IV) Payment on the amount owed does not exceed thirty years.

(iii) The department shall consider payment of principal and interest on a sales contract meeting the criteria of subsection (2)(a)(i) or (ii) under WAC 388-83-041 (2)(f).

(b) An available resource when the current market value of a sales contract does not meet the requirements in subsection (2)(a)(i) or (ii) of this section. For a sales contract the department determines to be an available resource, the department shall consider the payment that represents:

(i) Principal, an available resource.

(ii) Interest, under WAC 388-83-041 (2)(g).

(c) An available resource when transferred by the client to a person other than the client's spouse. See WAC 388-95-395.

(d) An exempt resource to the extent the proceeds from the sale of a home are used to purchase another home.

Payments received under such sales contract shall not be considered as income as described under subsection (1)(a)(iii) of this section.

(3) The department shall consider cash received from the sale of an exempt resource as a nonexempt resource to the extent that the cash is not:

(a) Used to replace an exempt resource; or

(b) Invested in an exempt resource within the same month, unless specified differently under this section.

[Statutory Authority: RCW 74.08.090. 94-02-007 (Order 3687), § 388-92-045, filed 12/22/93, effective 1/22/94; 93-06-038 (Order 3518), § 388-92-045, filed 2/24/93, effective 3/27/93; 92-08-037, § 388-92-045, filed 3/24/92, effective 4/24/92; 91-09-017 (Order 3132), § 388-92-045, filed 4/9/91, effective 5/10/91; 89-24-036 (Order 2907), § 388-92-045, filed 12/1/89, effective 1/1/90; 88-06-087 (Order 2604), § 388-92-045, filed 3/2/88; 85-05-014 (Order 2204), § 388-92-045, filed 2/13/85; 84-17-069 (Order 2139), § 388-92-045, filed 8/15/84; 84-02-055 (Order 2063), § 388-92-045, filed 1/4/84; 83-10-077 (Order 1958), § 388-92-045, filed 5/4/83; 82-24-069 (Order 1916), § 388-92-045, filed 12/1/82; 82-10-062 (Order 1801), § 388-92-045, filed 5/5/82; 82-01-001 (Order 1725), § 388-92-045, filed 12/3/81; 81-10-014 (Order 1646), § 388-92-045, filed 4/27/81; 79-10-095 (Order 1439), § 388-92-045, filed 9/25/79; Order 1015, § 388-92-045, filed 3/27/75; Order 898, § 388-92-045, filed 1/25/74.]

Chapter 388-95 WAC

INSTITUTIONAL—MEDICAL ASSISTANCE— ELIGIBILITY

WAC

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| 388-95-310 | Fraternal, religious, or benevolent nursing facility. |
| 388-95-337 | Availability of resources. |
| 388-95-340 | Computation of available income and resources. |
| 388-95-360 | Allocation of income and resources—Institutionalized client. |
| 388-95-395 | Transfer of assets. |

WAC 388-95-310 Fraternal, religious, or benevolent nursing facility. (1) The department shall find an otherwise eligible client, residing in a nursing facility operated by a fraternal, religious, or benevolent organization:

(a) Eligible for medical care when the:

(i) Facility is licensed as a nursing facility; and

(ii) Contract between the client and the nursing facility excludes free or prepaid institutional and/or medical care for life; or

(iii) Nursing facility is unable to fulfill the terms of the contract and has:

(A) Voided the contract; and

(B) Refunded to the client any existing assets of the client.

(b) Ineligible for institutional and/or medical care when a contract between the client and the facility includes free or prepaid institutional and/or medical care for life.

(2) The department shall consider available to the client all assets of a fraternal, religious, or benevolent organization when the client:

(a) Signs a contract with the organization that includes free or prepaid institutional and/or medical care for the life of the client; and

(b) Surrenders income and/or resources to the organization in exchange for such care.

[Statutory Authority: RCW 74.08.090. 93-19-134 (Order 3641), § 388-95-310, filed 9/22/93, effective 10/23/93.]

WAC 388-95-337 Availability of resources. (1) Resources are defined under WAC 388-92-005 for the SSI-related client and under WAC 388-22-030 for an AFDC-related client.

(2) The methodology and standards for determining and evaluating resources are under WAC 388-95-340, 388-95-380, and 388-95-390. Transfer of resources are evaluated under WAC 388-95-395.

(3) The department shall determine ownership of resources following Washington state community property principles:

(a) For a person:

(i) Whose most recent period of institutionalization began before October 1, 1989; and

(ii) Remaining continuously institutionalized.

(b) For purposes of Medicaid eligibility, the department shall presume all resources are:

(i) Community resources if jointly held in the names of both the husband and wife, or in the name of the client only;

(ii) The separate property of the nonapplicant spouse if:

(A) Held in the separate name of the nonapplicant spouse; or

(B) Transferred between spouses as described under WAC 388-92-043(6).

(c) The department shall divide by two, the total value of the community resources the husband and wife own and assign one-half of the total value to each spouse.

(4) The department shall not consider a person continuously institutionalized if, for thirty consecutive days, the person:

(a) Is absent from an institution; or

(b) Does not receive home or community-based waived services.

(5) For the purpose of determining Medicaid eligibility of a person, whose most recent continuous period of institutionalization starts on or after October 1, 1989, the department shall:

(a) Exclude resources in WAC 388-95-380 with the exception of subsection (3) under WAC 388-95-380. One automobile per couple is totally excluded without regard to use;

(b) Consider available to the community spouse, resources in the name of either the community spouse or the institutionalized spouse, except resources exceeding the greater of:

(i) Seventy thousand seven hundred forty dollars effective January 1, 1993;

(ii) An amount established by a fair hearing under chapter 388-08 WAC if the community spouse's resource allowance is inadequate to provide a minimum monthly maintenance needs allowance; or

(iii) An amount ordered transferred to the community spouse by the court.

(c) Ensure resources available to the community spouse are in the name of the community spouse or transferred to the community spouse or to another for sole benefit of the community spouse:

(i) Before the first regularly scheduled eligibility review; or

(ii) As soon as practicable thereafter, taking into account such time as may be necessary to obtain a court order for the support of the community spouse; and

(d) Consider resources greater than such resources in subsection (5)(b) of this section available to the institutional spouse.

(6) The department shall consider resources of the community spouse:

(a) Unavailable to the institutionalized spouse during a continuous period of institutionalization; or

(b) When the institutionalized spouse acquires resources in excess of the one-person resource maximum, if the most recent period of institutionalization began after September 30, 1989.

[Statutory Authority: RCW 74.08.090 and State Agency Letter 93-03. 93-07-029 (Order 3523), § 388-95-337, filed 3/10/93, effective 4/10/93. Statutory Authority: RCW 74.08.090. 92-03-088 (Order 3313), § 388-95-337, filed 1/15/92, effective 2/15/92; 91-07-011 (Order 3150), § 388-95-337, filed 3/11/91, effective 4/11/91; 90-12-049 (Order 3007), § 388-95-337, filed 5/31/90, effective 7/1/90; 89-23-080 (Order 2898), § 388-95-337, filed 11/17/89, effective 12/18/89. Statutory Authority: 1989 [1st ex.s.] c 5352 [19]. 89-18-056 (Order 2864), § 388-95-337, filed 9/1/89, effective 10/2/89. Statutory Authority: RCW 74.08.090. 88-01-042 (Order 2567), § 388-95-337, filed 12/11/87.]

WAC 388-95-340 Computation of available income and resources. (1) The department shall limit financial responsibility of relatives to:

(a) A spouse for a spouse; and

(b) A parent for a child.

(2) Financial responsibility of spouses. The department shall:

(a) Consider, in the month the spouses stopped living together, the:

(i) Resources held by the institutionalized spouse, the community spouse, or both to be available to the institutionalized spouse;

(ii) Income available to the institutionalized spouse:

(A) In the name of the institutionalized spouse; and

(B) Community income received in the name of the community spouse that does not exceed the community income received in the name of the applying spouse.

(b) Consider, in the month after the institutionalized spouse is determined eligible for institutional care, the community spouse's income and resources only when the community spouse actually contributes such income and resources; and

(c) Consider the income and resources of spouses living in the same household as available to each other.

(3) The department shall consider institutionalized spouses as not living together even if such spouses share a room.

(4) Financial responsibility of parent to child. The department shall consider available only the parent's income actually contributed to an institutionalized person twenty years of age or younger.

(5) The department shall consider a client's income exemptions as unavailable income when determining initial eligibility or post-eligibility. The department shall exempt sequentially from income:

(a) Any public agency's refund of taxes paid on real property or on food;

(b) Supplemental security income (SSI) and state public assistance based on financial need;

(c) Any portion of a grant, scholarship, or fellowship used to pay tuition, fees, or other necessary educational expenses at any educational institution;

(d) Child support received by a parent, from an absent parent, for a minor child who is not institutionalized;

(e) Tax exempt payments received by Alaska natives under the Alaska Native Claims Settlement Act;

(f) Tax rebates or special payments excluded by other statutes;

(g) Compensation provided to volunteers in ACTION programs established by P.L. 93-113, the Domestic Volunteer Service Act of 1973;

(h) Veteran's benefits designated for the veteran's:

(i) Dependent; or

(ii) Unusual medical expense allowance.

(i) Income received by an ineligible or nonapplying spouse from a governmental agency for services provided to an eligible client, e.g., chore services;

(j) Funds received from the Agent Orange Settlement Fund or any other funds established to settle Agent Orange liability claims under P.L. 101-201;

(k) Payments to certain survivors of the Holocaust under the Federal Republic of Germany's law for compensation of National Socialist Persecution or German Restitution Act. Interest earned on conserved payment is not exempt;

(l) Payments under the Radiation Exposure Compensation Act received by the injured person, the surviving spouse, children, grandchildren, or grandparents;

(m) Payments under section 500 through 506 of the Austrian General Social Insurance Act. The department shall consider the earned interest from such payments as countable income;

(n) Certain cash payments a client receives from a governmental or nongovernmental medical or social service agency to pay for medical or social services;

(o) Restitution payment, and interest earned on such payment, to a civilian of Japanese or Aleut ancestry under P.L. 100-383;

(p) The amount of expenses directly related to a client's impairment that allows the permanently and totally disabled client to continue to work;

(q) The amount of blindness-related work expenses of a blind client;

(r) Interest earned on excluded burial funds and any appreciation in the value of an excluded burial arrangement which are left to accumulate and become part of the separately identified burial funds set aside on or after November 1, 1982;

(s) Earned income tax credit (EITC);

(t) Victim's compensation.

(6) The department shall consider disregarded income as unavailable income when determining initial eligibility but shall consider the income available during post-eligibility. See WAC 388-95-360 for post-eligibility treatment of income. The department shall disregard sequentially from a client's income:

(a) Income that is not reasonably anticipated, or is received infrequently or irregularly, when such income does not exceed:

(i) Twenty dollars per month if unearned; or

(ii) Ten dollars per month if earned.

(b) The first twenty dollars per month of earned or unearned income. The department may not exclude income paid to a client on the basis of need and is totally or partially funded by the federal government or by a private agency;

(c) The veteran's aid and attendance/house bound allowance;

(d) For an SSI-related person, the first sixty-five dollars per month of earned income not excluded according to subsection (5) of this section, plus one-half of the remainder;

(e) For an AFDC-related person, the first ninety dollars of earned income;

(f) Money voluntarily withheld from SSA Title II benefits by the Social Security Administration for the recovery of SSI overpayments; and

(g) A fee charged by a guardian as reimbursement for provided services.

[Statutory Authority: RCW 74.08.090 and Social Security Act Section 1924(c) and 42 USC 1396r-5 Sec. 1924(c). 93-19-136 (Order 3642), § 388-95-340, filed 9/22/93, effective 10/23/93. Statutory Authority: RCW 74.08.090. 93-06-041 (Order 3517), § 388-95-340, filed 2/24/93, effective 3/27/93; 86-18-005 (Order 2411), § 388-95-340, filed 8/21/86; 84-17-012 (Order 2132), § 388-95-340, filed 8/3/84; 84-02-056 (Order 2064), § 388-95-340, filed 1/4/84; 83-12-059 (Order 1964), § 388-95-340, filed 6/1/83.]

WAC 388-95-360 Allocation of income and resources—Institutionalized client. (1) In reducing payment to the institution, the department shall consider the institutionalized client's:

(a) Income under WAC 388-95-335 (3)(a), (b), (c), and (d); and

(b) Resources under WAC 388-95-380 and 388-95-395.

(2) In reducing payment to the institution, the department shall consider the eligible institutional client's excess resources available to meet cost of care after the following allocations:

(a) Health insurance and Medicare premiums, deductions, and co-insurance not paid by a third party; and

(b) Noncovered medical bills which are the liability of the client and not paid by a third party.

(3) The department shall not use allocations used to reduce excess resources under subsection (2) of this section to reduce income under subsection (4) of this section.

(4) The department shall deduct the following amounts, in the following order, from the institutionalized client's total income, including amounts disregarded in determining eligibility:

(a) Specified personal needs allowance as follows:

(i) One hundred sixty dollars for a veteran living in a Medicaid-certified state veteran's home nursing facility;

(ii) Ninety dollars for a single veteran receiving an improved veteran's pension; or

(iii) Forty-one dollars and sixty-two cents for all other clients in medical institutions.

(b) Unearned income which:

(i) Is mandatorily withheld for income tax purposes before receipt by the client; and

(ii) Does not exceed the one-person medically needy income level less the client's personal needs allowance.

(c) Wages not to exceed the one-person medically needy income level less the client's personal needs allowance for a client who:

- (i) Is SSI-related; and
- (ii) Receives the wages as part of a department-approved training or rehabilitative program designed to prepare the client for a less-restrictive placement. When determining this deduction, the department shall:

(A) Not allow a deduction for employment expenses; and

(B) Apply the client's wages not deducted under this subsection to the client's cost of care.

(d) An amount an SSI or AFDC client in a medical facility receives as a cash assistance payment sufficient to bring the client's income up to the personal needs allowance;

(e) A monthly needs allowance for the community spouse not to exceed one thousand eight hundred seventeen dollars, unless specified in subsection (6) of this section. The department shall ensure the monthly needs allowance is:

(i) An amount added to the community spouse's income to provide a total community spouse's income of one thousand two hundred fifty-eight dollars; and

(ii) Excess shelter expenses as specified under subsection (5) of this section.

(f) An amount for the maintenance needs of each dependent family member residing with the community spouse:

(i) Equal to one-third of the amount one thousand one hundred seventy-nine dollars exceeds the family member's income. Child support received from an absent parent is the child's income.

(ii) "Family member" means a:

(A) Dependent or minor child;

(B) Dependent parent; or

(C) Dependent sibling of the institutionalized or community spouse.

(g) When an institutional client does not have a community spouse, an amount for the maintenance needs of family members residing in the client's home equal to the medically needy income level for the number of legal dependents in the home less the income of the dependents;

(h) Amounts for incurred medical expenses not subject to third-party payment including, but not limited to:

(i) Health insurance premiums, co-insurance, or deductible charges; and

(ii) Necessary medical care recognized under state law, but not covered under Medicaid.

(i) Maintenance of the home of a single person or couple:

(i) Up to one hundred eighty dollars per month; and

(ii) Limited to a six-month period; and

(iii) When a physician has certified that the client is likely to return to the home within the six-month period; and

(iv) Social service staff shall document initial need for the income exemption and review the person's circumstances after ninety days.

(5) For the purposes of this section, the department shall ensure excess shelter expenses:

(a) Means the actual required maintenance expenses for the community spouse's principal residence for:

(i) Rent;

(ii) Mortgage;

(iii) Taxes and insurance;

(iv) Any maintenance care for a condominium or cooperative; and

(v) A food stamp standard allowance for utilities, provided the utilities are not included in the maintenance charges for a condominium or cooperative.

(b) Shall not exceed three hundred fifty-three dollars and seventy cents, effective April 1, 1993.

(6) The department shall only ensure the amount the institutional spouse allocates to the community spouse may be greater than the amount in subsection (4)(d)(i) of this section when:

(a) A court enters an order against the institutional client for the community spouse support; or

(b) A hearings officer determines a greater amount is needed because of exceptional circumstances resulting in extreme financial duress.

(7) The client shall use the income remaining after allocations specified under subsection (4) of this section toward payment of the client's cost of care at the department rate.

(8)(a) SSI-related clients shall continue to receive total payment under 1611 (b)(1) of the Social Security Act (SSA) for the first three full calendar months of institutionalization in a public or Medicaid-approved medical institution or facility when the:

(i) Stay in the institution or facility is not expected to exceed three months; and

(ii) SSI-related clients plan to return to former living arrangements.

(b) The department shall not consider the SSI payment when computing the client's participation amount.

(9) The department shall not consider income from reparation payments made by the Federal Republic of Germany when computing the client's participation amount.

[Statutory Authority: RCW 74.08.090. 94-02-006 (Order 3688), § 388-95-360, filed 12/22/93, effective 1/22/94. Statutory Authority: RCW 74.08.090 and Federal Register Volume 58, Number 28. 93-11-049 (Order 3548), § 388-95-360, filed 5/12/93, effective 6/12/93. Statutory Authority: RCW 74.08.090. 93-06-041 (Order 3517), § 388-95-360, filed 2/24/93, effective 3/27/93; 92-08-082 and 92-10-046 (Order 3356A), § 388-95-360, filed 3/31/92 and 5/5/92, effective 5/5/92 and 6/5/92; 91-17-061 (Order 3232), § 388-95-360, filed 8/20/91, effective 9/20/91; 91-07-011 (Order 3150), § 388-95-360, filed 3/11/91, effective 4/11/91; 90-12-049 (Order 3007), § 388-95-360, filed 5/31/90, effective 7/1/90; 89-23-080 (Order 2898), § 388-95-360, filed 11/17/89, effective 12/18/89. Statutory Authority: 1989 [1st ex.s.] c 5352 [19]. 89-18-056 (Order 2864), § 388-95-360, filed 9/1/89, effective 10/2/89. Statutory Authority: RCW 74.08.090. 88-23-022 (Order 2721), § 388-95-360, filed 11/7/88; 83-17-093 (Order 2005), § 388-95-360, filed 8/23/83; 83-12-059 (Order 1964), § 388-95-360, filed 6/1/83. Formerly WAC 388-83-140.]

WAC 388-95-395 Transfer of assets. (1) The terms in this section shall have the following definitions:

(a) "Assets" means all income and resources of a client and the client's spouse, including such income or resources the person is entitled to but does not receive because of action by:

(i) The client or the client's spouse;

(ii) A person, court or administrative body, with legal authority to act in place of or on behalf of the client or the client's spouse; or

(iii) A person, court or administrative body, acting at the direction or upon the request of the client or the client's spouse.

(b) "Community spouse" means the person married to an institutionalized client.

(c) "Fair market value (FMV)" means the price the asset may reasonably sell for on the open market at the time of transfer or assignment.

(d) "Institutional services" means a level of care provided in a nursing facility, equivalent nursing facility in a medical institution, or in a home-based or community-based program under WAC 388-83-200 or 388-83-210.

(e) "Institutional spouse" means a client who meets the requirements of subsection (1) of this section and is married to a spouse who is not:

(i) In a medical institution;

(ii) In a nursing facility; or

(iii) Receiving home-based or community-based services under WAC 388-83-200 or 388-83-210.

(f) "Institutionalized client" means a person who is:

(i) An inpatient in a nursing facility;

(ii) An inpatient in a medical institution where the payment is made for a level of care provided in a nursing facility; or

(iii) In need of the level of care provided in a nursing facility or medical institution, but receiving home or community-based services under WAC 388-83-200 and 388-83-210; and

(iv) Expected to be in the nursing facility, medical institution, or receiving home or community-based services under WAC 388-83-200 and 388-83-210 for thirty consecutive days or more.

(g) "Transfer" means any act or omission to act, by a client or a nonapplying joint tenant, whereby title to or any interest in property is assigned, set over, or otherwise vested or allowed to vest in another person, including but not limited to:

(i) Delivery of personal property;

(ii) Bills of sale, deeds, mortgages, pledges; or

(iii) Any other instrument conveying or relinquishing an interest in property.

(h) "Uncompensated value" means the FMV of an asset at the time of transfer minus the value of compensation the person receives in exchange for the resource.

(i) "Undue hardship" means the client's inability to meet shelter, food, clothing, and health care needs.

(j) "Value of compensation received" means the consideration the purchaser pays or agrees to pay. Compensation includes:

(i) All money, real or personal property, food, shelter, or services the person receives under a legally enforceable agreement whereby the eligible client shall transfer the resource; and

(ii) The payment or assumption of a legal debt the client owes in exchange for the resource.

(2) The department shall not impose any penalty for the transfer of any exempt asset for less than FMV except as specified under subsection (7) of this section when the client transfers the client's home.

(3) The department shall determine whether the client or the client's spouse transferred an asset within the following look-back period:

(a) Thirty months when determining eligibility for services received:

(i) On or before September 30, 1993; or

(ii) On or after October 1, 1993, and the transfer of assets was on or before August 10, 1993.

(b) Thirty-six months when determining eligibility for services on or after October 1, 1993 and the transfer of assets was after August 10, 1993; or

(c) Sixty months when determining eligibility for services received on or after October 1, 1993 and all or part of the transferred assets are placed in a trust established after August 10, 1993 and all or part of the assets are deemed transferred as described under WAC 388-92-041 (9)(c) or (11)(b).

(4) The department shall consider the look-back period is the number of months described under subsection (3) of this section, before the first day of the month the client:

(a) Becomes an institutionalized person, if the client is eligible for medical assistance on that date; or

(b) Applies for institutional care when the client is not eligible for medical assistance as of the date the client initially became institutionalized.

(5) The department shall calculate a period of ineligibility for nursing facility services, equivalent nursing facility services in a medical institution, and services described under WAC 388-83-200 and 388-83-210, for the institutionalized client when the client or the client's spouse transfers an asset for less than FMV during or after the look-back periods as described under subsections (3) and (4) of this section.

(6) The department shall establish a period of ineligibility for a client when the client or the client's spouse has transferred an asset:

(a) On or before August 10, 1993. Such period of ineligibility shall:

(i) Begin the first day of the month in which the resource was transferred;

(ii) Be the lesser of:

(A) Thirty months; or

(B) The number of whole months found by dividing the total uncompensated value of the transferred assets by the statewide average monthly cost of nursing facility services to a private patient at the time of the application; and

(iii) Run concurrently when multiple transfers of assets have been made during the look-back period.

(b) On or after August 11, 1993. Such period of ineligibility shall:

(i) For a transfer of assets during the look-back period, except for a transfer made during a period of ineligibility established under this section:

(A) Begin on the first day of the month in the look-back period in which an asset was transferred; and

(B) Equal the number of whole months found by dividing the total, cumulative uncompensated value of all assets transferred during the look-back period by the statewide average monthly cost of nursing facility services to a private patient at the time of application.

(ii) For a transfer of assets made while receiving medical assistance as an institutionalized client, or for transfers made during a period of ineligibility established under this section:

(A) Begin on the first day of the month in which an asset was transferred, or after the expiration of all other periods of ineligibility established under this section, whichever is later; and

(B) Equal the number of whole months found by dividing the total, uncompensated value of the transferred asset by the statewide average monthly cost of nursing facility services to a private patient at the time of application.

(7) The department shall not find the institutionalized client ineligible for institutional services when the transferred asset was a home and the home was transferred to the client's:

(a) Spouse; or

(b) Child who is:

(i) Aged, blind, or permanently and totally disabled; or

(ii) Twenty years of age or under.

(c) Sibling who has:

(i) Equity in the home; and

(ii) Lived in the home for at least one year immediately before the client became institutionalized.

(d) Child, other than described under subsection (7)(b) of this section, who:

(i) Lived in the home for two years or more immediately before the client became institutionalized; and

(ii) Provided care to the client to permit the client to remain at home.

(8) The department shall not find the institutionalized client ineligible for institutionalized services if the asset other than the home was transferred:

(a) To the client's spouse or to another person for the sole benefit of the client's spouse; or

(b) From the client's spouse to another person for the sole benefit of the client's spouse; or

(c) To the client's blind or permanently and totally disabled child, or to a trust established solely for the benefit of such child; or

(d) To a trust established solely for the benefit of a person sixty-four years of age or younger who is disabled according to SSI criteria.

(9) The department shall not find a person ineligible under this section when the client can satisfactorily show the department that:

(a) The client intended to transfer the asset at FMV or other valuable consideration;

(b) The client transferred the asset exclusively for a purpose other than to qualify for medical assistance;

(c) All assets transferred by the client for less than FMV have been returned to the client; or

(d) The denial of eligibility would cause an undue hardship.

(10) A client or the spouse of such a client the department determines ineligible under this section may request a hearing to appeal the determination of ineligibility. The procedure for the hearing is under chapter 388-08 WAC.

(11) The department shall:

(a) Exempt cash received from the sale, transfer, or exchange of an asset to the extent that the cash is used for

an exempt asset within the same month, except as specified under WAC 388-92-045.

(b) Consider any cash remaining as an available asset

(12) When the transfer of an asset has resulted in a period of ineligibility for one spouse, the department shall not impose a period of ineligibility for the other spouse for the transfer of the same asset.

[Statutory Authority: RCW 74.08.090 and OBRA 1993, 93-23-032 (Order 3664), § 388-95-395, filed 11/10/93, effective 12/11/93. Statutory Authority: RCW 74.08.090, 91-15-085 (Order 3206), § 388-95-395, filed 7/23/91, effective 8/23/91; 89-12-037 (Order 2806), § 388-95-395, filed 6/1/89.]

Chapter 388-96 WAC

NURSING HOME ACCOUNTING AND REIMBURSEMENT SYSTEM

WAC

| | |
|------------|---|
| 388-96-010 | Terms. |
| 388-96-023 | Conditions of participation. |
| 388-96-026 | Projected budget for new contractors. |
| 388-96-113 | Completing reports and maintaining records. |
| 388-96-210 | Scope of field audits. |
| 388-96-226 | Shifting provisions. |
| 388-96-228 | Cost savings. |
| 388-96-505 | Offset of miscellaneous revenues. |
| 388-96-508 | Travel expenses for members of trade association boards of directors. |
| 388-96-509 | Boards of directors fees. |
| 388-96-513 | Limit on costs to related organizations. |
| 388-96-521 | Start-up costs. |
| 388-96-523 | Organization costs. |
| 388-96-525 | Education and training. |
| 388-96-529 | Total compensation—Owners, relatives, and certain administrative personnel. |
| 388-96-531 | Owner or relative—Compensation. |
| 388-96-533 | Maximum allowable compensation of certain administrative personnel. |
| 388-96-535 | Management agreements, management fees, and central office services. |
| 388-96-569 | Retirement of depreciable assets. |
| 388-96-572 | Handling of gains and losses upon retirement of depreciable assets—Other periods. |
| 388-96-580 | Operating leases of office equipment. |
| 388-96-585 | Unallowable costs. |
| 388-96-709 | Prospective rate revisions—Reduction in licensed beds. |
| 388-96-710 | Prospective reimbursement rate for new contractors. |
| 388-96-713 | Rate determination. |
| 388-96-716 | Cost areas. |
| 388-96-719 | Method of rate determination. |
| 388-96-722 | Nursing services cost area rate. |
| 388-96-727 | Food cost area rate. |
| 388-96-735 | Administrative cost area rate. |
| 388-96-737 | Operational cost area rate. |
| 388-96-745 | Property cost area reimbursement rate. |
| 388-96-754 | A contractor's return on investment. |
| 388-96-756 | Repealed. |
| 388-96-757 | Reimbursement for veterans' homes. |
| 388-96-762 | Allowable land. |
| 388-96-764 | Activities assistants. |
| 388-96-765 | Ancillary care. |
| 388-96-768 | Minimum wage. |
| 388-96-774 | Prospective rate revisions. |
| 388-96-775 | Repealed. |

DISPOSITION OF SECTIONS FORMERLY
CODIFIED IN THIS CHAPTER

- 388-96-756 Enhancement cost area rate. [Statutory Authority: 1987 c 476, 88-01-126 (Order 2573), § 388-96-756, filed 12/23/87.] Repealed by 93-19-074 (Order 3634), filed 9/14/93, effective 10/15/93. Statutory Authority: RCW 74.46.800 and 74.09.120.
- 388-96-775 Public review of rate-setting methods and standards. [Statutory Authority: RCW 74.09.120, 78-02-013 (Order 1264), § 388-96-775, filed 1/9/78.] Repealed by 93-19-074 (Order 3634), filed 9/14/93, effective 10/15/93. Statutory Authority: RCW 74.46.800 and 74.09.120.

WAC 388-96-010 Terms. Unless the context clearly requires otherwise, the following terms shall have the meaning set forth in this section when used in this chapter.

(1) "Accounting" means activities providing information, usually quantitative and often expressed in monetary units, for:

- (a) Decision-making;
- (b) Planning;
- (c) Evaluating performance;
- (d) Controlling resources and operations; and
- (e) External financial reporting to investors, creditors, regulatory authorities, and the public.

(2) "Accrual method of accounting" means a method of accounting in which revenues are reported in the period when earned, regardless of when collected, and expenses are reported in the period in which incurred, regardless of when paid.

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

(4) "Allowable costs" - See WAC 388-96-501.

(5) "Ancillary care" means services required by the individual, comprehensive plan of care provided by qualified therapists or by support personnel under their supervision.

(6) "Arm's-length transaction" means a transaction resulting from good-faith bargaining between a buyer and seller who have adverse bargaining positions in the marketplace.

(a) Sales or exchanges of nursing home facilities among two or more parties in which all parties subsequently continue to own one or more of the facilities involved in the transactions shall not be considered as arm's-length transactions for purposes of this chapter.

(b) Sale of a nursing home facility which is subsequently leased back to the seller within five years of the date of sale shall not be considered as an arm's-length transaction for purposes of this chapter.

(7) "Assets" means economic resources of the contractor, recognized and measured in conformity with generally accepted accounting principles. "Assets" also include certain deferred charges that are not resources but are recognized and measured in accordance with generally accepted accounting principles.

(8) "Bad debts" means amounts considered to be uncollectible from accounts and notes receivable.

(9) "Beds" means, unless otherwise specified, the number of set-up beds in the nursing home, not to exceed the number of licensed beds.

(10) "Beneficial owner" means any person who:

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

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

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

(b) Directly or indirectly, creates or uses a trust, proxy, power of attorney, pooling arrangement, or any other contract, arrangement, or device with the purpose or effect of divesting himself or herself of beneficial ownership of an ownership interest, or preventing the vesting of such beneficial ownership as part of a plan or scheme to evade the reporting requirements of this chapter.

(c) Subject to subsection (4) of this section, has the right to acquire beneficial ownership of such ownership interest within sixty days, including but not limited to any right to acquire:

(i) Through the exercise of any option, warrant, or right;

(ii) Through the conversion of an ownership interest;

(iii) Pursuant to the power to revoke a trust, discretionary account, or similar arrangement; or

(iv) Pursuant to the automatic termination of a trust, discretionary account, or similar arrangement;

Except that, any person who acquires an ownership interest or power specified in subsection (10)(c)(i), (ii), or (iii) of this section with the purpose or effect of changing or influencing the control of the contractor, or in connection with or as a participant in any transaction having such purpose or effect, immediately upon such acquisition shall be deemed to be the beneficial owner of the ownership interest which may be acquired through the exercise or conversion of such ownership interest or power.

(d) In the ordinary course of business, is a pledgee of ownership interest under a written pledge agreement and shall not be deemed the beneficial owner of such pledged ownership interest until the pledgee takes:

(i) Formal steps necessary required to declare a default; and

(ii) Determines the power to vote or to direct the vote or to dispose or to direct the disposition of such pledged ownership interest will be exercised provided the pledge agreement:

(A) Is bona fide and was not entered into with the purpose nor with the effect of changing or influencing the control of the contractor, nor in connection with any transaction having such purpose or effect, including persons meeting the conditions set forth in subsection (10)(b) of this section; and

(B) Prior to default, does not grant the pledgee the power to:

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

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

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

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

(13) "Cash method of accounting" means a method of accounting in which revenues are recognized only when cash is received, and expenditures for expense and asset items are not recorded until cash is disbursed for those expenditures and assets.

(14) "Change of ownership" means a change in the individual or legal organization responsible for the daily operation of a nursing home.

(a) Events which change ownership include but are not limited to the following:

(i) The form of legal organization of the contractor is changed (e.g., a sole proprietor forms a partnership or corporation);

(ii) Title to the nursing home business enterprise is transferred by the contractor to another party;

(iii) Where the contractor is a partnership, any event occurs which dissolves the partnership;

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

(v) Any other event occurs which results in a change of operating entity.

(b) Ownership does not change when the following, without more, occur:

(i) A party contracts with the contractor to manage the enterprise as the contractor's agent, i.e., subject to the contractor's general approval of daily operating decisions;

(ii) If the contractor is a corporation, some or all of its stock is transferred; or

(iii) The real property or personal property assets associated with the nursing home change ownership or are leased, or a lease of them is terminated, without a change of operating entity.

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

(16) "Contract" means a contract between the department and a contractor for the delivery of SNF or ICF services to medical care recipients.

(17) "Contractor" means an entity which contracts with the department to deliver care services to medical care recipients in a facility. The entity is responsible for operational decisions.

(18) "Courtesy allowances" means reductions in charges in the form of an allowance to physicians, clergy, and others, for services received from the contractor. Employee fringe benefits are not considered courtesy allowances.

(19) "CSO" means the local community services office of the department.

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

(21) "Depreciation" means the systematic distribution of the cost or other base of tangible assets, less salvage, over the estimated useful life of the assets.

(22) "Donated asset" means an asset the contractor acquired without making any payment for the asset in the form of cash, property, or services.

(a) An asset is not a donated asset if the contractor made even a nominal payment in acquiring the asset.

(b) An asset purchased using donated funds is not a donated asset.

(23) "Entity" means an individual, partnership, corporation, or any other association of individuals capable of entering enforceable contracts.

(24) "Equity capital" means total tangible and other assets which are necessary, ordinary, and related to patient care from the most recent provider cost report minus related total long-term debt from the most recent provider cost report plus working capital as defined in this section.

(25) "Exceptional care recipient" means a medical care recipient determined by the department to require exceptionally heavy care.

(26) "Facility" means a nursing home licensed in accordance with chapter 18.51 RCW, or that portion of a hospital licensed in accordance with chapter 70.41 RCW which operates as a nursing home.

(27) "Fair market value" means:

(a) Prior to January 1, 1985, the price for which an asset would have been purchased on the date of acquisition in an arm's-length transaction between a well-informed buyer and seller, neither being under any compulsion to buy or sell; or

(b) Beginning January 1, 1985, the replacement cost of an asset, less observed physical depreciation, on the date the fair market value is determined.

(28) "Financial statements" means statements prepared and presented in conformity with generally accepted accounting principles and the provisions of chapter 74.46 RCW and this chapter including, but not limited to:

(a) Balance sheet;

(b) Statement of operations;

(c) Statement of changes in financial position; and

(d) Related notes.

(29) "Fiscal year" means the operating or business year of a contractor. All contractors report on the basis of a twelve-month fiscal year, but provision is made in this chapter for reports covering abbreviated fiscal periods. As determined by context or otherwise, "fiscal year" may also refer to a state fiscal year extending from July 1 through June 30 of the following year and comprising the first or second half of a state fiscal biennium.

(30) "Gain on sale" means the actual total sales price of all tangible and intangible nursing home assets including, but not limited to, land, building, equipment, supplies, goodwill, and beds authorized by certificate of need, minus the net book value of such assets immediately prior to the time of sale.

(31) "Generally accepted accounting principles (GAAP)" means accounting principles approved by the financial accounting standards board (FASB).

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

(33) "Goodwill" means the excess of the price paid for:

(a) A business over the fair market value of all other identifiable, tangible, and intangible assets acquired; and

(b) An asset over the fair market value of the asset.

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

(35) "Imprest fund" means a fund which is regularly replenished in exactly the amount expended from it.

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

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

(38) "Lease agreement" means a contract between two parties for the possession and use of real or personal property or assets for a specified period of time in exchange for specified periodic payments. Elimination or addition of any party to the contract, expiration, or modification of any lease term in effect on January 1, 1980, or termination of the lease by either party by any means shall constitute a termination of the lease agreement. An extension or renewal of a lease agreement, whether or not pursuant to a renewal provision in the lease agreement, shall be considered a new lease agreement. A strictly formal change in the lease agreement which modifies the method, frequency, or manner in which the lease payments are made, but does not increase the total lease payment obligation of the lessee shall not be considered modification of a lease term.

(39) "Medical care program" means medical assistance provided under RCW 74.09.500 or authorized state medical care services.

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

(41) "Multiservice facility" means a facility at which two or more types of health or related care are delivered, e.g., a hospital and nursing facility, or a boarding home and nursing facility.

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

(43) "Net invested funds" means the net book value of tangible fixed assets employed by a contractor to provide services under the medical care program, including land, buildings, and equipment as recognized and measured in conformity with generally accepted accounting principles and not in excess of any lids or reimbursement limits set forth in this chapter, plus an allowance for working capital which shall be five percent of the product of the sum of the contractor's per patient day component rates in nursing services, food, administrative, operational, and property, multiplied by the contractor's prior calendar year reported patient days as adjusted for the following July 1 rate setting for the contractor. Assets associated with central or home offices or otherwise not on the nursing home premises are not included in net invested funds.

(44) "Nonadministrative wages and benefits" means wages, benefits, and corresponding payroll taxes paid for nonadministrative personnel, not to include administrator, assistant administrator, or administrator-in-training.

(45) "Nonallowable costs" means the same as "unallowable costs."

(46) "Nonrestricted funds" means funds which are not restricted to a specific use by the donor, e.g., general operating funds.

(47) "Nursing facility" means a home, place, or institution, licensed under chapter 18.51 RCW, where skilled nursing and/or intermediate care services are delivered.

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

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

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

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

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

(53) "Professionally designated real estate appraiser" means an individual:

(a) Regularly engaged in the business of providing real estate valuation services for a fee;

(b) Qualified by a nationally recognized real estate appraisal educational organization on the basis of extensive practical appraisal experience, including the:

(i) Writing of real estate valuation reports;

(ii) Passing of written examination on valuation practice and theory; and

(iii) Requirement to subscribe and adhere to certain standards of professional practice as the organization prescribes.

(54) "Prospective daily payment rate" means the rate assigned by the department to a contractor for providing service to medical care recipients. The rate is used to compute the maximum participation of the department in the contractor's costs.

(55) "Qualified therapist":

(a) An activities specialist having specialized education, training, or at least one year's experience in organizing and conducting structured or group activities;

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

(c) A mental health professional as defined by chapter 71.05 RCW;

(d) A mental retardation professional, either a qualified therapist or a therapist, approved by the department having specialized training or one year's experience in treating or working with the mentally retarded or developmentally disabled;

(e) A social worker graduated from a school of social work;

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

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

(h) An occupational therapist graduated from a program in occupational therapy, or having the equivalent of education or training, and meeting all requirements of state law; or

(i) A respiratory care practitioner certified under chapter 18.89 RCW.

(56) "Recipient" means a medical care recipient.

(57) "Records" means data supporting all financial statements and cost reports including, but not limited to:

- (a) All general and subsidiary ledgers;
- (b) Books of original entry;
- (c) Invoices;
- (d) Schedules;
- (e) Summaries; and
- (f) Transaction documentation, however maintained.

(58) "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.

(59) "Related care" includes:

- (a) The director of nursing services;
- (b) Activities and social services programs;
- (c) Medical and medical records specialists; and
- (d) Consultation provided by:
 - (i) Medical directors;
 - (ii) Pharmacists;
 - (iii) Occupational therapists;
 - (iv) Physical therapists;
 - (v) Speech therapists; and
 - (vi) Other therapists; and
 - (vii) Mental health professionals as defined in law and regulation.

(60) "Related organization" means an entity under common ownership and/or control, or which has control of or is controlled by, the contractor. Common ownership exists if an entity has a five percent or greater beneficial ownership interest in the contractor and any other entity. Control exists if an entity has the power, directly or indirectly, to significantly influence or direct the actions or policies of an organization or institution, whether or not the power is legally enforceable and however exercisable or exercised.

(61) "Relative" includes:

- (a) Spouse;
- (b) Natural parent, child, or sibling;
- (c) Adopted child or adoptive parent;
- (d) Stepparent, stepchild, stepbrother, stepsister;
- (e) Father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law;
- (f) Grandparent or grandchild; and
- (g) Uncle, aunt, nephew, niece, or cousin.

(62) "Restricted fund" means a fund for which the use of the principal and/or income is restricted by agreement with or direction of the donor to a specific purpose, in contrast to a fund over which the contractor has complete control. Restricted funds generally fall into three categories:

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

(63) "Secretary" means the secretary of the department of social and health services (DSHS).

(64) "Start-up costs" means the one-time preopening costs incurred from the time preparation begins on a newly constructed or purchased building until the first patient is admitted. Start-up costs include:

- (a) Administrative and nursing salaries;
- (b) Utility costs;
- (c) Taxes;
- (d) Insurance;
- (e) Repairs and maintenance; and
- (f) Training costs.

Start-up costs do not include expenditures for capital assets.

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

(66) "Unallowable costs" means costs which do not meet every test of an allowable cost.

(67) "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.

(68) "Vendor number" means a number assigned to each contractor delivering care services to medical care recipients.

(69) "Working capital" means total current assets necessary, ordinary, and related to patient care from the most recent cost report minus total current liabilities necessary, ordinary, and related to patient care from the most recent cost report.

[Statutory Authority: RCW 74.46.800 and 74.09.120. 93-19-074 (Order 3634), § 388-96-010, filed 9/14/93, effective 10/15/93. Statutory Authority: RCW 74.09.120. 91-22-025 (Order 3270), § 388-96-010, filed 10/29/91, effective 11/29/91. Statutory Authority: RCW 79.09.120 [74.09.120] and 74.46.800. 90-09-061 (Order 2970), § 388-96-010, filed 4/17/90, effective 5/18/90. Statutory Authority: 1987 c 476. 88-01-126 (Order 2573), § 388-96-010, filed 12/23/87. Statutory Authority: RCW 74.09.120 and 74.46.800. 85-13-060 (Order 2240), § 388-96-010, filed 6/18/85. Statutory Authority: RCW 74.09.120. 84-24-050 (Order 2172), § 388-96-010, filed 12/4/84. Statutory Authority: RCW 74.46.800. 84-12-039 (Order 2105), § 388-96-010, filed 5/30/84. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-010, filed 9/16/83; 82-21-025 (Order 1892), § 388-96-010, filed 10/13/82; 81-22-081 (Order 1712), § 388-96-010, filed 11/4/81. Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-010, filed 2/25/81. Statutory Authority: RCW 74.09.120. 80-09-083 (Order 1527), § 388-96-010, filed 7/22/80; 79-04-061 (Order 1381), § 388-96-010, filed 3/28/79. Statutory Authority: RCW 74.08.090 and 74.09.120. 78-06-080 (Order 1300), § 388-96-010, filed 6/1/78; Order 1262, § 388-96-010, filed 12/30/77.]

WAC 388-96-023 Conditions of participation. In order to participate in the prospective cost-related reimbursement system, the person or legal organization responsible for operation of a nursing or multiservice facility shall:

- (1) Obtain a state certificate of need approval pursuant to chapter 70.38 RCW where required;
- (2) Hold the appropriate current license (e.g., nursing home license, hospital license);
- (3) Hold current Title XIX certification to provide nursing facility services;
- (4) Hold a current contract to provide nursing facility services; and
- (5) Obtain and continuously maintain Medicare certification, under 42 USC 1395 (Title XVIII of the Social Security Act), as amended, for a portion of the licensed beds of the facility.

(6) Comply with all provisions of the contract, chapter 74.46 RCW, and all applicable regulations, including but not limited to the provisions of this chapter and of chapter 388-88 WAC.

[Statutory Authority: RCW 74.46.800 and 74.09.120. 93-19-074 (Order 3634), § 388-96-023, filed 9/14/93, effective 10/15/93. Statutory Authority: RCW 74.09.120. 91-22-025 (Order 3270), § 388-96-023, filed 10/29/91,

effective 11/29/91; 83-19-047 (Order 2025), § 388-96-023, filed 9/16/83; 82-21-025 (Order 1892), § 388-96-023, filed 10/13/82. Statutory Authority: RCW 74.08.090 and 74.09.120. 78-06-080 (Order 1300), § 388-96-023, filed 6/1/78; Order 1262, § 388-96-023, filed 12/30/77.]

WAC 388-96-026 Projected budget for new contractors. (1) For purposes of administering chapter 388-96 WAC, the department shall consider a "new contractor" as one who receives a new vendor number and:

(a) Builds from the ground-up a new facility; and operates the new facility with completely new staff, administration and residents. If the "new contractor" operated a nursing facility immediately before the opening of the new facility, then the "new contractor" must operate the new facility:

(i) With staff and administration that are substantially to completely different than the previous operation of the "new contractor"; and

(ii) Have a resident population that is substantially to completely different than the residents residing in the previous nursing facility; or

(b) Currently operates, acquires, or assumes responsibility for operating an existing nursing facility that was not operated under a Medicaid contract immediately prior to the effective date of the new Medicaid contract; or

(c) Purchases or leases a nursing facility that at the time of the purchase or lease was operated under a Medicaid contract.

(2) A new contractor as defined under WAC 388-96-026 (1)(a) or (b) shall submit a projected budget to the department at least sixty days before its contract becomes effective. The projected budget shall:

(a) Cover the twelve months immediately following the date the contractor enters the program;

(b) Be certified by the new contractor;

(c) Be prepared on forms and in accordance with instructions provided by the department; and

(d) Include all earnest money, purchase, and lease agreements involved in the transactions, if applicable.

(3) A new contractor shall submit, at least sixty days before the effective date of the contract, a statement disclosing the identity of individuals or organizations who:

(a) Have a beneficial ownership interest in the current operating entity or the land, building, or equipment of the facility; or

(b) Have a beneficial ownership interest in the purchasing or leasing entity.

[Statutory Authority: RCW 74.46.800, 74.46.450 and 74.09.120. 93-12-051 (Order 3555), § 388-96-026, filed 5/26/93, effective 6/26/93. Statutory Authority: RCW 74.46.800. 92-16-013 (Order 3424), § 388-96-026, filed 7/23/92, effective 8/23/92. Statutory Authority: RCW 74.09.180 and 74.46.800. 89-01-095 (Order 2742), § 388-96-026, filed 12/21/88. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-026, filed 9/16/83; Order 1262, § 388-96-026, filed 12/30/77.]

WAC 388-96-113 Completing reports and maintaining records. (1) All report schedules shall be legible and reproducible. All entries must be typed, completed in black or dark blue ink, or provided in an acceptable, indelible copy.

(2) Reports shall be completed in accordance with the provisions of this chapter, the state of Washington nursing home accounting and reporting manual, and such instructions

as may be issued by the department from time to time. If no specific regulation, manual provision, or instruction covers a situation, generally accepted accounting principles shall be followed.

(3) The accrual method of accounting shall be used. All revenue and expense accruals shall be reversed against the appropriate accounts if not received or paid within one hundred twenty days after the accrual is made. Accruals for vacation, holiday, sick pay, and taxes may be carried for longer periods, provided the contractor's usual policy and generally accepted accounting principles are followed.

(4) Methods of allocating costs, including indirect or overhead costs, shall be consistently applied. Written approval must be obtained from the department if a contractor wishes to change an allocation method. Contractors operating multiservice facilities or facilities incurring joint facility costs shall allocate costs using the methods approved by the department under WAC 388-96-534.

(5) The contractor's records relating to a nursing home shall be maintained so reported data can be audited for compliance with generally accepted accounting principles and the department's reimbursement principles and reporting instructions. If a contractor maintains records utilizing a chart of accounts other than that established by the department, the contractor shall provide to the department a written schedule specifying the way in which the contractor's individual account numbers correspond to the department's chart of accounts. Records shall be available for review by authorized personnel of the department and of the United States Department of Health and Human Services during normal business hours at a location in the state of Washington specified by the contractor.

(6) If a contractor fails to maintain records adequate for audit purposes as provided in subsection (5) of this section or fails to allow inspection of such records by authorized personnel as provided in subsection (5) of this section, the department may suspend all or part of subsequent reimbursement payments due under the contract until compliance is forthcoming. Upon compliance, the department shall resume current contract payments and shall release payments suspended pursuant to subsection (6) of this section.

[Statutory Authority: RCW 74.46.800, 74.46.450 and 74.09.120. 93-12-051 (Order 3555), § 388-96-113, filed 5/26/93, effective 6/26/93. Statutory Authority: RCW 74.46.800. 92-16-013 (Order 3424), § 388-96-113, filed 7/23/92, effective 8/23/92. Statutory Authority: RCW 74.09.120, 74.46.840 and 74.46.800. 85-17-052 (Order 2270), § 388-96-113, filed 8/19/85. Statutory Authority: RCW 74.46.800. 84-12-039 (Order 2105), § 388-96-113, filed 5/30/84. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-113, filed 9/16/83; 83-05-007 (Order 1944), § 388-96-113, filed 2/4/83; 82-11-065 (Order 1808), § 388-96-113, filed 5/14/82; 80-09-083 (Order 1527), § 388-96-113, filed 7/22/80; Order 1262, § 388-96-113, filed 12/30/77.]

WAC 388-96-210 Scope of field audits. (1) Auditors will review the contractor's recordkeeping and accounting practices and, where appropriate, make written recommendations for improvements.

(2) The audit will result in a schedule summarizing adjustments to the contractor's cost report whether such adjustments eliminate costs reported or include costs not reported. These adjustments shall include an explanation for the adjustment, the general ledger account or account group,

and the dollar amount. Auditors will examine the contractor's financial and statistical records to verify that:

(a) Supporting records are in agreement with reported data;

(b) Only those assets, liabilities, and revenue and expense items the department has specified as allowable have been included by the contractor in computing the costs of services provided under its contract;

(c) Allowable costs have been accurately determined and are necessary, ordinary, and related to patient care;

(d) Related organizations and beneficial ownerships or interests have been correctly disclosed;

(e) Recipient trust funds have been properly maintained; and

(f) The contractor is otherwise in compliance with provisions of this chapter and chapter 74.46 RCW.

(3) In determining allowable costs for each contractor for each cost report year selected for field audit, auditors shall consider and include in their adjustments, as appropriate, all peer group cost center limit adjustments as provided in subsections (4) and (5) of this section and other desk review adjustments previously made to the reported costs being audited, that is, made to such costs for the purpose of establishing a contractor's July 1 Medicaid rate following the cost report period under audit.

(4) Beginning with 1992 audits, in auditing cost reports for all calendar years ending six months before the start of each new biennium, auditors shall disallow costs in excess of the nursing facility's peer group median cost plus percentage limit in each cost center without inflating or deflating such limits by the IPD Index change used to adjust prospective rates for the first fiscal year of the biennium for economic trends and conditions.

(5) Beginning with 1993 audits, in auditing cost reports for all calendar years ending six months after the start of each new biennium, auditors shall disallow costs in excess of the nursing facility's peer group median cost plus percentage limit in each cost center, calculated on adjusted cost report data for the preceding report year ending six months prior to the start of the new biennium but inflated or deflated by the IPD Index change used to adjust prospective rates for the first fiscal year of the biennium for economic trends and conditions.

(6) Auditors will prepare draft audit narratives and summaries and provide them to the contractor before final narratives and summaries are prepared.

[Statutory Authority: RCW 74.46.800 and 74.09.120. 93-19-074 (Order 3634), § 388-96-210, filed 9/14/93, effective 10/15/93; 89-11-100 (Order 2799), § 388-96-210, filed 5/24/89. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-210, filed 9/16/83; Order 1262, § 388-96-210, filed 12/30/77.]

WAC 388-96-226 Shifting provisions. In computing a preliminary or final settlement, a contractor may shift savings and/or overpayment in a cost center to cover a deficit and/or underpayment in another cost center up to the amount of the savings, provided:

(1) Contractors may not shift more than twenty percent of the rate in a cost center into that cost center;

(2) Contractors may not shift into the property cost center;

(3) Beginning January 1, 1988, contractors may not shift out of the nursing services cost center;

(4) Beginning January 1, 1988, contractors may shift savings and/or overpayments in the food cost center only to cover deficits and/or underpayments in the nursing services cost center; and

(5) Beginning January 1, 1988, contractors shall shift payments in the enhancement cost center shown to have been spent for legislatively authorized enhancements[,] funding for which terminated June 30, 1990, to nonadministrative wages and benefits to the nursing services and administration and operations cost centers, as appropriate. Such funds shall be shifted for no other purpose;

(6) Beginning January 1, 1993, contractors shall not shift from the operational cost center to the administrative cost center;

(7) For calendar years 1992 and 1993 only, and for final settlement purposes only, a contractor may shift, as authorized in this section, rate payments into the appropriate cost center without regard to the peer group median cost plus percentage limit for that cost center used by the department to establish the facility's July 1 rate following the period being settled.

(8) Beginning with final settlements for calendar year 1994 and following, a contractor may not shift rate payments into any cost center, for settlement or any other purpose, if the total rate payment in that cost center, after shifting, would exceed the contractor's peer group median cost plus percentage limit for that cost center previously used by the department in establishing that facility's July 1 rate in that cost center following the period being settled.

[Statutory Authority: RCW 74.46.800 and 74.09.120. 93-19-074 (Order 3634), § 388-96-226, filed 9/14/93, effective 10/15/93. Statutory Authority: 1987 c 476. 88-01-126 (Order 2573), § 388-96-226, filed 12/23/87. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-226, filed 9/16/83.]

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

WAC 388-96-228 Cost savings. (1) Beginning with settlements for calendar year 1993 and following, contractors may not retain cost savings if the sum of the reported costs in the property and administrative cost centers exceeds audited allowable costs in those cost centers by a total of ten cents or more per patient day. For facilities that qualify, cost savings will be determined according to the following procedures:

(a) Based upon the latest information available, the department shall, by December 31st of each year, notify contractors of the fiftieth percentile rates in the administrative and property cost areas for the period July 1st through December 31st.

(b) A contractor shall be permitted to retain, after allowable shifting, seventy-five percent of cost savings in the administrative cost area or the property cost area, multiplied by medical care recipient days of service, if the average rate for the cost report period, computed according to department instructions in such cost area, is at or below the fiftieth percentile rate.

(c) A contractor shall be permitted to retain, after allowable shifting, fifty percent of cost savings in the administrative cost area or property cost area, multiplied by medical care recipient days of service, if the average rate for the cost report period, computed according to department instructions in such cost area, is above the fiftieth percentile rate.

(3) The department shall recover cost savings attributable to any industrial insurance dividend or premium discount under RCW 51.16.035 in proportion to the ratio of medical care recipients to other patients at the facility.

(4) For the 1983 cost reporting period, the department shall compute cost savings but shall prorate allowable savings by the proportion of Medicaid patient days reported for July 1st through December 31st to the total number of Medicaid patient days reported for the year.

(5) The department shall compute cost savings calculated for the final settlement on closing cost reports using property costs without consideration of any gain or loss on the sale of assets in the report year.

[Statutory Authority: RCW 74.46.800 and 74.09.120. 93-19-074 (Order 3634), § 388-96-228, filed 9/14/93, effective 10/15/93. Statutory Authority: 1987 c 476. 88-01-126 (Order 2573), § 388-96-228, filed 12/23/87. Statutory Authority: RCW 74.09.120, 74.46.840 and 74.46.800. 85-17-052 (Order 2270), § 388-96-228, filed 8/19/85. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-228, filed 9/16/83.]

WAC 388-96-505 Offset of miscellaneous revenues.

(1) The contractor shall reduce allowable costs whenever the item, service, or activity covered by such costs generates revenue or financial benefits (e.g., purchase discounts or rebates) other than through the contractor's normal billing for care services; except, the department shall not deduct from the allowable costs of a nonprofit facility unrestricted grants, gifts, and endowments, and interest therefrom.

(2) The contractor shall reduce allowable costs for hold-bed revenue in the property, administrative, and operational cost areas only. In the property cost area, the amount of reduction will be determined by dividing a facility's allowable property costs by total patient days and multiplying the result by total hold-room days. In the administrative cost area, the amount of the bed hold revenue shall be determined by dividing a facility's allowable administrative costs by total patient days and multiplying the result by total hold-room days. In the operational cost area, the amount of reduction will be determined by dividing allowable operational costs minus dietary and laundry costs by the total patient days and multiplying the result by total hold-room days.

(3) Where goods or services are sold, the amount of the reduction shall be the actual cost relating to the item, service, or activity. In the absence of adequate documentation of cost, it shall be the full amount of the revenue received. Where financial benefits such as purchase discounts or rebates are received, the amount of the reduction shall be the amount of the discount or rebate. Financial benefits such as purchase discounts and rebates, including industrial insurance rebates, shall be offset against allowable costs in the year the contractor actually receives the benefits.

(4) Only allowable costs shall be recovered under this section. Costs allocable to activities or services not included in nursing facility services (e.g., costs of vending machines

and services specified in chapter 388-86 WAC not included in nursing facility services) are nonallowable costs.

[Statutory Authority: RCW 74.46.800 and 74.09.120. 93-19-074 (Order 3634), § 388-96-505, filed 9/14/93, effective 10/15/93. Statutory Authority: RCW 74.46.800. 92-16-013 (Order 3424), § 388-96-505, filed 7/23/92, effective 8/23/92. Statutory Authority: 1987 c 476. 88-01-126 (Order 2573), § 388-96-505, filed 12/23/87. Statutory Authority: RCW 74.09.120. 84-24-050 (Order 2172), § 388-96-505, filed 12/4/84; 82-21-025 (Order 1892), § 388-96-505, filed 10/13/82. Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-505, filed 2/25/81. Statutory Authority: RCW 74.08.090 and 74.09.120. 78-06-080 (Order 1300), § 388-96-505, filed 6/1/78; Order 1262, § 388-96-505, filed 12/30/77.]

WAC 388-96-508 Travel expenses for members of trade association boards of directors. Travel expenses for members of trade association boards of directors otherwise meeting the requirements of this chapter will be allowable for twelve meetings per calendar year subject to any applicable cost center limit established by this chapter.

[Statutory Authority: RCW 74.46.800 and 74.09.120. 93-19-074 (Order 3634), § 388-96-508, filed 9/14/93, effective 10/15/93. Statutory Authority: RCW 74.46.800. 84-12-039 (Order 2105), § 388-96-508, filed 5/30/84.]

WAC 388-96-509 Boards of directors fees. Fees paid to members of boards of directors of corporations operating nursing homes shall be subject to any applicable cost center limit established by this chapter.

[Statutory Authority: RCW 74.46.800 and 74.09.120. 93-19-074 (Order 3634), § 388-96-509, filed 9/14/93, effective 10/15/93. Statutory Authority: RCW 74.46.800. 84-12-039 (Order 2105), § 388-96-509, filed 5/30/84.]

WAC 388-96-513 Limit on costs to related organizations. (1) Costs applicable to services, facilities and supplies furnished by organizations related to the contractor shall be allowable only to the extent they do not exceed the lower of the cost to the related organization or the price of comparable services, facilities or supplies purchased elsewhere subject to any applicable cost center limit established by this chapter. The term "related organization" is defined in WAC 388-96-010.

(2) Documentation of costs to related organizations shall be made available to the auditor at the time and place the financial records relating to the entity are audited. Payments to or for the benefit of the related organization will be disallowed where the cost to the related organization cannot be documented.

[Statutory Authority: RCW 74.46.800 and 74.09.120. 93-19-074 (Order 3634), § 388-96-513, filed 9/14/93, effective 10/15/93; 81-06-024 (Order 1613), § 388-96-513, filed 2/25/81; Order 1262, § 388-96-513, filed 12/30/77.]

WAC 388-96-521 Start-up costs. Necessary and ordinary start-up costs, as defined in WAC 388-96-010, will be allowable in the administrative cost area[,], subject to any applicable cost center limit established by this chapter, if they are amortized over not less than sixty consecutive months beginning with the month in which the first patient is admitted for care.

[Statutory Authority: RCW 74.46.800 and 74.09.120. 93-19-074 (Order 3634), § 388-96-521, filed 9/14/93, effective 10/15/93. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-521, filed 9/16/83; Order 1262, § 388-96-521, filed 12/30/77.]

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

WAC 388-96-523 Organization costs. (1) Necessary and ordinary costs which are directly incident to the creation of a corporation or other form of business of the contractor and that are incurred prior to the admission of the first patient, will be allowable in the administrative cost area, subject to any applicable cost center limit established by this chapter, if they are amortized over not less than sixty consecutive months beginning with the month in which the first patient is admitted for care.

(2) Allowable organization costs, as limited by subsection (1) of this section, include but are not limited to legal fees incurred in establishing the corporation or other organization and fees paid to states for incorporation. They do not include costs relating to the issuance and sale of shares of capital stock or other securities.

[Statutory Authority: RCW 74.46.800 and 74.09.120. 93-19-074 (Order 3634), § 388-96-523, filed 9/14/93, effective 10/15/93. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-523, filed 9/16/83. Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-523, filed 2/25/81; Order 1262, § 388-96-523, filed 12/30/77.]

WAC 388-96-525 Education and training. (1) Necessary and ordinary expenses of on-the-job training and in-service training required for employee orientation and certification training directly related to the performance of duties assigned will be allowable costs.

(2) Ordinary expenses of nursing assistant training conducted pursuant to chapter 18.52A RCW will be allowable costs.

(3) Necessary and ordinary expenses of recreational and social activity training conducted by the contractor for volunteers will be allowable costs. Expenses of training programs for other nonemployees will not be allowable costs.

(4) Expenses for travel in the states of Idaho, Oregon, and Washington and the province of British Columbia associated with education and training will be allowable if the expenses meet the requirements of this chapter.

(5) Costs designated by this section as allowable shall be subject to any applicable cost center limit established by this chapter.

[Statutory Authority: RCW 74.46.800 and 74.09.120. 93-19-074 (Order 3634), § 388-96-525, filed 9/14/93, effective 10/15/93. Statutory Authority: RCW 74.46.800. 84-12-039 (Order 2105), § 388-96-525, filed 5/30/84. Statutory Authority: RCW 74.09.120. 81-22-081 (Order 1712), § 388-96-525, filed 11/4/81. Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-525, filed 2/25/81. Statutory Authority: RCW 74.09.120. 80-06-122 (Order 1510), § 388-96-525, filed 5/30/80, effective 7/1/80; Order 1262, § 388-96-525, filed 12/30/77.]

WAC 388-96-529 Total compensation—Owners, relatives, and certain administrative personnel. Subject to any applicable cost center limit established by this chapter, total compensation shall be as provided in the employment contract, including benefits, whether such contract is written, verbal, or inferred from the acts of the parties. In the absence of a contract, total compensation

shall include gross salary or wages and benefits (e.g., health insurance) made available to all employees, but excluding payroll taxes paid by the contractor.

[Statutory Authority: RCW 74.46.800 and 74.09.120. 93-19-074 (Order 3634), § 388-96-529, filed 9/14/93, effective 10/15/93. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-529, filed 9/16/83; 81-22-081 (Order 1712), § 388-96-529, filed 11/4/81. Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-529, filed 2/25/81; Order 1262, § 388-96-529, filed 12/30/77.]

WAC 388-96-531 Owner or relative—Compensation. (1) Total compensation of an owner or relative of an owner shall be limited to ordinary compensation for necessary services actually performed.

(a) Compensation is ordinary if it is the amount usually paid for comparable services in a comparable facility to an unrelated employee, and does not exceed any applicable cost center limit set out in this chapter.

(b) A service is necessary if it is related to patient care and would have had to be performed by another person if the owner or relative had not done it.

(2) The contractor, in maintaining customary time records adequate for audit, shall include such records for owners and relatives who receive compensation. Such records shall document compensated time was spent in provision of necessary services actually performed.

(3) For purposes of this section, if the contractor with the department is a corporation, "owner" includes all corporate officers and directors.

[Statutory Authority: RCW 74.46.800 and 74.09.120. 93-19-074 (Order 3634), § 388-96-531, filed 9/14/93, effective 10/15/93. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-531, filed 9/16/83. Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-531, filed 2/25/81; Order 1262, § 388-96-531, filed 12/30/77.]

WAC 388-96-533 Maximum allowable compensation of certain administrative personnel. (1) The department shall allow prudent and cost-conscious costs of compensation for administrative personnel, subject to any applicable cost center limit promulgated by this chapter.

(2) Compensation of the licensed administrator shall be allowable only if the department is given written notice of the administrator's employment within ten days after the employment begins.

(3) The contractor shall maintain time records which are adequate for audit for the licensed administrator, assistant administrator, and/or administrator-in-training. The contractor shall include in such records verification of the actual hours of service performed for the nursing home.

(4) The department shall not consider costs of an administrator-in-training for the purpose of setting the administrative prospective rate. The department shall reimburse the costs of an approved administrator-in-training program by an adjustment to current rate. To obtain an adjustment, the contractor shall submit a request for an increase in current rate together with necessary documentation which shall include:

(a) A copy of the department of licensing approval of the administrator-in-training program, and

(b) A schedule indicating the commencement date, expected termination date, salary or wage, hours, and costs

of benefits. The contractor shall notify the department, at least thirty days in advance, of the actual termination date of the administrator-in-training program. Upon termination of the program, the department shall reduce the current rate by an amount corresponding to the cost of the program.

(5) As similarly provided in WAC 388-96-210 regarding field audits, the department shall commence to apply a facility's peer group median cost plus percentage limit in the administrative cost area, in place of administrative personnel compensation limits previously contained in this section, beginning with report year 1992.

[Statutory Authority: RCW 74.46.800 and 74.09.120. 93-19-074 (Order 3634), § 388-96-533, filed 9/14/93, effective 10/15/93. Statutory Authority: RCW 74.09.180 and 74.46.800. 89-01-095 (Order 2742), § 388-96-533, filed 12/21/88. Statutory Authority: 1987 c 476. 88-01-126 (Order 2573), § 388-96-533, filed 12/23/87. Statutory Authority: RCW 74.46.800. 86-10-055 (Order 2372), § 388-96-533, filed 5/7/86, effective 7/1/86; 84-12-039 (Order 2105), § 388-96-533, filed 5/30/84. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-533, filed 9/16/83; 81-22-081 (Order 1712), § 388-96-533, filed 11/4/81. Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-533, filed 2/25/81. Statutory Authority: RCW 74.09.120. 80-06-122 (Order 1510), § 388-96-533, filed 5/30/80, effective 7/1/80. Statutory Authority: RCW 74.08.090 and 74.09.120. 78-06-080 (Order 1300), § 388-96-533, filed 6/1/78; Order 1262, § 388-96-533, filed 12/30/77.]

WAC 388-96-535 Management agreements, management fees, and central office services. (1) If a contractor intends to enter into a management agreement with an individual or firm managing the nursing home as an agent of the contractor, the contractor shall send a copy of the agreement to the department at least sixty days before the agreement is to become effective. A contractor shall send a copy of any amendment to a management agreement to the department at least thirty days in advance of the date the amendment is to become effective. The department shall not allow management fees for periods prior to the time the department receives a copy of the applicable agreement. When necessary for the health and safety of medical care recipients, the department may waive the sixty-day notice requirement in writing.

(2) The department shall allow management fees only if:

(a) A written management agreement both:

(i) Creates a principal and/or agent relationship between the contractor and the manager; and

(ii) Sets forth the items, services, and activities to be provided by the manager.

(b) Documentation demonstrates the services contracted for were actually delivered, were nonduplicative of other services rendered to the facility directly or indirectly, and the services were necessary to care for the residents of the facility. Fees are allowable only for such necessary, nonduplicative services to the extent they are of the nature and magnitude that prudent and cost-conscious management would pay.

(3) Allowable fees for all general management services of any kind referenced in this section, including corporate or business entity management and board of director's fees and including management fees not allocated to specific services, are subject to any applicable cost center limit established by this chapter.

(4) A management fee paid to or for the benefit of a related organization shall be allowable at the lower of the actual cost to the related organization of providing necessary services related to patient care under the agreement, or the cost of comparable services purchased elsewhere. Where costs to the related organization represent joint facility costs, the department shall comply with WAC 388-96-534 in measuring such costs.

(5) Central office costs, owner's compensation, and other fees or compensation, including joint facility costs, for general administrative and management services, including the management expense not allocated to specific services, shall be subject to any cost center limit established by this chapter.

(6) Necessary travel and housing expenses of nonresident staff working at a contractor's nursing facility shall be considered allowable costs if the visit does not exceed three weeks.

(7) Bonuses paid to employees at a contractor's nursing facility shall be considered compensation.

(8) As similarly provided in WAC 388-96-210 regarding field audits, the department shall commence to apply a facility's peer group median cost plus percentage limit in the administrative cost area, in place of management fee limits previously contained in this section, beginning with report year 1992.

[Statutory Authority: RCW 74.46.800 and 74.09.120. 93-19-074 (Order 3634), § 388-96-535, filed 9/14/93, effective 10/15/93. Statutory Authority: 1987 c 476. 88-01-126 (Order 2573), § 388-96-535, filed 12/23/87. Statutory Authority: RCW 74.46.800. 86-10-055 (Order 2372), § 388-96-535, filed 5/7/86, effective 7/1/86. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-535, filed 9/16/83; 81-22-081 (Order 1712), § 388-96-535, filed 11/4/81. Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-535, filed 2/25/81. Statutory Authority: RCW 74.09.120. 80-09-083 (Order 1527), § 388-96-535, filed 7/22/80; 79-03-020 (Order 1371), § 388-96-535, filed 2/21/79; Order 1262, § 388-96-535, filed 12/30/77.]

WAC 388-96-569 Retirement of depreciable assets.

(1) Where depreciable assets are disposed of through sale, trade-in, scrapping, exchange, theft, wrecking, or fire or other casualty, depreciation shall no longer be taken on the assets. No further depreciation shall be taken on permanently abandoned assets.

(2) Where an asset has been retired from active use but is being held for stand-by or emergency service, and the department has determined that it is needed and can be effectively used in the future, depreciation may be taken.

(3) For rate setting effective July 1, 1991 through June 30, 1993, if a Medicaid contractor or lessor related to a lessee Medicaid contractor, as defined in this chapter, sells any or all of the nursing facility's tangible and/or intangible assets, including, but not limited to, land, building, equipment, supplies, goodwill, and beds authorized by certificate of need, the department shall recover depreciation reimbursement paid to the selling contractor or lessee related to the selling lessor. However, the department shall recover depreciation reimbursement only to the extent there was a gain on sale as defined in this chapter. Further, the department shall recover depreciation reimbursement for depreciation from July 1, 1991, forward only.

(4) Recovery of depreciation reimbursement as authorized in this section shall apply to all transfers of assets by

sale on or after July 1, 1991, unless pursuant to an enforceable agreement in place prior to July 1, 1991, and on file with the department's rates management office on or before December 31, 1991.

(5) Recovery of depreciation reimbursement shall be from the buyer whether or not such buyer operates the nursing facility or is a Medicaid contractor. If recovery cannot be made from the buyer in whole or in part, the amount due shall be recovered from the selling contractor or selling lessor related to the contractor. If the buyer leases some or all of the assets purchased to a related party or organization as defined in this chapter, the department may recover directly from such related party or organization. The total amount subject to recovery shall be due and payable immediately after transfer of the assets by sale. However, the department may establish a repayment schedule to recover depreciation reimbursement for a period not to exceed six months after the transfer by sale.

(6) If repayment is not made immediately or commenced and maintained in accordance with a repayment schedule agreeable to the department, the department shall deduct the recovery from the monthly payments, if any, for Medicaid services made to the buyer, or from payments, if any, made to a contractor related to the buyer as defined in this chapter. Such method of recovery shall be in addition to all other means of recovering debt to the state authorized by law.

(7) The depreciation base of depreciable assets and the cost basis of nondepreciable assets for all partial or whole Medicaid rate periods after the sale shall be established or continued in accordance with the provisions of this chapter. Neither shall be adjusted to reflect any liability for recovery of depreciation reimbursement. Upon request, the department shall provide to any prospective buyer or seller of nursing facility assets the total depreciation reimbursement paid from July 1, 1991 through June 30, 1993 to the selling contractor or lessee related to the selling lessor.

[Statutory Authority: RCW 74.46.800 and 74.09.120. 93-19-074 (Order 3634), § 388-96-569, filed 9/14/93, effective 10/15/93; 91-22-025 (Order 3270), § 388-96-569, filed 10/29/91, effective 11/29/91; 81-06-024 (Order 1613), § 388-96-569, filed 2/25/81; Order 1262, § 388-96-569, filed 12/30/77.]

WAC 388-96-572 Handling of gains and losses upon retirement of depreciable assets—Other periods. (1) This section shall apply in the place of WAC 388-96-571 effective January 1, 1981, for purposes of settlement for settlement periods subsequent to that date, and for purposes of setting rates for rate periods beginning July 1, 1982, and subsequently.

(2) A gain or loss on the retirement of an asset shall be the difference between the remaining undepreciated base and any proceeds received for, or to compensate for loss of, the asset.

(3) If the retired asset is replaced, the gain or loss shall be applied against or added to the cost of the replacement asset, provided that a loss will only be so applied if the contractor has made a reasonable effort to recover at least the outstanding book value of the asset.

(4) If the retired asset is not replaced, any gain shall be offset against property expense for the period during which

it is retired and any loss shall be expensed subject to the provisions of WAC 388-96-554(7).

[Statutory Authority: RCW 74.46.800, 74.46.450 and 74.09.120. 93-12-051 (Order 3555), § 388-96-572, filed 5/26/93, effective 6/26/93. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-572, filed 9/16/83. Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-572, filed 2/25/81.]

WAC 388-96-580 Operating leases of office equipment. Rental costs of office equipment under arm's-length operating leases shall be allowable to the extent such costs are necessary, ordinary, and related to patient care. Beginning January 1, 1985, office equipment rental costs shall be reimbursed in the administration and operations cost center. Office equipment may include items typically used in administrative or clerical functions such as telephones, copy machines, desks and chairs, calculators and adding machines, file cabinets, typewriters, and computers. However, expenses of leasing computers may not be reimbursed in excess of ten cents per patient day. Effective with July 1, 1993 rate setting, office equipment rental costs shall be reimbursed in the administrative cost center.

[Statutory Authority: RCW 74.46.800 and 74.09.120. 93-19-074 (Order 3634), § 388-96-580, filed 9/14/93, effective 10/15/93. Statutory Authority: RCW 74.09.120, 74.46.840 and 74.46.800. 85-17-052 (Order 2270), § 388-96-580, filed 8/19/85. Statutory Authority: RCW 74.09.120. 84-24-050 (Order 2172), § 388-96-580, filed 12/4/84. Statutory Authority: RCW 74.46.800. 84-12-039 (Order 2105), § 388-96-580, filed 5/30/84.]

WAC 388-96-585 Unallowable costs. (1) The department shall not allow costs if not documented, necessary, ordinary, and related to the provision of care services to authorized patients.

(2) The department shall include, but not limit unallowable costs to the following:

(a) Costs of items or services not covered by the medical care program. Costs of nonprogram items or services even if indirectly reimbursed by the department as the result of an authorized reduction in patient contribution;

(b) Costs of services and items provided to SNF or ICF recipients covered by the department's medical care program but not included in SNF or ICF services respectively. Items and services covered by the medical care program are listed in chapters 388-86 and 388-88 WAC;

(c) Costs associated with a capital expenditure subject to Section 1122 approval (Part 100, Title 42 C.F.R.) if the department found the capital expenditure inconsistent with applicable standards, criteria, or plans. If the contractor did not give the department timely notice of a proposed capital expenditure, all associated costs shall be nonallowable as of the date the costs are determined not to be reimbursable under applicable federal regulations;

(d) Costs associated with a construction or acquisition project requiring certificate of need approval pursuant to chapter 70.38 RCW if such approval was not obtained;

(e) Costs of outside activities (e.g., costs allocable to the use of a vehicle for personal purposes or related to the part of a facility leased out for office space);

(f) Salaries or other compensation of owners, officers, directors, stockholders, and others associated with the contractor or home office, except compensation paid for service related to patient care;

(g) Costs in excess of limits or violating principles set forth in this chapter;

(h) Costs resulting from transactions or the application of accounting methods circumventing the principles of the prospective cost-related reimbursement system;

(i) Costs applicable to services, facilities, and supplies furnished by a related organization in excess of the lower of the cost to the related organization or the price of comparable services, facilities, or supplies purchased elsewhere;

(j) Bad debts. Beginning July 1, 1983, the department shall allow bad debts of Title XIX recipients only if:

(i) The debt is related to covered services;

(ii) It arises from the recipient's required contribution toward the cost of care;

(iii) The provider can establish reasonable collection efforts were made;

(iv) The debt was actually uncollectible when claimed as worthless; and

(v) Sound business judgment established there was no likelihood of recovery at any time in the future.

Reasonable collection efforts shall consist of three documented attempts by the contractor to obtain payment. Such documentation shall demonstrate the effort devoted to collect the bad debts of Title XIX recipients is at the same level as the effort normally devoted by the contractor to collect the bad debts of non-Title XIX patients. Should a contractor collect on a bad debt, in whole or in part, after filing a cost report, reimbursement for the debt by the department shall be refunded to the department to the extent of recovery. The department shall compensate a contractor for bad debts of Title XIX recipients at final settlement through the final settlement process only.

(k) Charity and courtesy allowances;

(l) Cash, assessments, or other contributions, excluding dues, to charitable organizations, professional organizations, trade associations, or political parties, and costs incurred to improve community or public relations. Any portion of trade association dues attributable to legal and consultant fees and costs in connection with lawsuits or other legal action against the department shall be unallowable;

(m) Vending machine expenses;

(n) Expenses for barber or beautician services not included in routine care;

(o) Funeral and burial expenses;

(p) Costs of gift shop operations and inventory;

(q) Personal items such as cosmetics, smoking materials, newspapers and magazines, and clothing, except items used in patient activity programs where clothing is a part of routine care;

(r) Fund-raising expenses, except expenses directly related to the patient activity program;

(s) Penalties and fines;

(t) Expenses related to telephones, televisions, radios, and similar appliances in patients' private accommodations;

(u) Federal, state, and other income taxes;

(v) Costs of special care services except where authorized by the department;

(w) Expenses of key-man insurance and other insurance or retirement plans not in fact made available to all employees on an equal or fair basis in terms of costs to employees and benefits commensurate to such costs;

(x) Expenses of profit-sharing plans;

(y) Expenses related to the purchase and/or use of private or commercial airplanes which are in excess of what a prudent contractor would expend for the ordinary and economic provision of such a transportation need related to patient care;

(z) Personal expenses and allowances of owners or relatives;

(aa) All expenses of maintaining professional licenses or membership in professional organizations;

(bb) Costs related to agreements not to compete;

(cc) Goodwill and amortization of goodwill;

(dd) Expense related to vehicles which are in excess of what a prudent contractor would expend for the ordinary and economic provision of transportation needs related to patient care;

(ee) Legal and consultant fees in connection with a fair hearing against the department relating to those issues where:

(i) A final administrative decision is rendered in favor of the department or where otherwise the determination of the department stands at the termination of administrative review; or

(ii) In connection with a fair hearing, a final administrative decision has not been rendered; or

(iii) In connection with a fair hearing, related costs are not reported as unallowable and identified by fair hearing docket number in the period they are incurred if no final administrative decision has been rendered at the end of the report period; or

(iv) In connection with a fair hearing, related costs are not reported as allowable, identified by docket number, and prorated by the number of issues decided favorably to a contractor in the period a final administrative decision is rendered.

(ff) Legal and consultant fees in connection with a lawsuit against the department, including suits which are appeals of administrative decisions;

(gg) Lease acquisition costs and other intangibles not related to patient care;

(hh) Interest charges assessed by the state of Washington for failure to make timely refund of overpayments and interest expenses incurred for loans obtained to make such refunds;

(ii) Beginning January 1, 1985, lease costs, including operating and capital leases, except for office equipment operating lease costs;

(jj) Beginning January 1, 1985, interest costs;

(kk) Travel expenses outside the states of Idaho, Oregon, and Washington, and the Province of British Columbia. However, travel to or from the home or central office of a chain organization operating a nursing home will be allowed whether inside or outside these areas if such travel is necessary, ordinary, and related to patient care;

(ll) Board of director fees for services in excess of one hundred dollars per board member, per meeting, not to exceed twelve meetings per year;

(mm) Moving expenses of employees in the absence of a demonstrated, good-faith effort to recruit within the states of Idaho, Oregon, and Washington, and the Province of British Columbia;

(nn) For rates effective after June 30, 1993, depreciation expense in excess of four thousand dollars per year for each passenger car or other vehicles primarily used for the administrator, facility staff, or central office staff;

(oo) Any costs associated with the use of temporary health care personnel from any nursing pool not registered with the director of the department of health at the time of such pool personnel use;

(pp) Costs of payroll taxes associated with compensation in excess of allowable compensation for owners, relatives, and administrative personnel;

(qq) Department-imposed postsurvey charges incurred by the facility as a result of subsequent inspections which occur beyond the first postsurvey visit during the certification survey calendar year;

(rr) For all partial or whole rate periods after July 17, 1984, costs of assets, including all depreciable assets and land, which cannot be reimbursed under the provisions of the Deficit Reduction Act of 1984 (DEFRA) and state statutes and regulations implementing DEFRA;

(ss) Effective for July 1, 1991, and all following rates, compensation paid for any purchased nursing care services, including registered nurse, licensed practical nurse, and nurse assistant services, obtained through service contract arrangement in excess of the amount of compensations which would have been paid for such hours of nursing care services had they been paid at the combined regular and overtime average hourly wage, including related taxes and benefits, for in-house nursing care staff of like classification of registered nurse, licensed practical nurse, or nursing assistant at the same nursing facility, as reported on the facility's filed cost report for the most recent cost report period;

(tt) Outside consultation expenses required pursuant to WAC 388-88-135;

(uu) Fees associated with filing a bankruptcy petition under chapters VII, XI, and XIII, pursuant to the Bankruptcy Reform Act of 1978, Public Law 95-598.

[Statutory Authority: RCW 74.46.800. 93-17-033 (Order 3615), § 388-96-585, filed 8/11/93, effective 9/11/93. Statutory Authority: RCW 74.46.800, 74.46.450 and 74.09.120. 93-12-051 (Order 3555), § 388-96-585, filed 5/26/93, effective 6/26/93. Statutory Authority: RCW 74.09.120. 91-22-025 (Order 3270), § 388-96-585, filed 10/29/91, effective 11/29/91. Statutory Authority: RCW 74.09.120 and 74.46.800. 90-09-061 (Order 2970), § 388-96-585, filed 4/17/90, effective 5/18/90. Statutory Authority: RCW 74.46.800. 89-17-030 (Order 2847), § 388-96-585, filed 8/8/89, effective 9/8/89. Statutory Authority: RCW 74.09.180 and 74.46.800. 89-01-095 (Order 2742), § 388-96-585, filed 12/21/88. Statutory Authority: RCW 74.46.800. 87-09-058 (Order 2485), § 388-96-585, filed 4/20/87; 86-10-055 (Order 2372), § 388-96-585, filed 5/7/86, effective 7/1/86; 84-12-039 (Order 2105), § 388-96-585, filed 5/30/84. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-585, filed 9/16/83; 82-21-025 (Order 1892), § 388-96-585, filed 10/13/82; 82-11-065 (Order 1808), § 388-96-585, filed 5/14/82; 81-22-081 (Order 1712), § 388-96-585, filed 11/4/81. Statutory Authority: RCW 74.09.120 and 74.46.800. 81-06-024 (Order 1613), § 388-96-585, filed 2/25/81. Statutory Authority: RCW 74.09.120. 79-04-102 (Order 1387), § 388-96-585, filed 4/4/79. Statutory Authority: RCW 74.08.090 and 74.09.120. 78-06-080 (Order 1300), § 388-96-585, filed 6/1/78; Order 1262, § 388-96-585, filed 12/30/77.]

WAC 388-96-709 Prospective rate revisions—Reduction in licensed beds. (1) The department will revise a contractor's prospective rate when the contractor reduces the number of its licensed beds and:

(a) Notifies the department in writing thirty days before the licensed bed reduction; and

(b) Supplies a copy of the new bed license and documentation of the number of beds sold, exchanged or otherwise placed out of service, along with the name of the contractor that received the beds, if any; and

(c) Requests a rate revision.

(2) The revised prospective rate shall comply with all the provisions of rate setting contained in this chapter including all lids and maximums unless otherwise specified in this section and remain in effect until a prospective rate can be set according to WAC 388-96-713.

(3) The revised prospective rate shall be effective the first of a month determined by where in the month the effective date of the licensed bed reduction occurs or the date the contractor complied with subsections 1(a), (b), and (c) of this section as follows:

(a) If the contractor complied with subsection (1)(a), (b), and (c) of this section and the effective date of the reduction falls:

(i) Between the first and the fifteenth of the month, then the revised prospective rate is effective the first of the month in which the reduction occurs; or

(ii) Between the sixteenth and the end of the month, then the revised prospective rate is effective the first of the month following the month in which the reduction occurs; or

(b) When the contractor fails to comply with subsection 1(a) of this section, then the date the department receives from the contractor the documentation that is required by subsection (1)(b) and (c) of this section shall become the effective date of the reduction for the purpose of applying subsection (3)(a)(i) and (ii) of this section.

(4) The department shall revise the contractor's prospective rate as follows:

(a) For the nursing service and food cost centers, the rate will remain the same as before the reduction in licensed beds;

(b) For property, administration, and operations cost centers; and return on investment rate, the department will use the reduced total of licensed beds to determine occupancy level under WAC 388-96-719(4). If the contractor's occupancy level of licensed beds computed on the most recent, complete, desk-reviewed annual cost report before the licensed bed reduction:

(i) Was above eighty-five percent and remains above eighty-five percent after the reduction, then the department will:

(A) Not change the administration and operation rate;

(B) Recompute the property rate to reflect the new asset basis; and

(C) Recompute the return on investment rate to reflect the new asset basis and the change in the property cost center.

(ii) Was below eighty-five percent and changes to at or above eighty-five percent after the reduction, then the department will recompute rates for:

(A) Administration and operations using actual days; and

(B) Property and return on investment rates using actual days and the new asset basis.

(iii) Was below eighty-five percent and remains below eighty-five percent after the reduction, then the department will recompute rates for:

(A) Administration and operation using the change in days that results from the reduced number of licensed beds used in calculating the eighty-five percent occupancy level; and

(B) Property and return on investment using the change in days that results from the reduced number of licensed beds used in calculating the eighty-five percent occupancy level and to reflect the new asset basis.

[Statutory Authority: RCW 74.46.800, 74.46.450 and 74.09.120. 93-12-051 (Order 3555), § 388-96-709, filed 5/26/93, effective 6/26/93.]

WAC 388-96-710 Prospective reimbursement rate for new contractors. (1) The department shall establish an initial prospective reimbursement rate for a new contractor as defined under WAC 388-96-026 (1)(a) or (b) within sixty days following receipt by the department of a properly completed projected budget (see WAC 388-96-026). The rate shall take effect as of the effective date of the contract and shall comply with all the provisions of rate setting contained in this chapter including all lids and maximums set forth in this chapter.

(2) To set the initial prospective reimbursement rate for a new contractor as defined in WAC 388-96-026 (1)(a) and (b), the department shall:

(a) Determine whether the new contractor belongs to the metropolitan statistical area (MSA) peer group or the non-MSA peer group using the latest information received from the office of management and budget or the appropriate federal agency;

(b) Select all nursing facilities from the department's records of all the current Medicaid nursing facilities in the new contractor's peer group with the same bed capacity plus or minus ten beds. If the selection does not result in at least seven facilities, then the department will increase the bed capacity by plus or minus five bed increments until a sample of at least seven nursing facilities is obtained; and

(c) Based upon the most recent information available to the department for the nursing facilities selected under subsection (2)(b) of this section, rank from the lowest to the highest the rates in nursing services, food, administrative, and operational cost centers and based on this ranking:

(i) Determine the rate in the middle of the ranking, above and below which lie an equal number of rates (median) and then identify the rate immediately above the median for each cost center identified in subsection (2)(c) of this section. The rate immediately above the median will be known as the "selected rate" for each cost center; and

(ii) Set the new contractor's rates for each cost center identified in subsection (2)(c) at the lower of the "selected rate" or the budget rate; and

(iii) Set the property rate in accordance with the provisions of this chapter; and

(iv) Set the return on investment rate in accordance with the provisions of this chapter. In computing the financing allowance, the department shall use for the nursing services, food, administrative, and operational cost centers the rates set pursuant to subsection (2)(c)(i) and (ii) of this section.

(3) If the department has not received a properly completed projected budget from the new contractor as defined under WAC 388-96-026 (1)(a) or (b) at least sixty

days prior to the effective date of the new contract, the department shall establish rates for:

(a) Nursing services, food, administrative and operational cost centers based on the "selected rates" as determined under subsection (2)(c) of this section; and

(b) Property in accordance with the provisions of this chapter using for the new contractor:

(i) As defined under WAC 388-96-026 (1)(a), information from the certificate of need; or

(ii) As defined under WAC 388-96-026 (1)(b), information provided by the new contractor within ten days of the date the department requests the information in writing. If the contractor as defined under WAC 388-96-026 (1)(b), has not provided the requested information within ten days of the date requested, then the property rate will be zero. The property rate will remain zero until the information is received.

(c) Return on investment rate in accordance with the provisions of this chapter using the "selected rates" established under subsection (2)(c) of this section, to compute the working capital provision and variable return for the new contractor:

(i) As defined under WAC 388-96-026 (1)(a), information from the certificate of need; or

(ii) As defined under WAC 388-96-026 (1)(b), information provided by the new contractor within ten days of the date the department requests the information in writing. If the contractor as defined under WAC 388-96-026 (1)(b), has not provided the requested information within ten days of the date requested, then the net book value of allowable assets will be zero. The financing allowance rate component will remain zero until the information is received.

(4) The initial prospective reimbursement rate for a new contractor as defined under WAC 388-96-026 (1)(c), shall be the last prospective reimbursement rate paid by the department to the Medicaid contractor operating the nursing facility immediately prior to the effective date of the new contract.

(5) If the new contractor as defined under WAC 388-96-026 (1)(a), (b), or (c) began participating in the program beginning in the first year of a state fiscal biennium or had its first year of a state fiscal biennium rate set under WAC 388-96-710(6), its July 1 prospective reimbursement rate for the second year of that state fiscal biennium shall:

(a) Be the initial prospective rate set in accordance with WAC 388-96-710 inflated in accordance with WAC 388-96-719; and

(b) Remain in effect until a prospective rate can be set under WAC 388-96-713.

(6) If the new contractor began participating in the program beginning in the second year of a state fiscal biennium, its July 1 prospective reimbursement rate for the first year of the next state fiscal biennium will be set for the new contractor defined under:

(a) WAC 388-96-026 (1)(a) and (b), by applying WAC 388-96-710 (2) and (3) using the July 1 rate components established for the first year of the state's fiscal biennium following the second year of the state's fiscal biennium in which the new contractor began participating in the program; or

(b) WAC 388-96-026 (1)(c), by using twelve months of cost report data derived from the old contractor's data and the new contractor's data for the cost report year prior to the first year of the state fiscal biennium for which the rate is being set and applying WAC 388-96-719 through 388-96-754 to set the component rates.

(7) For July 1, 1993 rate setting only, if a new contractor as defined under WAC 388-96-026(1) is impacted by the peer group median cost plus twenty-five percent limit in its nursing services cost, such contractor shall not receive a per patient day prospective rate in nursing services for July 1, 1993 lower than the same contractor's prospective rate in nursing services as of June 30, 1993, as reflected in departmental records as of that date, inflated by any increase in the IPD Index authorized by WAC 388-96-719.

[Statutory Authority: RCW 74.46.800. 93-17-033 (Order 3615), § 388-96-710, filed 8/11/93, effective 9/11/93. Statutory Authority: RCW 74.46.800, 74.46.450 and 74.09.120. 93-12-051 (Order 3555), § 388-96-710, filed 5/26/93, effective 6/26/93. Statutory Authority: RCW 74.46.800. 92-16-013 (Order 3424), § 388-96-710, filed 7/23/92, effective 8/23/92. Statutory Authority: 1987 c 476. 88-01-126 (Order 2573), § 388-96-710, filed 12/23/87. Statutory Authority: RCW 74.46.800. 87-09-058 (Order 2485), § 388-96-710, filed 4/20/87. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-710, filed 9/16/83; 78-02-013 (Order 1264), § 388-96-710, filed 1/9/78.]

WAC 388-96-713 Rate determination. (1) Each contractor's reimbursement rate will be determined prospectively once each state biennium as provided in this chapter to be effective July 1 of the first fiscal year of each biennium. Rates shall be adjusted as provided in this chapter to be effective July 1 of the second year of each biennium and may be adjusted more frequently to take into account program changes.

(2) If the contractor participated in the program for less than six months of the prior calendar year, its rates will be determined by procedures set forth in WAC 388-96-710.

(3) Beginning with rates effective July 1, 1984, contractors submitting correct and complete cost reports by March 31st, shall be notified of their rates by July 1st, unless circumstances beyond the control of the department interfere.

[Statutory Authority: RCW 74.46.800 and 74.09.120. 93-19-074 (Order 3634), § 388-96-713, filed 9/14/93, effective 10/15/93; 90-09-061 (Order 2970), § 388-96-713, filed 4/17/90, effective 5/18/90. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-713, filed 9/16/83; 81-15-049 (Order 1669), § 388-96-713, filed 7/15/81; 80-06-122 (Order 1510), § 388-96-713, filed 5/30/80, effective 7/1/80; 78-02-013 (Order 1264), § 388-96-713, filed 1/9/78.]

WAC 388-96-716 Cost areas. A contractor's overall reimbursement rate for medical care recipients shall consist of the total of six component rates, each covering one cost area. The six cost areas are:

- (1) Nursing services;
- (2) Food;
- (3) Administrative;
- (4) Operational;
- (5) Property; and
- (6) Return on investment.

[Statutory Authority: RCW 74.46.800 and 74.09.120. 93-19-074 (Order 3634), § 388-96-716, filed 9/14/93, effective 10/15/93. Statutory Authority: RCW 74.46.800. 92-16-013 (Order 3424), § 388-96-716, filed 7/23/92, effective 8/23/92. Statutory Authority: 1987 c 476. 88-01-126 (Order 2573), § 388-96-716, filed 12/23/87. Statutory Authority: RCW 74.09.120.

84-24-050 (Order 2172), § 388-96-716, filed 12/4/84; 83-19-047 (Order 2025), § 388-96-716, filed 9/16/83; 81-15-049 (Order 1669), § 388-96-716, filed 7/15/81; 80-06-122 (Order 1510), § 388-96-716, filed 5/30/80, effective 7/1/80; 78-02-013 (Order 1264), § 388-96-716, filed 1/9/78.]

WAC 388-96-719 Method of rate determination.

(1) The principles contained in this section are inherent in rate setting effective with July 1, 1993 and following nursing facility prospective rates.

(2) Reimbursement rates shall be established or adjusted prospectively, on a per patient day basis, once each calendar year, to be effective July 1, and shall follow a two-year cycle corresponding to each state fiscal biennium; provided that, a nursing facility's rate for the first fiscal year of any biennium, unless the operator qualifies as a "new contractor" under the provisions of this chapter, must be established upon its own prior calendar year cost report data covering at least six months.

(3) A contractor's rates in the nursing services, food, administrative, and operational cost centers for the first year of the state fiscal biennium (first fiscal year) shall be adjusted downward or upward for economic trends and conditions when set effective July 1 of the first fiscal year in accordance with subsections (4), (5) and (6) of this section, and adjusted again downward or upward for economic trends and conditions effective July 1 of the second year of the state fiscal biennium (second fiscal year) in accordance with subsections (7), (8) and (9) of this section.

(4) The July 1 cost center rates referenced in subsection (3) of this section shall, for the first fiscal year of each biennium, be adjusted by the change in the Implicit Price Deflator for Personal Consumption Expenditures Index published by the United States Department of Commerce, Economics and Statistics Administration, Bureau of Economic Analysis ("IPD Index").

(5) The period used to measure the change in the IPD Index shall be the calendar year preceding the July 1 commencement of the state fiscal biennium (first calendar year). The change in the IPD Index shall be calculated by:

(a) Consulting the latest quarterly IPD Index available to the department no later than February 28 following the first calendar year to determine, as nearly as possible, the applicable expenditure levels as of December 31 of the first calendar year;

(b) Subtracting from the expenditure levels taken from the quarterly IPD Index described in subsection (5)(a) of this section the expenditure levels taken from the IPD Index for the quarter occurring one year prior to the quarterly IPD Index described in subsection (5)(a) of this section; and

(c) Dividing the difference by the level of expenditures from the quarterly IPD Index occurring one year prior to the quarterly IPD Index described in subsection (5)(a) of this section.

(6) In applying the change in the IPD Index to establish first fiscal year nursing services, food, administrative and operational cost center rates for a contractor having at least six months, but less than twelve months, of cost report data from the prior calendar year, the department shall prorate the downward or upward adjustment by a factor obtained by dividing the contractor's actual calendar days of report data by two, adding three hundred sixty-five, and dividing the resulting figure by five hundred forty-eight.

(7) For the second year of each state fiscal biennium, a contractor's July 1 cost center rates referenced in subsection (2) of this section shall be the July 1 component rates for the first year of the state fiscal biennium, adjusted downward by any decrease, or upward by one and one-half times any increase, in the Nursing Home Input Price Index without Capital Costs published by the Health Care Financing Administration of the United States Department of Health and Human Services ("HCFA Index").

(8) The period used to measure the change in the HCFA Index shall, subject to subsection (9) of this section, be the calendar year preceding the July 1 commencement of the state fiscal biennium (first fiscal year). The change in the HCFA Index shall be calculated by:

(a) Consulting the latest quarterly HCFA Index available to the department no later than February 28 following the first calendar year to determine, as nearly as possible, the applicable price levels as of December 31 of the first calendar year;

(b) Subtracting from the price levels taken from the quarterly HCFA Index described in subsection (8)(a) of this section the price levels taken from the HCFA Index for the quarter occurring one year prior to the quarterly HCFA Index described in subsection (8)(a) of this section; and

(c) Dividing the difference by the price levels from the quarterly HCFA Index occurring one year prior to the quarterly HCFA Index described in subsection (8)(a).

(9) In the event the change in the HCFA Index measured over the calendar year ending six months after the July 1 commencement of the state fiscal biennium (second calendar year), is twenty-five percent greater or less than the change in the HCFA Index measured over the first calendar year, the department shall use any HCFA Index decrease, or one and one-half times any HCFA increase, from the second calendar year to adjust downward or upward, respectively, nursing facilities' nursing services, food, administrative, and operational component rates for July 1 of the second fiscal year of the biennium. The change in the HCFA Index shall be calculated by:

(a) Consulting the latest quarterly HCFA Index available to the department no later than February 28 following the second calendar year to determine, as nearly as possible, the applicable price levels as of December 31 of the second calendar year;

(b) Subtracting from the price levels taken from the quarterly HCFA Index described in subsection (9)(a) of this subsection the price levels taken from the HCFA Index for the quarter occurring one year prior to the quarterly HCFA Index described in subsection (9)(a) of this section; and

(c) Dividing the difference by the price levels from the quarterly HCFA Index occurring one year prior to the quarterly HCFA Index described in subsection (9)(a).

(10) The department shall compute the occupancy level for each facility by dividing the actual number of patient days by the product of the numbers of licensed beds and calendar days in the report period. If a facility's occupancy is below eighty-five percent, the department shall compute, per patient day, return on investment, property, administrative, and operational prospective rates and limits utilizing patient days at the eighty-five percent occupancy level. The

department shall use actual occupancy level for facilities at or above eighty-five percent occupancy.

(11) If a nursing home provides residential care to individuals other than those receiving nursing facility care:

(a) The facility may request in writing, and

(b) The department may grant in writing an exception to the requirements of subsection (10) of this section by including such other residents in computing occupancy. Exceptions granted shall be revocable effective ninety days after written notice of revocation is received from the department. No exception shall be granted unless the contractor submits with the annual cost report a certified statement of occupancy including all residents of the facility and their status or level of care.

[Statutory Authority: RCW 74.46.800 and 74.09.120. 93-19-074 (Order 3634), § 388-96-719, filed 9/14/93, effective 10/15/93; 90-09-061 (Order 2970), § 388-96-719, filed 4/17/90, effective 5/18/90. Statutory Authority: 1987 c 476. 88-01-126 (Order 2573), § 388-96-719, filed 12/23/87. Statutory Authority: RCW 74.09.120, 74.46.840 and 74.46.800. 85-17-052 (Order 2270), § 388-96-719, filed 8/19/85. Statutory Authority: RCW 74.46.800. 84-12-039 (Order 2105), § 388-96-719, filed 5/30/84. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-719, filed 9/16/83; 82-17-071 (Order 1867), § 388-96-719, filed 8/18/82; 82-12-068 (Order 1820), § 388-96-719, filed 6/2/82; 82-04-073 (Order 1756), § 388-96-719, filed 2/3/82; 81-15-049 (Order 1669), § 388-96-719, filed 7/15/81; 80-06-122 (Order 1510), § 388-96-719, filed 5/30/80, effective 7/1/80; 79-12-085 (Order 1461), § 388-96-719, filed 11/30/79; 78-11-043 (Order 1353), § 388-96-719, filed 10/20/78. Statutory Authority: RCW 74.08.090 and 74.09.120. 78-06-080 (Order 1300), § 388-96-719, filed 6/1/78. Statutory Authority: RCW 74.09.120. 78-02-013 (Order 1264), § 388-96-719, filed 1/9/78.]

WAC 388-96-722 Nursing services cost area rate.

(1) The nursing services cost center shall include for reporting and auditing purposes all costs relating to the direct provision of nursing and related care, including fringe benefits and payroll taxes for nursing and related care personnel and for the cost of nursing supplies. The cost of one-to-one care shall include care provided by qualified therapists and their employees only to the extent the costs are not covered by Medicare, part B, or any other coverage.

(2) In addition to other limits contained in this chapter, the department shall subject nursing service costs to a test for nursing staff hours according to the procedures set forth in subsection (3) of this section.

(3) The test for nursing staff hours referenced in subsection (2) of this section shall use a regression of hours reported by facilities for registered nurses, licensed practical nurses, and nurses' assistants, including:

(a) Purchased and allocated nursing and assistant staff time; and

(b) The average patient debility score for the corresponding facilities as computed by the department. The department shall compute the regression every two years which shall be effective for the entire biennium, beginning July 1, 1993, and shall take data for the regression from:

(i) Correctly completed cost reports; and

(ii) Patient assessments completed by nursing facilities and transmitted to the department in accordance with the minimum data set (MDS) format and instructions, as may be corrected after departmental audit or other investigation, for the corresponding calendar report year and available at the time the regression equation is computed. Effective January 1, 1988, the department shall not include the hours associat-

ed with off-site or class room training of nursing assistants and the supervision of such training for nursing assistants in the test for nursing staff hours. The department shall calculate and set for each facility a limit on nursing and nursing assistant staffing hours at predicted staffing hours plus 1.75 standard errors, utilizing the regression equation calculated by the department. The department shall reduce costs for facilities with reported hours exceeding the limit by an amount equivalent to:

(A) The hours exceeding the limit;

(B) Times the average wage rate for nurses and assistants indicated on cost reports for the year in question, including benefits and payroll taxes allocated to such staff. The department shall provide contractors' reporting hours exceeding the limit the higher of their January 1983 patient care rate or the nursing services rate computed for them according to the provisions of this subsection, plus applicable inflation adjustments.

(4) For all rates effective after June 30, 1991, nursing services costs, as reimbursed within this chapter, shall not include costs of any purchased nursing care services, including registered nurse, licensed practical nurse, and nurse assistant services, obtained through service contract arrangement (commonly referred to as "nursing pool" services), in excess of the amount of compensation which would have been paid for such hours of nursing care service had they been paid at the average hourly wage, including related taxes and benefits, for in-house nursing care staff of like classification at the same nursing facility, as reported in the most recent cost report period.

(5) Staff of like classification shall mean only the nursing classifications of registered nurse, licensed practical nurse or nurse assistant. The department shall not recognize particular individuals, positions or subclassifications within each classification for whom pool staff may be substituting or augmenting. The department shall derive the facility average hourly wage for each classification by dividing the total allowable regular and overtime salaries and wages, including related taxes and benefits, paid to facility staff in each classification divided by the total allowable hours worked for each classification. All data used to calculate the average hourly wage for each classification shall be taken from the cost report on file with the department's rates management office for the most recent cost report period.

(6) Once every two years, when the rates are set at the beginning of each new biennium, starting with July 1, 1993 prospective rate setting, the department shall determine peer group median cost plus limits for the nursing services cost center in accordance with this section.

(a) The department shall divide into two peer groups nursing facilities located in the state of Washington providing services to Medicaid residents. These two peer groups shall be:

(i) Those nursing facilities located within a Metropolitan Statistical Area (MSA) as defined and determined by the United States Office of Management and Budget or other applicable federal office (MSA facilities); and

(ii) Those not located within such an area (Non-MSA facilities).

(b) Prior to any adjustment for economic trends and conditions under WAC 388-96-719, the facilities in each peer group shall be arrayed from lowest to highest by

magnitude of per patient day adjusted nursing services cost from the prior cost report year, which shall include all costs of nursing supplies and purchased and allocated medical records, regardless of whether any such adjustments are contested by the nursing facility. All available cost reports from the prior cost report year having at least six months of cost report data shall be used, including all closing cost reports covering at least six months. Costs current-funded by means of rate adjustments, granted under the authority of WAC 388-96-774 and commencing in the prior cost report year, shall be included in costs arrayed; however, costs current-funded by rate adjustments commencing January 1 through June 30 following the prior cost report year shall be excluded from costs arrayed.

(c) The median or fiftieth percentile nursing facility cost in nursing services for each peer group shall then be determined. In the event there are an even number of facilities within a peer group, the adjusted nursing services cost of the lowest cost facility in the upper half shall be used as the median cost for that peer group. Facilities at the fiftieth percentile in each peer group and those immediately above and below it shall be subject to field audit in the nursing services cost area prior to issuing new July 1 rates.

(7) Except as may be otherwise specifically provided in this section, beginning with July 1, 1993 prospective rates, nursing services component rates for facilities within each peer group shall be set for the first fiscal year of each state biennium at the lower of:

(a) The facility's adjusted per patient day nursing services cost from the most recent prior report period, reduced or increased by the change in the IPD Index as authorized by WAC 388-96-719; or

(b) The median nursing services cost for the facility's peer group plus twenty-five percent of that cost, reduced or increased by the change in the IPD Index as authorized by WAC 388-96-719.

(8) Adjustments previously made to current fund nursing services costs, pursuant to WAC 388-96-774 and commencing in the prior cost report year, shall be reflected in first fiscal year prospective rates only by their inclusion in the costs arrayed and no facility shall receive, based upon any calculation or consideration of any such prior report year adjustment, a July 1 nursing services rate higher than that provided in subsection (7) of this section.

(9) For July 1, 1993 rate setting only, if a nursing facility is impacted by the peer group median cost plus twenty-five percent limit in its nursing services cost, such facility shall not receive a per patient day prospective rate in nursing services for July 1, 1993 lower than the same facility's prospective rate in nursing services as of June 30, 1993, as reflected in departmental records as of that date, inflated by any increase in the IPD Index authorized by WAC 388-96-719.

(10) For July 1, 1993 rate setting only, nursing services rate adjustments, granted under authority of WAC 388-96-774 and commencing from January 1, 1993 through June 30, 1993, shall be added to a facility's nursing services rate established under subsection (7) of this section. For all rate setting beginning July 1, 1995 and following, such rate increases to reflect nursing services rate adjustments, granted under authority of WAC 388-96-774 and commencing from

January 1 through June 30 preceding the start of the biennium, shall be added to a nursing facility's rate in nursing services, but only up to the facility's peer group median cost plus twenty-five percent limit.

(11) Subsequent to issuing the first fiscal year July 1 rates, the department shall recalculate the median costs of each peer group based upon the most recent adjusted nursing services cost report information in departmental records as of October 31 of the first fiscal year of each biennium. For any facility which would have received a higher or lower July 1 rate for the first fiscal year in nursing services based upon the recalculation of that facility's peer group median costs, the department shall reissue that facility's nursing services rate reflecting the recalculation, retroactive to July 1 of the first fiscal year.

(12) For both the initial calculation of peer group median costs and the recalculation based on adjusted nursing services cost information as of October 31 of the first fiscal year of the biennium, the department shall use adjusted information regardless of whether the adjustments may be contested or the subject of pending administrative or judicial review. Median costs shall not be adjusted to reflect subsequent administrative or judicial rulings, whether final or not.

(13) Neither the per patient day peer group median plus twenty-five percent limit for nursing services cost nor the test for nursing staff hours authorized in this section shall apply to the pilot facility designated to meet the needs of persons living with AIDS as defined by RCW 70.24.017 and specifically authorized for this purpose under the 1989 amendment to the Washington state health plan. The AIDS pilot facility shall be the only facility exempt from these limits.

(14) Beginning with July 1, 1994 prospective rates, a nursing facility's rate in nursing services for the second fiscal year of each biennium shall be that facility's nursing services rate as of July 1 of the first year of the same biennium reduced or increased utilizing the HCFA Index as authorized by WAC 388-96-719.

(15) The alternating procedures prescribed in this section and in WAC 388-96-719 for a nursing facility's two July 1 nursing services rates occurring within each biennium shall be followed in the same order for each succeeding biennium.

[Statutory Authority: RCW 74.46.800 and 74.09.120. 93-19-074 (Order 3634), § 388-96-722, filed 9/14/93, effective 10/15/93. Statutory Authority: RCW 74.46.800. 92-16-013 (Order 3424), § 388-96-722, filed 7/23/92, effective 8/23/92. Statutory Authority: RCW 74.09.180 and 74.46.800. 91-22-025 (Order 3270), § 388-96-722, filed 10/29/91, effective 11/29/91. Statutory Authority: RCW 74.46.800 and 74.09.120. 91-12-026 (Order 3185), § 388-96-722, filed 5/31/91, effective 7/1/91. Statutory Authority: RCW 74.09.180 and 74.46.800. 89-01-095 (Order 2742), § 388-96-722, filed 12/21/88. Statutory Authority: 1987 c 476. 88-01-126 (Order 2573), § 388-96-722, filed 12/23/87. Statutory Authority: RCW 74.46.800. 87-09-058 (Order 2485), § 388-96-722, filed 4/20/87; 86-10-055 (Order 2372), § 388-96-722, filed 5/7/86, effective 7/1/86. Statutory Authority: RCW 74.09.120, 74.46.840 and 74.46.800. 85-17-052 (Order 2270), § 388-96-722, filed 8/19/85. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-722, filed 9/16/83; 82-11-065 and 82-13-050 (Orders 1808 and 1808A), § 388-96-722, filed 5/14/82 and 6/14/82; 81-15-049 (Order 1669), § 388-96-722, filed 7/15/81; 81-06-024 (Order 1613), § 388-96-722, filed 2/25/81; 80-06-122 (Order 1510), § 388-96-722, filed 5/30/80, effective 7/1/80; 79-12-085 (Order 1461), § 388-96-722, filed 11/30/79. Statutory Authority: RCW 18.51.310 and 74.09.120. 78-11-013 (Order 1349), § 388-96-722, filed 10/9/78. Statutory Authority: RCW

74.08.090 and 74.09.120. 78-06-080 (Order 1300), § 388-96-722, filed 6/1/78. Statutory Authority: RCW 74.09.120. 78-02-013 (Order 1264), § 388-96-722, filed 1/9/78.]

WAC 388-96-727 Food cost area rate. (1) The food cost center shall include for cost reporting purposes all costs of bulk and raw food and beverages purchased for the dietary needs of the nursing facility residents.

(2) Once every two years, when the rates are set at the beginning of each new biennium, starting with July 1, 1993 prospective rate setting, the department shall determine peer group median cost plus limits for the food cost center in accordance with this section.

(a) The department shall divide into two peer groups nursing facilities located in the state of Washington providing services to Medicaid residents. These two peer groups shall be:

(i) Those nursing facilities located within a Metropolitan Statistical Area (MSA) as defined and determined by the United States Office of Management and Budget or other applicable federal office (MSA facilities); and

(ii) Those not located within such an area (Non-MSA facilities).

(b) Prior to any adjustment for economic trends and conditions under WAC 388-96-719, the facilities in each peer group shall be arrayed from lowest to highest by magnitude of per patient day adjusted food cost from the prior cost report year, regardless of whether any such adjustments are contested by the nursing facility. All available cost reports from the prior cost report year having at least six months of cost report data shall be used, including all closing cost reports covering at least six months. Costs current-funded by means of rate adjustments, granted under the authority of WAC 388-96-774 and commencing in the prior cost report year, shall be included in costs arrayed; however, costs current-funded by rate adjustments commencing January 1 through June 30 following the prior cost report year shall be excluded from costs arrayed.

(c) The median or fiftieth percentile nursing facility food cost for each peer group shall then be determined. In the event there are an even number of facilities within a peer group, the adjusted food cost of the lowest cost facility in the upper half shall be used as the median cost for that peer group. Facilities at the fiftieth percentile in each peer group and those immediately above and below it shall be subject to field audit in the food cost area prior to issuing new July 1 rates.

(3) Except as may be otherwise specifically provided in this section, beginning with July 1, 1993 prospective rates, food component rates for facilities within each peer group shall be set for the first fiscal year of each state biennium at the lower of:

(a) The facility's adjusted per patient day food cost from the most recent prior report period, reduced or increased by the change in the IPD Index as authorized by WAC 388-96-719; or

(b) The median nursing facility food cost for the facility's peer group plus twenty-five percent of that cost, reduced or increased by the change in the IPD Index as authorized by WAC 388-96-719.

(4) Adjustments previously made to current fund food costs, pursuant to WAC 388-96-774 and commencing in the

prior cost report year, shall be reflected in first fiscal year prospective rates only by their inclusion in the costs arrayed and no facility shall receive, based upon any calculation or consideration of any such prior report year adjustment, a July 1 food rate higher than that provided in subsection (3) of this section.

(5) For July 1, 1993 rate setting only, food rate adjustments, granted under authority of WAC 388-96-774 and commencing from January 1, 1993 through June 30, 1993, shall be added to a facility's food rate established under subsection (3) of this section. For all rate setting beginning July 1, 1995 and following, such rate increases to reflect food rate adjustments, granted under authority of WAC 388-96-774 and commencing from January 1 through June 30 preceding the start of the biennium, shall be added to a nursing facility's rate in food, but only up to the facility's peer group median cost plus twenty-five percent limit.

(6) Subsequent to issuing the first fiscal year July 1 rates, the department shall recalculate the median costs of each peer group based upon the most recent adjusted food cost report information in departmental records as of October 31 of the first fiscal year of each biennium. For any facility which would have received a higher or lower July 1 rate for the first fiscal year in food based upon the recalculation of that facility's peer group median costs, the department shall reissue that facility's food rate reflecting the recalculation, retroactive to July 1 of the first fiscal year.

(7) For both the initial calculation of peer group median costs and the recalculation based on adjusted nursing services cost information as of October 31 of the first fiscal year of the biennium, the department shall use adjusted information regardless of whether the adjustments may be contested or the subject of pending administrative or judicial review. Median costs shall not be adjusted to reflect subsequent administrative or judicial rulings, whether final or not.

(8) Beginning with July 1, 1994 prospective rates, a nursing facility's rate in food for the second fiscal year of each biennium shall be that facility's food rate as of July 1 of the first year of the same biennium reduced or increased utilizing the HCFA Index as authorized by WAC 388-96-719.

(9) The alternating procedures prescribed in this section and in WAC 388-96-719 for a nursing facility's two July 1 food rates occurring within each biennium shall be followed in the same order for each succeeding biennium.

[Statutory Authority: RCW 74.46.800 and 74.09.120. 93-19-074 (Order 3634), § 388-96-727, filed 9/14/93, effective 10/15/93. Statutory Authority: RCW 74.09.120. 83-19-047 (Order 2025), § 388-96-727, filed 9/16/83; 81-15-049 (Order 1669), § 388-96-727, filed 7/15/81; 79-12-085 (Order 1461), § 388-96-727, filed 11/30/79; 78-02-013 (Order 1264), § 388-96-727, filed 1/9/78.]

WAC 388-96-735 Administrative cost area rate. (1)

The administrative cost center shall include for cost reporting purposes all administrative, oversight, and management costs, whether incurred at the facility or allocated in accordance with a department-approved joint cost allocation methodology. Such costs shall be identical to the cost report line items categorized on the 1992 calendar year report under "general and administrative" within the administration and operations (A&O) combined cost center existing for report-

ing purposes prior to January 1, 1993, with the exception of nursing supplies and purchased and allocated medical records. The department shall issue cost reporting instructions identifying administrative costs for 1993 and following cost report years.

(2) Once every two years, when the rates are set at the beginning of each new biennium, starting with July 1, 1993 prospective rate setting, the department shall determine peer group median cost plus limits for the administrative cost center in accordance with this section.

(a) The department shall divide into two peer groups nursing facilities located in the state of Washington providing services to Medicaid residents. These two peer groups shall be:

(i) Those nursing facilities located within a Metropolitan Statistical Area (MSA) as defined and determined by the United States Office of Management and Budget or other applicable federal office (MSA facilities); and

(ii) Those not located within such an area (Non-MSA facilities).

(b) Prior to any adjustment for economic trends and conditions under WAC 388-96-719, the facilities in each peer group shall be arrayed from lowest to highest by magnitude of per patient day adjusted administrative cost from the prior cost report year, excluding the costs of nursing supplies and purchased and allocated medical records, regardless of whether any such adjustments are contested by the nursing facility. All available cost reports from the prior cost report year having at least six months of cost report data shall be used, including all closing cost reports covering at least six months. Costs current-funded by means of rate adjustments, granted under the authority of WAC 388-96-774 and commencing in the prior cost report year, shall be included in costs arrayed; however, costs current-funded by rate adjustments commencing January 1 through June 30 following the prior cost report year shall be excluded from costs arrayed.

(c) The median or fiftieth percentile nursing facility administrative cost for each peer group shall then be determined. In the event there are an even number of facilities within a peer group, the adjusted administrative cost of the lowest cost facility in the upper half shall be used as the median cost for that peer group. Facilities at the fiftieth percentile in each peer group and those immediately above and below it shall be subject to field audit in the administrative cost area prior to issuing new July 1 rates.

(3) Except as may be otherwise specifically provided in this section, beginning with July 1, 1993 prospective rates, administrative component rates for facilities within each peer group shall be set for the first fiscal year of each state biennium at the lower of:

(a) The facility's adjusted per patient day administrative cost from the most recent prior report period, reduced or increased by the change in the IPD Index as authorized by WAC 388-96-719; or

(b) The median nursing facility administrative cost for the facility's peer group plus ten percent of that cost, reduced or increased by the change in the IPD Index as authorized by WAC 388-96-719.

(4) Adjustments previously made to current fund administrative costs, pursuant to WAC 388-96-774 and commencing in the prior cost report year, shall be reflected

in first fiscal year prospective rates only by their inclusion in the costs arrayed and no facility shall receive, based upon the calculation or consideration of any such prior report year adjustment, a July 1 administrative rate higher than that provided in subsection (3) of this section.

(5) For July 1, 1993 rate setting only, administrative rate adjustments, granted under authority of WAC 388-96-774 and commencing from January 1, 1993 through June 30, 1993, shall be added to a facility's administrative rate established under subsection (3) of this section. For all rate setting beginning July 1, 1995 and following, such rate increases to reflect administrative rate adjustments, granted under authority of WAC 388-96-774 and commencing from January 1 through June 30 preceding the start of the biennium, shall be added to a facility's administrative rate, but only up to the facility's peer group median cost plus ten percent limit.

(6) Subsequent to issuing the first fiscal year July 1 rates, the department shall recalculate the median costs of each peer group based upon the most recent adjusted administrative cost report information in departmental records as of October 31 of the first fiscal year of each biennium. For any facility which would have received a higher or lower July 1 administrative rate for the first fiscal year based upon the recalculation of that facility's peer group median costs, the department shall reissue that facility's administrative rate reflecting the recalculation, retroactive to July 1 of the first fiscal year.

(7) For both the initial calculation of peer group median costs and the recalculation based on adjusted administrative cost information as of October 31 of the first fiscal year of the biennium, the department shall use adjusted information regardless of whether the adjustments may be contested or the subject of pending administrative or judicial review. Median costs shall not be adjusted to reflect subsequent administrative or judicial rulings, whether final or not.

(8) Beginning with July 1, 1994 prospective rates, a nursing facility's administrative rate for the second fiscal year of each biennium shall be that facility's administrative rate as of July 1 of the first year of the same biennium reduced or increased utilizing the HCFA Index as authorized by WAC 388-96-719.

(9) The alternating procedures prescribed in this section and in WAC 388-96-719 for a nursing facility's two July 1 administrative rates occurring within each biennium shall be followed in the same order for each succeeding biennium.

[Statutory Authority: RCW 74.46.800 and 74.09.120. 93-19-074 (Order 3634), § 388-96-735, filed 9/14/93, effective 10/15/93. Statutory Authority: RCW 74.09.120. 84-24-050 (Order 2172), § 388-96-735, filed 12/4/84; 83-19-047 (Order 2025), § 388-96-735, filed 9/16/83; 82-11-065 (Order 1808), § 388-96-735, filed 5/14/82; 81-15-049 (Order 1669), § 388-96-735, filed 7/15/81; 80-06-122 (Order 1510), § 388-96-735, filed 5/30/80, effective 7/1/80; 79-12-085 (Order 1461), § 388-96-735, filed 11/30/79; 78-02-013 (Order 1264), § 388-96-735, filed 1/9/78.]

WAC 388-96-737 Operational cost area rate. (1)

The operational cost center shall include for cost reporting purposes all allowable costs having a direct relationship to the daily operation of the nursing facility (but not including nursing services and related care, food, administrative, or property costs), whether such operating costs are incurred at

the facility or are allocated in accordance with a department-approved joint cost allocation methodology.

(2) Once every two years, when the rates are set at the beginning of each new biennium, starting with July 1, 1993 prospective rate setting, the department shall determine peer group median cost plus limits for the operational cost center in accordance with this section.

(a) The department shall divide into two peer groups nursing facilities located in the state of Washington providing services to Medicaid residents. These two peer groups shall be:

(i) Those nursing facilities located within a metropolitan statistical area (MSA) as defined and determined by the United States Office of Management and Budget or other applicable federal office (MSA facilities); and

(ii) Those not located within such an area (Non-MSA facilities).

(b) Prior to any adjustment for economic trends and conditions under WAC 388-96-719, the facilities in each peer group shall be arrayed from lowest to highest by magnitude of per patient day adjusted operational cost from the prior cost report year, regardless of whether any such adjustments are contested by the nursing facility. All available cost reports from the prior cost report year having at least six months of cost report data shall be used, including all closing cost reports covering at least six months. Costs current-funded by means of rate adjustments, granted under the authority of WAC 388-96-774 and commencing in the prior cost report year, shall be included in costs arrayed; however, costs current-funded by rate adjustments commencing January 1 through June 30 following the prior cost report year shall be excluded from costs arrayed.

(c) The median or fiftieth percentile nursing facility operational cost for each peer group shall then be determined. In the event there are an even number of facilities within a peer group, the adjusted operational cost of the lowest cost facility in the upper half shall be used as the median cost for that peer group. Facilities at the fiftieth percentile in each peer group and those immediately above and below it shall be subject to field audit in the operational cost area prior to issuing new July 1 rates.

(3) Except as may be otherwise specifically provided in this section, beginning with July 1, 1993 prospective rates, operational component rates for facilities within each peer group shall be set for the first fiscal year of each state biennium at the lower of:

(a) The facility's adjusted per patient day operational cost from the most recent prior report period, reduced or increased by the change in the IPD Index as authorized by WAC 388-96-719; or

(b) The median nursing facility operational cost for the facility's peer group plus twenty-five percent of that cost, reduced or increased by the change in the IPD Index as authorized by WAC 388-96-719.

(4) Adjustments previously made to current fund operational costs, pursuant to WAC 388-96-774 and commencing in the prior cost report year, shall be reflected in first fiscal year prospective rates only by their inclusion in the costs arrayed and no facility shall receive, based upon the calculation or consideration of any such prior report year

adjustment, a July 1 operational rate higher than that provided in subsection (3) of this section.

(5) For July 1, 1993 rate setting only, operational rate adjustments, granted under authority of WAC 388-96-774 and commencing January 1, 1993 through June 30, 1993, shall be added to a facility's operational rate established under subsection (3) of this section. For all rate setting beginning July 1, 1995 and following, such rate increases to reflect operational rate adjustments, granted under authority of WAC 388-96-774 and commencing from January 1 through June 30 preceding the start of the biennium, shall be added to a facility's operational rate, but only up to the facility's peer group median cost plus twenty-five percent limit.

(6) Subsequent to issuing the first fiscal year July 1 rates, the department shall recalculate the median costs of each peer group based upon the most recent adjusted operational cost report information in departmental records as of October 31 of the first fiscal year of each biennium. For any facility which would have received a higher or lower July 1 operational rate for the first fiscal year based upon the recalculation of that facility's peer group median costs, the department shall reissue that facility's operational rate reflecting the recalculation, retroactive to July 1 of the first fiscal year.

(7) For both the initial calculation of peer group median costs and the recalculation based on adjusted administrative cost information as of October 31 of the first fiscal year of the biennium, the department shall use adjusted information regardless of whether the adjustments may be contested or the subject of pending administrative or judicial review. Median costs shall not be adjusted to reflect subsequent administrative or judicial rulings, whether final or not.

(8) Beginning with July 1, 1994 prospective rates, a nursing facility's operational rate for the second fiscal year of each biennium shall be that facility's operational rate as of July 1 of the first year of the same biennium reduced or increased utilizing the HCFA Index as authorized by WAC 388-96-719.

(9) The alternating procedures prescribed in this section and in WAC 388-96-719 for a nursing facility's two July 1 operational rates occurring within each biennium shall be followed in the same order for each succeeding biennium.

[Statutory Authority: RCW 74.46.800 and 74.09.120. 93-19-074 (Order 3634), § 388-96-737, filed 9/14/93, effective 10/15/93.]

WAC 388-96-745 Property cost area reimbursement rate. (1) The department shall determine the property cost area rate for each facility annually, to be effective July 1, regardless of whether the July 1 rate is for the first or second year of the biennium, in accordance with this section and any other applicable provisions of this chapter.

(2) The department shall divide the allowable prior period depreciation costs subject to the provisions of this chapter, adjusted for any capitalized addition or replacements approved by the department, plus

(a) The retained savings from the property cost center as provided in WAC 388-96-228, by

(b) Total patient days for the facility in the prior period.

(3) Allowable depreciation costs are defined as the costs of depreciation of tangible assets meeting the criteria

specified in WAC 388-96-557, regardless of whether owned or leased by the contractor. The department shall not reimburse depreciation of leased office equipment.

(4) If a capitalized addition or retirement of an asset will result in a different licensed bed capacity during the ensuing period, the department shall adjust the prior period total patient days used in computing the property cost center rate to anticipated patient day level.

(5) When a facility is constructed, remodeled, or expanded after obtaining a certificate of need, the department shall determine actual and allocated allowable land cost and building construction cost. Reimbursement for such allowable costs, determined pursuant to the provisions of this chapter, shall not exceed the maximums set forth in this subsection and in subsections (4), (5), and (6) of this section. The department shall determine construction class and types through examination of building plans submitted to the department and/or on-site inspections. The department shall use definitions and criteria contained in the *Marshall and Swift Valuation Service* published by the Marshall and Swift Publication Company. Buildings of excellent quality construction shall be considered to be of good quality, without adjustment, for the purpose of applying these maximums.

(6) Construction costs shall be final labor, material, and service costs to the owner or owners and shall include:

(a) Architect's fees;

(b) Engineers' fees (including plans, plan check and building permit, and survey to establish building lines and grades);

(c) Interest on building funds during period of construction and processing fee or service charge;

(d) Sales tax on labor and materials;

(e) Site preparation (including excavation for foundation and backfill);

(f) Utilities from structure to lot line;

(g) Contractors' overhead and profit (including job supervision, workmen's compensation, fire and liability insurance, unemployment insurance, etc.);

(h) Allocations of costs which increase the net book value of the project for purposes of Medicaid reimbursement;

(i) Other items included by the *Marshall and Swift Valuation Service* when deriving the calculator method costs.

(7) The department shall allow such construction costs, at the lower of actual costs or the maximums derived from one of the three tables which follow. The department shall derive the limit from the accompanying table which corresponds to the number of total nursing home beds for the proposed new construction, remodel or expansion. The limit will be the sum of the basic construction cost limit plus the common use area limit which corresponds to the type and class of the new construction, remodel or expansion. The limits calculated using the tables shall be adjusted forward from September 1990 to the average date of construction, to reflect the change in average construction costs. The department shall base the adjustment on the change shown by relevant cost indexes published by Marshall and Swift Publication Company. The average date of construction shall be the midpoint date between award of the construction contract and completion of construction.

**BASE CONSTRUCTION
COST LIMITS****74 BEDS & UNDER**

| Building Class | Base per Bed Limit | Base Limit |
|----------------|--------------------|------------|
| A-Good | \$50,433 | \$278,847 |
| A-Avg | \$41,141 | \$227,469 |
| B-Good | \$48,421 | \$267,718 |
| B-Avg | \$40,042 | \$221,392 |
| C-Good | \$35,887 | \$198,421 |
| C-Avg | \$27,698 | \$153,143 |
| C-Low | \$21,750 | \$120,258 |
| D-Good | \$33,237 | \$183,765 |
| D-Avg | \$25,716 | \$142,182 |
| D-Low | \$20,298 | \$112,227 |

**BASE CONSTRUCTION
COST LIMITS****75 TO 120 BEDS**

| Building Class | Base Limit | Add per Bed Over 74 | Base Limit | Add per Bed Over 74 |
|----------------|-------------|---------------------|------------|---------------------|
| A-Good | \$3,732,076 | \$48,210 | \$278,847 | \$2,808 |
| A-Avg | \$3,044,442 | \$39,327 | \$227,469 | \$2,291 |
| B-Good | \$3,583,131 | \$46,286 | \$267,718 | \$2,696 |
| B-Avg | \$2,963,112 | \$38,277 | \$221,392 | \$2,230 |
| C-Good | \$2,655,654 | \$34,305 | \$198,421 | \$1,998 |
| C-Avg | \$2,049,668 | \$26,477 | \$153,143 | \$1,542 |
| C-Low | \$1,609,531 | \$20,792 | \$120,258 | \$1,211 |
| D-Good | \$2,459,506 | \$31,771 | \$183,765 | \$1,851 |
| D-Avg | \$1,902,956 | \$24,582 | \$142,182 | \$1,442 |
| D-Low | \$1,502,048 | \$19,403 | \$112,227 | \$1,130 |

**BASE CONSTRUCTION
COST LIMITS****121 BEDS AND OVER**

| Building Class | Base Limit | Add per Bed Over 120 | Base Limit | Add per Bed Over 120 |
|----------------|-------------|----------------------|------------|----------------------|
| A-Good | \$5,949,745 | \$42,359 | \$408,015 | \$2,106 |
| A-Avg | \$4,853,505 | \$34,555 | \$332,855 | \$1,718 |
| B-Good | \$5,712,287 | \$40,669 | \$391,734 | \$2,022 |
| B-Avg | \$4,723,848 | \$30,142 | \$323,972 | \$1,672 |
| C-Good | \$4,233,692 | \$23,264 | \$290,329 | \$1,499 |
| C-Avg | \$3,267,618 | \$18,268 | \$224,092 | \$1,157 |
| C-Low | \$2,565,943 | \$27,916 | \$175,971 | \$ 908 |
| D-Good | \$3,920,989 | \$21,599 | \$268,911 | \$1,388 |
| D-Avg | \$3,033,727 | \$17,048 | \$208,493 | \$1,081 |
| D-Low | \$2,394,592 | \$19,403 | \$164,220 | \$ 848 |

(8) When some or all of a nursing home's common-use areas are situated in a basement, the department shall exclude some or all of the per-bed allowance shown in the attached tables for common-use areas to derive the construction cost lid for the facility. The amount excluded will be equal to the ratio of basement common-use areas to all common-use areas in the facility times the common-use area limit in the table. In lieu of the excluded amount, the department shall add an amount calculated using the calculator method guidelines for basements in nursing homes from the Marshall and Swift Publication.

(9) Subject to provisions regarding allowable land contained in this chapter, allowable costs for land shall be the lesser of:

(a) Actual cost per square foot, including allocations; or

(b) The average per square foot land value of the ten nearest urban or rural nursing facilities at the time of purchase of the land in question. The average land value sample shall reflect either all urban or all rural facilities depending upon the classification of urban or rural for the facility in question. The values used to derive the average shall be the assessed land values which have been calculated for the purpose of county tax assessments.

(10) If allowable costs for construction or land are determined to be less than actual costs pursuant to subsection (3), (4), and (5) of this section, the department may increase the amount if the owner or contractor is able to show unusual or unique circumstances having substantially impacted the costs of construction or land. Actual costs shall be allowed to the extent they resulted from such circumstances up to a maximum of ten percent above levels determined under subsections (3), (4), and (5) of this section for construction or land. An adjustment under this subsection shall be granted only if requested by the contractor. The contractor shall submit documentation of the unusual circumstances and an analysis of their financial impact with the request.

[Statutory Authority: RCW 74.46.800 and 74.09.120. 93-19-074 (Order 3634), § 388-96-745, filed 9/14/93, effective 10/15/93. Statutory Authority: RCW 74.46.800. 92-16-013 (Order 3424), § 388-96-745, filed 7/23/92, effective 8/23/92. Statutory Authority: RCW 79.09.120 [74.09.120] and 74.46.800. 90-09-061 (Order 2970), § 388-96-745, filed 4/17/90, effective 5/18/90. Statutory Authority: 1987 c 476. 88-01-126 (Order 2573), § 388-96-745, filed 12/23/87. Statutory Authority: RCW 74.46.800. 87-09-058 (Order 2485), § 388-96-745, filed 4/20/87. Statutory Authority: RCW 74.09.120. 84-24-050 (Order 2172), § 388-96-745, filed 12/4/84.]

WAC 388-96-754 A contractor's return on investment. (1) The department shall establish for each Medicaid nursing facility a return on investment rate composed of a financing allowance and a variable return allowance. A facility's return on investment (ROI) rate shall be determined annually in accordance with this section, to be effective July 1, regardless of whether the rate is for the first or second fiscal year of the state biennium. No nursing facility's ROI rate, in either the financing allowance or the variable return allowance, shall be established July 1 or revised subsequently to reflect rate adjustments granted in any cost center to current fund costs under the authority of WAC 388-96-774 and commencing after the prior cost report period, except for adjustments to fund capitalized additions or replacements.

(2) The department shall determine the financing allowance by:

(a) Multiplying the net invested funds of each facility by ten percent and dividing by the contractor's total patient days effective for July 1, 1991, and all following rate settings. In computing the allowance for the working capital portion of net invested funds, the department shall include in a contractor's costs from the prior report year used to establish the contractor's component rates in nursing services, food, administrative, operational, and property, all adjustments for economic trends and conditions granted under authority of WAC 388-96-719 and all costs current-funded under authority of WAC 388-96-774 and commencing during such prior report year. Annual patient days taken from the contractor's cost report for the most recent twelve-month cost report period will be used. If the cost report covers less

than twelve months, the department will estimate annual patient days and working capital costs for a full year based upon data in the cost report. If a capitalized addition or retirement of an asset results in a different licensed bed capacity during the ensuing period, the department shall adjust the prior period total patient days used in computing the financing and variable return allowances to anticipated patient day level; and

(b) In computing the portion of net invested funds representing the net book value of tangible fixed assets, the same assets, depreciation bases, lives, and methods referred to in this chapter, including owned and leased assets, shall be used, except the capitalized cost of land upon which a facility is located and other such contiguous land which is reasonable and necessary for use in the regular course of providing patient care shall also be included. As such, subject to provisions contained in this chapter, capitalized cost of leased land, regardless of the type of lease, shall be the lessor's historical capitalized cost. Subject to provisions contained in this chapter, for land purchases before July 18, 1984 (the enactment date of the Deficit Reduction Act of 1984 (DEFRA)), capitalized cost of land shall be the buyer's capitalized cost. For all partial or whole rate periods after July 17, 1984, if the land is purchased on or after July 18, 1984, capitalized cost of land shall be that of the owner of record on July 17, 1984, or buyer's capitalized cost, whichever is lower. In the case of leased facilities where the net invested funds are unknown or the contractor is unable or unwilling to provide necessary information to determine net invested funds, the department may determine an amount to be used for net invested funds based upon an appraisal conducted by the department of general administration per this chapter.

(c) A contractor shall retain that portion of ROI rate payments at settlement representing the contractor's financing allowance only to the extent reported net invested funds, upon which the financing allowance is based, are substantiated by the department.

(3) The department shall determine the variable return allowance according to the following procedure:

(a) Once every two years at the start of each biennium, beginning with July 1, 1993 rate setting, the department shall, without utilizing the MSA and Non-MSA peer groups used to calculate other Medicaid component rates, rank all facilities in numerical order from highest to lowest based upon the combined average per diem allowable costs for the nursing services, food, administrative, and operational cost centers taken from the prior cost report period. The department shall use adjusted costs taken from cost reports having at least six months of data, shall not include adjustments for economic trends and conditions granted under authority of WAC 388-96-719, and shall include costs current-funded under authority of WAC 388-96-774 and commencing in the prior cost report year. In the case of a new contractor, nursing services, food, administrative, and operational cost levels actually used to set the initial rate shall be used for the purpose of ranking the new contractor.

(b) The department shall compute the variable return allowance by multiplying the sum of the nursing services, food, administrative and operational rate components for each nursing facility by the appropriate percentage which shall not be less than one percent nor greater than four

percent. The department shall divide the facilities ranked according to subsection (3)(a) of this section into four groups, from highest to lowest, with an equal number of facilities in each group or nearly equal as is possible. The department shall assign facilities in the highest quarter a percentage of one, in the second highest quarter a percentage of two, in the third highest quarter a percentage of three, and in the lowest quarter a percentage of four. The per patient day variable return allowance in the initial rate of a new contractor shall be the same as that in the rate of the preceding contractor, if any.

(c) The percentages so determined and assigned to each facility for July 1 rate setting for the first fiscal year of each state biennium, shall continue to be assigned without modification for July 1 rate setting for the second fiscal year of each biennium. Neither the break points separating the four groups nor facility ranking shall be adjusted to reflect future rate adjustments granted to contractors for any purpose under WAC 388-96-774, or granted for any other reason in the course of the biennium.

(4) The sum of the financing allowance and the variable return allowance shall be the return on investment [rate] for each facility and shall be added to the prospective rate for each facility.

(5) If a facility is leased by a contractor as of January 1, 1980, in an arm's-length agreement, which continues to be leased under the same lease agreement as defined in this chapter, and for which the annualized lease payment, plus any interest and depreciation expenses of contractor-owned assets, for the period covered by the prospective rates, divided by the contractor's total patient days, minus the property cost center determined according to this chapter, is more than the return on investment allowance determined according to this section, the following shall apply:

(a) The financing allowance shall be recomputed substituting the fair market value of the assets, as of January 1, 1982, determined by department of general administration appraisal less accumulated depreciation on the lessor's assets since January 1, 1982, for the net book value of the assets in determining net invested funds for the facility. Said appraisal shall be final unless shown to be arbitrary and capricious.

(b) The sum of the financing allowance computed under this subsection and the variable return allowance shall be compared to the annualized lease payment, plus any interest and depreciation expenses of contractor-owned assets, for the period covered by the prospective rates, divided by the contractor's total patient days, minus the property cost center rate determined according to this chapter. The lesser of the two amounts shall be called the alternate return on investment allowances.

(c) The return on investment allowance determined in accordance with subsections (1), (2), (3), and (4) of this section or the alternate return on investment allowance, whichever is greater, shall be the return on investment allowance for the facility and shall be added to the prospective rate of the facility.

(d) In the case of a facility leased by the contractor as of January 1, 1980, in an arm's-length agreement, if the lease is renewed or extended pursuant to a provision of the lease agreement existing on January 1, 1980, the treatment provided in subsection (5)(a) of this section shall be applied except that in the case of renewals or extensions made on or

subsequent to April 1, 1985, per a provision of the lease agreement existing on January 1, 1980, reimbursement for the annualized lease payment shall be no greater than the reimbursement for the annualized lease payment for the last year prior to the renewal or extension of the lease.

(6) The information from the two prior reporting periods used to set the two prospective return on investment rates in effect during the settlement year is subject to field audit. If the financing allowances which can be documented and calculated at audit of the prior periods are different than the prospective financing allowances previously determined by desk-reviewed, reported information, and other relevant information, the prospective financing allowances shall be adjusted to the audited level at final settlement of the year the rates were in effect, except the adjustments shall reflect a minimum bed occupancy level of eighty-five percent. Any adjustments to the financing allowances pursuant to this subsection shall be for settlement purposes only. However, the variable return allowances shall be the prospective allowances determined by desk-reviewed, reported information, and other relevant information and shall not be adjusted to reflect prior-period audit findings.

[Statutory Authority: RCW 74.46.800 and 74.09.120. 93-19-074 (Order 3634), § 388-96-754, filed 9/14/93, effective 10/15/93; 91-22-025 (Order 3270), § 388-96-754, filed 10/29/91, effective 11/29/91; 90-09-061 (Order 2970), § 388-96-754, filed 4/17/90, effective 5/18/90. Statutory Authority: RCW 74.09.180 and 74.46.800. 89-01-095 (Order 2742), § 388-96-754, filed 12/21/88. Statutory Authority: RCW 74.46.800. 87-09-058 (Order 2485), § 388-96-754, filed 4/20/87; 86-10-055 (Order 2372), § 388-96-754, filed 5/7/86, effective 7/1/86. Statutory Authority: RCW 74.09.120, 74.46.840 and 74.46.800. 85-17-052 (Order 2270), § 388-96-754, filed 8/19/85. Statutory Authority: RCW 74.09.120. 84-24-050 (Order 2172), § 388-96-754, filed 12/4/84.]

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

WAC 388-96-756 Repealed. See Disposition Table at beginning of this chapter.

WAC 388-96-757 Reimbursement for veterans' homes. (1) Notwithstanding any other provision of this chapter, reimbursement rates for any nursing facility operated by the state of Washington, department of veterans affairs (DVA) shall, for the 1993/1995 biennium (July 1, 1993 through June 30, 1994 rate setting), be established according to the following procedures:

(a) DVA shall submit separately for each facility an opening-year budget utilizing the 1992 cost report form and instructions designed for all Medicaid nursing facilities reimbursed for services under this chapter;

(b) Each facility budget shall be reviewed and adjusted by staff of the department's office of rates management, aging and adult services administration, utilizing rules of allowability for Medicaid costs contained in this chapter;

(c) The total prospective Medicaid rate for each DVA-operated facility to be effective July 1, 1993 (or effective upon the subsequent opening date of each facility), through June 30, 1995, shall be established at the lower of:

(i) Each facility's budgeted costs submitted by DVA, as reviewed and adjusted by department staff; or

(ii) One hundred fifty dollars per patient day in all cost centers combined.

(d) In the event the limit of one hundred fifty dollars at any DVA facility is exceeded by the total budgeted costs remaining after department review of the facility budget, the department will divide the one hundred fifty dollars limited amount among the cost centers in the following priority: nursing services, food, operational, administrative, property and return on investment (ROI).

(e) Once the rates are established and in effect, DVA may seek rate increases at any time during the 1993/1995 biennium to current-fund additional costs exceeding the rates, but only as authorized under the procedures and substantive criteria in WAC 388-96-774 as employed for all Medicaid facilities reimbursed under this chapter.

(f) Any adjustments for economic trends and conditions in any cost center, effective July 1, 1994 for Medicaid contractors under the provisions of this chapter, shall be extended to the DVA facilities as well.

(g) The DVA facilities shall submit annual facility cost reports on department forms, and according to department instructions applicable to all facilities, for 1993 and for 1994, and settlements for each of these years shall be completed for each DVA facility, with final payment being made at the lower of cost or rate, after all allowable cost center shifting, as for all Medicaid facilities reimbursed under this chapter.

(2) For July 1, 1995 rate setting and following, all rate-setting principles applicable to the DVA facilities shall be developed by the department.

[Statutory Authority: RCW 74.46.800 and 74.09.120. 93-19-074 (Order 3634), § 388-96-757, filed 9/14/93, effective 10/15/93.]

WAC 388-96-762 Allowable land. (1) Beginning January 1, 1985, land associated with a nursing facility which is eligible for inclusion in net invested funds shall not exceed two acres for facilities located in a Metropolitan Statistical Area (MSA), as defined and determined by the United States Office of Management and Budget or other applicable federal office, and three acres for nursing facilities located outside such an area.

(2) The department may grant an exception to these limits if a contractor presents documentation deemed adequate by the department establishing a larger area of land is directly related to patient care. Requests for exceptions and any exceptions granted must be in writing.

(3) Requests for exceptions may be granted in the following cases:

(a) The area occupied by the nursing home building exceeds the allowable land area specified in subsection (1) of this section;

(b) The land is used directly in the provision of patient care;

(c) The land is maintained;

(d) The land is not subdivided or eligible for subdivision;

(e) The land is zoned for nursing home or similar use; or

(f) Other reasons exist which are deemed sufficient by the department.

[Statutory Authority: RCW 74.46.800 and 74.09.120. 93-19-074 (Order 3634), § 388-96-762, filed 9/14/93, effective 10/15/93. Statutory Authority: RCW 74.46.800. 84-12-039 (Order 2105), § 388-96-762, filed 5/30/84.]

WAC 388-96-764 Activities assistants. Costs associated with the employment of activities assistants working under the direction of a qualified activities specialist are allowable in the nursing services cost center subject to any applicable cost center limit contained in this chapter.

[Statutory Authority: RCW 74.46.800 and 74.09.120. 93-19-074 (Order 3634), § 388-96-764, filed 9/14/93, effective 10/15/93. Statutory Authority: RCW 74.46.800. 84-12-039 (Order 2105), § 388-96-764, filed 5/30/84.]

WAC 388-96-765 Ancillary care. Beginning July 1, 1984, costs of providing ancillary care are allowable, subject to any applicable cost center limit contained in this chapter, provided documentation establishes the costs were incurred for medical care recipients and other sources of payment to which patients may be legally entitled, such as private insurance or Medicare, were first fully utilized.

[Statutory Authority: RCW 74.46.800 and 74.09.120. 93-19-074 (Order 3634), § 388-96-765, filed 9/14/93, effective 10/15/93. Statutory Authority: RCW 74.46.800. 84-12-039 (Order 2105), § 388-96-765, filed 5/30/84.]

WAC 388-96-768 Minimum wage. (1) Effective January 1, 1988, contractors shall adjust and maintain wages for all employees to conform to no less than the minimum hourly wage established by the legislature. This wage is four dollars and seventy-six cents an hour beginning January 1, 1988, and five dollars and fifteen cents an hour beginning January 1, 1989.

(2) Minimum wage requirements set forth in this section shall not apply to an employee who:

- (a) The department of labor and industries determines is entitled to payments for temporary and total disability; and
- (b) A physician authorizes to return to available work other than the employee's usual work.

(3) The employee shall be paid the minimum wage or more when resuming usual work.

[Statutory Authority: RCW 74.46.800 and 74.09.120. 93-19-074 (Order 3634), § 388-96-768, filed 9/14/93, effective 10/15/93; 90-09-061 (Order 2970), § 388-96-768, filed 4/17/90, effective 5/18/90. Statutory Authority: 1987 c 476. 88-01-126 (Order 2573), § 388-96-768, filed 12/23/87.]

WAC 388-96-774 Prospective rate revisions. (1) The department shall determine each contractor's reimbursement rates prospectively at least once each calendar year, to be effective July 1st. The department shall determine all prospective reimbursement rates for 1984 and thereafter using the prior year's desk-reviewed cost reports. Prospective rates shall be maximum payment rates for contractors for the periods to which they apply.

(a) The department may grant revisions for:

- (i) Inflation only as authorized under WAC 388-96-719(3); and
- (ii) Other revisions for cost increases only as authorized in this section.

(b) The department shall not grant and the contractor shall not use rate adjustments for:

- (i) Wage increases for existing, newly hired or promoted staff except as authorized in WAC 388-96-756; and

(ii) The use of temporary employment services providing direct patient care.

(c) The department shall not grant a rate adjustment to a cost center if that cost center is at or above the median cost for the facility's peer group plus the applicable percentage, reduced or increased under WAC 388-96-719.

(2) The department shall adjust rates for any capitalized additions or replacements made as a condition for licensure or certification.

(3) The department may adjust rates for any of the following:

(a) Variations in the distribution of patient classifications or changes in patient characteristics from:

- (i) The prior reporting year; or
- (ii) Those used to set the rate for a new contractor; or
- (iii) Corresponding to the nursing staff funded for a new contractor.

(b) Program changes required by the department as evidenced by a written directive from the director of nursing home services, aging and adult services administration; and

(c) Changes in staffing levels at a facility required by the department as evidenced by a written directive from the director of nursing home services, aging and adult services administration.

(4) Contractors requesting an adjustment shall submit a written request to the department separate from all other requests and inquires [inquiries] of the department, e.g. [e.g.], WAC 388-96-904 (1) and (5). The written request shall include the following:

- (a) A financial analysis showing:
 - (i) The increased cost; and
 - (ii) An estimate of the rate increase, computed according to allowable methods, necessary to fund the cost.
- (b) A written justification for granting the rate increase; and

(c) A certification and supporting documentation showing the changes in staffing have commenced, or other commenced or completed improvements.

(5) Contractors receiving prospective rate increases per this section shall submit quarterly reports. The quarterly reports shall cover the first day the rate increase is effective and show how the additional rate funds and hours were utilized. If the funds and/or hours were not utilized for the changes and/or improvements approved by the department in granting the adjustment, they shall be subject to immediate recovery by the department.

(6) A contractor requesting an adjustment pursuant to subsection (3)(a) of this section shall submit a written plan specifying:

- (a) Additional staff to be added;
- (b) Changes in all patient characteristics requiring the additional staff; and

(c) The predicted improvements in patient care services which will result. The department shall respond to such requests within sixty days following the receipt of a properly completed request.

(7) In reviewing a request made under subsection (3) of this section, the department shall consider one or more of the following:

- (a) Whether additional staff requested by a contractor is necessary to meet patient care needs;

(b) Comparisons of staffing patterns of nursing facilities from either the latest statewide metropolitan statistical area (MSA) peer group or non-MSA peer group to which the nursing facility belongs and calculated on a per patient day basis. The department shall use the latest MSA and non-MSA received from the office of management and budget or the appropriate federal agency;

(c) The physical layout of the facility;

(d) Nursing service planning and management for maximum efficiency;

(e) Historic trends in underspending of a facility's nursing services component rate;

(f) Numbers, positions, and scheduling of existing staff;

(g) Increases in acuity (debility) levels of contractors' residents;

(h) Survey, inspection of care, and department consultation results; and

(i) The facility's ability to fund its staffing request through the facility's existing total Medicaid reimbursement rate.

(8) If a request made under subsection (3) of this section is approved by the department, the cost of funding the additional staff may be reduced for rate revision purposes by amounts shifted out of nursing services in 1986 or 1987, as reflected in the preliminary or final settlement reports for 1986 and 1987.

(9) The department may also adjust rates to cover costs associated with placing a nursing home in receivership for costs not covered by the rate of the former contractor, including:

(a) Compensation of the receiver;

(b) Reasonable expenses of receivership and transition of control; and

(c) Costs incurred by the receiver in carrying out court instructions or rectifying deficiencies found.

(10) The department shall not grant a rate adjustment effective earlier than sixty days prior to receipt of the written request for such adjustment accompanied by all related documentation and information required by this section.

[Statutory Authority: RCW 74.46.800. 93-17-033 (Order 3615), § 388-96-774, filed 8/11/93, effective 9/11/93. Statutory Authority: RCW 74.46.800, 74.46.450 and 74.09.120. 93-12-051 (Order 3555), § 388-96-774, filed 5/26/93, effective 6/26/93. Statutory Authority: RCW 74.09.120 and 74.46.800. 90-09-061 (Order 2970), § 388-96-774, filed 4/17/90, effective 5/18/90. Statutory Authority: RCW 74.09.180 and 74.46.800. 89-01-095 (Order 2742), § 388-96-774, filed 12/21/88. Statutory Authority: 1987 c 476. 88-01-126 (Order 2573), § 388-96-774, filed 12/23/87. Statutory Authority: RCW 74.46.800. 87-09-058 (Order 2485), § 388-96-774, filed 4/20/87. Statutory Authority: RCW 74.09.120, 74.46.840 and 74.46.800. 85-17-052 (Order 2270), § 388-96-774, filed 8/19/85.]

WAC 388-96-775 Repealed. See Disposition Table at beginning of this chapter.

Chapter 388-99 WAC

LIMITED CASUALTY PROGRAM—MEDICALLY NEEDY

WAC

| | |
|------------|--|
| 388-99-010 | Persons eligible for medically needy assistance. |
| 388-99-011 | Continuation of eligibility for pregnant women. |
| 388-99-020 | Eligibility determination—Medically needy in own home. |

| | |
|------------|---|
| 388-99-030 | Allocation of excess income—Spendedown. |
| 388-99-035 | Resource standards. |
| 388-99-055 | Base period. |
| 388-99-060 | Scope of care for medically needy. |

WAC 388-99-010 Persons eligible for medically needy assistance. The department shall determine as medically needy a resident of the state of Washington who meets the income and resource levels in WAC 388-99-020 and 388-99-035 and is:

(1) Categorically needy as defined under WAC 388-82-010 but for income and/or resources; or

(2) The aged, blind, or disabled ineligible spouse of an SSI beneficiary; or

(3) A child under nineteen years of age as defined under WAC 388-83-033(1) but for income and resources; or

(4) A pregnant woman who the department considers categorically needy but for income and resource requirements. For the purposes of this subsection, the department shall increase the number in the household by the number of unborns before comparing the pregnant woman's:

(a) Income to the medically needy income level in WAC 388-99-020; and

(b) Resources to the resource level in WAC 388-99-035.

(5) Not an inmate of a public institution.

[Statutory Authority: RCW 74.08.090 and CFR 435.712 and 435.724. 93-06-037 (Order 3516), § 388-99-010, filed 2/24/93, effective 3/27/93. Statutory Authority: RCW 74.08.090. 90-24-027 (Order 3105), § 388-99-010, filed 11/30/90, effective 1/1/91; 90-04-033 (Order 2938), § 388-99-010, filed 1/31/90, effective 3/3/90; 88-23-023 (Order 2722), § 388-99-010, filed 11/7/88; 88-09-037 (Order 2620), § 388-99-010, filed 4/15/88; 86-11-025 (Order 2378), § 388-99-010, filed 5/14/86; 86-08-005 (Order 2351), § 388-99-010, filed 3/20/86; 85-17-036 (Order 2269), § 388-99-010, filed 8/15/85; 85-07-049 (Order 2218), § 388-99-010, filed 3/20/85; 85-03-070 (Order 2191), § 388-99-010, filed 1/17/85; 82-01-001 (Order 1725), § 388-99-010, filed 12/3/81; 81-16-032 (Order 1684), § 388-99-010, filed 7/29/81.]

WAC 388-99-011 Continuation of eligibility for pregnant women. The department shall continue Medicaid eligibility for a pregnant woman as described under WAC 388-83-031.

[Statutory Authority: RCW 74.08.090. 93-17-035 (Order 3617), § 388-99-011, filed 8/11/93, effective 9/11/93; 88-23-023 (Order 2722), § 388-99-011, filed 11/7/88; 86-21-002 (Order 2430), § 388-99-011, filed 10/2/86.]

WAC 388-99-020 Eligibility determination—Medically needy in own home. (1) Effective January 1, 1993, the department shall set the medically needy income level (MNIL) at:

| | |
|---------------------------|---------|
| (a) One person | \$ 467 |
| (b) Two persons | \$ 592 |
| (c) Three persons | \$ 667 |
| (d) Four persons | \$ 742 |
| (e) Five persons | \$ 858 |
| (f) Six persons | \$ 975 |
| (g) Seven persons | \$1,125 |
| (h) Eight persons | \$1,242 |
| (i) Nine persons | \$1,358 |
| (j) Ten persons and above | \$1,483 |

(2) The department shall compute countable income by deducting, from gross income, amounts that would be deducted in determining:

(a) AFDC eligibility for families and children. The department shall not apply the earned income exemption of thirty dollars plus one-third of the remainder for persons applying solely for medical assistance except as described under WAC 388-83-130 (1); and

(b) SSI/SSP eligibility for aged, blind, or disabled persons.

(3) The department shall allow the following income exemptions:

(a) Health insurance premiums, except Medicare, the person expects to pay during the base period;

(b) An amount equal to the maintenance needs of an ineligible or nonapplying spouse of an SSI-related client not to exceed the one-person medically needy income level;

(c) A child's allowance up to one-half of the federal benefit rate (FBR) for each SSI-ineligible child of an SSI-related client;

(d) Child care payment amounts allowed as if the person was a FIP enrollee; and

(e) When the spouse of a client applying for medically needy receives a home-based and community-based waived service program, the department shall allow the medically needy client an income exemption equal to the one-person MNIL minus the income of the institutionalized spouse.

(4) If countable income is equal to or less than the appropriate MNIL, the department shall certify the family or person eligible.

(5) When countable income for any month of the base period is less than the appropriate MNIL but above the CNIL, the department shall deduct the difference between the countable income and the MNIL from the total excess countable income for the base period.

(6) When countable income is greater than the appropriate MNIL, the department shall require the applicant to spenddown the excess countable income for the base period. The department shall determine the base period under WAC 388-99-055.

(7) The department shall consider the income and resources of the spouse or of the parent of a child under nineteen years of age:

(a) In the same household, available to the client, whether or not actually contributed, unless the exception in subsection (7)(c) of this section is met;

(b) Not in the same household, only to the extent the income and/or resources are contributed; and

(c) Under WAC 388-83-046, when the family unit includes a child with income or resources, unmarried parents with a child in common, or a nonresponsible caretaker relative.

(8) The department shall consider the financial responsibility of relatives for aged, blind, and disabled, under WAC 388-92-025 and 388-92-027.

(9) In mixed households, where more than one assistance unit exists, the department shall determine income for the:

(a) AFDC-related assistance unit according to subsections (2)(a) and (3) of this section;

(b) SSI-related assistance unit according to subsections (2)(b) and (3) of this section.

[Statutory Authority: RCW 74.08.090 and Sneece vs. Kizer, 9th Circuit Court decision, United States Court of Appeals D.C. #CV-89-1932-TEH. 93-19-037 (Order 3630), § 388-99-020, filed 9/8/93, effective 10/9/93.]

Statutory Authority: RCW 74.08.090 and 1902(r) of the Social Security Act. 93-07-028 (Order 3522), § 388-99-020, filed 3/10/93, effective 4/10/93. Statutory Authority: RCW 74.08.090. 92-20-118 (Order 3467), § 388-99-020, filed 10/7/92, effective 11/7/92; 91-07-011 (Order 3150), § 388-99-020, filed 3/11/91, effective 4/11/91; 90-06-034 (Order 2946), § 388-99-020, filed 3/1/90, effective 4/1/90; 89-05-029 (Order 2758), § 388-99-020, filed 2/13/89; 88-23-081 (Order 2727), § 388-99-020, filed 11/18/88. Statutory Authority: 1987 1st ex.s. c 7. 88-05-056 (Order 2599), § 388-99-020, filed 2/17/88. Statutory Authority: RCW 74.08.090. 87-17-043 (Order 2522), § 388-99-020, filed 8/17/87; 87-06-006 (Order 2473), § 388-99-020, filed 2/19/87; 86-07-003 (Order 2346), § 388-99-020, filed 3/6/86; 85-16-047 (Order 2263), § 388-99-020, filed 7/31/85; 85-05-016 (Order 2206), § 388-99-020, filed 2/13/85; 84-17-013 (Order 2133), § 388-99-020, filed 8/3/84; 84-05-039 (Order 2075), § 388-99-020, filed 2/17/84; 83-17-094 (Order 2006), § 388-99-020, filed 8/23/83; 83-01-058 (Order 1925), § 388-99-020, filed 12/15/82; 82-17-072 (Order 1868), § 388-99-020, filed 8/18/82; 82-10-062 (Order 1801), § 388-99-020, filed 5/5/82; 82-01-001 (Order 1725), § 388-99-020, filed 12/3/81; 81-16-032 (Order 1684), § 388-99-020, filed 7/29/81.]

WAC 388-99-030 Allocation of excess income—Spenddown. (1) On initial or subsequent applications, the department shall deduct previously incurred medical expenses from the client's excess countable income subject to the following restrictions:

(a) The medical expense shall be a current liability:

(i) Of the client or other family member who is legally or blood related and living in the same household; or

(ii) Subject to payment during or after the base period, by a public program as defined under subsection (2) of this section.

(b) The medical expense shall not have been used at any other time to reduce excess countable income on a medical application which resulted in eligibility;

(c) The department shall not consider the portion of the medical expense paid or covered by a third-party resource toward spenddown.

(i) The department shall disregard the possible payment by a third party as a resource and allow the entire expense for spenddown when a third party fails to send either payment or notice of the portion of a medical services bill covered within forty-five days of the date of service or thirty days from the last day of the base period, whichever is sooner.

(ii) When Medicare is the only insurance available the department shall allow the Medicare deductible towards the spenddown when the client:

(A) Still owes the bill; and

(B) Is hospitalized for the first time in a sixty-day period.

(d) The department shall consider toward spenddown a medical expense incurred and paid during the base period:

(i) By the client; or

(ii) Subject to payment by a public program as defined under subsection (2) of this section.

(e) The department shall consider only medical services provided by practitioners recognized under state law.

(2) For the purposes of this section, a public program is one administered and funded, except for deductibles and co-insurance amounts, by a state, county, city, or territory. Funding for a public program shall be:

(a) From a source other than federally matched or funded; and

(b) Appropriated by a state, county, city, or territory; or

(c) Transferred from a state, county, city, or territory to the administering agency.

(3) If the incurred medical bills equal or exceed the excess countable income at the time of application, the department shall certify the client's eligibility.

(4) If the incurred medical bills are less than the excess countable income, the department shall not approve the application and shall require the client to spenddown the remaining excess countable income. The department shall certify the client eligible only when excess countable income has been completely spent down. The department shall deduct medical expenses incurred during the spenddown period in the following order:

(a) Medicare and other health insurance premiums, deductibles, coinsurance charges, enrollment fees, or copayments;

(b) Expenses for necessary medical and remedial care not covered by the limited casualty program and provided by a practitioner recognized under state law;

(c) Expenses for necessary medical and remedial care covered by the limited casualty program which a public program as defined under subsection (2) of this section, has paid;

(d) Inpatient or outpatient hospital expenses for necessary medical and remedial care covered by the limited casualty program, but remaining a client's liability; and

(e) Expenses for necessary medical and remedial care other than inpatient or outpatient hospital expenses covered by the limited casualty program.

(5) The client shall provide the department with documentation of incurred medical expenses within thirty days of the end of the base period. Once the client's medical eligibility is approved, the department shall not consider expenses either not listed or omitted by the applicant. The client may use such expenses to reduce excess countable income on a subsequent application, provided:

(a) The expenses incurred before the certification date meet the conditions in subsection (1) of this section; and

(b) Medical care or supplies received and paid for, on or after the certification date and before receiving medical coupons, meet the conditions in subsections (1)(b), (c), (d), and (e) of this section.

(6) The client is liable for any expenses incurred before the first day of eligibility.

[Statutory Authority: RCW 74.08.090. 93-19-137 (Order 3640), § 388-99-030, filed 9/22/93, effective 10/23/93. Statutory Authority: RCW 74.08.090 and Omnibus Budget Reconciliation Act 4118(h). 92-07-027 (Order 3335), § 388-99-030, filed 3/10/92, effective 4/10/92. Statutory Authority: RCW 74.08.090. 90-04-034 (Order 2929), § 388-99-030, filed 1/31/90, effective 3/3/90; 89-11-057 (Order 2798), § 388-99-030, filed 5/17/89; 88-24-025 (Order 2735), § 388-99-030, filed 12/2/88; 86-17-022 (Order 2409), § 388-99-030, filed 8/12/86; 85-05-016 (Order 2206), § 388-99-030, filed 2/13/85; 84-07-017 (Order 2083), § 388-99-030, filed 3/14/84; 82-01-001 (Order 1725), § 388-99-030, filed 12/3/81; 81-16-032 (Order 1684), § 388-99-030, filed 7/29/81.]

WAC 388-99-035 Resource standards. (1) The department shall ensure the total value of resources allowed and not otherwise excluded will not exceed the dollar amount in:

- (a) Subsection (2)(a) of this section for a single person; or
- (b) Subsection (2)(b) of this section for a family.

(2) The department shall determine the resource limitation for a:

(a) Single person will be two thousand dollars; and

(b) Married couple will be three thousand dollars. The department shall increase this amount by fifty dollars for each additional family member in the household.

(3) For regulations on transfer of resources:

(a) For a client who is not institutionalized, see WAC 388-83-130; or

(b) For an institutionalized client, see WAC 388-95-395.

[Statutory Authority: RCW 74.08.090 and OBRA 1993. 93-23-032 (Order 3664), § 388-99-035, filed 11/10/93, effective 12/11/93. Statutory Authority: RCW 74.08.090. 92-22-049 (Order 3472), § 388-99-035, filed 10/28/92, effective 11/28/92; 85-03-072 (Order 2194), § 388-99-035, filed 1/17/85; 83-13-071 (Order 1972), § 388-99-035, filed 6/16/83; 82-10-062 (Order 1801) and 82-11-034 (Order 1809), § 388-99-035, filed 5/5/82 and 5/11/82; 82-10-017 (Order 1776), § 388-99-035, filed 4/28/82; 81-16-032 (Order 1684), § 388-99-035, filed 7/29/81.]

WAC 388-99-055 Base period. (1) Clients in their own homes shall have a choice of a three-month or a six-month base period which shall begin with the month of application. The department shall use a complete base period unless:

(a) A previous certification period overlaps; or

(b) The client is not resource eligible for the full base period; or

(c) The client is not categorically related for the full base period; or

(d) The client becomes eligible for categorically needy Medicaid.

(2) A client shall not be certified for more than six months.

(3) When countable income is greater than the appropriate medically needy income level (MNIL), the department shall require the client to spenddown the excess countable income for the base period.

(4) The department shall certify a client who is required to spenddown from the day the client meets the spenddown requirement through the last day of the chosen base period when the client has not incurred hospital expenses equal to the spenddown liability.

(5) The department shall certify a client who is required to spenddown from the first day of the base period when the client has incurred hospital expenses equal to the spenddown liability.

(6) When the client requests retroactive medical coverage at the time of application, the retroactive period shall begin three months before the application month unless exceptions in subsections (1)(a), (b), (c), or (d) of this section exist. The department shall certify a client with spenddown in a retroactive period effective:

(a) The day the spenddown requirement was met through the last day of the retroactive period when the client has not incurred hospital expenses equal to the spenddown liability; or

(b) The first day of the retroactive period when the client has incurred hospital expenses equal to the spenddown liability.

(7) The department shall require an application for any subsequent period of eligibility for the medically needy program.

[Statutory Authority: RCW 74.08.090. 93-19-135 (Order 3643), § 388-99-055, filed 9/22/93, effective 10/23/93; 93-07-125 (Order 3528), § 388-99-055, filed 3/24/93, effective 4/24/93; 85-05-016 (Order 2206), § 388-99-055, filed 2/13/85; 83-01-058 (Order 1925), § 388-99-055, filed 12/15/82; 82-14-050 (Order 1841), § 388-99-055, filed 6/30/82; 82-01-001 (Order 1725), § 388-99-055, filed 12/3/81; 81-16-032 (Order 1684), § 388-99-055, filed 7/29/81.]

WAC 388-99-060 Scope of care for medically needy. (1) The medical coverage under the limited casualty-medically needy program shall include:

- (a) Blood administration and processing;
- (b) Case management services;
- (c) Dental services;
- (d) Dentures;
- (e) Early and periodic screening, diagnosis and treatment (EPSDT) services;
- (f) Enteral/parenteral nutrition;
- (g) Eyeglasses;
- (h) Family planning clinic services;
- (i) Home health services;
- (j) Hospice services;
- (k) Inpatient hospital services;
- (l) Intermediate care facility services for the mentally retarded;
- (m) Laboratory and x-ray services;
- (n) Nursing facility services;
- (o) Outpatient hospital;
- (p) Oxygen and respiratory therapy;
- (q) Physical medicine and rehabilitation services;
- (r) Physician, ARNP, and clinic services;
- (s) Podiatric services;
- (t) Prescribed drugs;
- (u) Prosthetic devices;
- (v) Rural health services;
- (w) School medical services for special education students; and
- (x) Medically necessary transportation.

(2) The department shall apply conditions and limitations in chapter 388-86 WAC to the limited casualty-medically needy program.

(3) A request for an exception to policy shall require a review by the medical assistance administration.

[Statutory Authority: RCW 74.08.090. 93-16-040 (Order 3601), § 388-99-060, filed 7/28/93, effective 8/28/93; 93-01-044 (Order 3489), § 388-99-060, filed 12/10/92, effective 1/10/93; 92-17-005 (Order 3435), § 388-99-060, filed 8/6/92, effective 9/6/92. Statutory Authority: 1987 1st ex.s. c 7. 88-02-034 (Order 2580), § 388-99-060, filed 12/31/87. Statutory Authority: RCW 74.08.090. 87-22-092 (Order 2553), § 388-99-060, filed 11/4/87; 85-17-035 (Order 2268), § 388-99-060, filed 8/15/85; 83-03-016 (Order 1937), § 388-99-060, filed 1/12/83; 81-16-032 (Order 1684), § 388-99-060, filed 7/29/81.]

Chapter 388-150 WAC

MINIMUM LICENSING REQUIREMENTS FOR CHILD DAY CARE CENTERS

WAC

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|-------------|--|
| 388-150-010 | Definitions. |
| 388-150-020 | Scope of licensing. |
| 388-150-060 | Dual licensure. |
| 388-150-070 | Application and reapplication for licensing— Investigation. |
| 388-150-150 | Evening and nighttime care. |

| | |
|-------------|---|
| 388-150-160 | Off-site trips. |
| 388-150-165 | Transportation. |
| 388-150-170 | Parent communication. |
| 388-150-180 | Staff pattern and qualifications. |
| 388-150-190 | Group size and staff-child ratios. |
| 388-150-200 | Staff development and training. |
| 388-150-210 | Health care plan. |
| 388-150-220 | Health supervision and infectious disease prevention. |
| 388-150-240 | Nutrition. |
| 388-150-250 | Kitchen and food service. |
| 388-150-270 | Care of young children. |
| 388-150-280 | General safety, maintenance, and site. |
| 388-150-295 | Water supply, sewage, and liquid wastes. |
| 388-150-330 | Indoor play area. |
| 388-150-340 | Toilets, handwashing sinks, and bathing facilities. |
| 388-150-390 | Discrimination prohibited. |
| 388-150-460 | Program records. |
| 388-150-470 | Personnel policies and records. |
| 388-150-490 | Reporting of circumstantial changes. |
| 388-150-500 | Posting requirements. |

WAC 388-150-010 Definitions. As used and defined under this chapter:

(1) "Capacity" means the maximum number of children the licensee is authorized to have on the premises at a given time.

(2) "Center" means the same as "child day care center."

(3) "Child abuse or neglect" means the injury, sexual abuse, sexual exploitation, or negligent treatment or maltreatment of a child by any person under circumstances indicating the child's health, welfare, and safety is harmed thereby.

(4) "Child day care center" means a facility providing regularly scheduled care for a group of children one month of age through twelve years of age for periods less than twenty-four hours; except, a program meeting the definition of a family child care home shall not be licensed as a day care center without meeting the requirements of WAC 388-150-020 (5)(a).

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

(6) "Department of health" means the state department of health.

(7) "Infant" means a child eleven months of age and under.

(8) "License" means a permit issued by the department authorizing by law the licensee to operate a child day care center and certifying the licensee meets minimum requirements under licensure.

(9) "Licensee" means the person, organization, or legal entity responsible for operating the center.

(10) "Premises" means the building where the center is located and the adjoining grounds over which the licensee has control.

(11) "Preschool age child" means a child thirty months of age through five years of age not enrolled in kindergarten or an elementary school.

(12) "School-age child" means a child five years of age through twelve years of age enrolled in kindergarten or an elementary school.

(13) "Staff" means a child care giver or a group of child care givers employed by the licensee to supervise a child served at the center.

(14) "Toddler" means a child twelve months of age through twenty-nine months of age.

[Statutory Authority: RCW 74.15.020 and 74.15.030. 93-18-001 (Order 3623), § 388-150-010, filed 8/18/93, effective 9/18/93. Statutory Authority: RCW 74.15.030. 90-23-078 (Order 3103), § 388-150-010, filed 11/20/90, effective 12/21/90.]

WAC 388-150-020 Scope of licensing. (1) The person or organization operating a child day care center shall be subject to licensing by authority under chapter 74.15 RCW, unless specifically exempted by RCW 74.15.020(4).

(2) The person or organization operating a child day care center and qualifying for exemption from requirements of this chapter under RCW 74.15.020(4) shall not be subject to licensure. The person or organization claiming an exemption shall provide the department proof of entitlement to the exemption on the department's request.

(3) RCW 74.15.020 (4)(c) exempts from licensing facilities where parents on a mutually cooperative basis exchange care of one another's children. To qualify for this cooperative exemption:

(a) At least one parent or guardian of each child attending the facility regularly shall be involved in the direct care of children at the facility.

(b) Parents or guardians shall be involved in the direct care of children on a relatively equal basis.

(c) No person other than a parent or guardian of a child at the facility may be involved in the care of children or in the operation of the facility.

(4) The department shall not license the center legally exempt from licensing. However, at the applicant's request, the department shall investigate and may certify the center as meeting licensing and other pertinent requirements. In such cases, the department's requirements and procedures for licensure shall apply equally to certification.

(5) The department may certify a day care center for payment without further investigation if the center is:

(a) Licensed by an Indian tribe;

(b) Certified by the Federal Department of Defense; or

(c) Approved by the superintendent of public instruction's office. The center must be licensed, certified, or approved in accordance with national or state standards or standards approved by the department and be operated on the premises over which the entity operating the center has jurisdiction.

(6) The department shall not license the department employee or the member of the department employee's household when such person is involved directly, or in an administrative or supervisory capacity, in the:

(a) Licensing or certification process;

(b) Placement of a child in a licensed or certified center; or

(c) Authorization of payment for the child in care.

(7)(a) The department may license the center located in a private family residence when the portion of the residence accessible to the child is:

(i) Used exclusively for the child during the center's operating hours or while the child is in care; or

(ii) Separate from the family living quarters.

(b) A child care facility in a separate building on the same premises as a private family residence is a child day care center.

[Statutory Authority: RCW 74.15.020 and 74.15.030. 93-18-001 (Order 3623), § 388-150-020, filed 8/18/93, effective 9/18/93. Statutory Authority:

RCW 74.15.030. 91-15-084 and 91-21-070 (Orders 3205 and 3205A), § 388-150-020, filed 7/23/91 and 10/17/91, effective 8/23/91 and 11/17/91; 90-23-078 (Order 3103), § 388-150-020, filed 11/20/90, effective 12/21/90.]

WAC 388-150-060 Dual licensure. The department may either:

(1) Issue a child day care center license to the applicant having a license involving full-time care; or

(2) Permit simultaneous care for the child and adolescent or adult on the same premises if the applicant or licensee:

(a) Demonstrates evidence that care of one client category will not interfere with the quality of services provided to another category of clients;

(b) Maintains the most stringent maximum capacity limitation for the client categories concerned;

(c) Requests and obtains a waiver permitting dual licensure; and

(d) Requests and obtains a waiver to subsection (2)(b) of this section, if applicable.

[Statutory Authority: RCW 74.15.020 and 74.15.030. 93-18-001 (Order 3623), § 388-150-060, filed 8/18/93, effective 9/18/93. Statutory Authority: RCW 74.15.030. 90-23-078 (Order 3103), § 388-150-060, filed 11/20/90, effective 12/21/90.]

WAC 388-150-070 Application and reapplication for licensing—Investigation. (1) The person or organization applying for a license or relicensure under this chapter and responsible for operating the center shall comply with application procedures the department prescribes and submit to the department:

(a) A completed department-supplied application for child care agency form, including required attachments, ninety or more days before the:

(i) Expiration of a current license;

(ii) Opening date of a new center;

(iii) Relocation of a center;

(iv) Change of the licensee; or

(v) Change of license category.

(b) A completed criminal history and background inquiry form for each staff person or volunteer having unsupervised or regular access to the child in care; and

(c) The licensing fee.

(2) In addition to the required application materials specified under subsection (1) of this section, the applicant for initial licensure shall submit to the department:

(a) An employment and education resume of the person responsible for the active management of the center and the program supervisor;

(b) Diploma or education transcript copies of the program supervisor; and

(c) Three professional references each for the licensee, director, and program supervisor.

(3) The applicant for a license under this chapter shall be twenty-one years of age or older.

(4) The applicant, licensee, and director shall attend department-provided orientation training.

(5) The department may, at any time, require additional information from the applicant, licensee, staff person, volunteer, member of their households, and other person having access to the child in care as the department deems necessary, including, but not limited to:

- (a) Sexual deviancy evaluations;
- (b) Substance and alcohol abuse evaluations;
- (c) Psychiatric evaluations;
- (d) Psychological evaluations; and
- (e) Medical evaluations.

(6) The department may perform investigations of the applicant, licensee, staff person, volunteer, member of their households, and other person having access to the child in care as the department deems necessary, including accessing criminal histories and law enforcement files.

(7) The applicant shall conform to rules and regulations approved or adopted by the:

(a) Department of health, promoting the health of the child in care, contained in this chapter; and

(b) State fire marshal's office, establishing standards for fire prevention and protection of life and property from fire, under chapter 212-12 WAC, "fire marshal standards."

(8) The department shall not issue a license to the applicant until the department of health and the state fire marshal's office have certified or inspected and approved the center.

[Statutory Authority: RCW 74.15.020 and 74.15.030. 93-18-001 (Order 3623), § 388-150-070, filed 8/18/93, effective 9/18/93. Statutory Authority: RCW 74.15.030. 90-23-078 (Order 3103), § 388-150-070, filed 11/20/90, effective 12/21/90.]

WAC 388-150-150 Evening and nighttime care. (1)

For the center offering child care during evening and nighttime hours, the licensee shall adapt the program, equipment, and staffing pattern to meet the physical and emotional needs of the child away from home at night.

(2) The licensee shall maintain the same staff-to-child ratio in effect during daytime care. At all times, including sleeping hours, staff shall keep the child within continuous visual or auditory range.

(3) The licensee shall arrange child grouping so the sleeping child remains asleep during the arrival or departure of another child.

(4) The licensee shall ensure that staff in charge during evening and nighttime hours meet at least the requirements of a lead worker.

[Statutory Authority: RCW 74.15.020 and 74.15.030. 93-18-001 (Order 3623), § 388-150-150, filed 8/18/93, effective 9/18/93. Statutory Authority: RCW 74.15.030. 90-23-078 (Order 3103), § 388-150-150, filed 11/20/90, effective 12/21/90.]

WAC 388-150-160 Off-site trips. (1)

The licensee may transport or permit the off-site travel of the child to attend school, participate in supervised field trips, or engage in other supervised off-site activities only with written parent consent.

(2) The parent's consent may be:

(a) For a specific date and trip; or

(b) A blanket authorization describing the full range of trips the child may take. In such case, the licensee shall notify the parent in advance about the trip.

[Statutory Authority: RCW 74.15.020 and 74.15.030. 93-18-001 (Order 3623), § 388-150-160, filed 8/18/93, effective 9/18/93. Statutory Authority: RCW 74.15.030. 90-23-078 (Order 3103), § 388-150-160, filed 11/20/90, effective 12/21/90.]

WAC 388-150-165 Transportation. When the licensee provides transportation for the child in care:

(1) The licensee shall ensure that the motor vehicle operated by the facility is maintained in a safe operating condition;

(2) The licensee shall ensure the motor vehicle in which the child rides during hours of care is equipped with appropriate safety devices and individual seat belts or safety seats for each child to use when the vehicle is in motion. The licensee shall assure that children less than two years of age are restrained in a restraint system that complies with standards of the United States department of transportation. Seat belts are not required for buses approved by the state patrol;

(3) The licensee shall ensure the number of passengers does not exceed the seating capacity of the motor vehicle;

(4) The licensee or driver shall carry liability and medical insurance. The driver shall have a current Washington driver's license, valid for the classification of motor vehicle operated;

(5) The driver or staff supervising the child in the motor vehicle shall have current first aid and cardiopulmonary resuscitation training, except that when the center uses more than one vehicle for a field trip, only one person in the group is required to have this training;

(6) The licensee shall ensure a minimum of one staff person, other than the driver, is present in the motor vehicle when:

(a) Seven or more preschool age and younger children are present; or

(b) Staff-to-child ratio guidelines require additional staff.

(7) Staff or driver shall not leave the child unattended in the motor vehicle.

[Statutory Authority: RCW 74.15.020 and 74.15.030. 93-18-001 (Order 3623), § 388-150-165, filed 8/18/93, effective 9/18/93. Statutory Authority: RCW 74.15.030. 90-23-078 (Order 3103), § 388-150-165, filed 11/20/90, effective 12/21/90.]

WAC 388-150-170 Parent communication. (1) The licensee shall orally:

(a) Explain to the parent the center's policies and procedures;

(b) Orient the parent to the center's philosophy, program, and facilities;

(c) Advise the parent of the child's progress and issues relating to the child's care and individual practices concerning the child's special needs; and

(d) Encourage parent participation in center activities.

(2) The licensee shall give the parent the following written policy and procedure information:

(a) Enrollment and admission requirements;

(b) The fee and payment plan;

(c) A typical activity schedule, including hours of operation;

(d) Meals and snacks served, including guidelines on food brought from the child's home;

(e) Permission for free access by the child's parent to all center areas used by the child;

(f) Signing in and signing out requirements;

(g) Child abuse reporting law requirements;

(h) Behavior management and discipline;

(i) Nondiscrimination statement;

- (j) Religious activities, if any;
- (k) Transportation and field trip arrangements;
- (l) Practices concerning an ill child;
- (m) Medication management;
- (n) Medical emergencies; and
- (o) If licensed for the care of an infant or toddler:
 - (i) Diapering;
 - (ii) Toilet training; and
 - (iii) Feeding.

[Statutory Authority: RCW 74.15.020 and 74.15.030. 93-18-001 (Order 3623), § 388-150-170, filed 8/18/93, effective 9/18/93. Statutory Authority: RCW 74.15.030. 90-23-078 (Order 3103), § 388-150-170, filed 11/20/90, effective 12/21/90.]

WAC 388-150-180 Staff pattern and qualifications.

(1) General qualifications. The licensee, staff, volunteer, and other person associated with the operation of the center who has access to the child in care shall:

- (a) Be of good character;
- (b) Demonstrate the understanding, ability, personality, emotional stability, and physical health suited to meet the cultural, emotional, mental, physical, and social needs of the child in care; and
- (c) Not have committed or been convicted of child abuse or any crime involving harm to another person.

(2) Center management. The licensee shall serve as or employ a director, responsible for the overall management of the center's facility and operation. The director shall:

- (a) Be twenty-one years of age or older;
- (b) Serve as administrator of the center, ensuring compliance with minimum licensing requirements;
- (c) Have knowledge of child development as evidenced by professional references, education, experience, and on-the-job performance;
- (d) Have the management and supervisory skills necessary for the proper administration of the center, including:

- (i) Record maintenance;
- (ii) Financial management; and
- (iii) Maintenance of positive relationships with staff, children, parents, and the community;

(e) Have completed the following number of college quarter credits or department-approved clock hours in early childhood education/child development, or possess an equivalent educational background, or be a certified child development associate:

- (i) In centers licensed for twenty-five or more children, the director shall have completed forty-five or more credits;
- (ii) In centers licensed for thirteen through twenty-four children, the director shall have completed twenty-five or more credits;
- (iii) In centers licensed for twelve or fewer children, the director shall have completed ten or more credits; and
- (iv) In (i), (ii) and (iii) above, one-third of the credits may be clock hours.

(f) Have two or more years successful experience working with children of the same age level as those served by the center as evidenced by professional references and on-the-job performance;

(g) Have planning, coordination, and supervisory skills to implement a high quality, developmentally appropriate program; and

(h) Have knowledge of children and how to meet children's needs.

(3) When the director does not meet the qualifications specified in subsections (2)(e), (f), (g), and (h) of this section, the director or licensee shall employ a program supervisor responsible for planning and supervising the center's learning and activity program. In such a case, the director shall have had at least one three credit college class in early childhood development. The program supervisor shall:

- (a) Be twenty-one years of age or older;
- (b) Meet the education, experience, and competency qualifications specified under subsection (2)(e), (f), (g), and (h) of this section; and
- (c) Discharge on-site program supervisory duties twenty hours or more a week.

(4) For the center serving the school age child only, the program supervisor may substitute equivalent courses in education, recreation, or physical education for required education.

(5) The director and program supervisor may be one and the same person when qualified for both positions. The director or program supervisor shall normally be on the premises while the child is in care. If temporarily absent from the center, the director and program supervisor shall leave a competent, designated staff person in charge who meets the qualifications of a lead staff person.

(6) The director and program supervisor may also serve as child care staff when such role does not interfere with the director's or program supervisor's management and supervisory responsibilities.

(7) Center staffing. The licensee shall ensure the lead child care staff person in charge of a child or a group of children implementing the activity program:

- (a) Is eighteen years of age or older; and
- (b) Possesses a high school education or equivalent; or
- (c) Has child development knowledge and experience.

(8) The licensee may assign a child care assistant or aide to support lead child care staff. The child care assistant or aide shall be sixteen years of age or older. The child care assistant or aide shall care for the child under the direct supervision of the lead child care staff person. The licensee shall ensure no person under eighteen years of age is assigned sole responsibility for a group of children. The assistant or aide, eighteen years of age or older, may care for a child or group of children without direct supervision by a superior for a brief period time.

(9) The licensee may arrange for a volunteer to support lead child care staff. The volunteer shall be sixteen years of age or older. The volunteer shall care for the child under the direct supervision of the lead child care staff person. The licensee may count the volunteer in the staff-to-child ratio when the volunteer meets staff qualification requirements.

(10) Support service personnel. The licensee shall provide or arrange for fulfillment of administrative, clerical, accounting, maintenance, transportation, and food service

responsibilities so the child care staff is free to concentrate on program implementation.

(11) The licensee shall ensure completion of support service duties occurs in a manner allowing the center to maintain required staff-to-child ratios.

[Statutory Authority: RCW 74.15.020 and 74.15.030. 93-18-001 (Order 3623), § 388-150-180, filed 8/18/93, effective 9/18/93. Statutory Authority: RCW 74.15.030. 91-07-013 (Order 3151), § 388-150-180, filed 3/12/91, effective 4/12/91; 90-23-078 (Order 3103), § 388-150-180, filed 11/20/90, effective 12/21/90.]

WAC 388-150-190 Group size and staff-child ratios.

(1) In centers licensed for thirteen or more children, the licensee shall conduct group activities within the following group size and staff-to-child ratio requirements, according to the age of the children:

| AGE OF CHILDREN | STAFF-CHILD RATIO | MAXIMUM GROUP SIZE |
|---------------------------------------|-------------------|--------------------|
| 1 mo. through 11 mos. (infant) | 1:4 | 8 |
| 12 mos. through 29 mos. (toddler) | 1:7 | 14 |
| 30 mos. through 5 years (preschooler) | 1:10 | 20 |
| 5 years and older (school-age child) | 1:15 | 30 |

(2) In centers licensed for twelve or fewer children, the licensee may combine children of different age groups, provided the licensee:

(a) Maintains the staff-to-child ratio designated for the youngest child in the mixed group; and

(b) Provides a separate care area when four or more infants are in care. In such case the maximum group size shall be eight children.

(3) The licensee shall conduct activities for each group in a specific room or other defined space within a larger area.

(4) The licensee shall ensure each group is under the direct supervision of a qualified staff person or team of staff involved in directing the child's activities.

(5) The department may approve reasonable variations to group size limitations if the licensee maintains required staff-to-child ratios, dependent on:

- (a) Staff qualifications;
- (b) Program structure; and
- (c) Usable square footage.

(6) After consulting with the child's parent, the licensee may place the individual child in a different age group and serve the child within the different age group's required staff-to-child ratio based on the child's:

- (a) Developmental level; and
- (b) Individual needs.

(7) The licensee may briefly combine children of different age groups provided the licensee maintains the staff-to-child ratio and group size designated for the youngest child in the mixed group.

(8) In centers licensed for thirteen or more children, the licensee may group ambulatory children between one year, and two and one-half years of age with older children, provided:

- (a) The total number of children in the group does not exceed twelve; and
- (b) Two staff are assigned to the group.

(9) The licensee shall ensure the staff person providing direct care and supervision of the child is free of other duties at the time of care.

(10) The licensee shall maintain required staff-to-child ratios indoors, outdoors, on field trips, and during rest periods. During rest periods, staff may be involved in other activities if staff remain on the premises and each child is within continuous visual and auditory range of a staff person.

(11) The licensee shall ensure staff:

(a) Attend the child or group of children at all times; and

(b) Keep each child within continuous visual and auditory range, except when a toilet-trained child uses the toilet.

(12) When only one staff person is present, the licensee shall ensure a second staff person is readily available in case of an emergency.

[Statutory Authority: RCW 74.15.020 and 74.15.030. 93-18-001 (Order 3623), § 388-150-190, filed 8/18/93, effective 9/18/93. Statutory Authority: RCW 74.15.030. 90-23-078 (Order 3103), § 388-150-190, filed 11/20/90, effective 12/21/90.]

WAC 388-150-200 Staff development and training.

(1) The licensee shall have an orientation system making the employee and volunteer aware of program policies and practices. The licensee shall provide staff an orientation including, but not limited to:

- (a) Minimum licensing rules required under this chapter;
- (b) Goals and philosophy of the center;
- (c) Planned daily activities and routines;
- (d) Child guidance and behavior management methods;
- (e) Child abuse and neglect prevention, detection, and reporting policies and procedures;
- (f) Special health and developmental needs of the individual child;

- (g) The health care plan;
- (h) Fire prevention and safety procedures;
- (i) Personnel policies, when applicable;
- (j) Limited restraint techniques;
- (k) Cultural relevancy; and
- (l) Developmentally appropriate practices.

(2) The licensee shall provide or arrange for regular training opportunities for the child care staff to promote ongoing employee education and enhance practice skills.

(3) The licensee shall conduct periodic staff meetings for planning and coordination purposes.

(4) The licensee shall ensure:

(a) A staff person with basic, standard, current first aid and cardiopulmonary resuscitation (CPR) training, or department of health approved training, is present at all times and in all areas the child is in care; and

(b) Staff's CPR training includes methods appropriate for child age groups in care.

(5) The licensee shall provide or arrange appropriate education and training for child care staff on the prevention and transmission of human immunodeficiency virus/acquired immunodeficiency syndrome (HIV/AIDS).

(6) The licensee shall ensure the staff person preparing full meals has a valid food handler permit.

[Statutory Authority: RCW 74.15.020 and 74.15.030. 93-18-001 (Order 3623), § 388-150-200, filed 8/18/93, effective 9/18/93. Statutory Authority:

RCW 74.15.030, 90-23-078 (Order 3103), § 388-150-200, filed 11/20/90, effective 12/21/90.]

WAC 388-150-210 Health care plan. (1) The licensee shall maintain current written health policies and procedures for staff orientation and use, and for the parent. The health care plan shall include, but not be limited to, information about the center's procedures concerning:

- (a) Communicable disease prevention, reporting, and management;
- (b) Action taken for medical emergencies;
- (c) First aid;
- (d) Care of minor illnesses;
- (e) Medication management;
- (f) General hygiene practices;
- (g) Handwashing practices;
- (h) Food and food services; and
- (i) Infant care procedures and nursing consultation, where applicable.

(2) In centers licensed for thirteen or more children, the licensee shall use the services of an advisory physician, physician's assistant, or registered nurse to assist in the development, approval, and periodic review of the center's health care plan. This medical practitioner shall sign and date the health plan.

[Statutory Authority: RCW 74.15.020 and 74.15.030, 93-18-001 (Order 3623), § 388-150-210, filed 8/18/93, effective 9/18/93. Statutory Authority: RCW 74.15.030, 91-07-013 (Order 3151), § 388-150-210, filed 3/12/91, effective 4/12/91; 90-23-078 (Order 3103), § 388-150-210, filed 11/20/90, effective 12/21/90.]

WAC 388-150-220 Health supervision and infectious disease prevention. (1) Child. The licensee shall encourage the parent to arrange a physical examination for the child who has not had regular health care or a physical examination within one year before enrollment.

(2) The licensee shall encourage the parent to obtain health care for the child when necessary. The licensee shall not be responsible for providing or paying for the child's health care.

(3) Before or on the child's first day of attendance, the licensee shall have on file a certificate of immunization status form prescribed by the department of health proving the child's full immunization for:

- (a) Diphtheria;
- (b) Tetanus;
- (c) Pertussis (whooping cough);
- (d) Poliomyelitis;
- (e) Measles (rubeola);
- (f) Rubella (German measles);
- (g) Mumps; and
- (h) Other diseases prescribed by the department of health.

(4) The licensee may accept the child without all required immunizations on a conditional basis if immunizations are:

- (a) Initiated before or on enrollment; and
- (b) Completed as rapidly as medically possible.

(5) The licensee may exempt the immunization requirement for the child if the parent or guardian:

- (a) Signs a statement expressing a religious, philosophical, or personal objection; or

(b) Furnishes a physician's statement of a valid medical reason for the exemption.

(6) Program. Staff shall daily observe and screen the child for signs of illness. The licensee shall care for or discharge home the ill child based on the center's policies concerning the ill child.

(a) When the child has a severe illness or is injured, tired, or upset, staff shall separate the child from other children and attend the child continuously until:

- (i) The child is able to rejoin the group;
- (ii) Staff return the child to the parent; or
- (iii) Staff secure appropriate health care for the child.

(b) The licensee shall provide a quiet, separate care room or area allowing the child requiring separate care an opportunity to rest.

(c) Staff shall sanitize equipment used by the child if staff suspects the child has a communicable disease.

(d) The licensee may use the separate care room or area for other purposes when not needed for separation of the child.

(7) Staff shall wash, or assist the child to wash hands:

- (a) After the child's toileting or diapering;
- (b) Before the child eats; and
- (c) Before the child participates in food activities.

(8) Staff shall clean and disinfect toys, equipment, furnishings, and facilities according to the center's cleaning and disinfecting policies, as needed.

(9) The licensee shall have appropriate extra clothing available for the child who wets or soils clothes.

(10) Staff shall ensure the child does not share personal hygiene or grooming items.

(11) Staff. Each center employee, volunteer, and other person having regular contact with the child in care shall have a tuberculin (TB) skin test, by the Mantoux method, upon employment or licensure, unless against medical advice.

(a) The person whose TB skin test is positive (ten millimeters or more induration) shall have a chest x-ray within thirty days following the skin test.

(b) The licensee shall not require the person to obtain routine periodic TB retesting or x-ray (biennial or otherwise) after entry testing unless directed to obtain retesting by the person's health care provider or the local health department.

(12) The licensee shall not permit the person with a reportable communicable disease to be on duty in the center or have contact with the child in care unless approved in writing by a health care provider.

(13) Staff shall wash hands:

- (a) After toileting and diapering the child;
- (b) After personal toileting;
- (c) After attending to an ill child; and
- (d) Before serving or preparing food.

[Statutory Authority: RCW 74.15.020 and 74.15.030, 93-18-001 (Order 3623), § 388-150-220, filed 8/18/93, effective 9/18/93. Statutory Authority: RCW 74.15.030, 90-23-078 (Order 3103), § 388-150-220, filed 11/20/90, effective 12/21/90.]

WAC 388-150-240 Nutrition. (1) The licensee shall provide food meeting the nutritional needs of the child in care, taking into consideration the:

- (a) Number of children in care;

- (b) Child's age and developmental level;
- (c) Child's cultural background;
- (d) Child's handicapping condition; and
- (e) Hours of care on the premises.
- (2) The licensee shall provide only pasteurized milk or a pasteurized milk product.
- (3) The licensee shall provide only whole milk to the child twenty-three months of age or younger except with written permission of the child's parent.
- (4) The licensee may serve the child twenty-four months of age or older powdered Grade A milk mixed in the center provided the licensee completes the dry milk mixture, service, and storage in a safe and sanitary manner.
- (5) The licensee may provide the child nutrient concentrates, nutrient supplements, a modified diet, or an allergy diet only with written permission of the child's health care provider. The licensee shall obtain from the parent or child's health care provider a written list of foods the child cannot consume.
- (6) The licensee shall:
 - (a) Record food and portion sizes planned and served;
 - (b) Prepare and date menus one week or more in advance, containing meals and snacks to be served, including parent-provided snacks; and
 - (c) Specify on the menu a variety of foods enabling the child to consume adequate nutrients.
- (7) The licensee shall provide two weeks or more of meal and snack menu variety before repeating the menu.
- (8) The licensee shall only make nutrition substitutions of comparable nutrient value and record changes on the menu.
- (9) The licensee shall use the following meal pattern to provide food to the child in care in age-appropriate servings:
 - (a) Providing the child in care for nine or less hours:
 - (i) Two or more snacks and one meal; or
 - (ii) Two meals and one snack.
 - (b) Providing the child in care for nine or more hours:
 - (i) Two or more meals and two snacks; or
 - (ii) One meal and three snacks.
 - (c) Providing the child arriving after school a snack;
 - (d) Providing the child food at intervals not less than two hours and not more than three and one-half hours apart; and
 - (e) Allowing the occasional serving of party foods not meeting nutritional requirements.
- (10) When serving food, the licensee shall provide the child the following:
 - (a) At a minimum, the child's breakfast must contain:
 - (i) A dairy product, including fluid milk, cheese, yogurt, or cottage cheese;
 - (ii) Cereal or bread, whole grain or enriched; and
 - (iii) Fruit or vegetable or juice containing a minimum of fifty percent real juice.
 - (b) At a minimum, the child's lunch or dinner must contain:
 - (i) A dairy product;
 - (ii) A protein food including lean meat, fish, poultry, egg, legumes, nut butters, or cheese;
 - (iii) Bread or bread alternate, whole grain or enriched; and
 - (iv) Fruit or vegetable, two total servings.

(c) In centers not serving full meals, the child's snacks must include one or more dairy or protein source provided daily, and contain a minimum of two of the following four components at each snack:

- (i) A dairy product;
- (ii) A protein food;
- (iii) Bread or bread alternate; or
- (iv) Fruit or vegetable or juice containing a minimum of fifty percent real juice.
- (d) The child's food must contain:
 - (i) A minimum of one serving of Vitamin C fruit, vegetable, or juice, provided daily; and
 - (ii) Servings of food high in Vitamin A, provided three or more times weekly.

(11) The licensee shall provide:

- (a) Dinner to the child in evening care when the child did not receive dinner at home before arriving at the center;
- (b) A bedtime snack to the child in nighttime care; and
- (c) Breakfast to the child in nighttime care if the child remains at the center after the child's usual breakfast time.

(12) The licensee shall monitor sack lunches, snacks, and other foods brought from the child's home for consumption by the child, all children, or a group of children in care, ensuring safe preparation, storage, and serving and nutritional adequacy.

(13) For the center permitting sack lunches, the licensee shall have available food supplies to supplement food deficient in meeting nutrition requirements brought from the child's home and to nourish the child arriving without home-supplied food.

[Statutory Authority: RCW 74.15.020 and 74.15.030. 93-18-001 (Order 3623), § 388-150-240, filed 8/18/93, effective 9/18/93. Statutory Authority: RCW 74.15.030. 90-23-078 (Order 3103), § 388-150-240, filed 11/20/90, effective 12/21/90.]

WAC 388-150-250 Kitchen and food service. (1)

The licensee shall provide equipment for the proper storage, preparation, and service of food to meet program needs.

(2) The licensee shall meet food service standards by requiring:

- (a) The staff person preparing full meals have a valid food handler permit;
- (b) The staff person preparing and serving meals wash hands before handling food;
- (c) Handwashing facilities be located in or adjacent to food preparation areas;
- (d) Food be stored in a sanitary manner, especially milk, shellfish, meat, poultry, eggs, and other protein food sources;
- (e) Food requiring refrigeration be stored at a temperature no warmer than forty-five degrees Fahrenheit;
- (f) Frozen food be stored at a maximum temperature of zero degrees Fahrenheit;
- (g) Refrigerators and freezers be equipped with thermometers and be regularly cleaned and defrosted;
- (h) Food be cooked to correct temperatures;
- (i) Raw food be washed thoroughly with clean running water;
- (j) Cooked food to be stored be rapidly cooled and refrigerated after preparation;
- (k) Food be kept in original containers or in clean, labeled containers and stored off the floor;

(l) Packaged, canned, and bottled food with a past expiration date be discarded;

(m) Food in dented cans or torn packages be discarded; and

(n) When food containing sulfiting agents is served, parents be notified.

(3) The child may participate in food preparation as an education activity. The licensee shall supervise the child when the child is in the kitchen or food preparation area.

(4) The licensee shall make kitchen equipment inaccessible to the child, except during planned and supervised kitchen activities. Staff shall supervise food preparation activities. The licensee shall make potentially hazardous appliances and sharp or pointed utensils inaccessible to the child when the child is not under direct supervision.

(5) The licensee shall install and maintain kitchen equipment and clean re-usable utensils in a safe and sanitary manner.

(6) The licensee shall sanitize reusable utensils in a dishwasher or through use of a three-compartment dishwashing procedure.

(7) The licensee shall use only single-use or clean cloths, used solely for wiping food service, preparation, and eating surfaces.

[Statutory Authority: RCW 74.15.020 and 74.15.030. 93-18-001 (Order 3623), § 388-150-250, filed 8/18/93, effective 9/18/93. Statutory Authority: RCW 74.15.030. 90-23-078 (Order 3103), § 388-150-250, filed 11/20/90, effective 12/21/90.]

WAC 388-150-270 Care of young children. (1) The licensee shall not accept for care a child under one month of age.

(2) Facility. The licensee shall:

(a) Provide a separate, safe play area for the child under one year of age, or the child not walking;

(b) In centers licensed for thirteen or more children, care for the child under one year of age in rooms or areas separate from older children, with:

(i) Not more than eight children under one year of age to a room or area; and

(ii) Handwashing facilities in or adjacent to each such room or area.

(3) Diapering and toileting. The licensee shall ensure:

(a) The diaper changing area is:

(i) Separate from food preparation areas;

(ii) Adjacent to a handwashing sink; and

(iii) Sanitized between use for different children; or

(iv) Protected by a disposable covering discarded after each use.

(b) The designated change area is impervious to moisture and washable;

(c) Diaper changing procedures are posted at the changing area;

(d) Disposable towels or clean, reusable towels, laundered between usage for different children, are used for cleaning the child;

(e) Staff wash hands after diapering the child or helping the child with toileting;

(f) Disposable diapers, a commercial diaper service, or reusable diapers supplied by the child's family are used;

(g) Soiled diapers are placed without rinsing into a separate, cleanable, covered container provided with a waterproof liner before transporting to the laundry, parent, or acceptable disposal;

(h) Soiled diapers are removed from the facility daily or more often unless the licensee uses a commercial diaper service;

(i) Toilet training is initiated when the child indicates readiness and in consultation with the child's parent;

(j) Potty chairs, when in use, are located on washable, impervious surfaces; and

(k) Toilet training equipment is sanitized after each use.

(4) Feeding. The licensee and the infant's parent shall agree on a schedule for the infant's feedings.

(a) Bottle feedings.

(i) The licensee or parent may provide the child's bottle feeding in the following manner:

(A) A filled bottle brought from home;

(B) Whole milk or formula in ready-to-feed strength; or

(C) Formula requiring no preparation other than dilution with water, mixed on the premises.

(ii) The licensee shall prepare the child's bottle and nipple in a sanitary manner in an area separate from diapering areas.

(iii) The licensee shall sanitize the child's bottle and nipple between uses.

(iv) The licensee shall label the child's bottle with the child's name and date prepared.

(v) The licensee shall refrigerate a filled bottle if the child does not consume the content immediately and shall discard the bottle's content if the child does not consume the content within twelve hours.

(b) To ensure safety and promote nurturing, the licensee shall ensure staff:

(i) Hold in a semi-sitting position for feedings the infant unable to sit in a high chair, unless such is against medical advice;

(ii) Interact with the child;

(iii) Do not prop a bottle;

(iv) Do not give a bottle to the reclining child, unless the bottle contains water only;

(v) Take the bottle from the child when the child finishes feeding; and

(vi) Keep the child in continuous visual and auditory range.

(c) The licensee shall provide semi-solid food for the infant, upon consultation with the parent, not before the child is four months of age and not later than ten months of age, unless such is not recommended by the child's health care provider.

(5) Sleeping equipment. The licensee shall furnish the infant a single-level crib, infant bed, bassinet, or play pen for napping until such time the licensee and parent concur the infant can safely use a mat, cot, or other approved sleeping equipment.

(6) When the licensee furnishes the infant or child a crib, the licensee shall ensure the crib is:

(a) Sturdy and made of wood, metal, or plastic with secure latching devices; and

(b) Constructed with two and three-eighths inches or less space between vertical slats when the crib is used for an

infant six months of age or younger. The licensee may allow an infant to use a crib not meeting the spacing requirement provided the licensee uses crib bumpers or another effective method preventing the infant's body from slipping between the slats.

(7) The licensee shall not allow the infant or child to use a stacked crib.

(8) The licensee shall ensure the infant's or child's crib mattress is:

(a) Snug fitting, preventing the infant from being caught between the mattress and crib side rails; and

(b) Waterproof and easily sanitized.

(9) Program and equipment. The licensee shall provide the infant a daily opportunity for:

(a) Large and small muscle development;

(b) Crawling and exploring;

(c) Sensory stimulation;

(d) Social interaction;

(e) Development of communication; and

(f) Learning self-help skills.

(10) The licensee shall provide the infant safe, noningestible, and suitable toys and equipment for the infant's mental and physical development.

(11) Nursing consultation. The licensee licensed for the care of four or more infants shall arrange for regular nursing consultation to include one or more monthly on-site visits by a registered nurse trained or experienced in the care of young children.

(12) In collaboration with the licensee, the nurse shall advise the center on the:

(a) Operation of the infant care program; and

(b) Implementation of the child health program.

(13) The licensee shall obtain a written agreement with the nurse for consultation services.

(14) The licensee shall document the nurse's on-site consultations.

(15) The licensee shall ensure the nurse consultant's name and telephone number is posted or otherwise available on the premises.

[Statutory Authority: RCW 74.15.020 and 74.15.030. 93-18-001 (Order 3623), § 388-150-270, filed 8/18/93, effective 9/18/93. Statutory Authority: RCW 74.15.030. 90-23-078 (Order 3103), § 388-150-270, filed 11/20/90, effective 12/21/90.]

WAC 388-150-280 General safety, maintenance, and site. (1) The licensee shall operate the center:

(a) On an environmentally safe site;

(b) In a neighborhood free from a condition detrimental to the child's welfare; and

(c) In a location accessible to other services to carry out the program.

(2) The licensee shall maintain the indoor and outdoor premises in a safe and sanitary condition, free of hazards, and in good repair. The licensee shall ensure furniture and equipment are safe, stable, durable, child-sized, and free of sharp, loose, or pointed parts.

(3) The licensee shall:

(a) Install handrails or safety devices at child height adjacent to steps, stairways, and ramps;

(b) Maintain a flashlight or other emergency lighting device in working condition;

(c) Ensure there is no flaking or deteriorating lead-based paint on interior and exterior surfaces, equipment, and toys accessible to the preschool age and younger child;

(d) Finish or cover rough or untreated wood surfaces; and

(e) Maintain one or more telephones on the premises in working order, accessible to staff.

(4) The licensee shall supply bathrooms and other rooms subject to moisture with washable, moisture-impervious flooring.

(5) The licensee caring for the preschool age and younger child shall equip child-accessible electrical outlets with nonremovable safety devices or covers preventing electrical injury.

(6) The licensee shall ensure staff can gain rapid access in an emergency to a bathroom or other room occupied by the child.

(7) The licensee shall shield light bulbs and tubes in child-accessible areas.

(8) The licensee shall keep the premises free from rodents, fleas, cockroaches, and other insects and pests.

(9) The licensee shall use a housekeeping sink or another appropriate method for drawing clean mop water and disposing waste water.

(10) The licensee shall ensure the mop storage area is ventilated.

(11) The licensee shall ensure no firearm or another weapon is on the premises.

(12) The licensee shall comply with fire safety regulations adopted by the state fire marshal's office.

(13) The licensee shall ensure that rooms or closets to be made inaccessible to children shall be equipped with a lock or approved safety latch.

[Statutory Authority: RCW 74.15.020 and 74.15.030. 93-18-001 (Order 3623), § 388-150-280, filed 8/18/93, effective 9/18/93. Statutory Authority: RCW 74.15.030. 91-07-013 (Order 3151), § 388-150-280, filed 3/12/91, effective 4/12/91; 90-23-078 (Order 3103), § 388-150-280, filed 11/20/90, effective 12/21/90.]

WAC 388-150-295 Water supply, sewage, and liquid wastes. (1) The licensee shall obtain approval of a private water supply by the local health authority or department.

(2) The licensee shall ensure sewage and liquid wastes are discharged into:

(a) A public sewer system; or

(b) An independent sewage system approved by the local health authority or department.

[Statutory Authority: RCW 74.15.020 and 74.15.030. 93-18-001 (Order 3623), § 388-150-295, filed 8/18/93, effective 9/18/93.]

WAC 388-150-330 Indoor play area. (1) The center's indoor premises shall contain adequate area for child play and sufficient space to house a developmentally appropriate program for the number and age range of children served. The licensee shall provide a minimum of thirty-five square feet of usable floor space per child, exclusive of a bathroom, hallway, and closet. If the staff removes mats and cots when not in use, the licensee may use and consider the napping area as child care space.

(2)(a) The licensee may consider the kitchen usable space if:

(i) Appliances and utensils do not create a safety hazard;
 (ii) Toxic or harmful substances are not accessible to the child;

(iii) Food preparation and storage sanitation is maintained; and

(iv) The space is located safely and appropriately for use as a child care activity area.

(b) The department may allow the licensee the use of a kitchen for occasional activities, but not include the kitchen in calculating the center's capacity.

(c) The department may allow the licensee to count the kitchen in calculating the center's capacity if the kitchen is:

(i) Adjacent to the care area;

(ii) Available for more than an occasional activity; and

(iii) Large enough for group activities.

(3) The licensee shall provide a minimum of fifty square feet of usable floor space per child for the play and napping of the infant and other child requiring a crib.

(4) The licensee may use a room for multiple purposes such as playing, dining, napping, and learning activities, provided the:

(a) Room is of sufficient size; and

(b) Room's usage for one purpose does not interfere with usage of the room for another purpose.

[Statutory Authority: RCW 74.15.020 and 74.15.030. 93-18-001 (Order 3623), § 388-150-330, filed 8/18/93, effective 9/18/93. Statutory Authority: RCW 74.15.030. 90-23-078 (Order 3103), § 388-150-330, filed 11/20/90, effective 12/21/90.]

WAC 388-150-340 Toilets, handwashing sinks, and bathing facilities. (1) The licensee shall provide a minimum of one indoor flush-type toilet and one adjacent handwash sink for every fifteen children normally on site, except:

(a) The child eighteen months of age or younger and other children using toilet training equipment need not be included when determining the number of required flush-type toilets;

(b) If urinals are provided, the number of urinals shall not replace more than one-third of the total required toilets; and

(c) For the center serving the school age child only, the number of sinks and toilets for the child shall equal or exceed the number required by the local school district.

(2) The licensee shall supply the child warm running water for handwashing at a temperature range not less than eighty-five degrees Fahrenheit and not more than one hundred and twenty degrees Fahrenheit.

(3) The licensee shall locate the child's handwashing facilities in or adjacent to rooms used for toileting.

(4) The licensee shall provide toileting privacy for the child of opposite sex six years of age and older and for other children demonstrating a need for privacy.

(5) The licensee shall provide toilets, urinals, and handwashing sinks of appropriate height and size for the child in care or furnish safe, easily cleanable platforms impervious to moisture.

(6) The licensee shall provide a mounted toilet paper dispenser for each toilet.

(7) The licensee shall ensure rooms used for toileting are ventilated to the outdoors.

(8) When the center serves the child not toilet trained, the licensee shall provide developmentally appropriate equipment for the toileting and toilet training of the young child. The licensee shall sanitize the equipment after each child's use.

(9) The licensee shall provide the child with soap and individual towels or other appropriate devices for washing and drying the child's hands and face.

(10) If the center is equipped with a bathing facility, the licensee shall:

(a) Make the bathing facility inaccessible to the child; or

(b) Ensure the preschool age and younger child is supervised while using the bathing facility; and

(c) Equip the bathing facility with a conveniently located grab bar or other safety device such as a nonskid pad.

[Statutory Authority: RCW 74.15.020 and 74.15.030. 93-18-001 (Order 3623), § 388-150-340, filed 8/18/93, effective 9/18/93. Statutory Authority: RCW 74.15.030. 90-23-078 (Order 3103), § 388-150-340, filed 11/20/90, effective 12/21/90.]

WAC 388-150-390 Discrimination prohibited. (1) Child day care centers are defined by state and federal law as places of public accommodation and shall not discriminate in employment practices and client services on the basis of race, creed, color, national origin, sex, age, or disability.

(2) Day care centers shall:

(a) Post a nondiscrimination poster;

(b) Have a nondiscrimination plan;

(c) Have a nondiscrimination policy; and

(d) Comply with the requirements of the Americans with Disabilities Act in respect to accessibility.

[Statutory Authority: RCW 74.15.020 and 74.15.030. 93-18-001 (Order 3623), § 388-150-390, filed 8/18/93, effective 9/18/93. Statutory Authority: RCW 74.15.030. 91-07-013 (Order 3151), § 388-150-390, filed 3/12/91, effective 4/12/91; 90-23-078 (Order 3103), § 388-150-390, filed 11/20/90, effective 12/21/90.]

WAC 388-150-460 Program records. The licensee shall maintain the following documentation on the premises:

(1) The daily attendance record:

(a) The parent, or other person authorized by the parent to take the child to or from the center, shall sign in the child on arrival and shall sign out the child at departure, using a full, legal signature; and

(b) When the child leaves the center to attend school or participate in off-site activities as authorized by the parent, the staff person shall sign out the child, and sign in the child on return to the center.

(2) A copy of the report sent to the licensor about the illness or injury to the child in care requiring medical treatment or hospitalization;

(3) Copies of meal and snack menus for a minimum of six months;

(4) The twelve month record indicating the date and time the licensee conducted the required monthly fire evacuation drills;

(5) A written plan for staff development, specifying the content, frequency, and manner of planned training;

(6) Activity program plan records;

(7) Nursing consultation records, if applicable, including:

- (a) A copy of the written agreement with the nurse; and
- (b) A summary of the nurse's on-site consultation activities.

(8) A record of:

- (a) Accidents;
- (b) Injuries; and
- (c) Incidents requiring restraint.

[Statutory Authority: RCW 74.15.020 and 74.15.030. 93-18-001 (Order 3623), § 388-150-460, filed 8/18/93, effective 9/18/93. Statutory Authority: RCW 74.15.030. 90-23-078 (Order 3103), § 388-150-460, filed 11/20/90, effective 12/21/90.]

WAC 388-150-470 Personnel policies and records.

(1) Each employee and volunteer having unsupervised or regular access to the child in care shall complete and submit to the licensee or director by the date of hire:

- (a) An application for employment on a department-prescribed form, or its equivalent; and

(b) A criminal history and background inquiry form.

(i) The licensee shall submit this form to the department for the employee and volunteer, within seven calendar days of the employee's first day of employment, permitting a criminal and background history check.

(ii) The department shall discuss the inquiry information with the licensee or director, when applicable.

(2) The licensee employing five or more persons shall have written personnel policies describing staff benefits, if any, duties, and qualifications.

(3) The licensee shall maintain a personnel recordkeeping system, having on file, on the premises, for the licensee, staff person, and volunteer:

(a) An employment application, including work and education history;

(b) Documentation of criminal history and background inquiry form submission;

(c) A record of tuberculin skin test results, x-ray, or an exemption to the skin test or x-ray;

(d) Documentation of HIV/AIDS education and training;

(e) A record of participation in staff development training;

(f) Documentation of orientation program completion;

(g) Documentation of a valid food handler permit, when applicable; and

(h) Documentation of current first aid and CPR training, when applicable.

[Statutory Authority: RCW 74.15.020 and 74.15.030. 93-18-001 (Order 3623), § 388-150-470, filed 8/18/93, effective 9/18/93. Statutory Authority: RCW 74.15.030. 90-23-078 (Order 3103), § 388-150-470, filed 11/20/90, effective 12/21/90.]

WAC 388-150-490 Reporting of circumstantial changes. A child day care center license is valid only for the address, person, and organization named on the license. The licensee shall promptly report to the licensor any major changes in administrative staff, program, or premises affecting the center's classification, delivery of safe, developmentally appropriate services, or continued eligibility for licensure. A major change includes the:

- (1) Center's address, location, space, or phone number;

(2) Maximum number and age ranges of children the licensee wishes to serve as compared to current license specifications;

(3) Number and qualifications of the center's staffing pattern that may affect staff competencies to implement the specified program, including:

(a) Change of ownership, chief executive, director, or program supervisor; and

(b) The death, retirement, or incapacity of the licensee.

(4) Name of the licensed corporation, or name by which the center is commonly known, or changes in the center's articles of incorporation and bylaws;

(5) Occurrence of a fire, major structural change, or damage to the premises; and

(6) Plans for major remodeling of the center, including planned use of space not previously department approved.

[Statutory Authority: RCW 74.15.020 and 74.15.030. 93-18-001 (Order 3623), § 388-150-490, filed 8/18/93, effective 9/18/93. Statutory Authority: RCW 74.15.030. 90-23-078 (Order 3103), § 388-150-490, filed 11/20/90, effective 12/21/90.]

WAC 388-150-500 Posting requirements.

(1) The licensee shall post the following items, clearly visible to the parent and staff:

(a) The center's child care license issued under this chapter;

(b) A schedule of regular duty hours with the names of staff;

(c) A typical activity schedule, including operating hours and scheduled mealtimes;

(d) Meal and snack menus;

(e) Evacuation plans and procedures, including a diagram of exiting routes;

(f) Emergency telephone numbers near the telephone; and

(g) Nondiscrimination poster.

(2) For the staff, the licensee shall post:

(a) Dietary restrictions and nutrition requirements for particular children;

(b) Handwashing practices; and

(c) Diaper changing procedures, if applicable.

[Statutory Authority: RCW 74.15.020 and 74.15.030. 93-18-001 (Order 3623), § 388-150-500, filed 8/18/93, effective 9/18/93. Statutory Authority: RCW 74.15.030. 90-23-078 (Order 3103), § 388-150-500, filed 11/20/90, effective 12/21/90.]

Chapter 388-160 WAC

MINIMUM LICENSING REQUIREMENTS FOR OVERNIGHT YOUTH SHELTERS

WAC

| | |
|-------------|---|
| 388-160-010 | Authority. |
| 388-160-020 | Definitions. |
| 388-160-030 | Exceptions to rules. |
| 388-160-040 | Effect of local ordinances. |
| 388-160-050 | Fire standards. |
| 388-160-060 | Certification of exempt agency. |
| 388-160-070 | Application or reapplication for license or certification—Investigation. |
| 388-160-080 | Limitations on licenses and dual licensure. |
| 388-160-090 | General qualifications of licensee, applicant, and persons on the premises. |
| 388-160-100 | Age of licensee. |
| 388-160-110 | Posting of license. |

| | |
|-------------|--|
| 388-160-120 | Licensure—Denial, suspension, or revocation. |
| 388-160-130 | Licensed capacity. |
| 388-160-140 | Discrimination prohibited. |
| 388-160-150 | Religious activities. |
| 388-160-160 | Discipline. |
| 388-160-170 | Corporal punishment. |
| 388-160-180 | Abuse, neglect, or exploitation. |
| 388-160-190 | Site and telephone. |
| 388-160-200 | Equipment, safety, and maintenance. |
| 388-160-210 | Firearms and other weapons. |
| 388-160-220 | Prohibited substances. |
| 388-160-230 | Storage. |
| 388-160-240 | Bedrooms and sleeping areas. |
| 388-160-250 | Kitchen facilities. |
| 388-160-260 | Housekeeping sink. |
| 388-160-270 | Laundry. |
| 388-160-280 | Toilets, handwashing sinks, and bathing facilities. |
| 388-160-290 | Lighting. |
| 388-160-300 | Pest control. |
| 388-160-310 | Sewage and liquid wastes. |
| 388-160-320 | Water supply. |
| 388-160-340 | Health and emergency policies and procedures. |
| 388-160-350 | First aid. |
| 388-160-360 | Medication management. |
| 388-160-370 | Staff health. |
| 388-160-380 | HIV/AIDS education and training. |
| 388-160-390 | Nutrition. |
| 388-160-400 | Bedding. |
| 388-160-410 | Overnight youth shelters—Purpose and limitations. |
| 388-160-420 | Governing body/citizens board for overnight youth shelters. |
| 388-160-430 | Intake. |
| 388-160-440 | Groupings. |
| 388-160-460 | Staffing. |
| 388-160-470 | Supervision of youth. |
| 388-160-480 | Child care workers—Qualifications. |
| 388-160-490 | Program supervision. |
| 388-160-500 | Training. |
| 388-160-510 | Services. |
| 388-160-520 | Client records and information—Overnight youth shelters. |
| 388-160-530 | Personnel policies and records—Overnight youth shelters. |
| 388-160-540 | Reporting of death, injury, illness, epidemic, or child abuse. |
| 388-160-560 | Reporting circumstantial changes. |

WAC 388-160-010 Authority. The following minimum licensing requirements for overnight youth shelter rules are adopted under chapter 74.15 RCW, Agencies for care of children, expectant mothers, developmentally disabled.

[Statutory Authority: Chapter 74.15 RCW. 93-15-124 (Order 3541), § 388-160-010, filed 7/21/93, effective 8/21/93.]

WAC 388-160-020 Definitions. (1) Terms defined under this chapter shall have the same meanings as definitions described under chapter 74.15 RCW, except as otherwise provided herein.

(2) "Capacity" means the maximum number of persons under care at a given moment in time.

(3) "Child" and "juvenile" means any person under the chronological age of eighteen years of age.

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

(5) "Full-time care provider" or "full-time care facility" means a foster family home, group care facility, maternity home, crisis residential center, and juvenile detention facility for a child or expectant mothers.

(6) "Overnight youth shelter" means a licensed facility operated by a nonprofit agency providing overnight shelter to a homeless or runaway youth because of family problems or dysfunctions. Overnight youth shelters do not provide domiciliary care during daytime hours.

(7) "Youth" means a child or young adult through twenty years of age.

[Statutory Authority: Chapter 74.15 RCW. 93-15-124 (Order 3541), § 388-160-020, filed 7/21/93, effective 8/21/93.]

WAC 388-160-030 Exceptions to rules. (1) In individual cases the department, at its discretion for good cause, may waive specific requirements and may approve alternative methods of achieving the intent of specific requirements.

(2) The department may neither waive specific requirements nor approve alternate methods of achieving the content of specific requirements if it jeopardizes the safety or welfare of the person in care, as described under subsection (1) of this section.

(3) The department may approve a waiver request only for a specific purpose or child and for a specific period of time not exceeding the expiration date of the license. The licensee may apply anew for the waiver when reapplying for a license.

(4) The department may limit or restrict a license issued to a licensee or applicant in conjunction with a waiver.

(5) The licensee or applicant applying for a waiver shall do so in writing and the licensee shall maintain a copy of the waiver.

(6) The department's denial of a licensee's or applicant's waiver request shall not be subject to appeal under chapter 34.05 RCW.

[Statutory Authority: Chapter 74.15 RCW. 93-15-124 (Order 3541), § 388-160-030, filed 7/21/93, effective 8/21/93.]

WAC 388-160-040 Effect of local ordinances. (1) The department shall issue or deny a license on the basis of an applicant's compliance with the department's minimum licensing requirements.

(2) The department shall not enforce local ordinances, such as zoning regulations and local building codes.

[Statutory Authority: Chapter 74.15 RCW. 93-15-124 (Order 3541), § 388-160-040, filed 7/21/93, effective 8/21/93.]

WAC 388-160-050 Fire standards. Overnight youth shelters shall conform to the rules and regulations adopted by the Washington state fire marshal's office establishing minimum standards for fire prevention and the protection of life and property against fire as required under RCW 74.15.050 and WAC 212-12-001.

[Statutory Authority: Chapter 74.15 RCW. 93-15-124 (Order 3541), § 388-160-050, filed 7/21/93, effective 8/21/93.]

WAC 388-160-060 Certification of exempt agency. An agency legally exempt from licensing may not be licensed. However, at the agency's request, the department may certify an agency as meeting licensing and other pertinent requirements to enable an agency to be eligible for the receipt of funds or for other legitimate purposes if the

department's investigation finds the agency in compliance with the licensing requirements. In such cases, unless otherwise clearly evident from the text, the department's requirements and procedures for an agency's licensing apply equally to certification.

[Statutory Authority: Chapter 74.15 RCW. 93-15-124 (Order 3541), § 388-160-060, filed 7/21/93, effective 8/21/93.]

WAC 388-160-070 Application or reapplication for license or certification—Investigation. (1) A person or organization applying for a license or for certification under this chapter shall:

- (a) Submit the application on forms prescribed by the department;
- (b) Comply with department procedures;
- (c) Initiate the application in the name of the person or legal entity responsible for the agency's operation; and
- (d) Include with the application:
 - (i) Employment and educational history of the person charged with the active management of the agency;
 - (ii) Completed forms enabling the department to:
 - (A) Perform a criminal history check;
 - (B) Check the department's master files for each staff or volunteer of the agency having unmonitored access to the child, expectant mother, or developmentally disabled person; and

(C) Share this information with the applicant or licensee.

(2) The department may:

- (a) Require additional information from the applicant, licensee, their staff, and persons having access to a child under care as the department deems necessary including, but not limited to:

- (i) Sexual deviancy evaluations;
- (ii) Substance and alcohol abuse evaluations;
- (iii) Psychiatric evaluations;
- (iv) Psychological evaluations; and
- (v) Medical evaluations.

(b) Perform corollary investigations of the applicant, licensee, and their staff, and as the department deems necessary, including accessing of criminal histories and law enforcement files.

[Statutory Authority: Chapter 74.15 RCW. 93-15-124 (Order 3541), § 388-160-070, filed 7/21/93, effective 8/21/93.]

WAC 388-160-080 Limitations on licenses and dual licensure. The department shall not issue a license to an applicant for both an overnight youth shelter and another category of care which the department licenses or is licensed by another department. The department may authorize an exception only if it is clearly evident that care of one category of client does not interfere with the safety and quality of care provided to other client categories.

[Statutory Authority: Chapter 74.15 RCW. 93-15-124 (Order 3541), § 388-160-080, filed 7/21/93, effective 8/21/93.]

WAC 388-160-090 General qualifications of licensee, applicant, and persons on the premises. (1) The applicant, licensee, staff, and other person on the premises shall be a person of good character.

(2) The licensee or applicant shall demonstrate that the licensee or applicant, child care staff, volunteer, and other

person having access to a person under care have the understanding, ability, physical health, emotional stability, and personality suited to meet the physical, mental, emotional, and social needs of the person under care.

(3) The licensee, applicant, staff, and other person on the premises shall not have been:

(a) Convicted of, found a perpetrator of, or have a charge pending of child abuse and/or any crime involving physical harm to another person; or

(b) Found to:

(i) Be a perpetrator of substantiated or founded child abuse; or

(ii) Have been an alleged perpetrator of an incident of child abuse where the department found the evidence supports the allegation.

(4) The department may, at any time, require the licensee or person on the premises to provide additional information so the department can determine whether the licensee, adoptive applicant, child care staff, volunteer, and other person having access to a child in care meet the qualifications under subsections (1), (2), and (3) of this section. The department may require the licensee or person on the premises to provide additional information including, but not limited to:

- (a) Sexual deviancy evaluations;
- (b) Substance and alcohol abuse evaluations;
- (c) Psychiatric evaluations;
- (d) Psychological evaluations; and
- (e) Medical evaluations.

[Statutory Authority: Chapter 74.15 RCW. 93-15-124 (Order 3541), § 388-160-090, filed 7/21/93, effective 8/21/93.]

WAC 388-160-100 Age of licensee. An applicant for an overnight youth shelter license under this chapter shall be twenty-one or more years of age.

[Statutory Authority: Chapter 74.15 RCW. 93-15-124 (Order 3541), § 388-160-100, filed 7/21/93, effective 8/21/93.]

WAC 388-160-110 Posting of license. All licensees shall post the license issued under this chapter at the overnight youth shelter in a place accessible and conspicuous to the public.

[Statutory Authority: Chapter 74.15 RCW. 93-15-124 (Order 3541), § 388-160-110, filed 7/21/93, effective 8/21/93.]

WAC 388-160-120 Licensure—Denial, suspension, or revocation. (1) Before granting a license and as a condition for continuance of a license, the department shall consider the ability of each applicant, licensee, and chief executive officer, if any, to operate the agency under the law and this chapter. The department shall consider such persons separately and jointly as applicants or licensees and if any one be deemed disqualified by the department under chapter 74.15 RCW or this chapter, the department may deny, suspend, revoke, or not renew the license. The department shall deny, suspend, revoke, or not renew a license for the following reasons:

(a) The department shall disqualify any person engaging in illegal use of drugs or excessive use of alcohol;

(b) The department shall disqualify any person who has been convicted of an offense listed under chapter 388-330 WAC;

(c) The department shall disqualify any person convicted of a felony or released from a prison within seven years of the date of application for the license because of the conviction, when:

(i) The person's conviction is reasonably related to the person's competency to exercise responsibilities for ownership, operation, or administration of an agency; and

(ii) The department determines, after investigation, the person has not been sufficiently rehabilitated to warrant public trust.

(d) The department shall not grant a license to an applicant who, in this state or elsewhere:

(i) Has been denied a license to operate an agency for the care of a child, an expectant mother, or a developmentally disabled adult; or

(ii) Had a license to operate such an agency suspended or revoked.

(2) An applicant of an overnight youth shelter may establish by clear, cogent, and convincing evidence the ability to operate an agency under this chapter. The department may waive the provision and license the applicant as described under subdivision (1)(d) of this section.

(3) The department may deny, suspend, revoke, or not renew a license for failure to comply with the provisions of chapter 74.15 RCW and rules contained in this chapter. The department shall deny, suspend, revoke, or not renew a license for the following reasons:

(a) Obtaining or attempting to obtain a license by fraudulent means or misrepresentation, including:

(i) Making materially false statements on the application; or

(ii) Material omissions which would influence appraisal of the applicant's or provider's suitability.

(b) Permitting, aiding, or abetting the commission of any illegal act on the premises;

(c) Permitting, aiding, or abetting the abuse, neglect, exploitation, or cruel or indifferent care to a person under care;

(d) Repeatedly:

(i) Providing insufficient personnel relative to the number and types of persons under care; or

(ii) Allowing a person unqualified by training, experience, or temperament to care for, or be in contact with, the person under care.

(e) Misappropriation of the property of a person under care;

(f) Failure or inability to exercise fiscal responsibility and accountability in respect to operation of the agency;

(g) Failure to provide adequate supervision to a person under care;

(h) Refusal to admit authorized representatives of the department, department of health, or state fire marshal to inspect the premises;

(i) Refusal to permit:

(A) Authorized representatives of the department and the department of health to have access to the records necessary for the operation of the agency; or

(B) The department representatives to interview agency staff and clients.

(j) Knowingly having an employee or volunteer on the premises who has made misrepresentation or significant omissions on the application for employment or volunteer service; and

(k) Refusal or failure to supply necessary additional department-requested information.

(4) The department may deny, suspend, revoke, or not renew or modify a license for violation of any condition or limitation upon licensure including, but not limited to, providing care for:

(a) More children than the number for which the agency is licensed; or

(b) Children of ages different from the ages for which the agency is licensed.

(5) The department shall deny, suspend, or revoke a licensee's license when the applicant, licensee, or person on the premises is a perpetrator of child abuse or has been convicted of a crime as listed under WAC 388-330-030(1). The department may grant a licensee or provider a waiver if it is demonstrated by clear, cogent, and convincing evidence that such person is rehabilitated and is able to comply with licensing requirements. In making this determination, the department shall consider:

(a) The seriousness and circumstances of the person's illegal act;

(b) The number of crimes of which the person was convicted;

(c) The amount of time passed since the person committed the illegal act;

(d) The age of the person at the time of convictions;

(e) Whether the person has entered and successfully completed all appropriate rehabilitative services, including those services ordered by a court;

(f) The behavior of the person since the illegal act was committed;

(g) Recommendations of persons closely associated with the person;

(h) The duties the person would perform at the agency, and the vulnerability of the persons under care; and

(i) Other evidence of rehabilitation.

If the department licenses or approves a person under this section, the department may place limitations or conditions on the person in the performance of the person's duties at the agency.

(6) The department's notice of a denial, revocation, suspension, or modification of a license shall be governed by RCW 43.20A.205. The provider's right to an adjudicative proceeding is in the same law.

(a) A provider contesting a department licensing decision shall within twenty-eight days of receipt of the decision:

(i) File a written application for an adjudicative proceeding by a method showing proof of receipt with the office of appeals; and

(ii) Include in or with the application:

(A) A specific statement of the issues and law involved;

(B) The grounds for contesting the department decision;

and

(C) A copy of the department decision.

(b) The proceeding shall be governed by the Administrative Procedure Act chapter 34.05 RCW, RCW 43.20A.205, this chapter, and chapter 388-08 WAC. If any provision of this chapter conflicts with chapter 388-08 WAC, the provision in this chapter governs.

[Statutory Authority: Chapter 74.15 RCW. 93-15-124 (Order 3541), § 388-160-120, filed 7/21/93, effective 8/21/93.]

WAC 388-160-130 Licensed capacity. (1) The number of persons for whom the department will license an agency is dependent upon the evaluation of:

- (a) The physical accommodations of the agency;
- (b) The numbers and skills of the licensee, staff, family members and volunteers; and
- (c) The ages and characteristics of the persons to be served.

(2) The department shall not license an agency for the care of more persons than permitted by the rules regarding the category of care for which the license is sought.

(3) The department may license an agency for the care of fewer persons than normally permitted by the rules based on the evaluation of items listed under subsection (1) of this section.

[Statutory Authority: Chapter 74.15 RCW. 93-15-124 (Order 3541), § 388-160-130, filed 7/21/93, effective 8/21/93.]

WAC 388-160-140 Discrimination prohibited. The licensee shall comply with federal and state statutory and regulatory requirements regarding nondiscrimination in employment practices and client services as described under chapter 49.60 RCW.

[Statutory Authority: Chapter 74.15 RCW. 93-15-124 (Order 3541), § 388-160-140, filed 7/21/93, effective 8/21/93.]

WAC 388-160-150 Religious activities. The overnight youth shelter licensee shall:

- (1) Respect the rights of persons in care to observe the tenets of the person's faith and shall facilitate those rights consistent with state and federal laws;
- (2) Not punish a person in care for exercising these rights;
- (3) Submit to the department a written description of any religious policies and practices.

[Statutory Authority: Chapter 74.15 RCW. 93-15-124 (Order 3541), § 388-160-150, filed 7/21/93, effective 8/21/93.]

WAC 388-160-160 Discipline. (1) The overnight youth shelter licensee shall state disciplinary practices in writing. Discipline shall be a responsibility of the licensee or staff, and shall not be prescribed or administered by persons under care. Discipline shall be based on an understanding of the person's needs and stage of development. A person's discipline shall be designed to help the person develop inner control, acceptable behavior, and respect for the rights of others.

(2) The licensee shall ensure a person's discipline is fair, reasonable, consistent, and related to the person's behavior. A licensee shall not administer cruel and unusual discipline, discipline hazardous to health, and frightening or humiliating discipline.

[Statutory Authority: Chapter 74.15 RCW. 93-15-124 (Order 3541), § 388-160-160, filed 7/21/93, effective 8/21/93.]

WAC 388-160-170 Corporal punishment. (1) Corporal punishment is prohibited.

(2) Prohibited corporal punishment shall not include the use of such amounts of physical restraint as may be reasonable and necessary to:

(a) Protect a person on the premises from physical injury;

(b) Obtain possession of a weapon or other dangerous object; and

(c) Protect property from serious damage.

(3) The licensee of an overnight youth shelter shall not use mechanical restraints including, but not limited to:

(a) Handcuffs;

(b) Belt restraints; and

(c) Locked time-out rooms.

(4) The licensee shall not use physical restraints which could be injurious including, but not limited to:

(a) Large adult sitting on or straddling a small child;

(b) Sleeper holds;

(c) Arm twisting;

(d) Hair holds; and

(e) Throwing a child or youth against a wall, furniture, or other large immobile object.

(5) Staff employed in a facility where it may be necessary to restrain a child shall be trained in the use of appropriate restraining techniques.

[Statutory Authority: Chapter 74.15 RCW. 93-15-124 (Order 3541), § 388-160-170, filed 7/21/93, effective 8/21/93.]

WAC 388-160-180 Abuse, neglect, or exploitation. An overnight youth shelter licensee shall protect persons, while in the licensee's care, from child abuse or neglect as defined under RCW 26.44.020(12).

[Statutory Authority: Chapter 74.15 RCW. 93-15-124 (Order 3541), § 388-160-180, filed 7/21/93, effective 8/21/93.]

WAC 388-160-190 Site and telephone. An overnight youth shelter licensee shall locate the shelter on a well-drained site free from hazardous conditions and accessible to other facilities necessary to carry out its program. The licensee shall ensure the shelter has one or more telephones on the premises accessible for emergency use at all times.

[Statutory Authority: Chapter 74.15 RCW. 93-15-124 (Order 3541), § 388-160-190, filed 7/21/93, effective 8/21/93.]

WAC 388-160-200 Equipment, safety, and maintenance. (1) An overnight youth shelter licensee shall:

(a) Maintain the physical plant, premises, and equipment in a clean and sanitary condition, free of hazards, and in good repair;

(b) Provide handrails on stairs as determined necessary by the department;

(c) Have available one or more emergency light sources, such as a flashlight, in operational condition; and

(d) Provide toilet rooms and other rooms subject to moisture with washable, moisture impervious floors.

(2) Shelter staff members shall have a means to gain rapid access to any bedroom, toilet room, shower room,

bathroom, or other room occupied by youth should an emergency need arise.

[Statutory Authority: Chapter 74.15 RCW. 93-15-124 (Order 3541), § 388-160-200, filed 7/21/93, effective 8/21/93.]

WAC 388-160-210 Firearms and other weapons.

An overnight youth shelter licensee shall ensure no firearms or other weapons are on the premises except those confiscated and secured from youth upon admission and these shall be locked up.

[Statutory Authority: Chapter 74.15 RCW. 93-15-124 (Order 3541), § 388-160-210, filed 7/21/93, effective 8/21/93.]

WAC 388-160-220 Prohibited substances. (1)

During operating hours when youth are in care, the overnight shelter licensee, staff, and volunteers on shelter premises or caring for youth off-site shall not be under the influence of, consume, or possess an:

- (a) Alcoholic beverage; or
- (b) Illegal drug.
- (2) The overnight shelter licensee shall prohibit smoking

in:

(a) A transport vehicle when shelter staff are transporting youth in care; and

(b) The shelter when youth are in care; except, the licensee may permit a person to smoke only in a designated smoking room which is ventilated to the outside in such a manner that passive tobacco smoke cannot contaminate the indoor shelter air.

[Statutory Authority: Chapter 74.15 RCW. 93-15-124 (Order 3541), § 388-160-220, filed 7/21/93, effective 8/21/93.]

WAC 388-160-230 Storage. An overnight youth shelter provider shall ensure a shelter provides:

- (1) Suitable space as needed for the storage of:
 - (a) Clothing and personal possessions of youth in care;
 - (b) Records and files;
 - (c) Cots;
 - (d) Mats and bedding; and
 - (e) Cleaning supplies and other materials.
- (2) A secure area for cleaning supplies, toxic substances, poisons, aerosols, and items bearing warning labels, which is inaccessible to youth. The provider shall ensure all containers filled from a stock supply bear a label identifying the product name and concentration.

[Statutory Authority: Chapter 74.15 RCW. 93-15-124 (Order 3541), § 388-160-230, filed 7/21/93, effective 8/21/93.]

WAC 388-160-240 Bedrooms and sleeping areas.

An overnight youth shelter licensee shall ensure the shelter:

- (1) Provides sleeping areas not less than fifty square feet per occupant of unobstructed floor area with ceiling height of not less than seven feet, six inches;
- (2) Not use hallways and kitchens as sleeping rooms;
- (3) Maintains a space not less than thirty inches between sleeping youths;
- (4) Provides sleeping areas separated by a visual barrier five or more feet high for each sex of youth in care; and
- (5) In facilities caring for youth sixteen through twenty years of age, separates youths under eighteen years of age

from youths eighteen through twenty years of age by a supervised open space or a physical barrier to prevent contact.

[Statutory Authority: Chapter 74.15 RCW. 93-15-124 (Order 3541), § 388-160-240, filed 7/21/93, effective 8/21/93.]

WAC 388-160-250 Kitchen facilities. An overnight youth shelter licensee shall ensure the shelter providing food service:

- (1) Provides for the proper storage, preparation, and service of food to meet the needs of the program;
- (2) Has facilities and implements practices as required under chapter 246-215 WAC, rules and regulations of the state board of health, which governs food service sanitation.

[Statutory Authority: Chapter 74.15 RCW. 93-15-124 (Order 3541), § 388-160-250, filed 7/21/93, effective 8/21/93.]

WAC 388-160-260 Housekeeping sink. An overnight youth shelter shall have and use:

- (1) A method of drawing clean mop water; and
- (2) An appropriate method of waste water disposal.

[Statutory Authority: Chapter 74.15 RCW. 93-15-124 (Order 3541), § 388-160-260, filed 7/21/93, effective 8/21/93.]

WAC 388-160-270 Laundry. An overnight youth shelter shall:

- (1) Provide for separate storage of soiled linen and clean linen;
- (2) Have access to laundry washing and drying facilities, which may include using on-premises or off-site equipment;
- (3) Locate laundry equipment, if on the premises, in an area separate from the kitchen; and
- (4) Sanitize laundry using a hot water temperature of at least one hundred thirty degrees Fahrenheit or an effective chemical method, or have the laundry done by a commercial service.

[Statutory Authority: Chapter 74.15 RCW. 93-15-124 (Order 3541), § 388-160-270, filed 7/21/93, effective 8/21/93.]

WAC 388-160-280 Toilets, handwashing sinks, and bathing facilities. An overnight youth shelter shall provide:

- (1) Two or more indoor flush-type toilets, each with one nearby handwashing sink with hot and cold running water;
- (2) Toilets and handwashing sinks in a ratio of one toilet and sink for each eight persons on the premises plus the major fraction thereof, allowing four additional persons before requiring additional fixtures;
- (3) Privacy for persons of the opposite sex at toilets, and bathing facilities, if provided;
- (4) Hot and cold running water not exceeding one hundred twenty degrees Fahrenheit at handwashing sinks, and bathing facilities, if provided;
- (5) A conveniently located grab bar or nonslip floor surfaces in bathing facilities, if provided;
- (6) Urinals in lieu of toilets only if the urinals do not replace more than one-third of the total required toilets; and
- (7) Soap and individual towels, disposable towels, or other approved single-use hand drying devices at handwashing sinks, and any bathing facilities if bathing facilities are provided.

[Statutory Authority: Chapter 74.15 RCW. 93-15-124 (Order 3541), § 388-160-280, filed 7/21/93, effective 8/21/93.]

WAC 388-160-290 Lighting. An overnight youth shelter shall provide and locate fixtures for the comfort and safety of the youth in care.

[Statutory Authority: Chapter 74.15 RCW. 93-15-124 (Order 3541), § 388-160-290, filed 7/21/93, effective 8/21/93.]

WAC 388-160-300 Pest control. An overnight youth shelter shall keep the premises free from rodents, flies, cockroaches, and other insects.

[Statutory Authority: Chapter 74.15 RCW. 93-15-124 (Order 3541), § 388-160-300, filed 7/21/93, effective 8/21/93.]

WAC 388-160-310 Sewage and liquid wastes. An overnight youth shelter shall discharge sewage and liquid wastes into:

- (1) A public sewer system; or
- (2) A local health authority or department approved independent sewage system.

[Statutory Authority: Chapter 74.15 RCW. 93-15-124 (Order 3541), § 388-160-310, filed 7/21/93, effective 8/21/93.]

WAC 388-160-320 Water supply. An overnight youth shelter shall provide:

- (1) A potable water supply approved by the local health authority or department; and
- (2) Disposable paper cups, individual drinking cups or glasses, or inclined-jet drinking fountains.

[Statutory Authority: Chapter 74.15 RCW. 93-15-124 (Order 3541), § 388-160-320, filed 7/21/93, effective 8/21/93.]

WAC 388-160-340 Health and emergency policies and procedures. An overnight youth shelter shall have:

- (1) Current written health policies and procedures including, but not limited to, first aid, infection control, care of minor illnesses, and general health practices and actions to be taken in event of medical and other emergencies;
- (2) These health policies and procedures readily available for staff orientation and for implementation; and
- (3) Emergency phone numbers posted next to the phone.

[Statutory Authority: Chapter 74.15 RCW. 93-15-124 (Order 3541), § 388-160-340, filed 7/21/93, effective 8/21/93.]

WAC 388-160-350 First aid. An overnight youth shelter shall:

- (1) Have one or more persons having completed a current basic Red Cross first-aid course or a department-approved first-aid course, and current training in cardiopulmonary resuscitation (CPR) present at all times youth are in care;
- (2) Maintain documentation of persons having completed the first aid and CPR training on the premises; and
- (3) Keep first-aid supplies readily available to shelter staff.

[Statutory Authority: Chapter 74.15 RCW. 93-15-124 (Order 3541), § 388-160-350, filed 7/21/93, effective 8/21/93.]

WAC 388-160-360 Medication management. An overnight youth shelter shall:

- (1) Secure any medication brought into the shelter by a youth so it is unavailable to other youth in care;
- (2) Supervise self-administration of a medication according to the prescription or manufacturer's label on the original medication container; and
- (3) Return a medication of a youth when the youth leaves the facility, or properly dispose of the medication if left behind by the youth.

[Statutory Authority: Chapter 74.15 RCW. 93-15-124 (Order 3541), § 388-160-360, filed 7/21/93, effective 8/21/93.]

WAC 388-160-370 Staff health. Each licensee, employee, adult volunteer, and other adult persons having regular contact with persons in care shall have a tuberculin skin test, by the Mantoux method, upon overnight youth shelter employment or licensing unless medically contraindicated.

- (1) A person whose TB skin test is positive (ten millimeters or more induration) shall have a chest X-ray within ninety days following the skin test.

- (2) A person shall not require a routine periodic retesting or X-ray (biennial or otherwise) after the entry testing.

- (3) A person shall not require an entry test whose TB skin test has been documented as negative (less than ten millimeters) within the last two years, and such person shall not require a routine periodic retesting or biennial X-ray or otherwise.

[Statutory Authority: Chapter 74.15 RCW. 93-15-124 (Order 3541), § 388-160-370, filed 7/21/93, effective 8/21/93.]

WAC 388-160-380 HIV/AIDS education and training. An overnight youth shelter shall provide or arrange for appropriate education and training of employees on the prevention, transmission, and treatment of HIV and AIDS as prescribed by the department of health. Such education and training shall be consistent with the curriculum manual *KNOW-HIV/AIDS Prevention Education for Health Care Facility Employees*, January 1991, published by the Washington state HIV/AIDS program, department of health.

[Statutory Authority: Chapter 74.15 RCW. 93-15-124 (Order 3541), § 388-160-380, filed 7/21/93, effective 8/21/93.]

WAC 388-160-390 Nutrition. An overnight youth shelter providing meals shall consider the age, cultural background, and nutritional requirements of youth served when preparing meals.

[Statutory Authority: Chapter 74.15 RCW. 93-15-124 (Order 3541), § 388-160-390, filed 7/21/93, effective 8/21/93.]

WAC 388-160-400 Bedding. An overnight youth shelter providing youth sleeping equipment and bedding shall maintain the equipment and bedding in good repair and in a clean and sanitary manner. The shelter shall accept the use of sleeping and bedding equipment personally provided by youth in care.

[Statutory Authority: Chapter 74.15 RCW. 93-15-124 (Order 3541), § 388-160-400, filed 7/21/93, effective 8/21/93.]

WAC 388-160-410 Overnight youth shelters—Purpose and limitations. The purpose of the overnight youth shelter shall be to provide youth an emergency sleeping arrangement. The overnight youth shelter shall make every effort to refer a youth to appropriate services. The overnight youth shelter providing shelter for a teen parent with child shall assure adequate quarters and services for infants and very young children. The overnight youth shelter may be licensed to provide care for either:

- (1) Children from thirteen through seventeen years of age; or
- (2) Youths sixteen through twenty years of age.

[Statutory Authority: Chapter 74.15 RCW. 93-15-124 (Order 3541), § 388-160-410, filed 7/21/93, effective 8/21/93.]

WAC 388-160-420 Governing body/citizens board for overnight youth shelters. (1) Every overnight youth shelter shall have a governing body/citizens board which shall comply with all laws and rules concerning nonprofit boards of directors.

(2) The shelter facility shall keep on file a list of the current membership of the governing body citizens board.

[Statutory Authority: Chapter 74.15 RCW. 93-15-124 (Order 3541), § 388-160-420, filed 7/21/93, effective 8/21/93.]

WAC 388-160-430 Intake. (1) An overnight youth shelter shall provide an intake consisting of an initial assessment of entering youth and shall include, but not be limited to:

- (a) Recent history;
- (b) Outstanding warrants;
- (c) Where the youngster has been;
- (d) Physical and medical needs, including medication; and
- (e) Whether parents are aware of the youth's whereabouts.

(2) If the youth returns to the overnight shelter, the shelter shall provide a second intake to evaluate the youth's needs including:

- (a) Family and living situation (Does parent want youth at home?);
- (b) Criminal involvement;
- (c) Behavioral problems;
- (d) School status;
- (e) Adult to contact, if one is available;
- (f) Immediate need for counseling;
- (g) Capability for self-care; and
- (h) Options for the near future.

(3) The overnight youth shelter shall notify the department of social and health services (DSHS) or the police of an unaccompanied child under thirteen years of age who is requesting service.

[Statutory Authority: Chapter 74.15 RCW. 93-15-124 (Order 3541), § 388-160-430, filed 7/21/93, effective 8/21/93.]

WAC 388-160-440 Groupings. (1) The overnight youth shelter shall provide sleeping areas for males and females which are separated by partitions.

(2) In facilities caring for youths sixteen through twenty years of age, sleep areas for those sixteen and seventeen years of age shall be spatially separated from those eighteen through twenty years of age to the extent permitted by the configurations of the facility.

[Statutory Authority: Chapter 74.15 RCW. 93-15-124 (Order 3541), § 388-160-440, filed 7/21/93, effective 8/21/93.]

WAC 388-160-460 Staffing. (1) An overnight youth shelter shall adhere to the following staff/child ratios:

(a) A shelter licensed for youths thirteen through seventeen years of age exclusively shall have a staff/child ratio of 1:8;

(b) A shelter caring for youths sixteen through twenty years of age on the premises shall have a staff/child ratio of 1:6.

(2) All shelters shall have two or more adult staff on the premises at all times (at least one of whom is a fully trained lead counselor) when children are present.

(3) All shelters shall have two or more awake staff present while youths are asleep.

(4) If fewer than six youths are in care, there may be only one awake staff on duty provided that the staff is a fully trained lead counselor.

[Statutory Authority: Chapter 74.15 RCW. 93-15-124 (Order 3541), § 388-160-460, filed 7/21/93, effective 8/21/93.]

WAC 388-160-470 Supervision of youth. In an open or dormitory type setting, an overnight youth shelter staff person shall be within visual and auditory range of youths at all times when the youths are within the shelter.

[Statutory Authority: Chapter 74.15 RCW. 93-15-124 (Order 3541), § 388-160-470, filed 7/21/93, effective 8/21/93.]

WAC 388-160-480 Child care workers—Qualifications. (1) All overnight youth shelter child care staff and volunteers shall:

- (a) Be twenty-one or more years of age;
- (b) Have completed a criminal history check;
- (c) Have completed a TB test, as required under WAC 388-73-142; and
- (d) Have complete AIDs training as required under WAC 388-73-143.

(2) Overnight youth shelter child care workers shall be of both sexes to reflect the population in care.

(3) One person with full training plus having one year's experience with high-risk adolescents shall be present at all times that youths are in care as described under section 500 (1) and (2) of this chapter.

[Statutory Authority: Chapter 74.15 RCW. 93-15-124 (Order 3541), § 388-160-480, filed 7/21/93, effective 8/21/93.]

WAC 388-160-490 Program supervision. (1) The department shall require every overnight youth shelter to have a program supervisor.

- (a) The program supervisor shall have a:
 - (i) Master's degree in social work or a related field and one year's experience with high-risk adolescents; or
 - (ii) Bachelor's degree and three years' experience with high-risk adolescents.

(b) The program supervisor shall provide two hours of supervision to youth shelter child care staff or volunteers for each forty hours that staff work.

(2) A master's degree level person with counseling experience with high-risk/troubled adolescents shall be on call at all times when the overnight youth shelter is open or when children are present. This person may be on staff or contract or available by written agreement.

[Statutory Authority: Chapter 74.15 RCW. 93-15-124 (Order 3541), § 388-160-490, filed 7/21/93, effective 8/21/93.]

WAC 388-160-500 Training. (1) All overnight youth shelter staff and volunteers shall receive training before providing care for youth. The overnight youth shelter shall ensure this training includes, but is not limited to:

- (a) Job responsibilities;
- (b) Agency administration;
- (c) Supervision of youths;
- (d) Behavior management;
- (e) Fire safety procedures;
- (f) AIDS training;
- (g) Cultural sensitivities; and
- (h) Handling emergency situations.

(2) An overnight youth shelter shall also offer or make available to staff and volunteers in-service training to cover policies appropriate to each position, to include supervisory skills, adolescent development and problems, and meeting the needs of youths. The shelter's training should include, but not be limited to sexual abuse, predatory behavior, substance abuse, depression, mental health, and teen suicide.

[Statutory Authority: Chapter 74.15 RCW. 93-15-124 (Order 3541), § 388-160-500, filed 7/21/93, effective 8/21/93.]

WAC 388-160-510 Services. (1) At a minimum, all overnight youth shelters shall offer the following services to all clients:

(a) Client intake including demographic information and emergency contacts (phone number), presenting problems (school status, medical problems, family situation, suicide evaluation, history of assaultive/predatory behavior, and drug/alcohol involvement);

(b) Individual crisis intervention;

(c) Assistance in accessing emergency resources, including child protective services (CPS) and emergency medical services; and

(d) Resource information;

(2) An overnight youth shelter shall provide resource information as needed for appropriate educational, vocational, placement, housing, medical, substance abuse, mental health, other treatment agencies, and food program, or to DSHS office.

(3) If appropriate ancillary services are not provided by the licensed program, the overnight youth shelter licensee shall demonstrate working relationships with organizations providing services to targeted young people.

[Statutory Authority: Chapter 74.15 RCW. 93-15-124 (Order 3541), § 388-160-510, filed 7/21/93, effective 8/21/93.]

WAC 388-160-520 Client records and information—Overnight youth shelters. The overnight youth shelter shall maintain records and information concerning

persons in care in such a manner as to preserve their confidentiality. The shelter shall maintain records giving the following information on each youth under care in the same shelter in which the youth is sheltered:

(1) Identifying information, including:

- (a) Name;
- (b) Birth date;
- (c) Date of admission;
- (d) Ethnicity; and
- (e) Other appropriate information.

(2) Names, addresses, and telephone numbers, if any, of parents' or other persons' home or business to contact in case of emergency;

(3) Dates and kinds of illnesses and accidents, medications and treatments prescribed, the time they are given, and by whom; and

(4) Daily log of attendance, admission, referrals, exit, and important information.

[Statutory Authority: Chapter 74.15 RCW. 93-15-124 (Order 3541), § 388-160-520, filed 7/21/93, effective 8/21/93.]

WAC 388-160-530 Personnel policies and records—Overnight youth shelters. (1) Each overnight youth shelter employee and volunteer having unsupervised or regular access to the youth or child in care shall complete and submit to the licensee or director by the date of hire:

(a) An employment application on a department-prescribed form, or its equivalent; and

(b) A criminal history and background inquiry form.

(i) The licensee shall submit this form to the department for the employee and volunteer, within seven calendar days of the employee's first day of employment, permitting a criminal and background history check.

(ii) The department shall discuss the inquiry information with the licensee or director, when applicable.

(2) The overnight youth shelter licensee employing five or more persons shall have written personnel policies describing staff benefits, if any, duties, and qualifications.

(3) The overnight youth shelter licensee shall maintain a personnel recordkeeping system, having on file for the licensee, staff person, and volunteer:

(a) An employment application, including work and education history;

(b) Documentation of criminal history and background inquiry form submission;

(c) A record of a negative Mantoux, tuberculin skin tests results, X-ray, or an exemption to the skin test or X-ray;

(d) Documentation of HIV/AIDS education and training;

(e) A record of participation in staff development training;

(f) Documentation of orientation program completion;

(g) Documentation of a valid food handler permit, when applicable;

(h) Documentation of current first aid and CPR training, when applicable; and

(i) Telephone number of "on-call" master degree level person with other emergency telephone numbers.

[Statutory Authority: Chapter 74.15 RCW. 93-15-124 (Order 3541), § 388-160-530, filed 7/21/93, effective 8/21/93.]

WAC 388-160-540 Reporting of death, injury, illness, epidemic, or child abuse. The overnight youth shelter licensee or staff shall report immediately:

(1) A death, serious injury requiring medical treatment, or illness requiring hospitalization of a child in care, by telephone and in writing, to the parent if contact information is known, licensor, and child's social worker, if any;

(2) An instance when the licensee or staff has reason to suspect the occurrence of physical, sexual, or emotional child abuse, neglect, or child exploitation, by telephone, to child protective services (CPS) or local law enforcement as required under chapter 26.44 RCW; and

(3) An occurrence of food poisoning or communicable disease, as required by the state board of health, by telephone, to the local public health department.

[Statutory Authority: Chapter 74.15 RCW. 93-15-124 (Order 3541), § 388-160-540, filed 7/21/93, effective 8/21/93.]

WAC 388-160-560 Reporting circumstantial changes. An overnight youth shelter's license shall be valid only for the address and organization named on the license. The overnight youth shelter licensee shall promptly report to the licensor major changes in staff, program, or premises affecting the shelter classification, delivery of safe and appropriate services, or continued eligibility for licensure. The overnight youth shelter licensee shall include as a major change:

(1) Shelter address, location, space, or phone number;

(2) Maximum number, age ranges, and sex of children the licensee wishes to serve as compared to current license specifications;

(3) Number or qualifications of the shelter's staffing pattern that may affect staff competencies to implement the specified program, including:

(a) Change in ownership, chief executive, director, or program supervisor; and

(b) The death, retirement, or incapacity of the licensee.

(4) Name of licensed corporations, or name by which the overnight youth shelter is commonly known, or changes in the shelter's articles of incorporation and bylaws;

(5) Occurrence of a fire, major structural change, or damage to the premises; and

(6) Plans for major remodeling of the shelter, including planned use of space not previously department approved.

[Statutory Authority: Chapter 74.15 RCW. 93-15-124 (Order 3541), § 388-160-560, filed 7/21/93, effective 8/21/93.]

Chapter 388-230 WAC

GENERAL ASSISTANCE FOR PREGNANT WOMEN

WAC

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|--------------|--|
| 388-230-0010 | Purpose of program. |
| 388-230-0030 | Definitions. |
| 388-230-0040 | Summary of eligibility conditions. |
| 388-230-0050 | Assistance units. |
| 388-230-0060 | Eligibility conditions—Program criteria. |
| 388-230-0080 | Persons in institutions. |
| 388-230-0090 | Eligibility conditions—Financial criteria. |
| 388-230-0110 | Need and payment standards. |
| 388-230-0120 | Protective payees. |
| 388-230-0140 | Ineligibility based on benefits from other programs. |

WAC 388-230-0010 Purpose of program. (1) General assistance for pregnant women (GA-S) is a state-funded grant assistance program providing for the needs of:

(a) A pregnant woman; or

(b) A woman who has relinquished her newborn for adoption.

(2) GA-S is used only when federally-funded grant assistance programs are not available.

[Statutory Authority: RCW 74.08.090. 93-16-059 (Order 3556), § 388-230-0010, filed 7/29/93, effective 8/29/93.]

WAC 388-230-0030 Definitions. (1) "Institution for mental diseases" means an institution primarily engaged in providing diagnosis, treatment, or care of persons with mental diseases, including medical attention, nursing care, and related services.

(2) "Public institution" means an institution that is supported in whole or in part from public funds and is the responsibility of a governmental unit or over which a governmental unit exercises administrative control.

[Statutory Authority: RCW 74.08.090. 93-16-059 (Order 3556), § 388-230-0030, filed 7/29/93, effective 8/29/93.]

WAC 388-230-0040 Summary of eligibility conditions. (1) The department shall grant GA-S to a person who meets the eligibility conditions stated in this chapter and is:

(a) A pregnant woman not eligible for AFDC or CEAP for reasons other than refusal or failure to cooperate without good cause in obtaining such assistance; or

(b) A woman who relinquished a newborn for adoption if the woman was receiving:

(i) GA-S at the time of the birth of the child; or

(ii) AFDC at the time of the birth of the child and subsequently loses AFDC eligibility because an eligible child does not reside in the household.

(2) Assistance granted under subsection (1)(b) of this section shall be limited to the end of the month containing the last day of the six week period following the day the child is born.

[Statutory Authority: RCW 74.08.090. 93-16-059 (Order 3556), § 388-230-0040, filed 7/29/93, effective 8/29/93.]

WAC 388-230-0050 Assistance units. (1) The department shall include the following persons in single assistance unit:

(a) A pregnant single person; or

(b) A married couple when the husband is eligible for general assistance unemployable and the wife is eligible for general assistance for pregnant women; or

(c) Only the pregnant woman in the case of a married couple when the other spouse is employable.

(2) The department shall include only the pregnant woman in the payment of the grant assistance under the GA-S program.

[Statutory Authority: RCW 74.08.090. 93-16-059 (Order 3556), § 388-230-0050, filed 7/29/93, effective 8/29/93.]

WAC 388-230-0060 Eligibility conditions—Program criteria. For GA-S, the department shall apply the general

assistance unemployable (GAU) program criteria applicable to:

- (1) Citizenship or alien status;
- (2) Social Security number; and
- (3) Residency.

[Statutory Authority: RCW 74.08.090. 93-16-059 (Order 3556), § 388-230-0060, filed 7/29/93, effective 8/29/93.]

WAC 388-230-0080 Persons in institutions. (1) If otherwise eligible for GA-S, the department may grant GA-S to a person in an institution if the person is not:

- (a) An inmate of a public institution;
- (b) A patient of a public institution unless in a medical institution; or
- (c) A patient of a public institution unless in an institution for mental disease and is:

- (i) Sixty-five years of age or older; or
- (ii) Twenty years of age or younger.

(2) If a person has been committed to the confinement and custody of a public institution such as a state penitentiary or county jail, the department shall consider the person an inmate of the public institution if he or she is:

- (a) On a work release program; or
- (b) Confined to a place of residence other than the institution.

[Statutory Authority: RCW 74.08.090. 93-16-059 (Order 3556), § 388-230-0080, filed 7/29/93, effective 8/29/93.]

WAC 388-230-0090 Eligibility conditions—Financial criteria. In determining financial eligibility and grant amounts, the department shall follow aid to families with dependent children income, resource, and payment rules.

[Statutory Authority: RCW 74.08.090. 93-16-059 (Order 3556), § 388-230-0090, filed 7/29/93, effective 8/29/93.]

WAC 388-230-0110 Need and payment standards.

(1) In determining a persons's need and payment amounts, the department shall use the need and grant payment standards applicable to the aid to families with dependent children program.

(2) In the case of a married couple when the husband is eligible for general assistance unemployable and the wife is eligible for general assistance for pregnant women:

- (a) Eligibility and payment will be based on the two-person need and payment standard; and
- (b) The wife is the only person who can receive grant assistance under the GA-S program.

[Statutory Authority: RCW 74.08.090. 93-16-059 (Order 3556), § 388-230-0110, filed 7/29/93, effective 8/29/93.]

WAC 388-230-0120 Protective payees. For a recipient unable to manage assistance funds, the department shall follow aid to families with dependent children protective payee rules.

[Statutory Authority: RCW 74.08.090. 93-16-059 (Order 3556), § 388-230-0120, filed 7/29/93, effective 8/29/93.]

WAC 388-230-0140 Ineligibility based on benefits from other programs. The department shall deny requests for or terminate GA-S to a person:

- (1) Eligible for or receiving CEAP or AFDC;
- (2) Eligible for or whose needs are being met by supplemental security income (SSI);
- (3) Currently under sanction for failure to comply with AFDC or SSI requirements; or
- (4) Who fails or refuses to cooperate without good cause in obtaining AFDC, CEAP, or SSI.

[Statutory Authority: RCW 74.08.090. 93-16-059 (Order 3556), § 388-230-0140, filed 7/29/93, effective 8/29/93.]

Chapter 388-233 WAC

GENERAL ASSISTANCE FOR CHILDREN

WAC

| | |
|--------------|---|
| 388-233-0010 | Purpose of program. |
| 388-233-0020 | Summary of eligibility conditions. |
| 388-233-0030 | Assistance units. |
| 388-233-0040 | Eligibility conditions—Program criteria. |
| 388-233-0050 | Eligibility conditions—Assignment of rights to support. |
| 388-233-0060 | Eligibility conditions—Support enforcement cooperation. |
| 388-233-0070 | Eligibility conditions—Financial criteria. |
| 388-233-0080 | Need and payment standards. |
| 388-233-0090 | Grant payee. |
| 388-233-0100 | Redetermination of eligibility. |

WAC 388-233-0010 Purpose of program. General assistance for children is a state-funded program providing for the needs of dependent children, residing with court-appointed legal guardians, who are not eligible for the aid to families with dependent children program.

[Statutory Authority: RCW 74.08.090 and 74.12.330. 93-17-029 (Order 3610), § 388-233-0010, filed 8/11/93, effective 9/11/93.]

WAC 388-233-0020 Summary of eligibility conditions. Effective March 11, 1993, the department shall grant general assistance for children to a child who meets the eligibility conditions stated in this chapter and:

- (1) Who resides with and is in the home of a court-appointed legal guardian; and
- (2) Who is not eligible for or not receiving aid to families with dependent children or SSI; and
- (3) Who is not under sanction for failure to comply with aid to families with dependent children or SSI requirements; and
- (4) Whose court-appointed legal guardian is not a relative of a specified degree as defined under the aid to families with dependent children program; and
- (5) Who is not living with a relative of a specified degree, as defined under the aid to families with dependent children program, who is:
 - (a) A parent; or
 - (b) Exercising parental control over the child.

[Statutory Authority: RCW 74.08.090 and 74.12.330. 93-17-029 (Order 3610), § 388-233-0020, filed 8/11/93, effective 9/11/93.]

WAC 388-233-0030 Assistance units. The general assistance for children program assistance unit shall include only the eligible child.

[Statutory Authority: RCW 74.08.090 and 74.12.330. 93-17-029 (Order 3610), § 388-233-0030, filed 8/11/93, effective 9/11/93.]

WAC 388-233-0040 Eligibility conditions—Program criteria. The department shall base a child's eligibility on the current requirements of the aid to families with dependent children program except for the following requirements:

(1) The requirement to live with a relative of a specified degree; and

(2) The requirement of participation in the JOBS program if the child is not in school.

[Statutory Authority: RCW 74.08.090 and 74.12.330. 93-17-029 (Order 3610), § 388-233-0040, filed 8/11/93, effective 9/11/93.]

WAC 388-233-0050 Eligibility conditions—Assignment of rights to support. (1) The court-appointed legal guardian shall assign to the office of support enforcement any rights to support in behalf of the eligible child as required under chapters 388-13 and 388-14 WAC.

(2) The department shall require the court-appointed legal guardian to promptly remit to the office of support enforcement any support received directly after assignment is made, as required under chapters 388-13 and 388-14 WAC.

[Statutory Authority: RCW 74.08.090 and 74.12.330. 93-17-029 (Order 3610), § 388-233-0050, filed 8/11/93, effective 9/11/93.]

WAC 388-233-0060 Eligibility conditions—Support enforcement cooperation. (1) The department shall require the court-appointed legal guardian to cooperate with the office of support enforcement in the collection of child support.

(2) The department shall waive the requirement for cooperation if the guardian claims and the department establishes good cause as specified under WAC 388-24-111.

[Statutory Authority: RCW 74.08.090 and 74.12.330. 93-17-029 (Order 3610), § 388-233-0060, filed 8/11/93, effective 9/11/93.]

WAC 388-233-0070 Eligibility conditions—Financial criteria. In determining financial eligibility, the department shall follow aid to families with dependent children income and resource rules. The department shall consider only the income and resources of the eligible child.

[Statutory Authority: RCW 74.08.090 and 74.12.330. 93-17-029 (Order 3610), § 388-233-0070, filed 8/11/93, effective 9/11/93.]

WAC 388-233-0080 Need and payment standards. The department shall use the aid to families with dependent children program need and payment rules and standards in determining eligibility and amount of grant payment.

[Statutory Authority: RCW 74.08.090 and 74.12.330. 93-17-029 (Order 3610), § 388-233-0080, filed 8/11/93, effective 9/11/93.]

WAC 388-233-0090 Grant payee. The department shall establish the court-appointed legal guardian as the payee for the eligible child.

[Statutory Authority: RCW 74.08.090 and 74.12.330. 93-17-029 (Order 3610), § 388-233-0090, filed 8/11/93, effective 9/11/93.]

WAC 388-233-0100 Redetermination of eligibility.

The department shall redetermine eligibility for the child every six months of continuous receipt of assistance.

[Statutory Authority: RCW 74.08.090 and 74.12.330. 93-17-029 (Order 3610), § 388-233-0100, filed 8/11/93, effective 9/11/93.]

Chapter 388-235 WAC

GENERAL ASSISTANCE UNEMPLOYABLE

WAC

| | |
|--------------|--|
| 388-235-0010 | Purpose of program. |
| 388-235-0020 | Definitions. |
| 388-235-0030 | Summary of eligibility conditions. |
| 388-235-0040 | Assistance unit. |
| 388-235-0050 | Age requirements. |
| 388-235-0060 | Residence—Establishing. |
| 388-235-0070 | Residence—Temporary absences. |
| 388-235-0080 | Residence—Applicant living in another state. |
| 388-235-0090 | Residence—Applicant receiving assistance from another state. |
| 388-235-0100 | Citizenship and alien status. |
| 388-235-0110 | Social Security number. |
| 388-235-1500 | Persons in institutions. |
| 388-235-2000 | Resources. |
| 388-235-3000 | Income. |
| 388-235-4000 | GAU payment and need standards. |
| 388-235-5000 | Incapacity determination—Process. |
| 388-235-5050 | Waiver of medical documentation and progressive evaluation process (PEP). |
| 388-235-5060 | Determination of capacity to engage in gainful employment. |
| 388-235-5070 | Sources of medical evidence. |
| 388-235-5080 | Medical evidence requirements. |
| 388-235-5090 | Assigning severity ratings. |
| 388-235-5100 | PEP step I—Review of medical documentation. |
| 388-235-5200 | PEP step II—Severity of mental impairments. |
| 388-235-5300 | PEP step III—Severity of physical impairments. |
| 388-235-5400 | Progressive evaluation process—Step IV—Multiple impairments. |
| 388-235-5500 | Progressive evaluation process—Step V—Functional mental capacity. |
| 388-235-5600 | Progressive evaluation process—Step V—Functional physical capacity. |
| 388-235-5700 | Evaluating vocational factors for progressive evaluation process—Steps VI and VII. |
| 388-235-5800 | Progressive evaluation process—Step VI—Evaluate capacity to perform past work. |
| 388-235-5900 | Progressive evaluation process—Step VII—Evaluating capacity to perform other work. |
| 388-235-6000 | Duration of assistance based on incapacity. |
| 388-235-7000 | Purpose of referrals. |
| 388-235-7100 | Treatment and referral requirements. |
| 388-235-7200 | Other agency referral requirements. |
| 388-235-7300 | ADATSA referral requirements. |
| 388-235-7500 | Good cause for refusing medical treatment or other agency referrals. |
| 388-235-7600 | Sanction for refusing medical treatment or other agency referrals. |
| 388-235-8000 | Redetermination of financial eligibility. |
| 388-235-8100 | Redetermination of incapacity. |
| 388-235-8130 | Determining a recipient is no longer incapacitated—Termination proviso. |
| 388-235-8140 | Redetermination of eligibility based on mental retardation. |
| 388-235-8150 | Redetermination for a recipient appearing to meet federal disability criteria for SSI. |
| 388-235-8200 | Reinstating eligibility after termination due to lack of medical evidence. |
| 388-235-9000 | Benefits from other programs. |
| 388-235-9100 | GAU pending SSI eligibility. |
| 388-235-9200 | Assignment and recovery of interim assistance. |

388-235-9300 GAU to an SSI recipient whose SSI check is lost, stolen, or missent.

WAC 388-235-0010 Purpose of program. General assistance unemployable (GAU) is a state-funded financial assistance program for needy adults incapacitated from gainful employment.

[Statutory Authority: RCW 74.08.090, 93-16-058 (Order 3559), § 388-235-0010, filed 7/29/93, effective 8/29/93.]

WAC 388-235-0020 Definitions. (1) "Available medical treatment" means medical, surgical, alcoholism, drug, or mental health services, or any combination thereof.

(2) "Basic work activities" means the following activities:

- (a) Sitting;
- (b) Standing;
- (c) Walking;
- (d) Lifting;
- (e) Carrying;
- (f) Handling;
- (g) Seeing;
- (h) Hearing;
- (i) Communicating; and
- (j) Understanding and following instructions.

(3) "Exertion levels" means the degree of strength required to perform certain job functions. Exertional levels are used at progressive evaluation process (PEP) step V and are ranked from "sedentary" to "heavy."

(4) "Incapacitated person" means a person incapable of gainful employment as a result of a physical, emotional, or mental condition expected to continue for ninety days or more from date of application. A person incapacitated solely by alcoholism or drug addiction is not included in this definition. However an otherwise incapacitated person who is also impaired by alcohol or drug addiction may be eligible for general assistance.

(5) "Institution for mental diseases" means an institution primarily engaged in providing diagnosis, treatment, or care of persons with mental diseases including medical attention, nursing care, and related services.

(6) "Medical impairment" means, for purposes of this chapter, any diagnosable physical, mental, or emotional condition except alcoholism or drug addiction.

(7) "Physical functional capacity" means the degree of strength, agility, flexibility, and mobility a person can apply to work-related activities. This capacity is evaluated at PEP Step V.

(8) "Progressive evaluation process (PEP)" is a seven-step process applied sequentially by the department to decide the existence, severity, and duration of incapacity.

(9) "Public institution" means an institution supported in whole or in part from public funds, and is the responsibility of a governmental unit or over which a governmental unit exercises administrative control.

(10) "Reasonably be expected to render client able to work" means, in the opinion of the department, the required treatment will restore or substantially improve the person's ability to engage in gainful employment.

(11) "Severity of a medical impairment" means the degree to which an impairment restricts a person from performing basic work-related activities.

(12) "Transferrable skills" means work skills a person acquires through relevant semi-skilled or skilled work, that can be used in a variety of jobs within the same or different occupational areas. The department considers a person to have transferrable skills when the job requirements for work the person is able to do are essentially comparable to the job requirements of relevant work, including:

- (a) Having one or more skills in common; and
- (b) The necessary skill level is the same or lower; and
- (c) Using the same or similar equipment; or
- (d) The same or similar materials, products, processes, or services.

(13) "Vocational factors" means age, education, work experience, and transferrable skills.

[Statutory Authority: RCW 74.08.090, 93-16-058 (Order 3559), § 388-235-0020, filed 7/29/93, effective 8/29/93.]

WAC 388-235-0030 Summary of eligibility conditions. The department shall authorize GAU to a client who:

- (1) Meets categorical requirements as follows:
 - (a) Be incapacitated as provided under WAC 388-235-5000 through 388-235-6000;
 - (b) Meet age limitations as specified under WAC 388-235-0050;
 - (c) Be a resident of the state of Washington as provided under WAC 388-235-0060 through 388-235-0090;
 - (d) Be a citizen or alien as provided under WAC 388-235-0100;
 - (e) Furnish a social security number as provided under WAC 388-235-0110.
- (2) Meets financial eligibility requirements as specified under WAC 388-235-2000 through 388-235-4000;
- (3) Undergoes a treatment and referral assessment as provided under WAC 388-235-7000 through 388-235-7600;
- (4) Assigns interim assistance as provided under WAC 388-235-9200 and 388-235-9300;
- (5) Is not eligible for or receiving benefits from other programs as specified under WAC 388-235-9000; and
- (6) Meets requirements, if living in an institution, as required under WAC 388-235-1500.

[Statutory Authority: RCW 74.08.090, 93-16-058 (Order 3559), § 388-235-0030, filed 7/29/93, effective 8/29/93.]

WAC 388-235-0040 Assistance unit. The department shall include the following persons in a single GAU assistance unit:

- (1) An incapacitated single adult;
- (2) A married couple if both persons are incapacitated;
- (3) The incapacitated spouse of a married couple when only one person is incapacitated;
- (4) Only the incapacitated person of a married couple or family when:
 - (a) The spouse or child with whom the person lives is eligible for aid to families with dependent children (AFDC);
 - (b) The incapacitated person is not eligible for an AFDC grant; and
 - (c) The incapacitated person is not under an AFDC sanction.

(5) A married couple when the husband is incapacitated and the wife is eligible for general assistance under the pregnant woman provisions in chapter 388-230 WAC.

[Statutory Authority: RCW 74.08.090. 93-16-058 (Order 3559), § 388-235-0040, filed 7/29/93, effective 8/29/93.]

WAC 388-235-0050 Age requirements. For GAU eligibility, a person shall be eighteen years of age or older unless the person is part of a married couple. In a married couple, one or both spouses may be seventeen years of age or younger.

[Statutory Authority: RCW 74.08.090. 93-16-058 (Order 3559), § 388-235-0050, filed 7/29/93, effective 8/29/93.]

WAC 388-235-0060 Residence—Establishing. For GAU eligibility, a person shall be:

- (1) A resident who:
 - (a) Voluntarily lives in the state of Washington; and
 - (b) Intends to maintain a home in the state.
- (2) Living in an identifiable residence within the department's community services office catchment area.

[Statutory Authority: RCW 74.08.090. 93-16-058 (Order 3559), § 388-235-0060, filed 7/29/93, effective 8/29/93.]

WAC 388-235-0070 Residence—Temporary absences. The department shall find that a recipient is maintaining residence in Washington state when the:

- (1) Person's absences of more than one month were for:
 - (a) A visit as specified under chapter 388-26 WAC; or
 - (b) Reasons other than a visit, and the person provides adequate information to establish a continuing residence in the state.
- (2) The department shall determine the adequacy of the information on a person's absence of more than one month. In such cases, the department shall assume the person is no longer a resident unless the person provides evidence to the contrary.

[Statutory Authority: RCW 74.08.090. 93-16-058 (Order 3559), § 388-235-0070, filed 7/29/93, effective 8/29/93.]

WAC 388-235-0080 Residence—Applicant living in another state. The department shall find that a person applying for GAU while living out of the state meets the residence requirement when the person:

- (1) Offers acceptable proof of maintaining residence in this state since leaving. A person's acceptable proof shall:
 - (a) Be determined by the department; and
 - (b) Include return trips to this state, written statements to other persons, maintenance of a home in this state, or other similar actions.
- (2) Once lived and acquired residence in this state and:
 - (a) Still intends to maintain residence in Washington state;
 - (b) Has a plan to return to the state; and
 - (c) A person's absence is:
 - (i) Enforced and beyond the person's control; or
 - (ii) Essential to the person's welfare and due to physical or social needs.
- (3) Lives in the United States at the time of GAU application; and

(4) Arranges to have the GAU application taken by a public assistance agency and the agency completes the necessary investigation to process the application in accordance with Washington rules.

[Statutory Authority: RCW 74.08.090. 93-16-058 (Order 3559), § 388-235-0080, filed 7/29/93, effective 8/29/93.]

WAC 388-235-0090 Residence—Applicant receiving assistance from another state. The department shall not authorize GAU until the person's:

- (1) Eligibility for assistance from another state ceases; and
- (2) The grant from another state is terminated.

[Statutory Authority: RCW 74.08.090. 93-16-058 (Order 3559), § 388-235-0090, filed 7/29/93, effective 8/29/93.]

WAC 388-235-0100 Citizenship and alien status. For GAU eligibility, a person shall be:

- (1) A United States citizen; or
- (2) A Canadian Indian (a North American Indian born in Canada) considered the same as a United States citizen because the Canadian Indian has:
 - (a) Fifty percent or more Indian blood; or
 - (b) Less than fifty percent Indian blood and entered the United States prior to December 24, 1952; and
 - (c) Maintained residence since entry.
- (3) An alien:
 - (a) Lawfully admitted for permanent residence;
 - (b) Otherwise permanently residing in the United States under color of law; or
 - (c) Granted temporary residency status under the Immigration Reform and Control Act.

[Statutory Authority: RCW 74.08.090. 93-16-058 (Order 3559), § 388-235-0100, filed 7/29/93, effective 8/29/93.]

WAC 388-235-0110 Social Security number. (1) For GAU eligibility, a person shall:

- (a) Furnish a Social Security number; or
- (b) Apply for a Social Security number if it is unknown or has not been issued.
- (2) The department shall not deny, delay, or terminate assistance pending issuance of Social Security numbers if the client provides verification that meets the requirement under subsection (1)(b) of this section.
- (3) The department shall exclude from the assistance unit any person failing to comply with the requirement to furnish or apply for a Social Security number.
- (4) The department shall assist an applicant in obtaining a Social Security number by:
 - (a) Referring the person to the nearest Social Security office; and
 - (b) Furnishing to the client information available from department records if requested by the Social Security Administration.
- (5) The client shall report a new Social Security number within twenty days of its receipt.

[Statutory Authority: RCW 74.08.090. 93-16-058 (Order 3559), § 388-235-0110, filed 7/29/93, effective 8/29/93.]

WAC 388-235-1500 Persons in institutions. (1) If otherwise eligible for GAU, a person in an institution may be granted general assistance if the person is not:

- (a) An inmate of a public institution; or
- (b) A patient of a public institution unless in a medical institution; or
- (c) A patient of a public institution unless in an institution for mental disease and is:
 - (i) Sixty-five years of age or over; or
 - (ii) Twenty years of age or younger.
- (2) If a person has been committed to the confinement and custody of a public institution such as a state penitentiary or county jail, the department shall consider the person an inmate of the public institution if he or she is:
 - (a) On a work release program; or
 - (b) Confined to a place of residence other than the institution.

[Statutory Authority: RCW 74.08.090. 93-16-058 (Order 3559), § 388-235-1500, filed 7/29/93, effective 8/29/93.]

WAC 388-235-2000 Resources. The department shall treat resources for GAU the same as for AFDC under chapter 388-28 WAC.

[Statutory Authority: RCW 74.08.090. 93-16-058 (Order 3559), § 388-235-2000, filed 7/29/93, effective 8/29/93.]

WAC 388-235-3000 Income. In determining a person's financial eligibility and assistance amount, the department shall:

- (1) Follow income, resource, and payment rules applicable to GAU as required under chapters 388-28 and 388-33 WAC; and
- (2) Exempt the first eighty-five dollars plus one-half the remainder of the applicant's/recipient's total gross monthly earned income.

[Statutory Authority: RCW 74.08.090. 93-16-058 (Order 3559), § 388-235-3000, filed 7/29/93, effective 8/29/93.]

WAC 388-235-4000 GAU payment and need standards. (1) In determining a person's need and payment amounts, the department shall use the grant standards applicable to the GAU program.

(2) In the case of a married couple when the husband is eligible for general assistance unemployable and the wife is eligible for general assistance for pregnant women:

- (a) Eligibility and payment will be based on the two-person need and payment standard; and
- (b) The husband is the only person who can receive grant assistance under the GAU program.

[Statutory Authority: RCW 74.08.090. 93-16-058 (Order 3559), § 388-235-4000, filed 7/29/93, effective 8/29/93.]

WAC 388-235-5000 Incapacity determination—Process. (1) When determining whether incapacity exists, the department shall consider only the person's ability to obtain and perform work-related activity.

(2) Unless medical documentation requirements are waived under WAC 388-235-5050, the department shall:

- (a) Determine the existence, severity, and duration of a person's incapacity for the GAU program using PEP; and

(b) Apply each step of this process sequentially, using as many steps as necessary to reach a decision as to whether incapacity exists.

[Statutory Authority: RCW 74.08.090. 93-16-058 (Order 3559), § 388-235-5000, filed 7/29/93, effective 8/29/93.]

WAC 388-235-5050 Waiver of medical documentation and progressive evaluation process (PEP). The department shall consider incapacity established without medical documentation and a progressive evaluation process (PEP) when a person is:

- (1) Eligible for a financial benefit based on Social Security Administration disability criteria;
- (2) Eligible for services from the division of developmental disabilities;
- (3) Sixty-five years of age or older; or
- (4) Released from inpatient psychiatric treatment and is participating in direct treatment services to meet the client's mental health needs. In such cases:

(a) The department shall establish a person's incapacity for ninety days without a psychiatric/psychological evaluation; or

(b) The department shall not establish a person's incapacity if the client leaves ongoing inpatient psychiatric treatment against medical advice.

[Statutory Authority: RCW 74.08.090. 93-16-058 (Order 3559), § 388-235-5050, filed 7/29/93, effective 8/29/93.]

WAC 388-235-5060 Determination of capacity to engage in gainful employment. (1) The department shall determine a person's ability to perform gainful employment when:

(a) Determining eligibility. The department may waive the determination of gainful employment if medical documentation requirements are waived under WAC 388-235-5050;

(b) The person is employed; or

(c) New information is received which may indicate employability.

(2) The department shall consider the ability to perform gainful employment as the capacity to perform, in a regular and predictable manner, an activity usually done for pay or profit. Gainful employment does not include:

(a) Working under special conditions, such as in a department-approved sheltered workshop; or

(b) Working sporadically or part-time if, due to the incapacity, the person is unable to compete with unimpaired workers in the same job.

(3) The department shall deny or terminate general assistance to a person capable of or engaged in gainful employment.

[Statutory Authority: RCW 74.08.090. 93-16-058 (Order 3559), § 388-235-5060, filed 7/29/93, effective 8/29/93.]

WAC 388-235-5070 Sources of medical evidence.

(1) The department shall pay the cost of necessary medical reports to determine incapacity except when the reports are provided by DSHS personnel.

(2) For a physiological impairment, the department shall only accept as primary evidence reports from the following medical professionals:

- (a) A physician;
- (b) An advanced registered nurse practitioner (ARNP) in the ARNP's area of certification; or

(c) The chief of medical administration of the Veterans' Administration, or their designee, as authorized in federal law.

(3) For an emotional or mental impairment, the department shall only accept as primary evidence reports from:

- (a) A psychiatrist;
- (b) A licensed clinical psychologist;
- (c) An advanced registered nurse practitioner when certified in psychiatric nursing;
- (d) A mental health professional designated by the local community mental health agency, as defined under RCW 71.05.020; or

(e) A physician, at the department's discretion.

(4) For a claimed or apparent developmental disability, the department may accept as primary evidence reports from a medical professional skilled in identifying developmental disabilities.

(5) The department shall accept as supplemental medical evidence reports from:

(a) Treating practitioners, such as a chiropractor, nurse, or physician's assistant; or

(b) DSHS institutions and agencies which are providing or have provided services to the person.

[Statutory Authority: RCW 74.08.090. 93-16-058 (Order 3559), § 388-235-5070, filed 7/29/93, effective 8/29/93.]

WAC 388-235-5080 Medical evidence requirements.

(1) The department shall only accept written medical evidence containing clear, objective medical documentation which includes:

- (a) A diagnosis for the incapacitating conditions;
- (b) The effect of the condition on the individual's ability to perform work-related activities; and
- (c) Relevant medical history and sufficient medical documentation to support any conclusions of incapacity.

(2) When making an incapacity decision, the department shall not place significant weight on an individual's report of symptoms unless medical findings show that a medical condition is present that could reasonably be expected to produce the symptoms which are reported. In such cases, clear, objective medical information must be present, including professional observation and relevant medical history, which supports conclusions about:

(a) The existence and persistence of the symptom(s); and

(b) Its effect on the individual's ability to function.

(3) The department shall consider the opinion of the treating or consulting physicians or health care professionals when determining a person's incapacity. The department shall set forth clear and convincing reasons for rejecting uncontradicted medical opinion in making an incapacity decision.

(4) The determination of incapacity shall be made solely by the department based on the medical information received. The department shall not be bound by decisions of incapacity or unemployability made by another agency or person.

[Statutory Authority: RCW 74.08.090. 93-16-058 (Order 3559), § 388-235-5080, filed 7/29/93, effective 8/29/93.]

WAC 388-235-5090 Assigning severity ratings. The department shall assign severity ratings on a scale of one to five including a severity rating of:

(1) "One" when a person's impairment has no effect on the performance of basic work-related activities;

(2) "Two" when a person's impairment has no significant effect on performance of basic work-related activities;

(3) "Three" when a person's impairment significantly limits performance of at least one basic work-related activity;

(4) "Four" when a person's impairment very significantly limits performance of at least one basic work-related activity; and

(5) "Five" when a person's impairment prevents the performance of at least one basic work-related activity.

[Statutory Authority: RCW 74.08.090. 93-16-058 (Order 3559), § 388-235-5090, filed 7/29/93, effective 8/29/93.]

WAC 388-235-5100 PEP step I—Review of medical documentation. (1) The department shall review a person's medical documentation to ensure the following requirements are met:

(a) The medical report contains sufficient information as described under WAC 388-235-5070;

(b) An authorized medical professional wrote the medical report;

(c) The medical report documents the existence of a potentially incapacitating condition; and

(d) The medical report indicates an impairment is expected to last ninety days or more from the application date.

(2) The department may require additional medical information when the information received is insufficient to decide incapacity.

(3) The department shall deny a person's application when:

(a) There is a single impairment with objective findings consistent with a severity rating less than "three"; or

(b) A reported impairment is not expected to last ninety days or more (or twelve weeks) from the date of application.

[Statutory Authority: RCW 74.08.090. 93-16-058 (Order 3559), § 388-235-5100, filed 7/29/93, effective 8/29/93.]

WAC 388-235-5200 PEP step II—Severity of mental impairments. (1) If a mental impairment is claimed, the department shall determine severity of the person's mental or emotional disorder based on:

(a) Psychosocial and treatment history;

(b) Clinical findings;

(c) Results of special tests; and

(d) Professionally observed symptomatology that indicates impairment of the person's ability to perform basic work-related activities.

(2) For a person diagnosed as mentally retarded, the department shall assign a person's severity rating based on:

(a) A full test intelligence quotient (IQ) score. The department shall consider a person's IQ score of:

(i) Eighty-five or above within normal limits and is rated "one";

(ii) Seventy to eighty-four as borderline intellectual functioning and is rated "three";

(iii) Sixty-nine or below as mental retardation and is rated "five"; or

(b) The lowest IQ subscale score, for example, verbal or performance, rated as described under subsection (2)(a) of this section when:

(i) The full IQ test could not be given; and

(ii) At least two subscale scores are provided.

(3) For a person diagnosed as having an organic mental disorder, the department shall assign a severity rating based on the most severe of the following three areas of a person's impairment:

(a) Marked memory defect for recent events;

(b) Impoverished, slowed, perseverative thinking, with confusion or disorientation; or

(c) Labile, shallow, or coarse affect.

(4) The department shall base the severity of a person's functional psychotic or nonpsychotic disorder, excluding alcoholism or drug addiction, on:

(a) Clinical assessment of these twelve symptoms: Depressed mood, suicidal trends, verbal expression of anxiety or fear, expression of anger, social withdrawal, motor agitation, motor retardation, paranoid behavior, hallucinations, thought disorder, hyperactivity, preoccupation with physical complaints; and

(b) An overall assessment of:

(i) Intensity and pervasiveness of the symptoms as described under subsection (4)(a) of this section; and

(ii) Effect on the client's ability to perform work-related activities.

(c) The department shall assign a minimum severity rating of "three" when one or more of the person's symptoms, as described under subsection (4)(a) of this section is present and one or more of the following conditions are met:

(i) A diagnosis of psychotic disorder has been made;

(ii) The person has been hospitalized for psychiatric reasons two or more times within the preceding two years;

(iii) The person has experienced a continuous psychiatric hospitalization or residential treatment exceeding six months duration within the preceding two years;

(iv) The person is considered at least moderately impaired by at least three of the above-listed symptoms; or

(v) The person is considered as at least moderately impaired in the overall assessment of intensity and pervasiveness of these symptoms.

(d) The department shall assign a minimum rating of "four" when the overall assessment of the intensity and pervasiveness of these symptoms is:

(i) Marked; or

(ii) Moderate and three or more of the above symptoms are present to at least a marked degree.

(e) The department shall assign a rating of "five" when the overall assessment of the intensity and pervasiveness of these symptoms is:

(i) Severe; or

(ii) Marked and three or more of the above symptoms are present to a severe degree.

(5) When a person is diagnosed as being impaired in more than one area, the department shall assign one mental rating based on ratings in each of the three areas:

(a) A person with two or more moderate impairments or one or more moderate and one marked impairment is considered to have an overall mental severity rating of "four";

(b) A person with two or more marked impairments is considered to have an overall mental severity rating of "five."

(6) When the overall functioning level appears consistent with the person's overall mental severity rating, the department shall:

(a) Deny GAU when the person does not have a significant claimed physical impairment and an overall mental severity rating of "one" or "two";

(b) Approve GAU when the person has an overall mental severity rating of "five," regardless of whether a significant claimed physical impairment exists; or

(c) Evaluate the person at the next applicable step, when the person:

(i) Has an overall mental severity rating of "three" or "four"; or

(ii) Has a mental severity rating of "two" and also has a physical impairment.

[Statutory Authority: RCW 74.08.090. 93-16-058 (Order 3559), § 388-235-5200, filed 7/29/93, effective 8/29/93.]

WAC 388-235-5300 PEP step III—Severity of physical impairments. (1) When a person claims a physical impairment, the department shall determine the severity rating of the person's physical impairment based on current medical evidence that provides an objective description of the impairment.

(2) The department shall assign a severity rating for each diagnosed physical impairment:

(a) The department shall use the examining medical evidence provider's given severity rating when:

(i) The given rating is substantiated by and consistent with the medical evidence provided;

(ii) The medical evidence provider's assessment of functional capacities is consistent with the department's definition of the given severity rating; and

(iii) The medical evidence provider's given severity rating is not contradicted by:

(A) Other evidence from the same evaluation; or

(B) By evidence from a separate, current evaluation of the client.

(b) The department shall assign a severity rating by comparing the medical findings of the client's functional capacities with the severity rating definitions when:

(i) The medical evidence provider fails to assign a severity rating; or

(ii) The rating does not meet the conditions under subsection (2)(a) of this section.

(3) After assigning a severity rating to each physical impairment, the department shall:

(a) Deny GAU when the person does not have a diagnosed mental impairment rated "two" or more and only one physical impairment consistent with a severity rating of "two";

(b) Approve GAU if the person's physical impairment is consistent with a severity rating of "five"; or

(c) Evaluate the person at "step 4" when the person

- (i) Has a multiple physical impairment rated "two," "three," or "four"; or
- (ii) Has both physical and mental impairment ratings of at least "two."

[Statutory Authority: RCW 74.08.090. 93-16-058 (Order 3559), § 388-235-5300, filed 7/29/93, effective 8/29/93.]

WAC 388-235-5400 Progressive evaluation process—Step IV—Multiple impairments. (1) When a person has two or more diagnosed impairments and each impairment is consistent with a severity rating of "two" or more but none are consistent with a severity rating of "five," the department shall:

- (a) Assign an overall severity rating; and
- (b) Classify each diagnosis according to body system based upon the International Classification of Diseases (ICD), 9th revision.

(2) The department shall disregard severity ratings assigned to a person's alcoholism or drug addiction in this process.

(3) When a person's diagnosed impairments are all classified under the same body system, the department shall assign an overall severity rating for the person by:

- (a) Using the highest rating given by the medical evidence provider to an impairment within that system; or
- (b) When all impairments are rated "two," raising the severity rating to "three" when the impairments have the cumulative effect of significantly interfering with one or more basic work-related activity.

(4) When all diagnosed impairments, including mental disorders, are classified under at least two body systems, the department shall assign an overall severity rating by combining the highest rating from each body system. The department shall:

- (a) Assign an overall severity rating of "four" when there are two or more impairments with severity ratings of "three" or one or more impairment has a severity rating of "three" and one impairment has a severity rating of "four";
- (b) Assign an overall severity rating of "five" when there are two or more impairments with severity ratings of "four";
- (c) Assign an overall severity rating of "three" only when:

- (i) There are two or more impairments;
- (ii) No impairments are rated higher than "two"; and
- (iii) The impairments have the cumulative effect of significantly interfering with one or more basic work-related activities.

(5) When an overall severity rating is assigned, the department shall:

- (a) Deny GAU if the impairments are consistent with an overall severity rating of "two"; or
- (b) Approve GAU if the impairments have an overall severity rating of "five"; or
- (c) Evaluate the person at the next step.

[Statutory Authority: RCW 74.08.090. 93-16-058 (Order 3559), § 388-235-5400, filed 7/29/93, effective 8/29/93.]

WAC 388-235-5500 Progressive evaluation process—Step V—Functional mental capacity. (1) The department shall evaluate the functional capacity of a person

with mental impairments assigned an overall severity rating of "three" or "four" by assessing the person's specific cognitive and social factors.

(2) The department shall evaluate cognitive factors by assessing a person's abilities to:

- (a) Understand, remember, and follow simple, one-or-two step instructions;
- (b) Understand, remember, and follow complex instructions, with three or more steps;
- (c) Learn new tasks;
- (d) Exercise judgment and make decisions; and
- (e) Perform routine tasks without undue supervision.

(3) The department shall approve GAU when the clinical assessment indicates the person:

(a) Is at least moderately impaired in their ability to understand, remember, and follow simple, one-or-two step instructions and is at least moderately limited in their ability to:

- (i) Learn new tasks, exercise judgment, and make decisions; and
- (ii) Perform routine tasks without undue supervision; or
- (b) Can understand, remember, and follow simple instructions, but is:

(i) At least moderately impaired in their ability to understand, remember, and follow complex instructions, with three or more steps; and

(ii) Markedly limited in the ability to learn new tasks, exercise judgment and make decisions, and perform routine tasks without undue supervision.

(4) The department shall evaluate a person's social factors by assessing the person's abilities to:

- (a) Relate appropriately to coworkers and supervisors;
- (b) Interact appropriately in public contacts;
- (c) Tolerate the pressures of a work setting;
- (d) Care for self, including personal hygiene; and
- (e) Maintain appropriate behavior in a work setting.

(5) The department shall:

- (a) Assess the limitations on the person's social functioning indicated by the medical evidence provider; and
- (b) Approve GAU if a combination of significant limitations exists in the area of social functioning that precludes gainful employment.

[Statutory Authority: RCW 74.08.090. 93-16-058 (Order 3559), § 388-235-5500, filed 7/29/93, effective 8/29/93.]

WAC 388-235-5600 Progressive evaluation process—Step V—Functional physical capacity. (1) The department shall consider the effect of a person's physical impairment on the ability to perform work-related activities when a person's physical impairments are assigned an overall severity rating of "three" or "four."

(a) The department shall assess physical functional capacity based on the person's exertional, exertionally-related and nonexertional limitations.

(b) For the department to consider a limitation, the limitation must be substantiated by the medical evidence and directly related to the diagnosed impairment(s).

(2) The department shall assign an exertion level and determine a person's exertionally-related limitations by comparing all available medical evidence to the definitions

of exertional levels, exertionally-related limitations and nonexertional limitations under WAC 388-235-5020 when:

(a) The medical evidence provider does not document that a person's diagnosed impairment causes a limitation on work-related activities; or

(b) A given limitation is not consistent with objective medical evidence.

(3) "Exertion level" means a comparison of a person's capacity to lift, carry, stand and walk with the strength needed to fulfill job duties in the following work categories. For this subsection, occasionally means less than one-third of the time and frequently means one-third to two-thirds of the time:

(a) Sedentary: A person is in this category when capable of lifting ten pounds maximum and occasionally lifting and/or carrying such articles as docket, ledgers, and small tools. Although a sedentary job is one which involves sitting, a certain amount of walking and standing is often necessary in carrying out job duties. Jobs are sedentary if walking and standing are only required occasionally and other sedentary criteria are met.

(b) Light: A person is in this category when capable of lifting twenty pounds maximum with frequent lifting and/or carrying of objects weighing up to ten pounds. Even though the weight lifted may be only a negligible amount, a job is in this category when it requires walking or standing to a significant degree, or when it involves sitting most of the time with a degree of pushing and pulling of arm and/or leg controls.

(c) Medium: A person is in this category when capable of lifting fifty pounds maximum with frequent lifting and/or carrying of objects weighing up to twenty-five pounds.

(d) Heavy: A person is in this category when capable of lifting one hundred pounds maximum with frequent lifting and/or carrying of objects weighing up to fifty pounds.

(4) "Exertionally-related limitations" means a restriction in mobility, agility or flexibility in the following twelve activities: Balancing, bending, climbing, crawling, crouching, handling, kneeling, pulling, pushing, reaching, sitting, and stooping.

(5) "Nonexertional physical limitations" means restrictions on work activities that do not affect strength, mobility, agility, or flexation.

[Statutory Authority: RCW 74.08.090. 93-16-058 (Order 3559), § 388-235-5600, filed 7/29/93, effective 8/29/93.]

WAC 388-235-5700 Evaluating vocational factors for progressive evaluation process—Steps VI and VII.

(1) The department shall consider vocational factors of age, education, and work experience only when a person's impairment(s) have been assigned an overall severity rating of an "three" or "four."

(2) The department shall evaluate education in terms of formal schooling or other training which enables a person to meet job requirements. The department shall classify a person's education as:

(a) "Illiterate" when a person is able to sign their name, but cannot read or write a simple communication, such as instructions, or inventory lists;

(b) "Limited education" when a person has completed formal education of the eleventh grade level or less or special education, unless there is evidence to the contrary; or

(c) "High school education and above" when a person has completed high school or obtained a general education equivalency degree (GED) and is capable of work at a semi-skilled through skilled job level, unless there is evidence to the contrary.

(3) The department shall evaluate a person's work experience to determine if it constitutes relevant past work. Relevant past work is defined as work:

(a) Normally done for pay or profit. Noncompetitive work, like working in a sheltered workshop, jobs where the impaired worker was given special consideration, or the regular activities of a student or homemaker, is excluded;

(b) Performed in the past five years; and

(c) Done long enough for the person to acquire the skills to continue doing the job, considering the reasons for losing or frequently changing jobs or the specific skills or nature of the job. If the job is not excluded based on such considerations, the department shall consider the person to have the necessary work skills when the following minimum cumulative time periods are met:

(i) Thirty days for unskilled work;

(ii) Three months for semi-skilled work; and

(iii) Six months for skilled work.

(4) The department shall evaluate a person with relevant work experience and determine whether the person has transferrable skills. The department shall compare the person's description of the relevant work with the general work requirements for jobs in the following occupational areas:

(a) Managerial and administrative;

(b) Professional, paraprofessional, and technical;

(c) Sales;

(d) Clerical and administrative support;

(e) Service;

(f) Agriculture, forestry, and fishing; and

(g) Production, construction, maintenance, and material moving.

[Statutory Authority: RCW 74.08.090. 93-16-058 (Order 3559), § 388-235-5700, filed 7/29/93, effective 8/29/93.]

WAC 388-235-5800 Progressive evaluation process—Step VI—Evaluate capacity to perform past work.

(1) The department shall evaluate a person's ability to perform relevant past work in relation to current functional capacities before considering the person's age and educational factors.

(2) For each job the department considers part of the person's relevant work experience, the department shall determine:

(a) The exertional or skill requirements of the job; and

(b) Current cognitive, social, or nonexertional factors that significantly limit the person's ability to perform relevant past work.

(3) After evaluating a person's relevant past work experience, the department shall:

(a) Deny GAU when a person has:

(i) The physical or mental ability to perform past relevant work and a significant cognitive, social or nonexertional limitation does not exist; or

(ii) Recently acquired specific work skills through successful completion of vocational training enabling the person to work within current physical or mental capacities;

(b) Approve GAU when the person:

(i) Is fifty-five years of age or older; and

(ii) Has an impairment that is assigned an overall severity rating of at least "three"; and

(iii) Does not have the physical or mental ability to perform relevant past work or does not have relevant past work; or

(c) Evaluate the person at the next step.

[Statutory Authority: RCW 74.08.090. 93-16-058 (Order 3559), § 388-235-5800, filed 7/29/93, effective 8/29/93.]

WAC 388-235-5900 Progressive evaluation process—Step VII—Evaluating capacity to perform other work. (1) If a person is unable to perform past work, the department shall evaluate a person's ability to perform other work.

(2) The department shall approve GAU for a person who has a significant physical limitation and is limited to:

(a) Sedentary work; or

(b) Light work, and the person is:

(i) Fifty years of age or older;

(ii) Thirty-five years of age or older and cannot speak, read, or write English; or

(iii) Eighteen years of age or older and has a limited education or less and no relevant past work.

(c) Medium work, and the person is:

(i) Fifty years of age or older and has a limited education or less and no relevant past work; or

(ii) Fifty-five years of age or older without consideration of educational level or other work limitations.

(d) Heavy work with only nonexertional limitations and fifty-five years of age or older.

(3) The department shall approve GAU when a person is in the following age ranges and has the described cognitive or social limitations on a functional mental capacity:

(a) Fifty years of age or older with a:

(i) Moderate limitation on the ability to relate appropriately to coworkers and supervisors; and

(ii) Marked limitation on the ability to respond appropriately to, and tolerate the pressures and expectations of, a normal work setting.

(b) Eighteen to fifty-four years of age with a severe limitation on the ability to respond appropriately to, and tolerate the pressures and expectations of, a normal work setting; or

(c) Eighteen to forty-nine years of age and has:

(i) A severity rating of "four" and one or more of the twelve symptoms identified in WAC 388-235-5200 (4)(a) listed as "severe"; and

(ii) "Moderate" limitation in the ability to relate appropriately to coworkers and supervisors; and

(iii) "Marked" limitation in the ability to respond appropriately to, and tolerate the pressures and expectations of, a normal work setting.

(4) The department shall approve GAU when a person has both a significant mental impairment and a significant physical impairment and:

(a) Either impairment meets the criteria in subsection (2) or (3) of this section; or

(b) The person meets the criteria in subsection (3)(a) of this section when age is disregarded; or

(c) After disregarding relevant past work experience, a person with limited education or less is:

(i) Fifty years of age or older and work activities are restricted to medium exertional level or less; or

(ii) Eighteen to forty-nine years of age and their work activities are restricted to light exertional level.

(5) The department shall approve or deny eligibility for GAU by administrative review for any person not eligible for GAU using the criteria in subsection (2), (3), or (4) of this section.

(a) A team of two or more department designees shall conduct the administrative review; and

(b) The administrative review team shall decide incapacity by assessing, independent of the progressive evaluation process, all available medical information and identified vocational factors, including transferable skills, for effects on the person's ability to do work-related activities.

[Statutory Authority: RCW 74.08.090. 93-16-058 (Order 3559), § 388-235-5900, filed 7/29/93, effective 8/29/93.]

WAC 388-235-6000 Duration of assistance based on incapacity. (1) The department shall determine the duration of a person's incapacity based on the department's evaluation of the medical evidence and other relevant information in the case record.

(2) The department shall establish the duration of assistance based on a person's incapacity. The duration shall not exceed twelve months without a redetermination of the incapacity.

[Statutory Authority: RCW 74.08.090. 93-16-058 (Order 3559), § 388-235-6000, filed 7/29/93, effective 8/29/93.]

WAC 388-235-7000 Purpose of referrals. The purpose of treatment or other agency referrals is to:

(1) Restore or improve the person's ability to work for pay in a regular and predictable manner;

(2) Reduce the person's need for general assistance.

[Statutory Authority: RCW 74.08.090. 93-16-058 (Order 3559), § 388-235-7000, filed 7/29/93, effective 8/29/93.]

WAC 388-235-7100 Treatment and referral requirements. (1) For GAU eligibility, an incapacitated person shall accept and follow through on required available medical treatment, which is reasonably expected to render the person able to work, unless there is good cause for failure to do so.

(2) The department shall provide written notification of a person's treatment requirements at the time of initial approval and at each redetermination.

(3) The department shall recommend available medical services, provided under the state-financed medical care services program.

(4) The department shall assess and decide if a person needs to be referred to treatment, referred to other agencies,

or other social services. After the initial assessment, the department will assess the person's treatment and social services needs once a year or more often.

(5) When a client fails or refuses treatment, referral to other agencies, or other social services, the department shall make the "good cause" determination based on criteria in WAC 388-235-7500.

(6) Any recipient disagreeing with treatment requirements may request a fair hearing. Once a person's request is initiated, the department shall take no adverse action as a result of a person's failure to comply with the treatment at issue pending a decision.

[Statutory Authority: RCW 74.08.090, 93-16-058 (Order 3559), § 388-235-7100, filed 7/29/93, effective 8/29/93.]

WAC 388-235-7200 Other agency referral requirements. (1) The department shall screen each person to determine appropriateness of referral to other agencies which can reasonably be expected to reduce the need for assistance.

(2) For GAU eligibility, an incapacitated person shall accept and follow through on required referrals to other agencies, unless there is good cause for failure to do so as provided under WAC 388-235-7500.

[Statutory Authority: RCW 74.08.090, 93-16-058 (Order 3559), § 388-235-7200, filed 7/29/93, effective 8/29/93.]

WAC 388-235-7300 ADATSA referral requirements. (1) The department shall refer a person claiming incapacity based primarily on alcoholism or drug dependency for evaluation under the alcoholism and drug addiction treatment and support act (ADATSA).

(2) The department shall evaluate a person for general assistance who appears to have significant mental or physical impairments resulting from, or in addition to, alcoholism or drug addiction when the person:

(a) Indicates upon application that other physical or mental impairments may be incapacitating in themselves; or

(b) The person is rejected for the alcoholism and drug addiction treatment and support program, and/or medical evidence obtained by assessment for that program indicates other significant medical impairments may exist.

(3) Any general assistance applicant or recipient shall be required to undergo an alcohol/drug assessment when the:

(a) Person claims an alcohol or drug problem; or

(b) Department obtains medical or clinical evidence indicating that within the last eighteen months, such a problem appears to exist; or

(c) Department receives information that the person has been arrested for an alcohol-or drug-related offense within the last ninety days; or

(d) Person meets one or more of the criteria in subsections (3)(a) through (c) of this section and the need for a protective payee must be established.

(4) Applicants whose mental, emotional, and/or physical condition is caused or exacerbated by alcoholism or drug addiction must have eligibility for general assistance based solely on the mental, emotional, and/or physical condition.

(a) The effects of the alcoholism or drug addiction must be differentiated from the other condition in order to determine incapacity.

(b) Unless it can be reasonably established that the other condition would remain incapacitating for at least sixty days of abstinence from alcohol or drugs, the person is not eligible for general assistance.

(5) When the effects of alcoholism or drug addiction in the applicant's mental, emotional, and/or physical condition cannot be clearly differentiated, the department shall refer the person to ADATSA for evaluation and/or treatment.

(6) The provisions under subsections (4) and (5) of this section apply to recipients as well, except that a person whose alcohol/drug addiction cannot be clearly differentiated from any physical/mental impairments and eligibility established under the ADATSA or GAU program will remain on GAU subject to WAC 388-235-8130 provisions.

(7) The department may require a person to undergo a period of alcohol or drug treatment before re-evaluating the person's eligibility for general assistance.

(8) The department shall determine program eligibility for a person impaired by chemical dependency, who also has mental or physical impairments, as follows:

(a) A person qualifying for both general assistance and ADATSA shelter program may choose either program;

(b) A persons qualifying for both general assistance and ADATSA treatment shall participate in ADATSA treatment when it can reasonably be expected to enable the person to work or reduce the need for assistance, unless the person has good cause to refuse; or

(c) An alcohol and drug addict qualifying for general assistance who has good cause to refuse or who does not qualify for ADATSA treatment, shall be required to cooperate with an alternative alcohol or drug treatment plan which can reasonably be expected to enable the person to work or to reduce the need for assistance, unless there is good cause to refuse.

(9) A person qualifying for general assistance and also determined by the assessment center to be actively addicted shall have a general assistance grant issued by protective payment.

[Statutory Authority: RCW 74.08.090, 93-16-058 (Order 3559), § 388-235-7300, filed 7/29/93, effective 8/29/93.]

WAC 388-235-7500 Good cause for refusing medical treatment or other agency referrals. The department shall find that a client has good cause for refusing required medical treatment when such client's refusal is based on any of the following conditions:

(1) The client is genuinely fearful of undergoing required treatment. Such fear may appear to be unrealistic or irrational; however, fear exists in such a degree that treatment would be adversely affected;

(2) The client could lose a faculty, or the remaining use of faculty, and refuses to accept the risk;

(3) Because of the client's definitely stated religious scruples, the client will not accept required medical treatment;

(4) The client is temporarily unable to participate in required medical treatment, due to an intervening incapacity. The temporary inability to participate must be documented by medical evidence. The requirement to participate is again imposed as soon as the client is able to participate;

(5) The client was not properly notified of the treatment required and/or the consequences for failure to comply with these requirements; or

(6) The client's treatment required by previous written notification is subsequently determined by the department to have been inappropriate or unavailable. The department shall consider treatment unavailable when the treatment includes copayments or service charges not covered by the department, and the client is denied access to the treatment due to an inability to pay.

[Statutory Authority: RCW 74.08.090. 93-16-058 (Order 3559), § 388-235-7500, filed 7/29/93, effective 8/29/93.]

WAC 388-235-7600 Sanction for refusing medical treatment or other agency referrals. The department shall terminate GAU to a person who has been referred to, but refuses to accept a referral to or pursue available required medical treatment or available services or benefits from other agencies without good cause until the person:

(1) Agrees to accept and/or pursue such treatment or service; and

(2) Is subject to the following maximum periods of ineligibility after reapplication:

(a) First refusal - one week;

(b) Second refusal within six months - one month; and

(c) Third and subsequent refusals within one year - two months.

[Statutory Authority: RCW 74.08.090. 93-16-058 (Order 3559), § 388-235-7600, filed 7/29/93, effective 8/29/93.]

WAC 388-235-8000 Redetermination of financial eligibility. The department shall redetermine financial eligibility for a GAU client every six months or more often of continuous receipt of assistance.

[Statutory Authority: RCW 74.08.090. 93-16-058 (Order 3559), § 388-235-8000, filed 7/29/93, effective 8/29/93.]

WAC 388-235-8100 Redetermination of incapacity.

(1) The department shall redetermine incapacity for a GAU recipient every twelve months or more often, but may redetermine a recipient's incapacity at any time based on new information.

(2) The department shall redetermine a recipient's eligibility due to incapacity based on current medical information.

(3) If a recipient's incapacity is not substantiated and the conditions in WAC 388-235-8130 are met, then the department shall deny continued eligibility.

[Statutory Authority: RCW 74.08.090. 93-16-058 (Order 3559), § 388-235-8100, filed 7/29/93, effective 8/29/93.]

WAC 388-235-8130 Determining a recipient is no longer incapacitated—Termination proviso. (1) The department shall demonstrate one or more of the following conditions exist before determining a recipient is not incapacitated:

(a) Clear improvement in the recipient's overall medical condition based on new medical evidence. "Clear improvement" means, since incapacity was established:

(i) The physical or mental impairment, on which incapacity was based, has decreased in severity to the point where the recipient is capable of gainful employment; or

(ii) The effect of that impairment on work-related activities has been significantly diminished through therapy, medication, or rehabilitation to the point where the recipient is capable of gainful employment; or

(b) A previous error in the eligibility decision. "Previous error" means a client's incapacity was previously established based on:

(i) Faulty or insufficient information; or

(ii) An erroneous procedure based on the rule in effect at the time.

(2) The department shall not apply the clear improvement or previous error criteria under subsection (1) of this section when:

(a) A person has a break in assistance of over thirty days and the person does not meet the criteria for retroactive reinstatement as required under WAC 388-235-8200;

(b) The department determines the recipient is engaged in gainful employment;

(c) The department determines a recipient receiving services through the division of vocation rehabilitation (DVR) is not incapacitated, but assistance has been extended through the completion of the training program by an exception to policy; or

(d) The recipient does not meet the categorical eligibility requirements for the GAU program.

[Statutory Authority: RCW 74.08.090. 93-16-058 (Order 3559), § 388-235-8130, filed 7/29/93, effective 8/29/93.]

WAC 388-235-8140 Redetermination of eligibility based on mental retardation. The department shall consider a person's incapacity established without medical documentation at the time of review when the person is currently receiving GAU based on mental retardation if the client:

(1) Has submitted current medical evidence documenting a diagnosis of mental retardation with a full scale score on the Wechsler Adult Intelligence Scale (WAIS) of seventy or lower; or

(2) Has submitted current medical evidence documenting a diagnosis of mental retardation or borderline intellectual functioning with a full scale score on the WAIS of seventy-one to seventy-five and meets the following criteria:

(a) Has submitted current medical evidence which documents another mental or physical impairment of marked severity; and

(b) The current medical evidence documents that medical treatment for the other mental or physical impairment is not likely to restore or substantially improve the person's ability to work.

(3) Cooperates with required referral to the division of developmental disabilities (DDD) and an application for SSI.

[Statutory Authority: RCW 74.08.090. 93-16-058 (Order 3559), § 388-235-8140, filed 7/29/93, effective 8/29/93.]

WAC 388-235-8150 Redetermination for a recipient appearing to meet federal disability criteria for SSI. The department may extend the incapacity period up to one year from the latest date of incapacity determination, without

further medical documentation, when the department determines the client appears to meet federal disability criteria to receive SSI.

(1) At the end of the one-year period, the department shall redetermine the client's GAU eligibility based on current medical evidence.

(2) If the client is denied SSI after application and any administrative appeal before the end of the incapacity certification period, the department shall adjust the client's incapacity period to be the greater of:

(a) The end of the previously established incapacity period based on current medical evidence; or

(b) Sixty days after the SSI denial date.

[Statutory Authority: RCW 74.08.090, 93-16-058 (Order 3559), § 388-235-8150, filed 7/29/93, effective 8/29/93.]

WAC 388-235-8200 Reinstating eligibility after termination due to lack of medical evidence. (1) The department shall reinstate a client's eligibility the day following the date of termination if assistance was terminated due to lack or insufficiency of medical evidence to establish incapacity if:

(a) The lack or insufficiency of medical evidence is not due to the client's failure to cooperate in gathering said evidence; and

(b) The client provides the additional medical evidence subsequent to the termination, which establishes that the client has been, and continues to be, incapacitated since the date of termination; and

(c) The additional medical evidence substantiates incapacity.

[Statutory Authority: RCW 74.08.090, 93-16-058 (Order 3559), § 388-235-8200, filed 7/29/93, effective 8/29/93.]

WAC 388-235-9000 Benefits from other programs. The department shall deny requests for, or terminate, GAU to a person:

(1) Eligible for or receiving aid to families with dependent children (AFDC);

(2) Eligible for or whose needs are met by SSI, except as provided under WAC 388-235-9300;

(3) Under sanction for failure to comply with AFDC or supplemental security income (SSI) requirements;

(4) Failing or refusing to cooperate without good cause in obtaining AFDC or SSI;

(5) Unemployable due to alcohol or drug addiction. Such person shall be referred to the alcoholism and drug addiction treatment and support program.

[Statutory Authority: RCW 74.08.090, 93-16-058 (Order 3559), § 388-235-9000, filed 7/29/93, effective 8/29/93.]

WAC 388-235-9100 GAU pending SSI eligibility. The department shall authorize GAU to a client, who in the department's opinion, may become eligible for or is seeking SSI. Such assistance shall be authorized through the month SSI payments begin if the client:

(1) Applies for SSI and follows through with the application; and

(2) Assigns the initial or reinstated SSI payment to DSHS as provided under WAC 388-235-9200; and

(3) Is otherwise eligible.

[Statutory Authority: RCW 74.08.090, 93-16-058 (Order 3559), § 388-235-9100, filed 7/29/93, effective 8/29/93.]

WAC 388-235-9200 Assignment and recovery of interim assistance. (1) "Interim assistance" means the state funds the department provides to, or on behalf of, the client to meet basic needs during the:

(a) Interim period the client's initial application for SSI is pending and subsequently approved; or

(b) Period the client's SSI payments were suspended or terminated, and subsequently reinstated for that period; and

(c) The month recurring SSI payments begin.

(2) The department shall require a client, who in the department's opinion may become eligible for or is seeking SSI, to assign the initial or reinstated SSI payment to the department. The assignment shall be up to the amount of the interim assistance the department provides to the client.

(3) The department shall recover interim assistance from the client's initial or reinstated SSI payment when provided totally out of state funds.

(4) The department shall provide up to twenty-five percent of the interim assistance reimbursement on a case to the attorney who has successfully represented that client in the client's effort to receive SSI.

[Statutory Authority: RCW 74.08.090, 93-16-058 (Order 3559), § 388-235-9200, filed 7/29/93, effective 8/29/93.]

WAC 388-235-9300 GAU to an SSI recipient whose SSI check is lost, stolen, or missent. (1) The department may grant GAU to an SSI client whose SSI check has been lost, stolen, missent, or otherwise delayed when the client:

(a) Agrees, in writing, to repay the amount of the GAU issued; and

(b) Meets all other GAU eligibility requirements.

(2) When the client's SSI check is lost in the mail, the department shall:

(a) Delay the issuance of GAU for ten working days from the first of the month in which the SSI check was issued; or

(b) Waive the delay and issue the check immediately if the department determines the SSI client has an emergent need.

[Statutory Authority: RCW 74.08.090, 93-16-058 (Order 3559), § 388-235-9300, filed 7/29/93, effective 8/29/93.]

Chapter 388-240 WAC ALCOHOL/DRUG PROGRAMS

WAC

| | |
|--------------|--|
| 388-240-0010 | Introduction. |
| 388-240-0020 | Definitions. |
| 388-240-1100 | Detoxification services. |
| 388-240-1200 | Detoxification eligibility. |
| 388-240-2100 | ADATSA purposes and programs. |
| 388-240-2300 | ADATSA categorical eligibility. |
| 388-240-2400 | ADATSA treatment—Eligibility requirements. |
| 388-240-2450 | ADATSA treatment—Incapacity requirements. |
| 388-240-2500 | ADATSA shelter—Eligibility requirements. |
| 388-240-2550 | ADATSA shelter—Incapacity requirements. |
| 388-240-2570 | ADATSA shelter—Eligibility determination and review. |
| 388-240-2600 | ADATSA SSI referral requirements. |
| 388-240-3100 | ADATSA assessment center—Role. |

| | |
|--------------|---|
| 388-240-4100 | ADATSA treatment limitations. |
| 388-240-4200 | ADATSA treatment terminations and reinstatements. |
| 388-240-4400 | ADATSA treatment priority groups. |
| 388-240-4600 | ADATSA treatment living allowance. |
| 388-240-5100 | ADATSA shelter services. |
| 388-240-6100 | ADATSA protective payees. |

WAC 388-240-0010 Introduction. This chapter contains the rules for program service levels and for determining client eligibility for:

- (1) The alcohol/drug detoxification program; and
- (2) The Alcoholism and Drug Addiction Treatment and Support Act (ADATSA) program. The ADATSA program is divided into two subprograms:
 - (a) Treatment; and
 - (b) Shelter.

[Statutory Authority: RCW 74.08.090. 93-19-039 (Order 3632), § 388-240-0010, filed 9/8/93, effective 10/9/93.]

WAC 388-240-0020 Definitions. (1) "Active addiction" means use of alcohol or drugs by a diagnosed alcoholic or drug addict within a specific time period immediately preceding the latest assessment center evaluation:

(a) For ADATSA shelter eligibility purposes, within the sixty-day period immediately preceding assessment.

(b) For ADATSA treatment eligibility purposes, within the ninety-day period immediately preceding assessment.

(2) "Alcohol and Drug Addiction Treatment and Support Act (ADATSA)" is a legislative enactment providing state-financed treatment and support to indigent alcoholics and drug addicts.

(3) "Gainfully employed" means performing in a regular and predictable manner an activity for pay or profit. Gainful employment does not include noncompetitive jobs such as work in a department-approved sheltered workshop or sporadic or part-time work, if the person, due to functional limitation, is unable to compete with unimpaired workers in the same job.

(4) "Intensive protective payee" provides case management services for an ADATSA shelter client. These services include:

(a) Sufficient controls of monthly shelter expenditures as necessary to ensure the client's basic needs are met; and

(b) Preventing the diversion of assistance toward purchase of alcohol or drugs.

(5) "Protective payee" means a person or agency who has the authority and responsibility to make decisions about the expenditure of outpatient treatment living stipends for an outpatient client.

(6) "Shelter services" or "shelter assistance" means:

(a) Room and board in a supervised living arrangement to an ADATSA client by a facility under contract with the department; or

(b) Where contracted facilities are not available, benefits paid to an intensive protective payee for an ADATSA client living in independent housing.

[Statutory Authority: RCW 74.08.090. 93-19-039 (Order 3632), § 388-240-0020, filed 9/8/93, effective 10/9/93.]

WAC 388-240-1100 Detoxification services. The department shall only pay for three-day detoxification services for acute alcoholic condition or five-day detoxifica-

tion services for acute drug addiction for eligible persons when the services are:

- (1) Directly related to detoxification; and
- (2) Performed by a certified detoxification center or a general hospital contracted with the department to perform these services.

[Statutory Authority: RCW 74.08.090. 93-19-039 (Order 3632), § 388-240-1100, filed 9/8/93, effective 10/9/93.]

WAC 388-240-1200 Detoxification eligibility. (1) The department shall consider a person eligible who is an AFDC/general assistance, a medical assistance program, or a supplemental security income (SSI) beneficiary; or

(2) The department shall consider a person eligible who does not have combined nonexempt income and/or resources that exceed the aid to families with dependent children (AFDC) payment standards. The department shall:

(a) Exempt the following resources for the alcoholism and drug detoxification program:

(i) A home;

(ii) Household furnishings and personal clothing essential for daily living;

(iii) Other personal property used to reduce need for assistance or for rehabilitation; and

(iv) A used and useful automobile.

(b) Not exempt the following resources:

(i) Cash;

(ii) Marketable securities; and

(iii) Any other resource not specifically exempted that can be converted to cash.

(c) Deduct or exempt the following from income:

(i) Mandatory expenses of employment;

(ii) Total income and resources of a noninstitutionalized SSI beneficiary;

(iii) Support payments paid under a court order; and

(iv) Payments to a wage earner plan specified by a court in bankruptcy proceedings, or previously contracted major household repairs when failure to make such payments will result in garnishment of wages or loss of employment.

(3) The department shall not require the person receiving detoxification services to incur a deductible as a factor of eligibility for the covered period of detoxification.

(4) The department shall determine eligibility for the detoxification program on the basis of information shown on the department's application forms.

(5) The department shall require supplemental forms, verification procedures, and/or face-to-face interviews only in cases where there is a specific reason for requiring further verification of eligibility.

(6) When the department is notified within ten working days of the date detoxification began, the department shall cover this period if all eligibility factors are met.

(7) The department shall continue the effective period of eligibility from the date detoxification treatment began through the end of the month in which the client completed the three-day or five-day treatment.

[Statutory Authority: RCW 74.08.090. 93-19-039 (Order 3632), § 388-240-1200, filed 9/8/93, effective 10/9/93.]

WAC 388-240-2100 ADATSA purposes and programs. (1) The purpose of ADATSA is to:

(a) Assist in the rehabilitation of alcoholics and drug addicts who can benefit from treatment; or

(b) Provide a program of shelter services for those alcoholics and drug addicts whose chemical dependency has resulted in incapacitating physiological or cognitive impairments.

(2) The department shall provide eligible persons with those ADATSA services available within legislative appropriation and only to the extent such service conforms to all conditions and limitations set by the department.

(3) Persons qualifying for the ADATSA program may be eligible for:

(a) Alcohol/drug treatment services and support described under WAC 388-240-4100 and 388-240-4400; or

(b) Shelter services as described under WAC 388-240-5100.

(4) A person eligible for ADATSA shall be eligible for medical care services as described under WAC 388-86-120 or its successor.

[Statutory Authority: RCW 74.08.090. 93-19-039 (Order 3632), § 388-240-2100, filed 9/8/93, effective 10/9/93.]

WAC 388-240-2300 ADATSA categorical eligibility.

(1) A person eligible for ADATSA services shall:

(a) Be eighteen years of age or older;

(b) Be a resident of Washington as defined by the GAU program; and

(c) Be either a United States citizen or alien who:

(i) Is lawfully admitted for permanent residence;

(ii) Is otherwise permanently residing in the United States under color of law; or

(iii) Has been granted temporary residency status under the Immigration Reform and Control Act.

(d) Provide the department with the applicant's Social Security number. If the applicant cannot finish a Social Security number because it has not been issued or is not known, the applicant shall apply for a number before authorization of assistance. The applicant shall provide the Social Security number to the department upon receipt.

(e) Meet the same income and resource criteria as required by the general assistance-unemployable (GA-U) program; except, persons excluded from GA-U under WAC 388-235-9000, because they are clients of federal aid, may be eligible for ADATSA treatment services.

(2) A person placed in an alcohol or drug congregate care facility shall meet the payment and procedural requirements set forth in WAC 388-15-568 or its successor. However, the department shall not require a client receiving services in an intensive inpatient chemical dependency treatment program of thirty days or less to participate in the cost of care.

(3) The department shall require a client with income while residing in a recovery house, extended care recovery house, or long-term care or drug residential treatment facility to contribute toward the cost of care of that portion of their income in excess of the clothing and personal incidental standard. This participation shall:

(a) Begin the month following the month of admission; and

(b) For benefits, be computed by the department according to applicable rules for the program under which the benefits are received.

[Statutory Authority: RCW 74.08.090. 93-19-039 (Order 3632), § 388-240-2300, filed 9/8/93, effective 10/9/93.]

WAC 388-240-2400 ADATSA treatment—Eligibility requirements. (1) Within the current appropriation, the department may grant ADATSA treatment services to an alcoholic or drug addict.

(2) An eligible person for ADATSA treatment services shall meet the:

(a) Financial eligibility criteria in WAC 388-240-2300; and

(b) Incapacity eligibility criteria in WAC 388-240-2450.

[Statutory Authority: RCW 74.08.090. 93-19-039 (Order 3632), § 388-240-2400, filed 9/8/93, effective 10/9/93.]

WAC 388-240-2450 ADATSA treatment—Incapacity requirements. (1) In order to qualify for ADATSA treatment services, a person shall be:

(a) Diagnosed as having a mild, moderate, or severe dependency on a psychoactive substance class other than nicotine, using the criteria for *Psychoactive Substance Dependence in the Diagnostic and Statistical Manual of Mental Disorders* (third edition revised), published by the American Psychiatric Association (this publication will be referred to below as the DSM III-R.); and

(b) Incapacitated, i.e., unable to work. Incapacity shall exist if the applicant meets one or more of the following:

(i) Currently pregnant or up to two months post partum; or

(ii) Diagnosed as at least moderately psychoactive substance dependent and referred for treatment by child protective services; or

(iii) Diagnosed as severely psychoactive substance dependent and currently an intravenous drug user; or

(iv) Diagnosed as severely psychoactive substance dependent and has:

(A) One prior diagnosis of severe psychoactive substance dependency by an assessment center; or

(B) At least one prior admission to a department-approved alcohol/drug treatment or detoxification program.

(v) Diagnosed as severely psychoactive substance dependent and has had two or more arrests for offenses directly related to the chemical dependency; or

(vi) Lost two or more jobs during the last six months as a direct result of chemical dependency; or

(viii) Admitted to a department-approved outpatient treatment program during the last six months and the outpatient treatment provider certifies the treatment recipient is not benefiting from outpatient treatment and needs more intensive chemical dependency treatment services.

(c) Not eligible for ADATSA treatment, notwithstanding subsection (b) of this section, when the person:

(i) Is not clearly diagnosed as currently dependent on psychoactive substances other than nicotine; or

(ii) Has abstained from alcohol and drug use for the last ninety days, excluding days spent while incarcerated; or

(iii) Has been gainfully employed in a job in the competitive labor market at any time during the last thirty days.

(2) A person who is successfully participating in ADATSA outpatient treatment services shall be considered incapacitated through completion of the planned treatment, even if the person:

- (a) Becomes employed;
- (b) Abstains from alcohol or drug use; or
- (c) Has full or partial remission of psychoactive substance abuse dependence.

[Statutory Authority: RCW 74.08.090. 93-19-039 (Order 3632), § 388-240-2450, filed 9/8/93, effective 10/9/93.]

WAC 388-240-2500 ADATSA shelter—Eligibility requirements. (1) Within the current appropriation, the department may grant ADATSA shelter services to an alcoholic or drug addict.

(2) An eligible person for these ADATSA shelter services shall meet the:

- (a) Financial eligibility criteria in WAC 388-240-2300; and
- (b) Incapacity eligibility criteria in WAC 388-240-2550.

[Statutory Authority: RCW 74.08.090. 93-19-039 (Order 3632), § 388-240-2500, filed 9/8/93, effective 10/9/93.]

WAC 388-240-2550 ADATSA shelter—Incapacity requirements. To meet shelter incapacity standards, a person shall meet the following conditions:

(1) Be actively addicted, meaning having used alcohol or drugs within the sixty-day period immediately preceding the latest assessment center evaluation, as determined by the assessment center;

(2) Have resulting physiological or organic damage, or have resulting cognitive impairment not expected to dissipate with sixty days of sobriety or detoxification;

(3) To qualify on the basis of physical impairment, the physiological or organic damage must have a severity rating of "03" or more as defined under the GA-U program;

(4) To qualify on the basis of cognitive impairment, the applicant must have:

- (a) At least a moderate impairment of ability to understand, remember, and follow complex instructions; and
- (b) An overall moderate impairment in ability to:
 - (i) Learn new tasks;
 - (ii) Exercise judgment;
 - (iii) Make decisions, and
 - (iv) Perform routine tasks without undue supervision.

(5) The department shall require the impairments described in subsections (2), (3) and (4) of this section to be supported by documented, objective, and current medical evidence provided by a licensed physician, licensed clinical psychologist, or mental health professional as defined by RCW 71.05.020.

[Statutory Authority: RCW 74.08.090. 93-19-039 (Order 3632), § 388-240-2550, filed 9/8/93, effective 10/9/93.]

WAC 388-240-2570 ADATSA shelter—Eligibility determination and review. The department shall:

- (1) Make an eligibility decision for ADATSA shelter within forty-five days of the date of application, except in

circumstances beyond the control of the agency such as failure or delay in securing necessary information or documentation on the part of the applicant;

(2) Redetermine incapacity and financial and medical eligibility for ADATSA shelter every six months or more often; and

(3) Provide adequate and advance notice of adverse action.

[Statutory Authority: RCW 74.08.090. 93-19-039 (Order 3632), § 388-240-2570, filed 9/8/93, effective 10/9/93.]

WAC 388-240-2600 ADATSA SSI referral requirements. (1) An ADATSA client the department determines potentially eligible for supplemental security income (SSI) shall:

- (a) Make application for SSI; and
- (b) Assign the initial SSI payment to the department of social and health services up to the amount of ADATSA assistance provided to the recipient pending approval of the SSI application.

(2) To establish eligibility, the department shall assist an ADATSA client in:

- (a) Making application for SSI; and
- (b) Obtaining the necessary documentation required by the Social Security Administration.

[Statutory Authority: RCW 74.08.090. 93-19-039 (Order 3632), § 388-240-2600, filed 9/8/93, effective 10/9/93.]

WAC 388-240-3100 ADATSA assessment center—Role. (1) A department-designated chemical dependency assessment center shall determine incapacity based on alcoholism or drug addiction. The assessment center is the department's sole source of medical evidence required for the diagnosis and evaluation of alcoholism/drug addiction and its effects on employability.

(2) The department shall:

- (a) Require a current assessment, in writing, for all ADATSA clients; and
- (b) Pay the costs of assessments needed to determine eligibility.

(3) ADATSA assessment centers shall:

- (a) Be responsible for diagnostic evaluation and treatment placement;
- (b) Not be responsible for providing direct treatment;
- (c) In accordance with chapter 275-19 WAC or its successor, conduct a face-to-face diagnostic assessment to determine if the client:
 - (i) Is chemically dependent;
 - (ii) Meets incapacity standards for treatment under WAC 388-240-2400; and
 - (iii) If incapacitated, is willing, able, and eligible to undergo a course of ADATSA treatment.

(4) The assessment center shall determine a course of treatment based on an individual assessment of alcohol/drug involvement and treatment needs in accordance with RCW 70.96A.100 and the procedures under chapter 275-19 WAC or its successor.

(5) Once the treatment client's financial and medical eligibility is established, the assessment center shall:

- (a) Develop an ADATSA treatment plan;

(b) Arrange all placements into ADATSA treatment taking into account the treatment priorities described under WAC 388-240-4200;

(c) Provide the client with written notification of the client's right to return to the community service office (CSO) at any time while receiving ADATSA treatment. This includes, but is not limited to, those situations where the client is discharged from any residential or outpatient agency providing services under contract to the department;

(d) Provide the client with written notification of the client's right to request a fair hearing to challenge any action affecting eligibility for ADATSA treatment;

(e) Provide ongoing case monitoring of treatment services; and

(f) Notify the community services office promptly of all placement or eligibility status changes.

(6) When evaluating the person's ability to benefit from primary outpatient treatment, the assessment center shall consider clinical or medical factors indicating the likelihood of a client's success in a less-structured primary treatment modality. Such factors may include:

(a) An assessment of former treatment history;

(b) The number of detoxification admissions;

(c) The chronicity and degree of incapacity of the client; and

(d) Social factors, such as:

(i) The availability of social support systems;

(ii) Family support; and

(iii) Stable living arrangement.

[Statutory Authority: RCW 74.08.090. 93-19-039 (Order 3632), § 388-240-3100, filed 9/8/93, effective 10/9/93.]

WAC 388-240-4100 ADATSA treatment limitations.

(1) The department shall offer ADATSA treatment services to an eligible person incapacitated by alcoholism or drug addiction, subject to:

(a) Availability defined under WAC 388-240-2100; and

(b) Priority classifications set forth under WAC 388-240-4200.

(2) The department shall limit a person's treatment services to a maximum of six months in a twenty-four-month period. The twenty-four-month period begins on the date of initial entry into treatment.

(3) The department shall limit residential treatment to the following durations:

(a) Intensive inpatient treatment, not to exceed thirty days per admission;

(b) Recovery house treatment, not to exceed sixty days per admission;

(c) Extended care recovery house treatment, not to exceed ninety days;

(d) Long-term care residential treatment, not to exceed one hundred eighty days;

(e) Drug residential treatment, not to exceed one hundred eighty days.

(4) An ADATSA client shall not receive more than ninety days of ADATSA outpatient treatment in a twenty-four-month period, if referred:

(a) Directly to outpatient treatment; or

(b) Following a residential placement.

(5) The department shall only offer medical services to a person eligible for ADATSA treatment choosing methadone chemical dependency treatment, as referenced under WAC 388-86-120 or its successor.

[Statutory Authority: RCW 74.08.090. 93-19-039 (Order 3632), § 388-240-4100, filed 9/8/93, effective 10/9/93.]

WAC 388-240-4200 ADATSA treatment terminations and reinstatements. (1) The department shall terminate an ADATSA client who withdraws or is discharged from treatment for any reason. The client must reapply and be re-referred to the assessment center if the client requires further ADATSA treatment services.

(a) The department shall refer an ADATSA client demonstrating an inability to remain abstinent in outpatient treatment to residential treatment.

(b) The department may require a client dropping out of treatment in the intensive inpatient modality to repeat this phase.

(c) The department may require a client dropping out of treatment during the recovery house or outpatient modality to:

(i) Return to the modality from which the client dropped out; or

(ii) Enter intensive inpatient treatment if, in the clinical judgment of the assessment center, a more structured form of treatment seems warranted.

(2) A client absent from inpatient treatment or other residential services for less than seventy-two hours may reenter that program without being considered as having dropped out. This is done at the discretion of the treatment service administrator and without requiring the client to apply for readmittance through the assessment center.

(3) An ADATSA client terminating treatment shall not be eligible for benefits beyond the month in which treatment services end. Regulations regarding advance and adequate notice still apply, but an ADATSA treatment client shall not be eligible for continued assistance pending a fair hearing as provided under WAC 388-33-377 or its successor.

[Statutory Authority: RCW 74.08.090. 93-19-039 (Order 3632), § 388-240-4200, filed 9/8/93, effective 10/9/93.]

WAC 388-240-4400 ADATSA treatment priority groups. (1) When assigning residential admissions, the assessment center shall:

(a) Give first priority to a pregnant woman or a parent with a child in the home;

(b) Additionally, provide priority access to ensure admission for:

(i) A person referred through by the department's children's protective services (CPS) program; and

(ii) An injecting drug user (IDU).

(2) When assigning outpatient admissions, the assessment center shall:

(a) Give first priority to a pregnant woman or a parent with a child in the home unable to access Title XIX outpatient treatment;

(b) Additionally, provide priority access to ensure admission for:

(i) A person completing residential treatment;

(ii) A person referred through CPS; and

(iii) An IDU.

(3) The department may deny ADATSA treatment services to a person able to access, at no cost to the person, comparable state-approved chemical dependency treatment.

[Statutory Authority: RCW 74.08.090, 93-19-039 (Order 3632), § 388-240-4400, filed 9/8/93, effective 10/9/93.]

WAC 388-240-4600 ADATSA treatment living allowance. (1) An ADATSA client in residential treatment shall be eligible for an allowance based on the department's current payment standard for clothing and personal incidentals.

(2) An ADATSA client in an outpatient treatment modality shall be eligible for a treatment living allowance for housing and other living expenses.

(3) The department shall:

(a) Base the living allowance amount on the current ADATSA payment standard;

(b) Issue this living allowance directly to the outpatient provider as (protective) payee; and

(c) Not authorize the use of any treatment living allowance to pay for shelter in a dormitory setting not requiring sobriety as a condition of residence.

[Statutory Authority: RCW 74.08.090, 93-19-039 (Order 3632), § 388-240-4600, filed 9/8/93, effective 10/9/93.]

WAC 388-240-5100 ADATSA shelter services. (1) The department shall limit ADATSA shelter services to shelter assistance in the contracted facilities unless the client resides in a county described under subsection (2) of this section.

(2) A client residing in a county where a contracted shelter bed is not available may receive shelter assistance in independent housing, subject to the following provisions:

(a) The client shall, as a condition of continued eligibility, move to a contracted shelter bed when available. "Availability" means the existence of a vacant shelter bed, rather than whether or not a particular A/R is accepted or rejected from a shelter facility based on disciplinary problems;

(b) The client shall receive the monthly shelter assistance payment through an intensive protective payee defined under WAC 388-240-6100; and

(c) The department shall only provide assistance for independent housing to a client residing in a permanent residential structure. The client must have a deed of purchase, rental agreement, or other verifiable written agreement between the client and the person or entity to whom the client is obligated for shelter costs or from whom the recipient is receiving supplied shelter.

(3) The department shall base the amount of a client's assistance for independent housing and basic needs on the appropriate payment standard for the GA-U program. For a client in a contracted shelter facility, the department shall provide an allowance for clothing and personal incidentals based on the standard for congregate care facilities.

(4) The department shall terminate a client receiving contracted shelter services:

(a) When the client is discharged from the facility for disciplinary reasons; or

(b) If the client subsequently leaves shelter, without notice, for more than seventy-two hours.

(5) The department shall continue benefits for an ADATSA shelter requesting a fair hearing within the advance notice period before termination is to occur as required under WAC 388-37-377 or its successor.

[Statutory Authority: RCW 74.08.090, 93-19-039 (Order 3632), § 388-240-5100, filed 9/8/93, effective 10/9/93.]

WAC 388-240-6100 ADATSA protective payees.

(1) The department shall pay the assistance needs of an ADATSA client receiving outpatient treatment or shelter assistance by protective payee or vendor payment. The protective payee for:

(a) An outpatient client shall be the same agency providing outpatient treatment;

(b) A shelter client in independent housing shall be an agency under contract with the department to provide intensive protective payee services described under subsection (5) of this section; and

(c) A shelter client residing in a contracted shelter facility shall be the facility operator. The facility operator shall have the authority to use personal discretion on the method of disbursing the client's clothing and personal incidental money each month.

(2) The protective payee for an outpatient client shall:

(a) Have the authority and responsibility to make decisions about the expenditure of outpatient treatment stipends;

(b) Encourage the client to participate in the decision-making process. The amount of decision-making the protective payee allows the client shall depend upon the level of responsibility the client demonstrates; and

(c) Disburse funds to meet the basic needs of a client's shelter, utilities, food, clothing, and personal incidentals.

(3) The outpatient protective payee may use discretion on the method of disbursing to the client any cash balance remaining from the client's monthly assistance warrant. The protective payee has the authority to apportion any remaining funds to the client at regular intervals throughout the month.

(4) The intensive protective payee shall provide to a client case management services to include, but not be limited to:

(a) Disbursement of a payment for shelter and utilities, such as a check directly to the landlord, mortgage company, utility company, etc;

(b) Direct payment to vendors directly for goods or services provided to or for the recipient, including personal and incidental expenses; and

(c) An exception only where unusual circumstances prevent direct payment and the recipient is unlikely to divert the money to purchasing alcohol or drugs.

(5) A shelter client in independent housing has the right to request a change of an intensive protective payee within the county if dissatisfied with the department's selection of a particular intensive protective payee. If the department determines good cause exists for the payee change, the department shall reassign the client to another intensive protective payee, if available.

(6) In the event the client or protective payee relationship is terminated for any reason, the protective payee shall return any remaining funds to the department.

[Statutory Authority: RCW 74.08.090. 93-19-039 (Order 3632), § 388-240-6100, filed 9/8/93, effective 10/9/93.]

Chapter 388-280 WAC

UNITED STATES (U.S.) REPATRIATE PROGRAM

WAC

| | |
|--------------|---|
| 388-280-1010 | Purpose. |
| 388-280-1020 | Definition. |
| 388-280-1030 | Application. |
| 388-280-1040 | Repaying repatriation assistance. |
| 388-280-1050 | Safeguarding information. |
| 388-280-1060 | Referral to other agencies. |
| 388-280-1070 | Income and resources. |
| 388-280-1080 | Eligibility. |
| 388-280-1090 | Client responsibilities. |
| 388-280-1100 | Department of responsibilities as the port of entry state. |
| 388-280-1110 | Department responsibilities as the final destination state. |
| 388-280-1120 | Unattended minors. |
| 388-280-1130 | Scope of services. |
| 388-280-1140 | Time limits on benefits. |
| 388-280-1150 | Payment limits. |
| 388-280-1160 | Assistance payment—Types of payments. |

WAC 388-280-1010 Purpose. (1) The purpose of the program is to assist repatriates, returned or brought to the U.S. from foreign countries, to resettle in the U.S. by providing assistance for one year or less until other resources become available.

(2) Repatriation assistance is a loan which is to be repaid by the repatriate. Repayment is according to the repatriate's ability.

[Statutory Authority: RCW 74.08.090. 93-12-054 (Order 3560), § 388-280-1010, filed 5/26/93, effective 6/26/93.]

WAC 388-280-1020 Definition. (1) "Dependent of U.S. citizen" means:

- (a) An adult repatriated U.S. citizen's:
 - (i) Spouse;
 - (ii) Unmarried minor children, including adopted and stepchildren;
 - (iii) Unmarried adult children with disabilities when dependency is based on the disability; or
 - (iv) Parents.
- (b) A minor repatriated U.S. citizen's:
 - (i) Spouse;
 - (ii) Parents or grandparents; or
 - (iii) Minor siblings.
- (c) A U.S. citizen's repatriated spouse's:
 - (i) Parents; or
 - (ii) Minor siblings.

(2) "Extended repatriation assistance" means repatriation assistance provided for up to nine months after eligibility for the ninety-day temporary assistance period ends.

(3) "Repatriate" means a U.S. citizen or a dependent of a U.S. citizen who is without available resources and is returned or brought back from a foreign country to the U.S. because of:

- (a) Destitution of the U.S. citizen; or
 - (b) Illness of the U.S. citizen or the dependent of a U.S. citizen; or
 - (c) War, threat of war, invasion, or similar crisis.
- (4) "Temporary assistance" means repatriation assistance provided during the first ninety days a repatriate is back in this country.

[Statutory Authority: RCW 74.08.090. 93-12-054 (Order 3560), § 388-280-1020, filed 5/26/93, effective 6/26/93.]

WAC 388-280-1030 Application. (1) The department shall consider a referral to a person by the U.S. State Department as a request for assistance.

(2) For client requests, where a person contacts the department directly, the department shall:

- (a) Notify the U.S. State Department of such request;
- (b) Consider the U.S. State Department's reply, designating the person as a repatriate, as a request for assistance.

(3) The department shall apply to the U.S. Department of Health and Human Services (HHS) for extended repatriation assistance when he repatriate is:

- (a) Unable to attain self-support or self-care for reasons such as age, disability, or lack of vocational preparation; or
 - (b) Ineligible for assistance through any other program.
- (4) When extended repatriation assistance is appropriate, the department shall apply for such assistance before the expiration of the initial ninety-day period of eligibility.

[Statutory Authority: RCW 74.08.090. 93-12-054 (Order 3560), § 388-280-1030, filed 5/26/93, effective 6/26/93.]

WAC 388-280-1040 Repaying repatriation assistance. (1) The department shall:

- (a) Explain to the repatriate that assistance received under the U.S. repatriate program is a loan the repatriate is expected to repay;
- (b) Obtain a signed statement that the repatriate:
 - (i) Understands the repayment requirement; and
 - (ii) Agrees to make repayment;
- (c) Assess the repatriate's ability to repay and make a recommendation to the U.S. Department HHS regarding the repatriate's financial ability to make repayment; and
- (d) Document reasons why the repatriate is unable to make repayment.

(2) The department shall consider a repatriate able to repay assistance when income or resources in excess of continuing needs will become available within one year after the repatriate's resettlement.

[Statutory Authority: RCW 74.08.090. 93-12-054 (Order 3560), § 388-280-1040, filed 5/26/93, effective 6/26/93.]

WAC 388-280-1050 Safeguarding information. (1) The department shall use information obtained about a repatriate only as necessary for program administration.

(2) Except as noted under subsection (3) of this section, the department shall not disclose:

- (a) The name or address of a repatriate, including lists or passenger manifests; or
- (b) Personal information identifying a repatriate, the circumstances or physical or mental health as furnished on applications, reports of investigations, medical reports, or any other department records.

(3) The department may release personal information to another agency from whom the repatriate has requested services when:

(a) A repatriate receives a request for the release of relevant information from the other agency which specifies the other agency will not disclose the information.

[Statutory Authority: RCW 74.08.090, 93-12-054 (Order 3560), § 388-280-1050, filed 5/26/93, effective 6/26/93.]

WAC 388-280-1060 Referral to other agencies. The department shall refer a repatriate to the Social Security Administration to apply for Supplemental Security Income (SSI) benefits if the repatriate is:

- (1) Sixty-five years of age or older;
- (2) Blind; or
- (3) Disabled.

[Statutory Authority: RCW 74.08.090, 93-12-054 (Order 3560), § 388-280-1060, filed 5/26/93, effective 6/26/93.]

WAC 388-280-1070 Income and resources. (1) The department may deny or terminate repatriate assistance when the client has nonexempt:

(a) Income, according to aid to families with dependent needs; and/or

(b) Resources, according to AFDC rules, that are immediately available to meet their repatriation needs.

(2) The department shall consider resources immediately available when the:

- (a) Resource value can be determined;
- (b) Resource is under the control of the repatriate; and
- (c) Repatriate can draw upon the resource for maintenance.

[Statutory Authority: RCW 74.08.090, 93-12-054 (Order 3560), § 388-280-1070, filed 5/26/93, effective 6/26/93.]

WAC 388-280-1080 Eligibility. Provided a household is otherwise eligible, the department shall grant:

(1) Temporary repatriation assistance to needy persons who are repatriates as designated by the U.S. State Department.

(2) Extended repatriation assistance to needy repatriates upon approval of the U.S. Department of Health and Human Services.

[Statutory Authority: RCW 74.08.090, 93-12-054 (Order 3560), § 388-280-1080, filed 5/26/93, effective 6/26/93.]

WAC 388-280-1090 Client responsibilities. An applicant for or recipient of repatriation assistance shall:

(1) Provide evidence the U.S. State Department needs to establish the applicant's status as a repatriate;

(2) Assist in determining the willingness and ability of a relative to assist the repatriate;

(3) Report other resources potentially available or self support; and

(4) Immediately report change in income or resources.

[Statutory Authority: RCW 74.08.090, 93-12-054 (Order 3560), § 388-280-1090, filed 5/26/93, effective 6/26/93.]

WAC 388-280-1100 Department of responsibilities as the port of entry state. The department shall:

(1) Meet the repatriate at the port of entry and determine what services are needed;

(2) Explain the program and provide a repatriate with informational handouts as provided by the U.S. Department of HHS;

(3) Explain the repayment provisions for the program and secure a signed repayment agreement;

(4) Provide appropriate assistance including onward transportation to the final destination;

(5) Coordinate with the final destination state regarding reception and care at the final destination;

(6) For mentally ill repatriates, provide related hospitalization and other medical assistance, including involuntary treatment in a mental health hospital, as necessary.

[Statutory Authority: RCW 74.08.090, 93-12-054 (Order 3560), § 388-280-1100, filed 5/26/93, effective 6/26/93.]

WAC 388-280-1110 Department responsibilities as the final destination state. The department shall:

(1) Develop a plan to carry out arrangements for care, treatment, and assistance or reception, assistance, and resettlement;

(2) Determine the need for continuing assistance;

(3) Explain the program;

(4) Explain the repayment provisions and secure a signed repayment agreement; and

(5) Provide necessary services.

[Statutory Authority: RCW 74.08.090, 93-12-054 (Order 3560), § 388-280-1110, filed 5/26/93, effective 6/26/93.]

WAC 388-280-1120 Unattended minors. The department shall provide services for the care and protection of unattended repatriate minors. The department shall:

(1) Provide social services or arrange for placement of the repatriate minor in a facility that supplement or substitute for parental care and supervision, as needed, through the child welfare services program;

(2) Ensure such services and assistance conform to the department's standards for foster home, receiving home, or institutional care; and

(3) Observe recognized child welfare practices in protecting an unaccompanied repatriate minor.

[Statutory Authority: RCW 74.08.090, 93-12-054 (Order 3560), § 388-280-1120, filed 5/26/93, effective 6/26/93.]

WAC 388-280-1130 Scope of services. The department shall provide a repatriate the following necessary services:

(1) Transportation to the repatriate's place of residence, the home of relatives, or the place the repatriate will be resettled:

(a) Only one domestic trip is allowable;

(b) The lowest cost and most direct means of transportation unless effective service to a repatriate calls for other accommodations;

(c) Transportation expenses, including travel incidentals, such as meal and lodging enroute and assistance with luggage, checking, storage, or transportation of personal effects.

(2) Transportation, overnight accommodations, and per diem for an escort to accompany and assist a physically ill

or mentally ill or disabled repatriate from the port of entry to the final destination, and the escort's expenses when returning to the port of entry;

(3) Food items to meet the cost of a physician-recommended special diet;

(4) Restaurant meals as required;

(5) Temporary shelter;

(6) Essential clothing;

(7) Medical and hospital care a physician considers necessary because of the repatriate's health. The department shall limit care provided by the port of entry state to acute illnesses which prevent the repatriate from traveling to the final destination state;

(8) Necessary social services;

(9) Subsistence and resettlement expenses;

(10) Communication by phone or telegraph to contact relatives, friends, or former employers to obtain access to resources for self-support;

(11) Housing arrangements to provide adequate accommodations, including housing or utility deposits;

(12) Sufficient funds for maintenance until the agency at the final destination can begin to assist the repatriate, if the person requires resettlement at the final destination; and

(13) Counseling and referral in regard to employment, and retaining.

[Statutory Authority: RCW 74.08.090, 93-12-054 (Order 3560), § 388-280-1130, filed 5/26/93, effective 6/26/93.]

WAC 388-280-1140 Time limits on benefits. (1) Except as provided under subsection (2) of this section, the department shall limit repatriate assistance to ninety days beginning with the date of arrival in the U.S.

(2) The department shall provide a repatriate extended repatriation assistance for up to an additional nine months upon prior approval by the U.S. Department of Health and Human Services.

(3) The department shall immediately terminate a repatriate's assistance upon the repatriate's receipt of financial benefits under either the AFDC or SSI programs.

[Statutory Authority: RCW 74.08.090, 93-12-054 (Order 3560), § 388-280-1140, filed 5/26/93, effective 6/26/93.]

WAC 388-280-1150 Payment limits. (1) The department shall limit payments for repatriation assistance to:

(a) The department's payment standards for the AFDC program as appropriate for the number of eligible repatriates for ongoing assistance;

(b) A maximum of five hundred and sixty dollars per person for resettlement or assistance for initial one-time services such as rental deposits. The department shall limit use of this maximum to not more than one month and only during the temporary assistance period;

(2) The department's payment for other services shall be as provided under section 1130, "Scope of services" in this chapter.

[Statutory Authority: RCW 74.08.090, 93-12-054 (Order 3560), § 388-280-1150, filed 5/26/93, effective 6/26/93.]

WAC 388-280-1160 Assistance payment—Types of payments. (1) The department shall grant a repatriate

assistance in cash, voucher, or warrant. Payment shall be made either to the repatriate or in the repatriate's behalf.

(2) The department's method of payment shall be at the department's option.

[Statutory Authority: RCW 74.08.090, 93-12-054 (Order 3560), § 388-280-1160, filed 5/26/93, effective 6/26/93.]

Chapter 388-320 WAC

PUBLIC RECORDS DISCLOSURE— ADMINISTRATIVE PROCEDURES

WAC

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| 388-320-350 | Declaratory orders—Forms, content, and filing. |
| 388-320-400 | Petition for rule making—Form, content, and filing. |
| 388-320-450 | Interpretive and policy statements roster and index. |

WAC 388-320-350 Declaratory orders—Forms, content, and filing. A petition for a declaratory order shall generally adhere to the following form:

(1) At the top of the page shall appear the wording "Before the state department of social and health services." On the left side of page below the foregoing the following caption shall be set out: "In the matter of the petition of (name of petitioning party) for a declaratory order." Opposite the foregoing caption shall appear the word "petition."

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

(3) The original and two legible copies shall be filed with the Office of Vendor Services, MS 45811, Second Floor East, Office Building 2, Fourteenth and Jefferson, Olympia, WA 98504. Petitions shall be on white paper, 8 1/2" x 11" in size.

[Statutory Authority: RCW 34.05.220, 42.17.340 and chapters 17.250 and 17.260 RCW, 93-24-057 (Order 3673), § 388-320-350, filed 11/24/93, effective 12/25/93. Statutory Authority: RCW 34.05.220 (1)(a), 90-04-076 (Order 2999), § 388-320-350, filed 2/5/90, effective 3/1/90.]

WAC 388-320-400 Petition for rule making—Form, content, and filing. A petition for adoption, amendment, or repeal of a rule shall generally adhere to the following form:

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

(2) The body of the petition shall be set out in numbered paragraphs. The first paragraph shall state the name and address of the petitioning party and whether petitioner seeks the adoption of new rule or rules, or amendment or repeal of existing rule or rules. The second paragraph, in case of a proposed new rule or amendment of an existing

rule, shall set forth the desired rule in its entirety. Where the petition is for repeal of an existing rule, such shall be stated and the rule proposed to be repealed shall either be set forth in full or shall be referred to by agency rule number. The third paragraph shall set forth concisely the reasons for the proposal of the petitioner and shall contain a statement as to the interest of the petitioner in the subject matter of the rule. Additional numbered paragraphs may be used to give full explanation of petitioner's reason for the action sought.

(3) Petitions shall be dated and signed by the person or entity named in the first paragraph or by his attorney. The original and two legible copies of the petition shall be filed with the Office of Vendor Services, MS 45811, Second Floor East, Office Building 2, Fourteenth and Jefferson, Olympia, WA 98504. Petitions shall be on white paper 8 1/2" x 11" in size.

[Statutory Authority: RCW 34.05.220, 42.17.340 and chapters 17.250 and 17.260 RCW. 93-24-057 (Order 3673), § 388-320-400, filed 11/24/93, effective 12/25/93. Statutory Authority: RCW 34.05.220 (1)(a). 90-04-076 (Order 2999), § 388-320-400, filed 2/5/90, effective 3/1/90.]

WAC 388-320-450 Interpretive and policy statements roster and index. (1) Legal authority for this rule is RCW 34.05.220 and 42.17.260 (4)(d) and (e).

(2) The department's index of interpretive and policy statements is administered by the office of vendor services. Statements in existence July 1, 1990 were made part of the index and new statements are added to the index upon issuance. The index is revised approximately every two years.

(3) The index is available for public inspection at the Office of Vendor Services located in Office Building No. 2, Olympia WA.

(4) A person wishing to inspect or receive copies of interpretive and policy statements issued by the department shall submit a written request to: Office of Vendor Services, PO Box 45811, Olympia WA 98504-5811.

[Statutory Authority: RCW 34.05.220, 42.17.340 and chapters 17.250 and 17.260 RCW. 93-24-057 (Order 3673), § 388-320-450, filed 11/24/93, effective 12/25/93. Statutory Authority: RCW 42.17.240, 34.05.220 and chapters 17.250 and 17.260 RCW. 91-24-047 (Order 3300), § 388-320-450, filed 11/27/91, effective 12/28/91.]

Chapter 388-330 WAC BACKGROUND INQUIRIES

WAC

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| 388-330-010 | Purpose and authority. |
| 388-330-020 | Scope. |
| 388-330-030 | Application of inquiry findings. |
| 388-330-050 | Release of information. |

WAC 388-330-010 Purpose and authority. This chapter establishes policy within the department of social and health services for conducting criminal history portions of background inquiries and checks of Washington state patrol's child abuse information file on those licensed or authorized by the department to care for children or developmentally disabled persons. Such inquiries are required under RCW 74.15.030.

[Statutory Authority: RCW 74.15.030. 93-15-040 (Order 3534), § 388-330-010, filed 7/13/93, effective 8/13/93; 89-07-096 (Order 2777), § 388-330-010, filed 3/22/89.]

WAC 388-330-020 Scope. (1) Background inquiries. The department's background inquiries:

(a) Shall include, but not be limited to review of:

(i) Records of criminal convictions and pending criminal charges as listed by the Washington state patrol (WSP) per chapters 10.97 and 43.43 RCW;

(ii) Washington state patrol file of a person found to be a child abuser in a civil adjudication or a disciplinary board final decision; and

(iii) Child protective service and case file information in the case and management information system and division of children and family services (DCFS) records.

(b) May include a review of law enforcement records of convictions and pending charges in other states or locations when the need for further information is indicated by:

(i) A person's prior residences;

(ii) Reports from credible community sources; or

(iii) An identification number indicating the subject has a record on file with the Federal Bureau of Investigation.

(2) Affected persons. Persons subject to background inquiries include:

(a) All persons licensed to care for children or disabled persons under:

(i) Chapter 74.15 RCW; or

(ii) Contract with the department to provide that care.

(b) All staff, employed by licensed or authorized providers, involved in the direct care or supervision of children and developmentally disabled persons;

(c) Any volunteer or other person having regular, unsupervised access to children or developmentally disabled persons in facilities, homes, or operations licensed or authorized by the department to provide care under chapter 74.15 RCW.

(3) Persons not affected. This chapter does not apply to schools, hospitals, or other facilities where the primary focus is not custodial and where the provider is not acting in place of the parent.

(4) This chapter does not apply to persons being considered for employment or volunteer activities with the department of social and health services. Background check requirements applicable to department employees and volunteers are set forth in MSR 326-26-140 and 2SSB 5063, chapter 486, Laws of 1987, respectively.

[Statutory Authority: RCW 74.15.030. 93-15-040 (Order 3534), § 388-330-020, filed 7/13/93, effective 8/13/93; 89-07-096 (Order 2777), § 388-330-020, filed 3/22/89.]

WAC 388-330-030 Application of inquiry findings.

(1) For the purposes of conducting criminal history portions of background inquiries under RCW 74.15.030, the department shall only consider a person's convictions and pending charges. The department shall not solicit or use as the sole basis for disqualification information about:

(a) Arrests not resulting in charges; and

(b) Dismissed charges.

(2) The department shall maintain a listing of offenses which, because of their seriousness, shall disqualify prospective care providers from being licensed or otherwise autho-

rized to provide care to children or developmentally disabled persons. The following offenses or their equivalents in jurisdictions outside of the state of Washington shall constitute that list:

- (a) Aggravated murder;
- (b) Murder in the first degree;
- (c) Murder in the second degree;
- (d) Manslaughter in the first degree;
- (e) Manslaughter in the second degree;
- (f) Simple assault, if the assault involves physical harm to another person;
- (g) Assault in the first degree;
- (h) Assault in the second degree;
- (i) Assault in the third degree;
- (j) Custodial assault;
- (k) Vehicular homicide;
- (l) Criminal mistreatment in the first degree;
- (m) Criminal mistreatment in the second degree;
- (n) Reckless endangerment;
- (o) Kidnapping in the first degree;
- (p) Kidnapping in the second degree;
- (q) Unlawful imprisonment;
- (r) Rape in the first degree;
- (s) Rape in the second degree;
- (t) Rape in the third degree;
- (u) First degree rape of a child;
- (v) Second degree rape of a child;
- (w) Third degree rape of a child;
- (x) Child molestation in the first degree;
- (y) Child molestation in the second degree;
- (z) Child molestation in the third degree;
- (aa) Sexual misconduct with a minor in the first degree;
- (bb) Sexual misconduct with a minor in the second degree;
- (cc) Indecent liberties;
- (dd) Felony indecent exposure;
- (ee) Arson in the first degree;
- (ff) Arson in the second degree;
- (gg) Burglary in the first degree;
- (hh) Extortion in the first degree;
- (ii) Extortion in the second degree;
- (jj) Robbery in the first degree;
- (kk) Robbery in the second degree;
- (ll) Incest in the first degree;
- (mm) Incest in the second degree;
- (nn) Promoting prostitution in the first degree;
- (oo) Promoting prostitution in the second degree;
- (pp) Sexual exploitation of a minor;
- (qq) Communication with a minor for immoral purposes;
- (rr) Child selling - child buying;
- (ss) Public indecency, if toward a person under fourteen years of age;
- (tt) Prostitution;
- (uu) Dealing in depictions of a minor engaged in sexually explicit conduct;
- (vv) Sending or bringing into the state depictions of a minor engaged in sexually explicit conduct;
- (ww) Possession of depictions of a minor engaged in sexually explicit conduct;
- (xx) Patronizing a juvenile prostitute;
- (yy) Family abandonment;

- (zz) Child abandonment;
- (aaa) Unlawfully manufacturing, delivering, or possessing, with intent to deliver, a controlled substance;
- (bbb) Promoting a suicide attempt;
- (ccc) Malicious harassment;
- (ddd) Promoting pornography;
- (eee) Coercion;
- (fff) Child abuse or neglect as defined under RCW 26.44.020;
- (ggg) Violation of child abuse restraining order; and
- (hhh) First or second degree custodial interference.

(3) Whenever a criminal history inquiry reveals a prospective care provider has been charged with or convicted of an offense or is in the WSP file as a person found to be a child abuser in a civil adjudication or disciplinary board final decision, the department shall take action as follows:

(a) If it is confirmed the subject's name appears on the aforementioned WSP file of child abusers, that person shall not be licensed, employed by licensees or contractors, serve in a volunteer capacity for licensees or contractors, or otherwise be authorized by the department to provide care;

(b) If the inquiry reveals charges are pending against the subject for any of the offenses listed in subsection (2) of this section, or their equivalents in other jurisdictions, the department shall withhold licensure or authorization to provide care until dismissal or acquittal occurs. Pending charges for other offenses may be grounds for withholding licensure or authorization to provide care. If the inquiry reveals pending charges are more than one year old, the department shall contact the charging law enforcement agency to determine the disposition or status of the charge;

(c) If the inquiry reveals the subject has been convicted of any of the offenses listed in subsection (2) of this section or their equivalents in other jurisdictions, the department shall deny licensure or authorization to provide care. The department at its discretion may license a person or authorize a person to provide care despite a conviction under subsection (2) of this section if the person presents to the department a certificate of rehabilitation issued by a superior court under RCW 43.43.830(4). A certificate of rehabilitation shall address the fitness of the person to provide the specific type of care considering the following factors:

- (i) The seriousness and circumstances of the illegal act;
- (ii) The number of crimes for which the person was convicted;
- (iii) The amount of time passed since the illegal act was committed;
- (iv) The age of the person at the time of conviction;
- (v) Whether the person has entered and successfully completed all appropriate rehabilitative services, including those ordered by a court;
- (vi) The behavior of the person since the illegal act was committed;
- (vii) Recommendations of persons closely associated with the person;
- (viii) The duties the person would perform at the agency, and the vulnerability of the persons under care; and
- (ix) Other evidence of rehabilitation.

If the department licenses or approves a person under this subsection, it may place limitations or conditions on the person in the performance of the person's duties at the agency.

(d) If the inquiry reveals the subject has been convicted of an offense not listed in subsection (2) of this section, the department shall consider such information in determining the character, suitability, and competence of the prospective caretaker as required by chapter 74.15 RCW. However, the department shall not use conviction as the sole basis for denial of licensure or authorization to provide care unless the conviction is directly related to the employment, licensure, or authorization being sought. The department shall consider the recency, seriousness, kind, and number of previous offenses, as well as the vulnerability of the clients to be cared for.

[Statutory Authority: RCW 74.15.030. 93-15-040 (Order 3534), § 388-330-030, filed 7/13/93, effective 8/13/93. Statutory Authority: RCW 74.15.030, chapters 74.15 and 43.43 RCW. 92-08-038, § 388-330-030, filed 3/24/92, effective 4/24/92. Statutory Authority: RCW 74.15.030. 89-07-096 (Order 2777), § 388-330-030, filed 3/22/89.]

WAC 388-330-050 Release of information. (1) Release of criminal history information.

(a) Unless there is a signed release of information, the department may only share with a provider:

(i) The criminal inquiry information used to disqualify an employee or volunteer of that provider; or

(ii) The fact the subject is listed on the Washington state patrol's child abuse information file if that is the basis for a disqualification.

(b) The department shall not share any other inquiry information with the provider or provider's employees unless the department withheld licensure or care authorization based on that information.

(2) Release of abuse information from department files.

(a) The department shall not share with care providers or prospective providers any abuse information in department files.

(b) Unless there is a release of information signed by the employee, the department may only tell a provider or prospective provider that the results of the department's background inquiry disqualify the employee. Even if the employee has signed a release of information, the department shall not discuss identifying information about the victim of the abuse.

(3) Release of inquiry findings to the subject of inquiry. The department shall provide disqualified care providers with inquiry findings about themselves if the providers:

(a) Make the requests in writing; and

(b) Offer proof of identity.

[Statutory Authority: RCW 74.15.030. 93-15-040 (Order 3534), § 388-330-050, filed 7/13/93, effective 8/13/93; 89-07-096 (Order 2777), § 388-330-050, filed 3/22/89.]

**Chapter 388-538 WAC
MANAGED CARE**

WAC

| | |
|-------------|---|
| 388-538-001 | Purpose. |
| 388-538-050 | Definitions. |
| 388-538-060 | Eligible client. |
| 388-538-070 | Managed care payment. |
| 388-538-080 | Managed care exemptions. |
| 388-538-090 | Client's choice of primary care provider. |
| 388-538-095 | Medical services. |

| | |
|-------------|--|
| 388-538-100 | Managed care emergency services. |
| 388-538-110 | Client grievances. |
| 388-538-120 | Client request for a second medical opinion. |
| 388-538-130 | Enrollment termination. |
| 388-538-140 | Quality of care. |
| 388-538-150 | Managed care medical audit. |

WAC 388-538-001 Purpose. For contracts effective on or after July 1, 1993, the department may contract with health care plans or primary care case managers to provide medical services directly to a client or arrange for a client to receive medical care according to the contract between the department and a plan or primary care case managers.

[Statutory Authority: RCW 74.08.090. 93-17-039 (Order 3621), § 388-538-001, filed 8/11/93, effective 9/11/93.]

WAC 388-538-050 Definitions. For the purpose of this chapter:

(1) "Coordinated care" means a comprehensive system of medical and health care delivery including preventative, primary, specialty, and ancillary services. Coordinated care involves having clients enrolled with or assigned to a primary care provider, in a plan or with an independent provider, responsible for arranging or delivering all contracted medical care.

(2) "Enrolled client" means a client eligible for Medicaid and receiving services from a health care plan or primary care case management provider who has a contract with the department.

(3) "Emergency services" shall mean medical or other health services which are rendered for a medical condition (including emergency labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in:

(a) Placing the patient's health in serious jeopardy;

(b) Serious impairment to bodily functions; or

(c) Serious dysfunction of any bodily organ or part.

(4) "Health care plan" means an organization contracting with the department, offering a health care plan that provides and/or pays for medical services provided to an eligible enrolled client in exchange for a department prepaid monthly set rate. A health care plan shall be referred to in this chapter as "a plan."

(5) "Persons with special health care needs" means persons having ongoing health conditions that:

(a) Have a biologic, psychologic, or cognitive basis;

(b) Have lasted or are virtually certain to last for at least one year; and

(c) Produce one or more of the following sequelae:

(i) Significant limitation in areas of physical, cognitive, or emotional function;

(ii) Dependency on medical or assistive devices to minimize limitation of function or activities;

(iii) In addition for children:

(A) Significant limitation in social growth or developmental function;

(B) Need for psychologic, educational, medical or related services over and above the usual for the child's age; or

(C) Special ongoing treatments such as medications, special diets, interventions or accommodations at home or at school.

(6) "Primary care provider" means a provider who has responsibility for supervising, coordinating, and providing initial and primary care to clients, initiating referrals for specialist care, and maintaining the continuity of patient care. A primary care provider shall be either:

(a) A physician, who meets the criteria under WAC 388-87-007;

(b) Advanced registered nurse practitioner, who meets the criteria under WAC 388-87-007; or

(c) Licensed physician assistants.

(7) "Primary care case management" means a model of health care where a physician, ARNP, physician assistant, community/migrant health center, health department, or clinic agrees to provide primary health care services and coordinate other preventative, specialty, and ancillary health care in exchange for a monthly case management fee for each client managed. Primary care case management shall be referred to in this section as "PCCM."

(8) "Timely provision of services" means a client has the right to receive medically necessary health care without unreasonable delay.

[Statutory Authority: RCW 74.08.090, 93-17-039 (Order 3621), § 388-538-050, filed 8/11/93, effective 9/11/93.]

WAC 388-538-060 Eligible client. (1) The department shall require a client, eligible for certain designated medical program categories, to enroll in a plan or under PCCM when the client resides in the contracted service area of a plan or PCCM, except as provided in WAC 388-538-080.

(2) The department shall assign a client to a plan or a PCCM provider when the client does not choose a plan or PCCM.

[Statutory Authority: RCW 74.08.090, 93-17-039 (Order 3621), § 388-538-060, filed 8/11/93, effective 9/11/93.]

WAC 388-538-070 Managed care payment. The department shall pay a:

(1) Set rate to a plan for contracted health care provided to the client; and

(2) Monthly management fee under PCCM in addition to a fee for covered services provided to the client.

[Statutory Authority: RCW 74.08.090, 93-17-039 (Order 3621), § 388-538-070, filed 8/11/93, effective 9/11/93.]

WAC 388-538-080 Managed care exemptions. (1) The department shall not require a client to enroll or to continue enrollment in a contracted plan or PCCM when medically necessary care is not reasonably available and accessible to the client under any of the plans offered.

(2) In making the exemption determination, the department shall consider medically necessary services not reasonably available and accessible when:

(a) The limited English-speaking or hearing-impaired client can communicate in the client's primary language with a health provider not participating in a plan or under PCCM;

(b) The nature of the client's health care needs is specialized and/or complex, such that available plans or

PCCM are unable to adequately meet those needs, including but not limited to persons with special health care needs as defined in WAC 388-538-050;

(c) The distance is over twenty-five miles, travel time greater than forty-five minutes, or other transportation difficulties make it unreasonably difficult for a client to obtain medical care from a plan or under PCCM;

(d) The client is homeless or is expected to reside in temporary housing or a shelter for less than sixty days from date the client requests the exemption;

(e) The client's treating provider is not a member of a plan, or a PCCM provider and the treating provider has determined that the established treatment plan or plan of care is essential to the client's physical or mental health; or

(f) Before enrollment, a pregnant woman has started prenatal care with an obstetrical provider who is not a member of a plan or under PCCM.

(3) A client requesting an exemption from enrolling in a plan or under PCCM shall make a request to the department. The department shall timely notify the client of the exemption decision and the reasons therefor before enrolling the client in managed care. The client may request a fair hearing when the client is not satisfied with the department's decision as described under WAC 388-81-040.

[Statutory Authority: RCW 74.08.090, 93-17-039 (Order 3621), § 388-538-080, filed 8/11/93, effective 9/11/93.]

WAC 388-538-090 Client's choice of primary care provider. (1) Each client enrolled in managed care shall have a primary care provider (PCP).

(2) A client shall have an opportunity to choose a PCP from available providers.

(3) A plan shall assign a client to a PCP when the client enrolls in a plan and does not choose PCP in the plan.

(4) A client in a plan shall have the right to change a PCP:

(a) One time during a twelve-month period for any reason; and

(b) For subsequent changes during the twelve-month period, only for documented good cause. The client shall notify a plan of the:

(i) Desired change including the name of the new PCP; and

(ii) Reason for the desired change.

(5) A client enrolled with a PCCM shall have the right to change PCCM for any reason.

[Statutory Authority: RCW 74.08.090, 93-17-039 (Order 3621), § 388-538-090, filed 8/11/93, effective 9/11/93.]

WAC 388-538-095 Medical services. The department shall pay separately, on a fee-for-service basis, only for medical services covered under the department's medical care programs that a managed care contract does not cover. Such services include transportation as described under WAC 388-86-085.

[Statutory Authority: RCW 74.08.090, 93-17-039 (Order 3621), § 388-538-095, filed 8/11/93, effective 9/11/93.]

WAC 388-538-100 Managed care emergency services. (1) Emergencies and emergency transportation

services shall be exempted from routine medical care authorization procedures of a plan or under PCCM.

(2) A client shall not be responsible for determining if an emergency exists or for the cost of such determination.

(3) In a medical emergency, the client shall not be financially responsible for covered managed care services provided.

(4) When an emergency does not exist, and the client's plan PCP does not authorize services, the client shall be financially responsible for further services received only when the client is informed and agrees, in writing, to the responsibility before receiving the services as described under WAC 388-87-010.

[Statutory Authority: RCW 74.08.090. 93-17-039 (Order 3621), § 388-538-100, filed 8/11/93, effective 9/11/93.]

WAC 388-538-110 Client grievances. (1) A client aggrieved by a decision of a plan, PCCM, or the department shall have the right to a fair hearing as required under WAC 388-81-040.

(2) A client enrolled in a plan:

(a) Shall exhaust a plan's grievance procedure before requesting a fair hearing, except in subsection (2)(c)(iii) of this section;

(b) Shall receive a written decision stating the basis for the grievance decision;

(c) May request a fair hearing when a:

(i) Grievance decision is adverse;

(ii) Plan does not respond in writing within thirty days from the date the client requests the grievance; or

(3) The client may request a fair hearing at the same time a grievance is filed when the plan denies a client urgently needed medical care and the client requests a grievance in writing.

(4) The plan or PCCM shall advise the client of his or her right to request a fair hearing at the time the plan or PCCM notifies the client of the grievance decision.

[Statutory Authority: RCW 74.08.090. 93-17-039 (Order 3621), § 388-538-110, filed 8/11/93, effective 9/11/93.]

WAC 388-538-120 Client request for a second medical opinion. (1) The client enrolled in a plan shall have the right to a second opinion by another physician or specialist participating in the client's assigned plan:

(a) When the client needs more information as to the medical necessity of medical treatment recommended by the PCP; or

(b) If the client believes the PCP is not authorizing medically necessary care.

(2) The client enrolled with a PCCM shall have the right to a second opinion by another provider or specialist the same as in (1)(a) or (b) of this section.

(3) When medically necessary, the client shall be promptly referred to:

(a) Another participating physician or specialist of a plan, when enrolled in a plan; or

(b) Another provider or specialist when enrolled under PCCM.

[Statutory Authority: RCW 74.08.090. 93-17-039 (Order 3621), § 388-538-120, filed 8/11/93, effective 9/11/93.]

WAC 388-538-130 Enrollment termination. The department may terminate enrollment of a client when a:

(1) Client loses eligibility for a medical eligibility category which requires enrollment;

(2) Client requests and medical assistance administration (MAA) approves disenrollment under the same considerations as under WAC 388-538-080; or

(3) Plan or PCCM requests in writing to MAA disenrollment of the client and:

(a) A plan or PCCM establishes that the client's behavior is:

(i) Inconsistent with a plan's or PCCM's rules and regulations, such as intentional misconduct; or

(ii) Such that it become medically infeasible to safely or prudently provide medical care; and

(b) MAA approves a plan's or PCCM's request:

(i) Within fifteen days from the day of receipt of the request; and

(ii) Notifies the client ten days in advance of the effective date of disenrollment.

[Statutory Authority: RCW 74.08.090. 93-17-039 (Order 3621), § 388-538-130, filed 8/11/93, effective 9/11/93.]

WAC 388-538-140 Quality of care. The department shall require:

(1) A plan to appoint a medical director or designee who:

(a) Shall be responsible for the plan's quality assurance program and shall review all plan grievances; and

(b) Furnishes MAA with a copy of all grievances and a plan's response to such grievances.

(2) A PCCM to provide adequate documentation for quality assurance review.

[Statutory Authority: RCW 74.08.090. 93-17-039 (Order 3621), § 388-538-140, filed 8/11/93, effective 9/11/93.]

WAC 388-538-150 Managed care medical audit (1) At least once a year, the department shall conduct a medical audit of a plan or PCCM to ensure the quality and accessibility of health care services provided or arranged by a plan or PCCM for enrolled clients.

(2) A plan or PCCM shall permit such medical audit.

(3) The department may conduct or contract independently for such medical audit.

[Statutory Authority: RCW 74.08.090. 93-17-039 (Order 3621), § 388-538-150, filed 8/11/93, effective 9/11/93.]

Chapter 388-539 WAC

ACQUIRED HUMAN IMMUNODEFICIENCY SYNDROME INSURANCE PROGRAM

WAC

| | |
|-------------|------------------|
| 388-539-001 | Purpose. |
| 388-539-050 | Definitions. |
| 388-539-100 | Eligibility. |
| 388-539-150 | Premium payment. |

WAC 388-539-001 Purpose. The department shall administer state funds appropriated to ensure health insurance coverage for a person:

- (1) Incapacitated by acquired human immunodeficiency syndrome (AIDS), as defined under WAC 388-539-050; and
- (2) Who meets the department's eligibility requirements described under WAC 388-539-100.

[Statutory Authority: RCW 74.08.090. 93-17-037 (Order 3619), § 388-539-001, filed 8/11/93, effective 9/11/93.]

WAC 388-539-050 Definitions. For the purpose of this chapter, "acquired human immunodeficiency syndrome" means the illness characterized by the diseases and conditions defined and described by the state board of health under WAC 246-100-011(1).

[Statutory Authority: RCW 74.08.090. 93-17-037 (Order 3619), § 388-539-050, filed 8/11/93, effective 9/11/93.]

WAC 388-539-100 Eligibility. (1) The department shall pay health insurance premiums for a client with AIDS and who is liable for the health insurance premium, when the client meets the following conditions:

- (a) Is ineligible for Medicaid or state-funded medical programs operated by the department;
 - (b) Is eligible for continuation coverage insurance benefits as provided for by the federal Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1985, group health insurance, or individual health insurance coverage if cost effective; and
 - (c) Has personal assets equal to or less than fifteen thousand dollars, excluding a home used as a primary residence, and a car.
- (2) A client's eligibility under the program shall cease when the person:
- (a) Dies;
 - (b) Is no longer eligible for insurance under subsection (1) of this section; or
 - (c) Moves out of state.

[Statutory Authority: RCW 74.08.090. 93-17-037 (Order 3619), § 388-539-100, filed 8/11/93, effective 9/11/93.]

WAC 388-539-150 Premium payment. The department shall pay a maximum premium payment not to exceed fifty percent of the estimated average monthly expenditure for covered services for a comparable Medicaid client during the same fiscal year.

[Statutory Authority: RCW 74.08.090. 93-17-037 (Order 3619), § 388-539-150, filed 8/11/93, effective 9/11/93.]

Chapter 388-540 WAC

KIDNEY CENTERS

WAC

| | |
|-------------|---|
| 388-540-001 | Purpose. |
| 388-540-005 | Definitions. |
| 388-540-010 | Services. |
| 388-540-020 | Reimbursement. |
| 388-540-030 | ESRD eligibility. |
| 388-540-040 | Transfer of resources without adequate consideration. |
| 388-540-050 | Fiscal information. |
| 388-540-060 | Procedures for ESRD eligibility determination. |

WAC 388-540-001 Purpose. The department shall administer state funds appropriated to assist people with end stage renal disease to meet the costs of their medical care.

[Statutory Authority: RCW 74.08.090. 93-16-039 (Order 3600), § 388-540-001, filed 7/28/93, effective 8/28/93.]

WAC 388-540-005 Definitions. For the purpose of administering the state kidney disease program, the following shall apply:

(1) "End stage renal disease (ESRD)" means that stage of renal impairment which is irreversible and permanent, and requires dialysis or kidney transplantation to ameliorate uremic symptoms and maintain life;

(2) "ESRD Client" means resident of the state with a diagnosis of ESRD;

(3) "Kidney center" means those facilities as defined and certified by the federal government to provide ESRD services and which provide the services specified in this chapter and which promote and encourage home dialysis for a client when medically indicated;

(4) "Affiliate" means a facility, hospital, unit, business, or person having an agreement with a kidney center to provide specified services to ESRD patients;

(5) "State kidney disease program" means state general funds appropriated to the department to assist clients with ESRD in meeting the cost of medical care;

(6) "Application for ESRD eligibility" means the form provided by the department which the client completes and submits to determine ESRD eligibility;

(7) "Certification" or "certified" means the department has approved a client for the state kidney disease program under this chapter;

(8) "ESRD application period" means the time between the date of application and certification;

(9) "Resources" means income or assets or any real or personal property that a person or the person's spouse owns and could convert to cash to be used for support or maintenance;

(10) "Fair market value" means the current worth of a resource at the time of transfer or, if earlier contract for sale, or date of application;

(11) "Adequate consideration" means that the reasonable value of goods or services received in exchange for transferred property approximates the reasonable value of the property transferred;

(12) "Transfer" means any act or omission to act whereby title to or any interest in property is assigned, set over, or otherwise vested or allowed to vest in another person;

(13) "Reasonable value" means the amount that the property is worth on the open market;

(14) A "substantial reduction" means:

(a) The elimination of a client's required annual deductible amount; or

(b) The reduction of resources to below fifteen hundred dollars.

[Statutory Authority: RCW 74.08.090. 93-16-039 (Order 3600), § 388-540-005, filed 7/28/93, effective 8/28/93.]

WAC 388-540-010 Services. Generally, the kidney center shall provide, directly or through an affiliate, all

physical facilities, professional consultation, personal instructions, medical treatment and care, drugs, dialysis equipment, and supplies necessary for carrying out a medically-sound ESRD treatment program. The kidney center shall provide:

- (1) Dialysis for clients with ESRD when medically indicated;
- (2) Kidney transplantation treatment for clients with ESRD either directly or by referral, when medically indicated;
- (3) Treatment for conditions directly related to ESRD;
- (4) Training and supervision of medical, supporting personnel and of clients who are eligible for home dialysis; and
- (5) Supplies and equipment for home dialysis.

[Statutory Authority: RCW 74.08.090. 93-16-039 (Order 3600), § 388-540-010, filed 7/28/93, effective 8/28/93.]

WAC 388-540-020 Reimbursement. The department shall reimburse kidney centers for services described in this chapter to the extent the legislature has appropriated funds and when the center submits documented evidence, satisfactory to the department, showing:

- (1) Services for which reimbursement is requested;
- (2) Client's financial eligibility for the state kidney disease program under this chapter except reimbursement for services:
 - (a) Provided to a client location outside the state shall be limited to a period of two weeks per calendar year per client; and
 - (b) Described under this chapter shall be determined on a case-by-case basis by the department.

[Statutory Authority: RCW 74.08.090. 93-16-039 (Order 3600), § 388-540-020, filed 7/28/93, effective 8/28/93.]

WAC 388-540-030 ESRD eligibility. The kidney center shall review at least annually the client's ESRD eligibility for the state kidney disease program according to procedures outlined in this chapter. A client shall be considered eligible when the client exhausts or is ineligible for all other resources providing similar benefits to meet the costs of ESRD-related medical care. Resources shall include:

- (1) Income in excess of a level necessary to maintain a moderate standard of living, as defined by the department, using accepted national standards;
- (2) Savings, property, and other assets;
- (3) Government and private medical insurance programs;
- (4) Government or private disability programs;
- (5) Local funds raised for the purpose of providing financial support for a specified ESRD client: *Provided*, That in determining eligibility the following resources shall be exempt:
 - (a) A home, defined as real property owned by a client as a principal place of residence, together with the property surrounding and contiguous thereto, not to exceed five acres. Commercial property or property used for the purpose of producing income shall be considered excess property and shall be subject to the limitations of subsection (5)(d) of this section;

- (b) Household furnishings;
- (c) An automobile; and
- (d) Savings, property or other assets, the value not to exceed the sum of five thousand dollars.

[Statutory Authority: RCW 74.08.090. 93-16-039 (Order 3600), § 388-540-030, filed 7/28/93, effective 8/28/93.]

WAC 388-540-040 Transfer of resources without adequate consideration. A person may be ineligible for the program if the person knowingly and willfully assigns or transfers nonexempt resources at less than fair market value for the purpose of qualifying or continuing to qualify for the program within two years preceding the date of application.

[Statutory Authority: RCW 74.08.090. 93-16-039 (Order 3600), § 388-540-040, filed 7/28/93, effective 8/28/93.]

WAC 388-540-050 Fiscal information. The kidney center shall provide fiscal information on the department's request. The information shall include:

- (1) Accounting information and documentation sufficient to establish the basis for fees for services and/or charges;
- (2) Sources and amounts of resources allowing an individual client to verify financial eligibility;
- (3) Evidence that all other available resources have been depleted before requests for reimbursement from the state kidney disease program are submitted to the department; and
- (4) Other information as the department may require.

[Statutory Authority: RCW 74.08.090. 93-16-039 (Order 3600), § 388-540-050, filed 7/28/93, effective 8/28/93.]

WAC 388-540-060 Procedures for ESRD eligibility determination. The department, kidney center and client shall comply with the following procedures to determine ESRD eligibility:

- (1) The department shall provide the kidney center with the necessary forms and instructions;
- (2) The kidney center shall inform the client of the requirements for ESRD eligibility as defined in this chapter;
- (3) The kidney center shall provide the client with necessary forms and instructions in a timely manner;
- (4) The client shall complete and submit the ESRD application for eligibility and any necessary documentation to the kidney center in the manner and form the department prescribes;
- (5) A new client shall apply for Medicaid, obtain and send to the kidney center written documentation of Medicaid eligibility or denial;
- (6) The kidney center shall review the ESRD application and documentation for completeness and accuracy according to instructions provided by the department;
- (7) The kidney center shall forward to the medical assistance administration (MAA) the ESRD application and any documentation needed to approve or deny eligibility. The MAA shall review the ESRD application and documentation and notify the kidney center that the client has been certified, or request additional information as needed;
- (8) The ESRD application period shall be limited to one hundred and twenty days. The kidney center may request an extension when extenuating circumstances prohibit the client from completing the application process within the allowed

time. The department, at its discretion, may grant and specify the limits of the extension;

(9) The ESRD client shall be eligible for a period of one year from the first day of the month of application unless the client's resources or income increase or decrease substantially, in which case the client must complete a new application for ESRD eligibility;

(10) ESRD eligibility effective date is the first day of the month of ESRD application if the person was eligible at any time during that month. The effective date of ESRD eligibility shall be no earlier than four months before the month of ESRD application provided the:

(a) Medical services received were covered; and

(b) Person would have been eligible had the person applied.

(11) A client currently eligible shall be recertified before the end of the respective eligibility periods.

(12) A client who seeks continued program services does not need to reapply for Medicaid unless the client has a substantial reduction in resources during the year.

[Statutory Authority: RCW 74.08.090, 93-16-039 (Order 3600), § 388-540-060, filed 7/28/93, effective 8/28/93.]

Title 390 WAC

PUBLIC DISCLOSURE COMMISSION

Chapters

- 390-05 General policies and definitions.
- 390-12 Administrative procedures.
- 390-16 Forms for campaign financing reporting—Contributions.
- 390-17 Contribution limitations.
- 390-18 Political advertising.
- 390-20 Forms for lobbying reports, elected officials and legislators.
- 390-37 Enforcement procedures—Investigative hearings.

Chapter 390-05 WAC

GENERAL POLICIES AND DEFINITIONS

WAC

- 390-05-190 Agent—Definition.
- 390-05-200 Definition—Candidates for public office—Time of filing.
- 390-05-205 Definition of term "consumable."
- 390-05-210 Definition—Contribution.
- 390-05-215 Receipt of a campaign contribution.
- 390-05-235 Definition—Fair market value.

WAC 390-05-190 Agent—Definition. "Agent," as that term is used in chapter 42.17 RCW, means a person, whether the authority or consent is direct or indirect, express or implied, oral or written, who:

(1) Is authorized by another to act on his or her behalf; or

(2) Represents and acts for another with the authority or consent of the person represented; or

(3) Acts for or in place of another by authority from him or her.

[Statutory Authority: RCW 42.17.370, 93-22-002, § 390-05-190, filed 10/20/93, effective 11/20/93; 93-16-064, § 390-05-190, filed 7/30/93, effective 8/30/93.]

WAC 390-05-200 Definition—Candidates for public office—Time of filing. The following circumstances shall give rise to presumption that an individual is a "candidate" as that term is defined in RCW 42.17.020(5) and RCW 42.17.630(3):

(1) The existence of a political committee promoting the election of such individual for public office with the knowledge and consent of that individual; or

(2) A public declaration of candidacy by an individual even if the candidacy is conditioned on a future occurrence; or[.]

(3) Meeting the requirements set forth in WAC 390-16-230 (1) or (2).

[Statutory Authority: RCW 42.17.370, 93-16-064, § 390-05-200, filed 7/30/93, effective 8/30/93. Statutory Authority: RCW 42.17.370(1), 85-15-020 (Order 85-03), § 390-05-200, filed 7/9/85; Order 62, § 390-05-200, filed 8/26/75.]

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

WAC 390-05-205 Definition of term "consumable."

For the purpose of RCW 42.17.020(10) and RCW 42.17.630 (5)(d) the term "consumable[s]" includes the amount paid for food, beverages, preparation, catering[,] or entertainment cost furnished at the event.

[Statutory Authority: RCW 42.17.370, 93-16-064, § 390-05-205, filed 7/30/93, effective 8/30/93. Statutory Authority: RCW 42.17.370(1), 85-15-020 (Order 85-03), § 390-05-205, filed 7/9/85; Order 63, § 390-05-205, filed 9/10/75.]

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

WAC 390-05-210 Definition—Contribution. (1) The term "contribution" as defined in RCW 42.17.020(10) and RCW 42.17.630(5) shall be deemed to include, among other things, furnishing services or property or rights on a discriminatory basis or at less than their fair market value as defined in WAC 390-05-235, for the purpose of assisting any candidate or political committee. When such in-kind contribution of goods or services is provided, it shall be reported at its fair market value, per WAC 390-05-235 and pursuant to RCW 42.17.640, the fair market value is the amount of the contribution to be allocated to the contributor in determining compliance with the contributor's contribution limit.

(2) The following activities are not considered to be contributions or independent campaign expenditures reportable under RCW 42.17.090 or 42.17.100: