

**WSR 08-11-095**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Aging and Disability Services Administration)  
[Filed May 20, 2008, 9:14 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 07-10-018, 07-15-081 and 07-14-081.

Title of Rule and Other Identifying Information: The department is creating WAC 388-832-0001 through 388-832-0470, individual and family services program and WAC 388-828-9000 through 388-828-9140, individual and family services assessment.

WAC 388-832-0001 What definitions apply to this chapter?, 388-832-0005 What is the individual and family services program?, 388-832-0007 What is the purpose of the individual and family services (IFS) program?, 388-832-0015 Am I eligible to participate in the IFS program?, 388-832-0020 Will I be authorized to receive IFS services if I meet the eligibility criteria in WAC 388-832-0015?, 388-832-0023 If I qualify for another DDD service, will my IFS program be reduced or terminated?, 388-832-0024 If I participate in the IFS program, will I be eligible for services through the DDD home and community based services (HCBS) waiver?, 388-832-0025 Am I eligible for the IFS program if I currently receive other DDD paid services?, 388-832-0045 What if there are two or more family members who are eligible for the IFS program?, 388-832-0050 How do I request IFS program services?, 388-832-0055 How long do I remain eligible for the IFS program?, 388-832-0060 Can DDD terminate my eligibility for the IFS program?, 388-832-0065 If I go into a temporary out of home placement, will I be eligible for IFS upon my return home?, 388-832-0067 If I am a parent with a developmental disability and a client of DDD, are my children eligible for IFS program services?, 388-832-0070 What is the IFS program wait list?, 388-832-0072 Who is eligible to be on the IFS program wait list?, 388-832-0075 Do I have to have a DDD assessment before I can be added to the IFS wait list?, 388-832-0080 How or when am I taken off the IFS wait list?, 388-832-0082 If the DDD assessment determines I am not eligible for the IFS program, may I remain on the IFS wait list?, 388-832-0085 When there is state funding available to enroll new clients in the IFS program, how will DDD select from the clients on the IFS program wait list?, 388-832-0087 What happens next if I am selected from the IFS program wait list?, 388-832-0090 If I currently receive funding from the traditional family support program, the family support opportunity program or the family support pilot program, will I qualify for the IFS program?, 388-832-0091 If I currently receive funding from the traditional family support program, the family support opportunity program or the family support pilot program, will that funding continue until my next assessment?, 388-832-0095 What happens if DDD finds me ineligible for the IFS program?, 388-832-0100 What assessment will DDD use to assess my need?, 388-832-0110 Will DDD ask about my family's income?, 388-832-0113 Will my IFS allocation be impacted by my income?, 388-832-0114 What is family income?, 388-832-0115 How is an individual's access to

DDD paid services affected if family income information is not provided?, 388-832-0120 Will my IFS allocation be impacted if I am eligible for Medicaid personal care services?, 388-832-0123 Will my IFS allocation be impacted if I am eligible for private duty nursing or the medically intensive program?, 388-832-0125 Will my IFS allocation be impacted if I am eligible for COPES?, 388-832-0127 What if I have assessed needs that cannot be met by the IFS program?, 388-832-0128 When is the individual support plan effective?, 388-832-0130 What is the amount of the IFS program allocation my family is going to receive?, 388-832-0132 May I request to exceed the level at which I was assessed?, 388-832-0135 How can my family use its IFS program allocation?, 388-832-0136 If I have a family support reimbursement contract, can DDD ask me to verify my purchases through reviewing receipts?, 388-832-0137 May I use my allocation over a two year period for large costly expenditures?, 388-832-0139 If I have a significant change assessment, what happens to my allocation?, 388-832-0140 What services are available through the IFS program?, 388-832-0143 What is respite care?, 388-832-0145 Who is eligible to receive respite care?, 388-832-0150 Where can respite care be provided?, 388-832-0155 Who are qualified providers of respite care?, 388-832-0160 Are there limits to the respite care I receive?, 388-832-0165 What are considered excess medical costs not covered by another source?, 388-832-0166 How are excess medical costs paid?, 388-832-0168 Are there limits to excess medical costs?, 388-832-0170 What therapies can I receive?, 388-832-0180 Are there limits to the therapy I can receive?, 388-832-0185 What are architectural and vehicular modifications?, 388-832-0190 Who is a qualified provider for architectural and vehicular modifications?, 388-832-0195 What limits apply to architectural and vehicular modifications?, 388-832-0200 What are specialized medical equipment and supplies?, 388-832-0205 Who are qualified providers of specialized medical equipment and supplies?, 388-832-0210 Are there limitations to my receipt of specialized medical equipment and supplies?, 388-832-0215 What are specialized nutrition and specialized clothing?, 388-832-0220 How do I pay for specialized nutrition and specialized clothing?, 388-832-0225 Are there limits for specialized nutrition and specialized clothing?, 388-832-0235 What are co-pays for medical and therapeutic services?, 388-832-0240 How do I pay for medical and therapeutic co-pays?, 388-832-0245 Are there limits to medical and therapeutic co-pays?, 388-832-0250 What are transportation services?, 388-832-0255 Who is a qualified provider for transportation services?, 388-832-0260 Are there limitations to the transportation services I can receive?, 388-832-0265 What is training and counseling?, 388-832-0270 Who is a qualified provider for training and counseling?, 388-832-0275 Are there limitations to the training and counseling I can receive?, 388-832-0280 What is behavior management?, 388-832-0285 Who is a qualified provider of behavior management, 388-832-0290 Are there limits to behavior management?, 388-832-0300 What is parent/sibling education?, 388-832-0305 Who are qualified providers for parent/sibling education?, 388-832-0308 How is parent/sibling education paid?, 388-832-0310 Are there limitations to parent/sibling education?, 388-832-0315 What are recreational opportunities?, 388-832-0320

How are recreational opportunities paid for?, 388-832-0325 Are there limitations to recreation opportunities?, 388-832-0330 Does my family have a choice of IFS program services?, 388-832-0331 May I receive IFS program services out of state?, 388-832-0332 Will I have a choice of provider?, 388-832-0333 What restrictions apply to the IFS program services?, 388-832-0335 What is a one-time award?, 388-832-0340 Who is eligible for a one-time award?, 388-832-0345 Are there limitations to one-time awards?, 388-832-0350 How do I apply for the one-time award?, 388-832-0353 Do I need to have a DDD assessment before I receive a one-time award?, 388-832-0355 What is an emergency service?, 388-832-0360 What situations qualify for emergency services?, 388-832-0365 Who is a qualified provider of emergency services?, 388-832-0366 What limitations apply to emergency services?, 388-832-0367 What if the client or family situation requires more than sixty days of emergency service?, 388-832-0369 Do I need to have a DDD assessment before I receive an emergency service?, 388-832-0370 What are the IFS community service grants?, 388-832-0375 How does a proposed project qualify for funding?, 388-832-0460 How will DDD notify me on their decisions?, and 388-832-0470 What are my appeal rights under the individual family services program?

Hearing Location(s): Blake Office Park East, Rose Room, 4500 10th Avenue S.E., Lacey, WA 98503 (one block north of the intersection of Pacific Avenue S.E. and Alhadeff Lane. A map or directions are available at <http://www1.dshs.wa.gov/msa/rpau/docket.html> or by calling (360) 664-6094), on July 22, 2008, at 10:00 a.m.

Date of Intended Adoption: Not earlier than July 23, 2008.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, delivery 4500 10th Avenue S.E., Lacey, WA 98503, e-mail [schilse@dshs.wa.gov](mailto:schilse@dshs.wa.gov), fax (360) 664-6185, by 5 p.m., on July 22, 2008.

Assistance for Persons with Disabilities: Contact Jenisha Johnson, DSHS rules consultant, by July 15, 2008, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at [johnsjl4@dshs.wa.gov](mailto:johnsjl4@dshs.wa.gov).

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: 2SSB 5467, as amended by the house (chapter 283, Laws of 2007), directs the department to create the individual and family services program for persons with developmental disabilities. These proposed rules combine the previous three family support programs into one comprehensive program and include the algorithm to determine the individual and family service levels and award amount. See above and the following for the specific topics of each section.

WAC 388-828-9000 What is the individual and family services assessment?, 388-828-9020 What is the purpose of the individual and family services assessment?, 388-828-9060 How does DDD determine your individual and family services rating?, 388-828-9100 How does DDD determine the number to use in the adjustment of your individual and family services support rating?, 388-828-9120 How does DDD determine your individual and family services score?, and 388-828-9140 How does DDD determine the amount of your individual and family service award?

Reasons Supporting Proposal: These rules incorporate the directive of the legislature to create the individual and family services program for persons with developmental disabilities. This rule-making action will incorporate emergency rules filed as WSR 08-08-039 and 08-06-019.

Statutory Authority for Adoption: RCW 71A.12.030, 71A.12.040.

Statute Being Implemented: Title 71A RCW.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of social and health services, governmental.

Name of Agency Personnel Responsible for Drafting: Steve Brink, 640 Woodland Square Loop S.E., Lacey, WA 98503-1045, P.O. Box 45310, Olympia, WA 98507-5310, e-mail [brinksc@dshs.wa.gov](mailto:brinksc@dshs.wa.gov), (360) 725-3416, fax (360) 404-0955; Implementation: Debbie Couch, 640 Woodland Square Loop S.E., Lacey, WA 98503-1045, P.O. Box 45310, Olympia, WA 98507-5310, e-mail [couch\\_dg@dshs.wa.gov](mailto:couch_dg@dshs.wa.gov), (360) 725-3515, fax (360) 404-0955; and Enforcement: Doug Washburn, 640 Woodland Square Loop S.E., Lacey, WA 98503-1045, P.O. Box 45310, Olympia, WA 98507-5310, e-mail [washbdc@dshs.wa.gov](mailto:washbdc@dshs.wa.gov), (360) 725-3452, fax (360) 404-0955.

No small business economic impact statement has been prepared under chapter 19.85 RCW. DDD has analyzed these rules and concluded that they do not impact small businesses or small nonprofits.

A cost-benefit analysis is not required under RCW 34.05.328. These rules are exempt from the preparation of a cost-benefit analysis pursuant to RCW 34.05.328 (5)(b)(ii) and (vii) as they incorporate Washington state legislation and relate to client medical or financial eligibility.

May 9, 2008

Stephanie E. Schiller  
Rules Coordinator

## Chapter 388-832 WAC

### INDIVIDUAL AND FAMILY SERVICES PROGRAM

#### NEW SECTION

**WAC 388-832-0001** What definitions apply to this chapter? The following definitions apply to this chapter:

**"Agency Provider"** means a licensed and/or ADSA certified business that is contracted with ADSA or a county to provide DDD services (e.g., personal care, respite care, residential services, therapy, nursing, employment, etc.).

**"Allocation"** means an amount of funding available to the client and family for a maximum of twelve months, based upon assessed need.

**"Authorization"** means DDD approval of funding for a service as identified in the individual support plan or evidence of payment of a service.

**"Back-up Caregiver"** is a person who has been identified as an informal caregiver and is available to provide assistance as an informal caregiver when other caregivers are unavailable.

**"Client"** means a person who has a developmental disability as defined in RCW 71A.10.020(3) who also has been determined eligible to receive services by the division under chapter 71A.16 RCW.

**"DDD"** means the division of developmental disabilities, a division within the aging and disability services administration (ADSA), department of social and health services (DSHS).

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

**"Emergency"** means the client's health or safety is in jeopardy.

**"Family"** means individuals, of any age, living together in the same household and related by blood, marriage, adoption or as a result of sharing legal custody of a minor child.

**"Family Home"** means the residence where you and your relatives live.

**"Formal Caregiver"** is a person/agency who receives payment from DDD to provide a service.

**"Individual Provider"** means an individual who is contracted with DDD to provide medicaid or waiver personal care, respite care, or attendant care services.

**"Individual Support Plan"** or **"ISP"** is a document that authorizes the DDD paid services to meet a client's needs identified in the DDD Assessment.

**"Informal Caregiver"** is a person who provides supports without payment from DDD for a service.

**"Legal Guardian"** means a person/agency, appointed by a court, which is authorized to make some or all decisions for a person determined by the court to be incapacitated. In the absence of court intervention, parents remain the legal guardian for their child until the child reaches the age of eighteen.

**"Parent family support contract"** means a contract between DDD and the parent to reimburse the parent for the purchase of goods and services paid for by the parent.

**"Pass through contract"** means a contract between DDD and a third party to reimburse the third party for the purchase of goods and services paid for by the third party.

**"Primary Caregiver"** is the formal or informal caregiver who provides the most support.

**"Residential Habilitation Center"** or **"RHC"** is a state operated facility certified to provide ICF/MR and/or nursing facility level of care for persons with developmental disabilities per chapter 71A.20 RCW.

**"Significant change"** means changes in your medical condition, caregiver status, behavior, living situation or employment status.

**"State funded services"** means services that are funded entirely with state dollars.

**"State supplementary payment"** or **"SSP"** means a state paid cash assistance program for certain DDD clients eligible for supplemental security income per chapter 388-827 WAC.

**"You"** means the client.

## DESCRIPTION

### NEW SECTION

**WAC 388-832-0005 What is the individual and family services program?** The "individual and family services program" (IFS Program) is a state-only funded program that:

- (1) Provides an array of services to families to help maintain and stabilize the family unit; and
- (2) Replaces WAC 388-825-200 through 388-825-242 (the family support opportunity program), WAC 388-825-252 through 388-825-256 (the traditional family support program), WAC 388-825-500 through 388-825-595, (the flexible family support pilot program), and WAC 388-825-244 through 388-825-250 (other family support rules).

### NEW SECTION

**WAC 388-832-0007 What is the purpose of the individual and family services (IFS) program?** The purpose of the IFS program is to have one DDD family support program that will:

- (1) Form a partnership between the state and families to help support families who have a client of DDD living in the family home; and
- (2) Provide families with a choice of services and allow families more control over the resources allocated to them.

## ELIGIBILITY

### NEW SECTION

**WAC 388-832-0015 Am I eligible to participate in the IFS program?** (1) You are eligible to be considered for the IFS program if you meet the following criteria:

- (a) You are currently an eligible client of DDD;
- (b) You live in your family home;
- (c) You are not enrolled in a DDD home and community based services waiver defined in chapter 388-845 WAC;
- (d) You are currently enrolled in traditional family support, family support opportunity or the family support pilot or funding has been approved for you to receive IFS program services;
- (e) You are age three or older as of July 1, 2007;
- (f) You have been assessed as having a need for IFS program services as listed in WAC 388-832-0140; and
- (g) You are not receiving a DDD residential service.

(2) If you are a parent, you are eligible to receive IFS program services in order to promote the integrity of the family unit, provided:

- (a) You meet the criteria in subsections (1)(a) through (f) above; and
- (b) Your child who lives in your home is at risk of being placed up for adoption or into foster care.

### NEW SECTION

**WAC 388-832-0020 Will I be authorized to receive IFS services if I meet the eligibility criteria in WAC 388-832-0015?** Meeting eligibility criteria for the IFS program

does not ensure access to or receipt of the IFS program services.

(1) Receipt of IFS services is limited by availability of funding and your assessed need.

(2) WAC 388-832-0085 through 388-832-0090 describes how DDD will determine who will be approved to receive funding.

#### NEW SECTION

**WAC 388-832-0022 What determines the allocation of funds available to me to purchase IFS services?** The allocation of funds is based upon the IFS assessment described in chapter 388-828 WAC. The DDD assessment will determine your service level based on your assessed need.

#### NEW SECTION

**WAC 388-832-0023 If I qualify for another DDD service, will my IFS program be reduced or terminated?** Since your IFS amount is based on the assessed need, if your needs change, the dollar amount will be impacted. However, if you are qualified for another DDD service, you can still receive IFS as long as you continue to have an assessed need and have met the eligibility criteria for the IFS Program.

#### NEW SECTION

**WAC 388-832-0024 If I participate in the IFS program, will I be eligible for services through the DDD home and community based services (HCBS) waiver?** (1) If you participate in the IFS program you may not participate in the DDD HCBS waiver at the same time.

(2) You may request enrollment in a DDD HCBS waiver at any time per WAC 388-845-0050.

(3) Participation in the IFS program will not affect your potential waiver eligibility.

#### NEW SECTION

**WAC 388-832-0025 Am I eligible for the IFS program if I currently receive other DDD paid services?** If you receive other non-waiver DDD funded services, you may be eligible for the IFS program.

#### NEW SECTION

**WAC 388-832-0045 What if there are two or more family members who are eligible for the IFS program?** If there are two or more family members who are eligible for the IFS program, each family member will be assessed to determine their IFS program allocation based on their individual need.

#### NEW SECTION

**WAC 388-832-0050 How do I request IFS program services?** You may contact your DDD case/resource manager at any time to request IFS program services. You will

receive written notice of DDD's approval or denial along with your administrative hearing rights.

#### NEW SECTION

**WAC 388-832-0055 How long do I remain eligible for the IFS program?** To remain eligible for the IFS program you must be reassessed at least every twelve months or sooner if there is a significant change in your needs per WAC 388-828-1500 and you must meet all eligibility criteria described in WAC 388-832-0015.

#### NEW SECTION

**WAC 388-832-0060 Can DDD terminate my eligibility for the IFS program?** You may be terminated from the IFS program for any of the following reasons:

(1) You no longer meet DDD eligibility per WAC 388-823-0010 through 388-823-0170;

(2) You no longer meet the eligibility criteria for the IFS program per WAC 388-832-0015;

(3) You have not used an IFS program service during the last twelve calendar months;

(4) You cannot be located or do not make yourself available for the annual DDD assessment;

(5) You refuse to participate with DDD in service planning; and/or

(6) You begin to receive a DDD residential service.

#### NEW SECTION

**WAC 388-832-0065 If I go into a temporary out of home placement, will I be eligible for IFS upon my return home?** You can apply for the IFS program once you return home from placement by contacting your DDD case manager, if your out of home placement does not exceed twelve months. Your case manager will schedule an assessment with you and, if you meet all the eligibility criteria described in WAC 388-832-0015, have an assessed need, and funding is available, you will receive an IFS program allocation.

#### NEW SECTION

**WAC 388-832-0067 If I am a parent with a developmental disability and a client of DDD, are my children eligible for IFS program services?** If you are a parent with a developmental disability and a client of DDD, your children may be eligible for IFS program services if funding is available and your children:

(1) Are ages birth through twenty-one years of age;

(2) Are at risk of out of home placement; and

(3) Live with you.

### **INDIVIDUAL AND FAMILY SERVICES PROGRAM WAIT LIST**

#### NEW SECTION

**WAC 388-832-0070 What is the IFS program wait list?** The IFS wait list is a list of clients who live with their family and the family has requested family support services.

At the time of the family's request for IFS program services, funding was not available; therefore these clients were placed on the IFS program wait list effective on the date of their request.

NEW SECTION

**WAC 388-832-0072 Who is eligible to be on the IFS program wait list?** To be on the IFS wait list you must live in your family home and remain eligible for DDD services.

NEW SECTION

**WAC 388-832-0075 Do I have to have a DDD assessment before I can be added to the IFS wait list?** You do not have to have a DDD assessment prior to your name being added to the IFS wait list.

(1) Your name and request date will be added to the wait list.

(2) A notice will be sent to you to let you know your name has been added to the IFS wait list.

NEW SECTION

**WAC 388-832-0080 How or when am I taken off the IFS wait list?** You are taken off the wait list if:

(1) You no longer live in your family home;

(2) You are no longer eligible for DDD services;

(3) You request your name to be removed from the IFS wait list;

(4) You do not respond to IFS notification to schedule the DDD assessment;

(5) You are offered IFS services and accept or refuse services;

(6) You are on the HCBS waiver; or

(7) Your DDD assessment determines you are not eligible for the IFS program.

NEW SECTION

**WAC 388-832-0082 If the DDD assessment determines I am not eligible for the IFS program, may I remain on the IFS wait list?** If the DDD assessment determines you are not eligible for the IFS program, you may remain on the wait list; however, your request date will change to the date of your current assessment.

NEW SECTION

**WAC 388-832-0085 When there is state funding available to enroll new clients in the IFS program, how will DDD select from the clients on the IFS program wait list?** When there is state funding available for new IFS participants, DDD may enroll participants based on the following considerations:

(1) Clients who have requested residential habilitation center (RHC) respite, emergency services, or residential placement, prior to June 30, 2007.

(2) Clients with the highest scores in caregiver and behavior status on the mini assessment.

(3) Clients who have been on the IFS program wait list the longest.

NEW SECTION

**WAC 388-832-0087 What happens next if I am selected from the IFS program wait list?** If you are selected from the IFS program wait list:

(1) Your DDD case/resource manager will contact you, and determine if you meet the eligibility criteria for IFS program per WAC 388-832-0015 (1) through (6);

(2) If you meet the criteria per (1) above, your case/resource manager will schedule an appointment to complete your DDD assessment or reassessment.

(3) If you have not been receiving any DDD paid services, your DDD eligibility will need to be reviewed per WAC 388-823-1010(3)

(4) Your DDD eligibility must be completed prior to completing the DDD assessment.

**Reviser's note:** The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

NEW SECTION

**WAC 388-832-0090 If I currently receive funding from the traditional family support program, the family support opportunity program or the family support pilot program, will I qualify for the IFS program?** If you currently receive funding from the traditional family support program, the family support opportunity program or the family support pilot program, you qualify for the IFS program if you meet the eligibility criteria in WAC 388-832-0015.

NEW SECTION

**WAC 388-832-0091 If I currently receive funding from the traditional family support program, the family support opportunity program or the family support pilot program, will that funding continue until my next assessment?** If you currently receive funding from the traditional family support (TFS) program, the family support opportunity (FSO) program or the family support pilot (FSP) program, you will continue to receive funding under the TFS, FSO, or the FSP program until your next DDD assessment.

NEW SECTION

**WAC 388-832-0095 What happens if DDD finds me ineligible for the IFS program?** If you do not meet the criteria for the IFS program, DDD will terminate your individual and family services eligibility and funding. You will receive written notice of this decision along with your administrative hearing rights.

**ASSESSMENT**

NEW SECTION

**WAC 388-832-0100 What assessment will DDD use to assess my need?** The DDD assessment will be used to

assess your need. The DDD assessment is an assessment tool designed to measure the support needs of persons with developmental disabilities, and is described in chapter 388-828 WAC.

#### NEW SECTION

**WAC 388-832-0110 Will DDD ask about my family's income?** DDD is required to request family income information for:

- (1) Families of children who are seventeen years of age or younger; and
- (2) All individuals who are receiving state-only funded services.

#### NEW SECTION

**WAC 388-832-0113 Will my IFS allocation be impacted by my income?** The amount of services you receive will be solely based on your assessed needs. Your income will not affect your level of service.

#### NEW SECTION

**WAC 388-832-0114 What is family income?** Family income is defined as the total unadjusted, annual family (or household) income from all sources for the last calendar year as reported to the internal revenue service (IRS).

#### NEW SECTION

**WAC 388-832-0115 How is an individual's access to DDD paid services affected if family income information is not provided?** An individual's access to DDD paid services is not affected when families decline to provide DDD with family income information.

#### NEW SECTION

**WAC 388-832-0120 Will my IFS allocation be impacted if I am eligible for Medicaid personal care services?** If you meet financial and functional eligibility for Medicaid personal care services, your IFS allocation will be adjusted according to WAC 388-828-9100 through 388-828-9140.

#### NEW SECTION

**WAC 388-832-0123 Will my IFS allocation be impacted if I am eligible for private duty nursing or the medically intensive program?** If you meet eligibility for private duty nursing described in WAC 388-106-1000, or the medically intensive program described in WAC 388-551-3000, your IFS allocation will be adjusted according to WAC 388-828-9100 through 388-828-9140.

#### NEW SECTION

**WAC 388-832-0125 Will my IFS allocation be impacted if I am eligible for COPES?** If you are eligible for COPES, your IFS allocation will not be adjusted.

#### NEW SECTION

**WAC 388-832-0127 What if I have assessed needs that cannot be met by the IFS program?** If you complete the DDD assessment and are assessed to have an unmet need and there is no approved funding to support that need, DDD will offer you referral information for ICF/MR services. In addition, DDD may:

- (1) Provide information and referral for nonDDD community-based supports;
- (2) Add your name to the waiver data base, if you have requested enrollment in a DDD HCBS waiver per chapter 388-845 WAC; and
- (3) Request short term emergency services as an exception to rule (ETR) per WAC 388-440-0001. Approval is required by the director of DDD or designee.

#### NEW SECTION

**WAC 388-832-0128 When is the individual support plan effective?** (1) For an initial individual support plan, the plan is effective the date DDD signs and approves it after a signature or verbal consent is obtained.

- (2) For a reassessment or review of the individual support plan, the plan is effective the date DDD signs and approves it after a signature or verbal consent is obtained.

### ALLOCATION

#### NEW SECTION

**WAC 388-832-0130 What is the amount of the IFS program allocation my family is going to receive?** The DDD assessment, described in chapter 388-828 WAC, will determine your level of need. The IFS program annual allocations are as follows:

- (1) Level 1 - Up to \$2,000;
- (2) Level 2 - Up to \$3,000;
- (3) Level 3 - Up to \$4,000; and
- (4) Level 4 - Up to \$6,000.

#### NEW SECTION

**WAC 388-832-0132 May I request to exceed the level at which I was assessed?** (1) The DDD assessment was designed to measure the support needs of persons with developmental disabilities; therefore your level may not exceed the level at which you were assessed.

- (2) If a significant change occurs, you may contact your DDD case manager for a possible reassessment of your support needs.

#### NEW SECTION

**WAC 388-832-0135 How can my family use its IFS program allocation?** Your IFS program allocation is available to pay for any of the services listed in WAC 388-832-0140 if:

- (1) The service need relates to and results from your developmental disability, and

(2) The need is identified in your DDD assessment and identified on your ISP.

#### NEW SECTION

**WAC 388-832-0136 If I have a family support reimbursement contract, can DDD ask me to verify my purchases through reviewing receipts?** (1) If you have a family support reimbursement contract, you will first need prior approval from your DDD case manager and then DDD will ask you to verify your purchases through reviewing receipts.

(2) You need to submit receipts to your case manager whenever you are asking for reimbursement.

(3) Your request for reimbursement must be received within ninety days of the date that the service was received and no later than thirty days after the end of your allocation year.

#### NEW SECTION

**WAC 388-832-0137 May I use my allocation over a two year period for large costly expenditures?** (1) You may not use your allocation over a two year period for a large costly expenditure.

(2) Your annual allocation must be used during the twelve month period your assessed needs were determined.

(3) If you do not use all of your allocation, your remaining dollars do not carry over to next year's allocation.

(4) If at least some of your IFS program services are not used in the twelve month period, you will be terminated from the IFS program.

#### NEW SECTION

**WAC 388-832-0139 If I have a significant change assessment, what happens to my allocation?** If you have a significant change assessment, one of the following changes may occur under WAC 388-828-9000 through 388-828-9140:

(1) If the algorithm does not change your IFS program level, your funding will not change.

(2) If the algorithm changes your level to a higher IFS program level, the difference is added to your fiscal years allocation.

(3) If the algorithm changes your level to a lower IFS program level, your allocation will not be changed until your next annual assessment. At that time your allocation will be calculated with your current information.

### SERVICES

#### NEW SECTION

**WAC 388-832-0140 What services are available through the IFS program?** The services available in the IFS program are limited to the following:

(1) Respite care (WAC 388-832-0143 through 388-832-0160);

(2) Therapies (WAC 388-832-0170 through 388-832-0180):

(a) Physical therapy (PT);

(b) Occupational therapy (OT); and

(c) Speech, language and communication therapy.

(3) Architectural and vehicular modifications (WAC 388-832-0185 through 388-832-0189);

(4) Specialized medical equipment and supplies (WAC 388-832-0200 through 388-832-0210);

(5) Specialized nutrition and clothing (WAC 388-832-0215 through 388-832-0225);

(6) Excess medical costs not covered by another source (WAC 388-832-0165 through 388-832-0168);

(7) Co-pays for medical and therapeutic services (WAC 388-832-0235 through 388-832-0245);

(8) Transportation (WAC 388-832-0250 through 388-832-0260);

(9) Training and counseling (WAC 388-832-0265 through 388-832-0275);

(10) Behavior management (WAC 388-832-0280 through 388-832-0290);

(11) Parent/sibling education (WAC 388-832-0300 through 388-832-0310);

(12) Recreational opportunities (WAC 388-832-0315 through 388-832-0325); and

(13) Community service grants (WAC 388-832-0370 through 388-832-0375).

#### NEW SECTION

**WAC 388-832-0143 What is respite care?** Respite care is short term intermittent relief for persons normally providing care for individuals receiving IFS program services.

#### NEW SECTION

**WAC 388-832-0145 Who is eligible to receive respite care?** You are eligible to receive respite care if you are approved for IFS program services and:

(1) You live in your family home and no one living with you is paid to be your caregiver.

(2) You live with a paid caregiver who is your natural, step, or adoptive parent.

#### NEW SECTION

**WAC 388-832-0150 Where can respite care be provided?** (1) Respite care can be provided in the following location(s):

(a) Individual's family home; or

(b) Relative's home.

(2) Respite care can be also be provided in the following location(s) but require a DDD agency respite contract:

(a) Licensed children's foster home;

(b) Licensed, contracted and DDD certified group home;

(c) Licensed boarding home contracted as an adult residential center;

(d) Licensed and contracted adult family home;

(e) Children's licensed group home, licensed staffed residential home, or licensed childcare center; or

(f) Adult day health.

(3) Additionally, your respite care provider may take you into the community while providing respite care.

NEW SECTION

**WAC 388-832-0155 Who are qualified providers of respite care?** Providers of respite care can be any of the following individuals or agencies contracted with DDD for respite care:

- (1) Individuals meeting the provider qualifications under chapter 388-825 WAC;
- (2) Homecare/home health agencies, licensed under WAC 246-335-012(1);
- (3) Licensed and contracted group homes, foster homes, child placing agencies, staffed residential homes and foster group care homes;
- (4) Licensed and contracted adult family home;
- (5) Licensed and contracted adult residential care facility;
- (6) Licensed and contracted adult residential rehabilitation center under WAC 246-325-012;
- (7) Licensed childcare center under chapter 388-295 WAC;
- (8) Licensed child daycare center under chapter 388-295 WAC;
- (9) Adult day/health care centers contracted with DDD; or
- (10) Certified provider per chapter 388-101 WAC when respite is provided within the DDD contract for certified residential services.

NEW SECTION

**WAC 388-832-0160 Are there limits to the respite care I receive?** The following limitations apply to the respite care you can receive:

- (1) Respite cannot replace:
  - (a) Daycare, childcare or preschool while a parent or guardian is at work; and/or
  - (b) Personal care hours available to you. When determining your unmet need, DDD will first consider the personal care hours available to you.
- (2) Respite providers have the following limitations and requirements:
  - (a) If respite is provided in a private home, the home must be licensed unless it is the client's home or the home of a relative of specified degree per WAC 388-825-345;
  - (b) The respite provider cannot be the spouse of the caregiver receiving respite if the spouse and the caregiver reside in the same residence; and
  - (c) If you receive respite from a provider who requires licensure, the respite services are limited to those age-specific services contained in the provider's license.
  - (d) The respite care provider cannot be your natural, step or adoptive parent living with you.
- (3) Your caregiver cannot receive respite services for you while being paid to provide DDD services for other persons at the same time.
- (4) The need for respite must be identified in your ISP and, in combination with other IFS services, cannot exceed your IFS allocation.
- (5) If your personal care provider is your parent, your parent provider may not provide respite services to any client in the same month that you receive respite services.

NEW SECTION

**WAC 388-832-0165 What are considered excess medical costs not covered by another source?** Excess medical costs are medical expenses incurred by a client after medicaid or private insurance have been accessed or when the client does not have medical insurance. This may include the following:

- (1) Skilled nursing services (ventilation, catheterization, and insulin shots);
- (2) Psychiatric services;
- (3) Medical and dental services related to the person's disability and an allowable medicaid covered expense;
- (4) Prescriptions for medications; and/or
- (5) Co-pays and deductible limited to your IFS allocation.

NEW SECTION

**WAC 388-832-0166 How are excess medical costs paid?** (1) Excess medical costs are reimbursed to a family member who has a family support contract with the division of developmental disabilities and receipts are received within thirty days from the date of service.

- (2) Skilled nursing services are paid to the DSHS contracted nurse directly.

NEW SECTION

**WAC 388-832-0168 Are there limits to excess medical costs?** There are limits to excess medical costs.

- (1) The payment must be of direct medical or remedial benefit to the individual and necessary as a result of the individual's disability;
- (2) Medical and dental premiums are excluded for family members other than the DDD eligible clients; and
- (3) The need for excess medical costs must be identified in your ISP and, in combination with other IFS services, cannot exceed your IFS allocation.
- (4) Prior approval by regional administrator or designee is required.

NEW SECTION

**WAC 388-832-0170 What therapies can I receive?** The therapies you can receive are:

- (1) Physical therapy;
- (2) Occupational therapy; and/or
- (3) Speech, hearing and language therapy.

NEW SECTION

**WAC 388-832-0175 Who is a qualified therapist?** Providers must be certified, registered or licensed therapists as required by law and contracted with DDD for the therapy they are providing.

NEW SECTION

**WAC 388-832-0180 Are there limits to the therapy I can receive?** The following limitations apply to therapy you may receive:



(1) Additional therapy may be authorized as a service only after you have accessed what is available to you under medicaid and any other private health insurance plan or school;

(2) DDD does not pay for treatment determined by DSHS to be experimental;

(3) DDD and the treating professional determine the need for and amount of service you can receive;

(a) DDD may require a second opinion from a DDD selected provider.

(b) DDD will require evidence that you have accessed your full benefits through medicaid, private insurance and the school before authorizing this service.

(4) The need for therapies must be identified in your ISP and, in combination with other IFS services, cannot exceed your IFS allocations.

(5) Prior approval by the regional administrator or designee is required.

#### NEW SECTION

**WAC 388-832-0185 What are architectural and vehicular modifications?** (1) Architectural and vehicular modifications are physical adaptations to the home and vehicle of the individual to:

(a) Ensure the health, welfare and safety of the client and or caregiver; or

(b) Enable a client who would otherwise require a more restrictive environment to function with greater independence in the home or in the community.

(2) Architectural modifications include the following:

(a) Installation of ramps and grab bars;

(b) Widening of doorways;

(c) Modification of bathroom facilities; or

(d) Installing specialized electrical and/or plumbing systems necessary to accommodate the medical equipment and supplies that are necessary for the welfare of the individual.

(3) Vehicular modifications include the following:

(a) Wheel chair lifts;

(b) Strap downs; or

(c) Other access modifications.

#### NEW SECTION

**WAC 388-832-0190 Who is a qualified provider for architectural and vehicular modifications?** The provider making these architectural and vehicular modifications must be a registered contractor per chapter 18.27 RCW and contracted with DDD.

#### NEW SECTION

**WAC 388-832-0195 What limits apply to architectural and vehicular modifications?** The following service limitations apply to architectural and vehicular modifications are in addition to any limitations in other rules governing this service:

(1) Prior approval by the regional administrator or designee is required.

(2) Architectural and vehicular modifications to the home and vehicle are excluded if they are of general utility

without direct medical or remedial benefit to the individual, such as floor covering (e.g., carpeting, linoleum, tile, hard wood flooring, decking), roof repair, central air conditioning, fencing for the yard, etc.

(3) Architectural modifications cannot add to the square footage of the home.

(4) DDD will require evidence that you accessed your full benefits through medicaid, private insurance and the division of vocational rehabilitation (DVR) before authorizing this service.

(5) Architectural and vehicular modifications must be the most cost effective modification based upon a comparison of contractor bids as determined by DDD.

(6) Architectural and vehicular modifications will be prorated by the number of other members in the household who use these modifications.

(7) The need for architectural and vehicular modifications must be identified in your ISP and, in combination with other IFS services, cannot exceed your annual IFS allocation.

#### NEW SECTION

**WAC 388-832-0200 What are specialized medical equipment and supplies?** (1) Specialized medical equipment and supplies are durable and nondurable medical equipment not available through Medicaid or the state plan which enables individuals to:

(a) Increase their abilities to perform their activities of daily living; or

(b) Perceive, control or communicate with the environment in which they live.

(2) Durable and nondurable medical equipment are defined in WAC 388-543-1000 and 388-543-2800 respectively.

(3) Also included are items necessary for life support and ancillary supplies and equipment necessary to the proper functioning of the equipment and supplies described in subsection (1) above.

#### NEW SECTION

**WAC 388-832-0205 Who are qualified providers of specialized medical equipment and supplies?** The provider of specialized medical equipment and supplies must be a medical equipment supplier contracted with DDD (or a parent who has a contract with DDD or the pass through contract).

#### NEW SECTION

**WAC 388-832-0210 Are there limitations to my receipt of specialized medical equipment and supplies?** The following limitations apply to your receipt of specialized medical equipment and supplies:

(1) Specialized medical equipment and supplies require prior approval by the DDD regional administrator or designee for each authorization.

(2) DDD reserves the right to require a second opinion by a department-selected provider.

(3) Items reimbursed with state funds shall be in addition to any medical equipment and supplies furnished under medicaid or private insurance.

(4) Items must be of direct medical or remedial benefit to the individual and necessary as a result of the individual's disability.

(5) Medications, prescribed or nonprescribed, and vitamins are excluded.

(6) The need for specialized medical equipment and supplies must be identified in your ISP and, in combination with other IFS services, cannot exceed your IFS allocation.

#### NEW SECTION

**WAC 388-832-0215 What are specialized nutrition and specialized clothing?** (1) Specialized nutrition is specialized formulas or specially prepared foods for which a written recommendation has been provided by a qualified and appropriate professional and when it constitutes fifty percent or more of the person's caloric intake (e.g., licensed physician or registered dietician).

(2) Specialized clothing is clothing adapted for a physical disability, excessive wear clothing, or specialized footwear for which a written recommendation has been provided by a qualified and appropriate professional (e.g., a podiatrist, physical therapist, or behavior specialist).

#### NEW SECTION

**WAC 388-832-0220 How do I pay for specialized nutrition and specialized clothing?** Specialized nutrition and specialized clothing can be a reimbursable expense through the parent family support contract and the pass through contract.

#### NEW SECTION

**WAC 388-832-0225 Are there limits for specialized nutrition and specialized clothing?** (1) The need for specialized nutrition and specialized clothing must be identified in your ISP and, in combination with other IFS services, cannot exceed your IFS allocation.

(2) Prior approval by regional administrator or designee is required.

#### NEW SECTION

**WAC 388-832-0235 What are co-pays for medical and therapeutic services?** Co-pays for medical and therapeutic services are for disability related services you may have received that were not covered by your private insurance or medicaid.

#### NEW SECTION

**WAC 388-832-0240 How do I pay for medical and therapeutic co-pays?** Medical and therapeutic co-pays can be a reimbursable expense through the parent family support contract and the pass through contract.

#### NEW SECTION

**WAC 388-832-0245 Are there limits to medical and therapeutic co-pays?** (1) Medical and therapeutic co-pays must be identified as a need in your ISP and, in combination with other IFS services, cannot exceed your IFS program allocation.

(2) The co-pays must be for your disability related medical or therapeutic needs.

(3) Prescribed or nonprescribed vitamins and supplements are excluded.

(4) Prior approval by regional administrator or designee is required.

#### NEW SECTION

**WAC 388-832-0250 What are transportation services?** Transportation services are reimbursements to a provider when the transportation is required and specified in the individual support plan. This service is available for all IFS program services if the cost and responsibility for transportation is not already included in your provider's contract and payment.

(1) Transportation provides you access to IFS program services specified by your individual support plan.

(2) Whenever possible you must use family, neighbors, friends, or community agencies that can provide this service without charge.

#### NEW SECTION

**WAC 388-832-0255 Who is a qualified provider for transportation services?** (1) The provider of transportation services can be an individual or agency contracted with DDD.

(2) Transportation services can be a reimbursable expense through the parent family support contract.

#### NEW SECTION

**WAC 388-832-0260 Are there limitations to the transportation services I can receive?** The following limitations apply to transportation services:

(1) Transportation to/from medical or medically related appointments is a Medicaid transportation service and is to be considered and used first.

(2) Transportation is offered in addition to medical transportation but cannot replace Medicaid transportation services.

(3) Transportation is limited to travel to and from an IFS program service.

(4) Transportation does not include the purchase of a bus pass.

(5) Reimbursement for provider mileage requires prior approval by DDD and is paid according to contract.

(6) This service does not cover the purchase or lease of vehicles.

(7) Reimbursement for provider travel time is not included in this service.

(8) Reimbursement to the provider is limited to transportation that occurs when you are with the provider.

(9) You are not eligible for transportation services if the cost and responsibility for transportation is already included in your provider's contract and payment.

(10) Transportation services require prior approval by the DDD regional administrator or designee.

(11) Per diem costs may be reimbursed with prior approval from DDD regional administrator or designee to access medical services if over one hundred fifty miles one way for client receiving medical services and one family member.

(12) Air ambulance costs due to an emergency may be reimbursed after insurance, deductibles, Medicaid and other resources have been exhausted not to exceed your annual IFS allocation.

(13) The need for transportation services must be identified in your ISP and, in combination with other IFS services, cannot exceed your IFS allocation.

#### NEW SECTION

**WAC 388-832-0265 What is training and counseling?** Training and counseling is professional assistance provided to families to better meet the specific needs of the individual outlined in their ISP including:

- (1) Health and medication monitoring;
- (2) Positioning and transfer;
- (3) Augmentative communication systems; and
- (4) Family counseling.

#### NEW SECTION

**WAC 388-832-0270 Who is a qualified provider for training and counseling?** To provide training and counseling, a provider must be one of the following licensed, registered or certified professionals and be contracted with DDD for the service specified in the individual support plan:

- (1) Audiologist;
- (2) Licensed practical nurse;
- (3) Marriage and family therapist;
- (4) Mental health counselor;
- (5) Occupational therapist;
- (6) Physical therapist;
- (7) Registered nurse;
- (8) Sex offender treatment provider;
- (9) Speech/language pathologist;
- (10) Social worker;
- (11) Psychologist;
- (12) Certified American sign language instructor;
- (13) Nutritionist;
- (14) Registered counselor; or
- (15) Certified dietician.

#### NEW SECTION

**WAC 388-832-0275 Are there limitations to the training and counseling I can receive?** (1) Expenses to the family for room and board or attendance, including registration fees for conferences are excluded as a service under family counseling and training.

(2) The need for training and counseling must be identified in your ISP and, in combination with other IFS services, cannot exceed your IFS allocation.

(3) Prior approval by regional administrator or designee is required.

#### NEW SECTION

##### **WAC 388-832-0280 What is behavior management?**

Behavior management is the development and implementation of programs designed to support the client using positive behavioral techniques. Behavior management programs help the client decrease aggressive, destructive, sexually inappropriate or other behaviors that compromises the client's ability to remain in the family home, and develop strategies for effectively relating to caregivers and other people in the client's life.

#### NEW SECTION

**WAC 388-832-0285 Who is a qualified provider of behavior management?** The provider of behavior management and consultation must be one of the following professionals contracted with DDD and duly licensed, registered or certified to provide this service:

- (1) Marriage and family therapist;
- (2) Mental health counselor;
- (3) Psychologist;
- (4) Sex offender treatment provider;
- (5) Social worker;
- (6) Registered nurse (RN) or licensed practical nurse (LPN);
- (7) Psychiatrist;
- (8) Psychiatric advanced registered nurse practitioner (ARNP);
- (9) Physician assistant working under the supervision of a psychiatrist;
- (10) Registered counselor; or
- (11) Polygrapher.

#### NEW SECTION

**WAC 388-832-0290 Are there limits to behavior management?** The following limits apply to your receipt of behavior management:

- (1) DDD and the treating professional will determine the need and amount of service you will receive.
- (2) DDD may require a second opinion from a DDD-selected provider.
- (3) Only scientifically proven, nonexperimental methods may be utilized.
- (4) Providers may not use methods that cause pain, threats, isolation or locked settings.
- (5) The need for behavior management must be identified in your ISP and, in combination with other IFS services, cannot exceed your IFS allocation.
- (6) Psychological testing is not allowed.
- (7) Behavior management services require prior approval by the regional administrator or designee.

NEW SECTION

**WAC 388-832-0300 What is parent/sibling education?** Parent/sibling education is class training for parents and siblings who have a family member with a developmental disability offering relevant topics. Examples of topics could be coping with family stress, addressing your child's behavior, managing the family's daily schedule or advocating for your child.

NEW SECTION

**WAC 388-832-0305 Who are qualified providers for parent/sibling education?** (1) The provider of parent/sibling education must be one of the following licensed, registered or certified professionals and be contracted with DDD for the service specified in the ISP:

- (a) Audiologist;
- (b) Licensed practical nurse;
- (c) Marriage and family therapist;
- (d) Mental health counselor;
- (e) Occupational therapist;
- (f) Physical therapist;
- (g) Registered nurse;
- (h) Sex offender treatment provider;
- (i) Speech/language pathologist;
- (j) Social worker;
- (k) Psychologist;
- (l) Certified American sign language instructor;
- (m) Nutritionist;
- (n) Registered counselor; or
- (o) Certified dietician.

(2) Along with these professional providers, the Arc, Parent to Parent, PAVE and Families Together may be utilized for parent/sibling education.

NEW SECTION

**WAC 388-832-0308 How is parent/sibling education paid?** Parent/sibling education may be a reimbursable expense through the parent family support contract, the pass through contract or directly to the contracted provider.

NEW SECTION

**WAC 388-832-0310 Are there limitations to parent/sibling education?** (1) Parent/sibling education does not include conference fees or lodging.

(2) Viewing of VHS or DVD at home by yourself does not meet the definition of parent or sibling education.

(3) The need for parent/sibling education must be identified in your ISP and, in combination with other IFS services, cannot exceed your IFS allocation.

(4) Prior approval by regional administrator or designee is required.

NEW SECTION

**WAC 388-832-0315 What are recreational opportunities?** (1) Recreational opportunities are activities that may be available to children and adults with a developmental dis-

ability such as summer camps, YMCA activities, day trips or typical activities available in your community.

(2) Recreational opportunities may include memberships in civic groups, clubs, crafting classes, or classes outside of K-12 school curriculum or sport activities.

NEW SECTION

**WAC 388-832-0320 How are recreational opportunities paid for?** Recreational opportunities may be a reimbursable expense through the parent family support contract and the pass through contract.

NEW SECTION

**WAC 388-832-0325 Are there limitations to recreation opportunities?** (1) The recreational opportunities must occur in your community or the bordering states addressed in WAC 388-832-0331.

(2) The need for recreation opportunities must be identified in your ISP and, in combination with other IFS services, cannot exceed your IFS allocation.

(3) DDD does not pay for recreational opportunities that may pose a risk to individuals with disabilities or the community at large.

(4) Prior approval by regional administrator or designee is required.

NEW SECTION

**WAC 388-832-0330 Does my family have a choice of IFS program services?** In collaboration with your case manager and based upon your assessed need, you may choose the services available with this program.

NEW SECTION

**WAC 388-832-0331 May I receive IFS program services out of state?** You may receive IFS program services in a recognized out-of-state bordering city on the same basis as in-state services. The only recognized bordering cities are: Coeur d'Alene, Moscow, Sandpoint, Priest River and Lewiston Idaho; and Portland, The Dalles, Hermiston, Hood River, Rainier, Milton-Freewater, and Astoria Oregon.

NEW SECTION

**WAC 388-832-0332 Will I have a choice of provider?** You may choose a qualified individual, agency or licensed provider within the guidelines described in WAC 388-825-300 through 388-825-400. These WACs describe:

(1) Qualifications for individuals and agencies providing DDD services in the client's residence or the provider's residence or other settings; and

(2) Conditions under which DDD will pay for the services of an individual provider or a home care agency provider or other provider.

NEW SECTION

**WAC 388-832-0333 What restrictions apply to the IFS program services?** The following restrictions apply to the IFS program services:

(1) IFS program services are authorized only after you have accessed what is available to you under medicaid, including medicaid personal care, and any other private health insurance plan, school, or child development services.

(2) All IFS program service payments must be agreed to by DDD and you in your ISP.

(3) DDD will contract directly with a service provider or parent for the reimbursement of goods or services purchased by the family member.

(4) DDD will not pay for treatment determined by DSHS/MAA or private insurance to be experimental.

(5) Your choice of qualified providers and services may be limited to the most cost effective option that meets your assessed need.

(6) The IFS program will not pay for services provided after the death of the eligible client. Payment may occur after the date of death, but not the service.

(7) DDD's authorization period will start when you agree to be in the IFS program and have given written or verbal approval for your ISP. The period will last up to one year and may be renewed if you continue to need and utilize services. If you have not utilized the services within one year period you will be terminated from this program.

(8) IFS program will not pay for psychological evaluations or testing, or DNA testing.

(9) Supplies/materials related to community integration or recreational activities are the responsibility of the family.

**ONE TIME AWARDS**NEW SECTION

**WAC 388-832-0335 What is a one-time award?** One time awards are payments to individuals and families who meet the IFS program eligibility requirements and have a one time unmet need not covered by any other sources for which they are eligible. One time awards can only be used for architectural/vehicular modifications, or specialized equipment.

NEW SECTION

**WAC 388-832-0340 Who is eligible for a one-time award?** You are eligible to be considered for a one-time award if:

(1) You are not currently authorized for IFS program services in your ISP.

(2) You meet the eligibility for the IFS program.

(3) The need is critical to the health or safety of you or your caregiver and you and your family have no other resource to meet the need or your resources do not cover all of the expense.

NEW SECTION

**WAC 388-832-0345 Are there limitations to one-time awards?** (1) One time awards are limited to architectural/vehicular modifications or specialized equipment.

(2) One time awards cannot exceed six thousand dollars in a twenty-four month period.

(3) One time awards must be approved by the director of DDD or designee.

(4) Eligibility for a one-time award does not guarantee approval and authorization of the service by DDD. Services are based on availability of funding.

(5) One time awards will be prorated by the number of other members in the household who use these modifications or specialized equipment.

NEW SECTION

**WAC 388-832-0350 How do I apply for the one-time award?** If you have a need for a one-time award, you can make the request to your case manager.

NEW SECTION

**WAC 388-832-0353 Do I need to have a DDD assessment before I receive a one-time award?** You need to have a DDD assessment prior to receiving a one-time award.

**EMERGENCY**NEW SECTION

**WAC 388-832-0355 What is an emergency service?** Emergency services are respite care, behavior management or nursing services in response to a single incident, situation or short term crisis.

NEW SECTION

**WAC 388-832-0360 What situations qualify for emergency services?** The following situations qualify as an emergency:

(1) You lose your family caregiver due to caregiver hospitalization, or death;

(2) There are changes in your caregiver's mental or physical status resulting in your family caregiver's inability to perform effectively for you; or

(3) There are significant changes in your emotional or physical condition that require emergency services.

NEW SECTION

**WAC 388-832-0365 Who is a qualified provider of emergency services?** The provider of the service you need to meet your emergency must meet the provider qualifications required to contract for that specific service per the following:

(1) Respite per WAC 388-832-0155.

(2) Behavior Management per WAC 388-832-0285.

(3) Nursing per WAC 388-845-1705.

NEW SECTION

**WAC 388-832-0366 What limitations apply to emergency services?** (1) Emergency services may be granted to individuals and families who are on the IFS wait list and have an emergent need.

(2) Funds are provided for a limited period not to exceed sixty days.

(3) All requests are reviewed and approved or denied by the regional administrator or designee.

NEW SECTION

**WAC 388-832-0367 What if the client or family situation requires more than sixty days of emergency service?**

(1) Emergency services are limited to sixty days.

(2) DDD will conduct an administrative review of other DDD services to determine if the need can be met through other services.

NEW SECTION

**WAC 388-832-0369 Do I need to have a DDD assessment before I receive an emergency service?** You do not need to have a DDD assessment prior to receiving an emergency service; however the regional manager/designee may request a DDD assessment for a client at any time.

**GRANTS**NEW SECTION

**WAC 388-832-0370 What are the IFS community service grants?** Community service grants are grants to agencies or individuals funded by the IFS program to promote community oriented projects that benefit families. Community service grants may fund long-term or short-term projects that benefit children and/or adults.

NEW SECTION

**WAC 388-832-0375 How does a proposed project qualify for funding?** To qualify for funding, a proposed project must:

(1) Address one or more of the following topics:

(a) Provider support and development;

(b) Parent helping parent; or

(c) Community resource development for inclusion of all.

(2) Meet most of the following goals:

(a) Enable families to use generic resources which are integrated activities and/or resources community members typically have access to;

(b) Reflect geographic, cultural and other local differences;

(c) Support families in a variety of non crisis-oriented ways;

(d) Prioritize support for unserved families;

(e) Address the diverse needs of Native Americans, communities of color and limited or non-English speaking groups;

(f) Be family focused;

(g) Increase inclusion of persons with developmental disabilities;

(h) Benefit families who have children or adults eligible for services from DDD and who do not receive other DDD paid services; and

(i) Promote community collaboration, joint funding, planning and decision making.

**HEARINGS AND APPEALS**NEW SECTION

**WAC 388-832-0460 How will DDD notify me on their decisions?** Your case resource manager will call you and send a written planned action notice per WAC 388-825-100.

NEW SECTION

**WAC 388-832-0470 What are my appeal rights under the individual family services program?** You have the appeal rights described in WAC 388-825-100 through 388-825-165.

**Chapter 388-828 WAC****INDIVIDUAL AND FAMILY SERVICES****ASSESSMENT**NEW SECTION

**WAC 388-828-9000 What is the individual and family services assessment?** The individual and family services assessment is an algorithm in the DDD assessment that determines an award amount that you may receive if DDD has authorized you to receive individual and family services per chapter 388-832 WAC.

NEW SECTION

**WAC 388-828-9020 What is the purpose of the individual and family services assessment?** The purpose of the individual and family services assessment is to determine your individual and family services level and score using your assessed support levels from:

(1) The DDD protective supervision acuity scale (See WAC 388-828-5000 to WAC 388-828-5100);

(2) The DDD caregiver status acuity scale (See WAC 388-828-5120 to WAC 388-828-5360);

(3) The DDD behavioral acuity scale; (See WAC 388-828-5500 to WAC 388-828-5640)

(4) The DDD medical acuity scale; (See WAC 388-828-5660 to WAC 388-828-5700); and

(5) The DDD activities of daily living (ADL) acuity scale (See WAC 388-828-5380 to WAC 388-828-5480)

NEW SECTION

**WAC 388-828-9040 How does DDD determine your individual and family services level?** (1) DDD determines your individual and family services level using the following table:

| If your protective supervision support level is: | And your primary care-giver risk level is: | And your backup care-giver risk score is: | And your behavioral acuity level is: | Then your individual and family services level is: |
|--|--|---|--------------------------------------|--|
| 0  | None                                       | 1   | None                                 | 1  |
| 0  | None                                       | 1   | Low                                  | 1  |
| 0  | None                                       | 1   | Medium                               | 1  |
| 0  | None                                       | 1   | High                                 | 2  |
| 0  | None                                       | 2 or 3                                    | None                                 | 1  |
| 0  | None                                       | 2 or 3                                    | Low                                  | 1  |
| 0  | None                                       | 2 or 3                                    | Medium                               | 2  |
| 0  | None                                       | 2 or 3                                    | High                                 | 2  |
| 0  | Low  | 1   | None                                 | 1  |
| 0  | Low  | 1   | Low                                  | 1  |
| 0  | Low  | 1   | Medium                               | 1  |
| 0  | Low  | 1   | High                                 | 2  |
| 0  | Low  | 2 or 3                                    | None                                 | 1  |
| 0  | Low  | 2 or 3                                    | Low                                  | 1  |
| 0  | Low  | 2 or 3                                    | Medium                               | 2  |
| 0  | Low  | 2 or 3                                    | High                                 | 2  |
| 0  | Medium                                     | 1   | None                                 | 1  |
| 0  | Medium                                     | 1   | Low                                  | 1  |
| 0  | Medium                                     | 1   | Medium                               | 1  |
| 0  | Medium                                     | 1   | High                                 | 2  |
| 0  | Medium                                     | 2 or 3                                    | None                                 | 1  |
| 0  | Medium                                     | 2 or 3                                    | Low                                  | 1  |
| 0  | Medium                                     | 2 or 3                                    | Medium                               | 2  |
| 0  | Medium                                     | 2 or 3                                    | High                                 | 2  |
| 0  | High                                       | 1   | None                                 | 1  |
| 0  | High                                       | 1   | Low                                  | 1  |
| 0  | High                                       | 1   | Medium                               | 2  |
| 0  | High                                       | 1   | High                                 | 2  |
| 0  | High                                       | 2 or 3                                    | None                                 | 2  |
| 0  | High                                       | 2 or 3                                    | Low                                  | 2  |
| 0  | High                                       | 2 or 3                                    | Medium                               | 2  |
| 0  | High                                       | 2 or 3                                    | High                                 | 3  |
| 0  | Immediate                                  | 1   | None                                 | 1  |
| 0  | Immediate                                  | 1   | Low                                  | 1  |
| 0  | Immediate                                  | 1   | Medium                               | 2  |
| 0  | Immediate                                  | 1   | High                                 | 2  |
| 0  | Immediate                                  | 2 or 3                                    | None                                 | 2  |
| 0  | Immediate                                  | 2 or 3                                    | Low                                  | 2  |
| 0  | Immediate                                  | 2 or 3                                    | Medium                               | 2  |
| 0  | Immediate                                  | 2 or 3                                    | High                                 | 3  |
| 1  | None                                       | 1   | None                                 | 1  |
| 1  | None                                       | 1   | Low                                  | 1  |

| If your protective supervision support level is: | And your primary caregiver risk level is: | And your backup caregiver risk score is: | And your behavioral acuity level is: | Then your individual and family services level is: |
|--|---|--|--------------------------------------|--|
| 1  | None                                      | 1  | Medium                               | 1  |
| 1  | None                                      | 1  | High                                 | 2  |
| 1  | None                                      | 2 or 3                                   | None                                 | 1  |
| 1  | None                                      | 2 or 3                                   | Low                                  | 1  |
| 1  | None                                      | 2 or 3                                   | Medium                               | 2  |
| 1  | None                                      | 2 or 3                                   | High                                 | 3  |
| 1  | Low                                       | 1  | None                                 | 1  |
| 1  | Low                                       | 1  | Low                                  | 1  |
| 1  | Low                                       | 1  | Medium                               | 1  |
| 1  | Low                                       | 1  | High                                 | 2  |
| 1  | Low                                       | 2 or 3                                   | None                                 | 1  |
| 1  | Low                                       | 2 or 3                                   | Low                                  | 1  |
| 1  | Low                                       | 2 or 3                                   | Medium                               | 2  |
| 1  | Low                                       | 2 or 3                                   | High                                 | 3  |
| 1  | Medium                                    | 1  | None                                 | 1  |
| 1  | Medium                                    | 1  | Low                                  | 1  |
| 1  | Medium                                    | 1  | Medium                               | 2  |
| 1  | Medium                                    | 1  | High                                 | 3  |
| 1  | Medium                                    | 2 or 3                                   | None                                 | 1  |
| 1  | Medium                                    | 2 or 3                                   | Low                                  | 2  |
| 1  | Medium                                    | 2 or 3                                   | Medium                               | 2  |
| 1  | Medium                                    | 2 or 3                                   | High                                 | 3  |
| 1  | High                                      | 1  | None                                 | 2  |
| 1  | High                                      | 1  | Low                                  | 2  |
| 1  | High                                      | 1  | Medium                               | 2  |
| 1  | High                                      | 1  | High                                 | 3  |
| 1  | High                                      | 2 or 3                                   | None                                 | 2  |
| 1  | High                                      | 2 or 3                                   | Low                                  | 2  |
| 1  | High                                      | 2 or 3                                   | Medium                               | 3  |
| 1  | High                                      | 2 or 3                                   | High                                 | 4  |
| 1  | Immediate                                 | 1  | None                                 | 2  |
| 1  | Immediate                                 | 1  | Low                                  | 2  |
| 1  | Immediate                                 | 1  | Medium                               | 2  |
| 1  | Immediate                                 | 1  | High                                 | 3  |
| 1  | Immediate                                 | 2 or 3                                   | None                                 | 2  |
| 1  | Immediate                                 | 2 or 3                                   | Low                                  | 2  |
| 1  | Immediate                                 | 2 or 3                                   | Medium                               | 3  |
| 1  | Immediate                                 | 2 or 3                                   | High                                 | 4  |
| 2 or 3   | None                                      | 1  | None                                 | 1  |
| 2 or 3   | None                                      | 1  | Low                                  | 1  |
| 2 or 3   | None                                      | 1  | Medium                               | 2  |
| 2 or 3   | None                                      | 1  | High                                 | 3  |
| 2 or 3   | None                                      | 2 or 3                                   | None                                 | 2  |
| 2 or 3   | None                                      | 2 or 3                                   | Low                                  | 2  |
| 2 or 3   | None                                      | 2 or 3                                   | Medium                               | 2  |



| If your protective supervision support level is: | And your primary caregiver risk level is: | And your backup caregiver risk score is: | And your behavioral acuity level is: | Then your individual and family services level is: |
|--|---|--|--------------------------------------|--|
| 2 or 3   | None                                      | 2 or 3                                   | High                                 | 4  |
| 2 or 3   | Low                                       | 1  | None                                 | 1  |
| 2 or 3   | Low                                       | 1  | Low                                  | 1  |
| 2 or 3   | Low                                       | 1  | Medium                               | 2  |
| 2 or 3   | Low                                       | 1  | High                                 | 3  |
| 2 or 3   | Low                                       | 2 or 3                                   | None                                 | 2  |
| 2 or 3   | Low                                       | 2 or 3                                   | Low                                  | 2  |
| 2 or 3   | Low                                       | 2 or 3                                   | Medium                               | 2  |
| 2 or 3   | Low                                       | 2 or 3                                   | High                                 | 4  |
| 2 or 3   | Medium                                    | 1  | None                                 | 2  |
| 2 or 3   | Medium                                    | 1  | Low                                  | 2  |
| 2 or 3   | Medium                                    | 1  | Medium                               | 2  |
| 2 or 3   | Medium                                    | 1  | High                                 | 3  |
| 2 or 3   | Medium                                    | 2 or 3                                   | None                                 | 2  |
| 2 or 3   | Medium                                    | 2 or 3                                   | Low                                  | 2  |
| 2 or 3   | Medium                                    | 2 or 3                                   | Medium                               | 3  |
| 2 or 3   | Medium                                    | 2 or 3                                   | High                                 | 4  |
| 2 or 3   | High                                      | 1  | None                                 | 2  |
| 2 or 3   | High                                      | 1  | Low                                  | 2  |
| 2 or 3   | High                                      | 1  | Medium                               | 2  |
| 2 or 3   | High                                      | 1  | High                                 | 3  |
| 2 or 3   | High                                      | 2 or 3                                   | None                                 | 2  |
| 2 or 3   | High                                      | 2 or 3                                   | Low                                  | 2  |
| 2 or 3   | High                                      | 2 or 3                                   | Medium                               | 3  |
| 2 or 3   | High                                      | 2 or 3                                   | High                                 | 4  |
| 2 or 3   | Immediate                                 | 1  | None                                 | 2  |
| 2 or 3   | Immediate                                 | 1  | Low                                  | 2  |
| 2 or 3   | Immediate                                 | 1  | Medium                               | 2  |
| 2 or 3   | Immediate                                 | 1  | High                                 | 3  |
| 2 or 3   | Immediate                                 | 2 or 3                                   | None                                 | 2  |
| 2 or 3   | Immediate                                 | 2 or 3                                   | Low                                  | 2  |
| 2 or 3   | Immediate                                 | 2 or 3                                   | Medium                               | 3  |
| 2 or 3   | Immediate                                 | 2 or 3                                   | High                                 | 4  |
| 4  | None                                      | 1  | None                                 | 2  |
| 4  | None                                      | 1  | Low                                  | 2  |
| 4  | None                                      | 1  | Medium                               | 2  |
| 4  | None                                      | 1  | High                                 | 3  |
| 4  | None                                      | 2 or 3                                   | None                                 | 2  |
| 4  | None                                      | 2 or 3                                   | Low                                  | 2  |
| 4  | None                                      | 2 or 3                                   | Medium                               | 3  |
| 4  | None                                      | 2 or 3                                   | High                                 | 4  |
| 4  | Low                                       | 1  | None                                 | 2  |
| 4  | Low                                       | 1  | Low                                  | 2  |
| 4  | Low                                       | 1  | Medium                               | 2  |
| 4  | Low                                       | 1  | High                                 | 3  |

| If your protective supervision support level is: | And your primary caregiver risk level is: | And your backup caregiver risk score is: | And your behavioral acuity level is: | Then your individual and family services level is: |
|--|---|--|--------------------------------------|--|
| 4  | Low                                       | 2 or 3                                   | None                                 | 2  |
| 4  | Low                                       | 2 or 3                                   | Low                                  | 2  |
| 4  | Low                                       | 2 or 3                                   | Medium                               | 3  |
| 4  | Low                                       | 2 or 3                                   | High                                 | 4  |
| 4  | Medium                                    | 1  | None                                 | 2  |
| 4  | Medium                                    | 1  | Low                                  | 2  |
| 4  | Medium                                    | 1  | Medium                               | 3  |
| 4  | Medium                                    | 1  | High                                 | 3  |
| 4  | Medium                                    | 2 or 3                                   | None                                 | 2  |
| 4  | Medium                                    | 2 or 3                                   | Low                                  | 3  |
| 4  | Medium                                    | 2 or 3                                   | Medium                               | 3  |
| 4  | Medium                                    | 2 or 3                                   | High                                 | 4  |
| 4  | High                                      | 1  | None                                 | 2  |
| 4  | High                                      | 1  | Low                                  | 2  |
| 4  | High                                      | 1  | Medium                               | 3  |
| 4  | High                                      | 1  | High                                 | 3  |
| 4  | High                                      | 2 or 3                                   | None                                 | 2  |
| 4  | High                                      | 2 or 3                                   | Low                                  | 3  |
| 4  | High                                      | 2 or 3                                   | Medium                               | 4  |
| 4  | High                                      | 2 or 3                                   | High                                 | 4  |
| 4  | Immediate                                 | 1  | None                                 | 2  |
| 4  | Immediate                                 | 1  | Low                                  | 2  |
| 4  | Immediate                                 | 1  | Medium                               | 3  |
| 4  | Immediate                                 | 1  | High                                 | 3  |
| 4  | Immediate                                 | 2 or 3                                   | None                                 | 2  |
| 4  | Immediate                                 | 2 or 3                                   | Low                                  | 3  |
| 4  | Immediate                                 | 2 or 3                                   | Medium                               | 4  |
| 4  | Immediate                                 | 2 or 3                                   | High                                 | 4  |
| 5  | None                                      | 1  | None                                 | 2  |
| 5  | None                                      | 1  | Low                                  | 2  |
| 5  | None                                      | 1  | Medium                               | 3  |
| 5  | None                                      | 1  | High                                 | 4  |
| 5  | None                                      | 2 or 3                                   | None                                 | 3  |
| 5  | None                                      | 2 or 3                                   | Low                                  | 3  |
| 5  | None                                      | 2 or 3                                   | Medium                               | 4  |
| 5  | None                                      | 2 or 3                                   | High                                 | 5  |
| 5  | Low                                       | 1  | None                                 | 2  |
| 5  | Low                                       | 1  | Low                                  | 2  |
| 5  | Low                                       | 1  | Medium                               | 3  |
| 5  | Low                                       | 1  | High                                 | 4  |
| 5  | Low                                       | 2 or 3                                   | None                                 | 3  |
| 5  | Low                                       | 2 or 3                                   | Low                                  | 3  |
| 5  | Low                                       | 2 or 3                                   | Medium                               | 4  |
| 5  | Low                                       | 2 or 3                                   | High                                 | 5  |
| 5  | Medium                                    | 1  | None                                 | 2  |

| If your protective supervision support level is: | And your primary caregiver risk level is: | And your backup caregiver risk score is: | And your behavioral acuity level is: | Then your individual and family services level is: |
|--|---|--|--------------------------------------|--|
| 5  | Medium                                    | 1  | Low                                  | 2  |
| 5  | Medium                                    | 1  | Medium                               | 3  |
| 5  | Medium                                    | 1  | High                                 | 4  |
| 5  | Medium                                    | 2 or 3                                   | None                                 | 3  |
| 5  | Medium                                    | 2 or 3                                   | Low                                  | 3  |
| 5  | Medium                                    | 2 or 3                                   | Medium                               | 4  |
| 5  | Medium                                    | 2 or 3                                   | High                                 | 5  |
| 5  | High                                      | 1  | None                                 | 2  |
| 5  | High                                      | 1  | Low                                  | 2  |
| 5  | High                                      | 1  | Medium                               | 3  |
| 5  | High                                      | 1  | High                                 | 4  |
| 5  | High                                      | 2 or 3                                   | None                                 | 3  |
| 5  | High                                      | 2 or 3                                   | Low                                  | 3  |
| 5  | High                                      | 2 or 3                                   | Medium                               | 4  |
| 5  | High                                      | 2 or 3                                   | High                                 | 5  |
| 5  | Immediate                                 | 1  | None                                 | 2  |
| 5  | Immediate                                 | 1  | Low                                  | 2  |
| 5  | Immediate                                 | 1  | Medium                               | 3  |
| 5  | Immediate                                 | 1  | High                                 | 4  |
| 5  | Immediate                                 | 2 or 3                                   | None                                 | 3  |
| 5  | Immediate                                 | 2 or 3                                   | Low                                  | 3  |
| 5  | Immediate                                 | 2 or 3                                   | Medium                               | 4  |
| 5  | Immediate                                 | 2 or 3                                   | High                                 | 5  |
| 6  | None                                      | 1  | None                                 | 2  |
| 6  | None                                      | 1  | Low                                  | 3  |
| 6  | None                                      | 1  | Medium                               | 3  |
| 6  | None                                      | 1  | High                                 | 4  |
| 6  | None                                      | 2 or 3                                   | None                                 | 3  |
| 6  | None                                      | 2 or 3                                   | Low                                  | 3  |
| 6  | None                                      | 2 or 3                                   | Medium                               | 4  |
| 6  | None                                      | 2 or 3                                   | High                                 | 5  |
| 6  | Low                                       | 1  | None                                 | 2  |
| 6  | Low                                       | 1  | Low                                  | 3  |
| 6  | Low                                       | 1  | Medium                               | 3  |
| 6  | Low                                       | 1  | High                                 | 4  |
| 6  | Low                                       | 2 or 3                                   | None                                 | 3  |
| 6  | Low                                       | 2 or 3                                   | Low                                  | 3  |
| 6  | Low                                       | 2 or 3                                   | Medium                               | 4  |
| 6  | Low                                       | 2 or 3                                   | High                                 | 5  |
| 6  | Medium                                    | 1  | None                                 | 3  |
| 6  | Medium                                    | 1  | Low                                  | 3  |
| 6  | Medium                                    | 1  | Medium                               | 3  |
| 6  | Medium                                    | 1  | High                                 | 4  |
| 6  | Medium                                    | 2 or 3                                   | None                                 | 3  |
| 6  | Medium                                    | 2 or 3                                   | Low                                  | 4  |

| If your protective supervision support level is: | And your primary caregiver risk level is: | And your backup caregiver risk score is: | And your behavioral acuity level is: | Then your individual and family services level is: |
|--|---|--|--------------------------------------|--|
| 6  | Medium                                    | 2 or 3                                   | Medium                               | 4  |
| 6  | Medium                                    | 2 or 3                                   | High                                 | 5  |
| 6  | High                                      | 1  | None                                 | 3  |
| 6  | High                                      | 1  | Low                                  | 3  |
| 6  | High                                      | 1  | Medium                               | 4  |
| 6  | High                                      | 1  | High                                 | 4  |
| 6  | High                                      | 2 or 3                                   | None                                 | 4  |
| 6  | High                                      | 2 or 3                                   | Low                                  | 4  |
| 6  | High                                      | 2 or 3                                   | Medium                               | 5  |
| 6  | High                                      | 2 or 3                                   | High                                 | 5  |
| 6  | Immediate                                 | 1  | None                                 | 3  |
| 6  | Immediate                                 | 1  | Low                                  | 3  |
| 6  | Immediate                                 | 1  | Medium                               | 4  |
| 6  | Immediate                                 | 1  | High                                 | 4  |
| 6  | Immediate                                 | 2 or 3                                   | None                                 | 4  |
| 6  | Immediate                                 | 2 or 3                                   | Low                                  | 4  |
| 6  | Immediate                                 | 2 or 3                                   | Medium                               | 5  |
| 6  | Immediate                                 | 2 or 3                                   | High                                 | 5  |

(2) DDD adds one level to your individual and family services level when your individual and family services level is determined to be:

(a) Level one, two, three, or four; and

(b) You have a score of four for question two "Other caregiving for persons who are disabled, seriously ill, or under five" in the DDD caregiver status acuity scale. See WAC 388-828-5260.

and family services rating is determined by using the following table:

| If your individual and family services level is: | Then your individual and family services support rating is: |
|--|---|
| 1  | 0   |
| 2  | 240   |
| 3  | 336   |
| 4  | 432   |
| 5  | 528   |

**NEW SECTION**

**WAC 388-828-9060 How does DDD determine your individual and family services rating?** (1) Your individual

**NEW SECTION**

**WAC 388-828-9100 How does DDD determine the number to use in the adjustment of your individual and family services support rating?** DDD determines the amount of the adjustment for your individual and family services support rating using the following tables:

(1)

| If your individual and family services level is 1, 2, 3, 4, or 5 and you are not eligible for Medicaid personal care | And your ADL support needs level for the SIS per WAC 388-828-5480 |     |        |      |     |
|--|---|-----|--------|------|-----|
|  | None  | Low | Medium | High |     |
| And your medical acuity level per WAC 388-828-5700   | None  | 57  | 57     | 76   | 85  |
|  | Low   | 57  | 57     | 76   | 85  |
|  | Medium  | 57  | 88     | 122  | 145 |
|  | High  | 57  | 145    | 245  | 287 |

(2)

|  |        |   |     |        |      |
|--|--------|---|-----|--------|------|
| If your individual and family services level is 1, 2, 3, 4, or 5 and you are eligible for Medicaid personal care per chapter 388-106 WAC |        | And your ADL support needs level for the SIS per WAC 388-828-5480 |     |        |      |
|  |        | None  | Low | Medium | High |
| And your medical acuity level per WAC 388-828-5700   | None   | 0   | 0   | 0      | 0    |
|  | Low    | 0   | 0   | 0      | 0    |
|  | Medium | 0   | 0   | 0      | 0    |
|  | High   | 0   | 0   | 0      | 0    |

Example: If your individual and family service level is 3 and you are not eligible for Medicaid personal care services and your ADL support needs level is "low" and your medical acuity level is "medium," the amount of your adjustment is 88.

**NEW SECTION**

**WAC 388-828-9120 How does DDD determine your individual and family services score?** DDD adds your individual and family support rating from WAC 388-828-9060 to the adjustment amount in WAC 388-828-9100 to determine your individual and family services score.

Example: If you are not eligible for medicaid personal care services and your individual and family services support rating is 336 and the amount of your adjustment is 122, your individual and family services score is 458.

**NEW SECTION**

**WAC 388-828-9140 How does DDD determine the amount of your individual and family service award?** DDD uses the following table to determine the amount of your individual and family services award:

|  |   |
|--|---|
| If your individual and family services score is: | Then the amount of your award is up to: |
| 0 to 60  | No Award                                |
| 61 to 240  | \$2000                                  |
| 241 to 336                                       | \$3000                                  |
| 337 to 527                                       | \$4000                                  |
| 528 or more                                      | \$6000                                  |

**WSR 08-13-030  
PROPOSED RULES  
HORSE RACING COMMISSION**

[Filed June 10, 2008, 12:58 p.m.]

Original Notice.  
Preproposal statement of inquiry was filed as WSR 08-09-138.

Title of Rule and Other Identifying Information: WAC 260-70-630 Threshold levels, subsection (3) Androgenic-anabolic steroids.

Hearing Location(s): Auburn City Council Chambers, 25 West Main, Auburn, WA 98002, on August 14, 2008, at 9:30 a.m.

Date of Intended Adoption: August 14, 2008.

Submit Written Comments to: Robert J. Lopez, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, e-mail rlopez@whrc.state.wa.us, fax (360) 459-6461, by August 8, 2007 [2008].

Assistance for Persons with Disabilities: Contact Patty Sorby by August 8, 2008, TTY (360) 459-6462.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: WAC 260-70-630 (3)(a), currently permits up to 45 nanograms of nandrolone (an androgenic-anabolic steroid) per milliliter of urine in the post-race samples of intact male race horses. The proposal is to amend this rule to specify that it is 45 nanograms of nandrolone metabolite per milliliter of urine in the post-race samples of intact males. The current language was developed by the Racing Medication and Testing Consortium and adopted by the Association of Racing Commissioners, International in error. The proposal is intended to fix that error.

Reasons Supporting Proposal: The proposal addresses an error in the current rule based [on] an error when the national model rule was developed and adopted.

Statutory Authority for Adoption: RCW 67.16.020.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Washington horse racing commission, governmental.

Name of Agency Personnel Responsible for Drafting: Robert J. Lopez, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, (360) 459-6462; Implementation and Enforcement: Robert M. Leichner, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, (360) 459-6462.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable.

A cost-benefit analysis is not required under RCW 34.05.328. Not applicable.

June 10, 2008  
R. J. Lopez  
Deputy Secretary

**AMENDATORY SECTION** (Amending WSR 08-05-091, filed 2/15/08, effective 6/1/08)

**WAC 260-70-630 Threshold levels.** (1) Permitted medications.

(a) The following quantitative medications are permissible in test samples up to the stated concentrations:

Procaine - 25 ng/ml urine  
 Benzocaine - 50 ng/ml urine  
 Mepivacaine - 10 ng/ml urine  
 Lidocaine - 50 ng/ml urine  
 Bupivacaine - 5 ng/ml urine  
 Clenbuterol - 25 pg/ml serum or plasma  
 Acepromazine - 25 ng/ml urine  
 Promazine - 25 ng/ml urine  
 Salicylates - 750,000 ng/ml urine  
 Albuterol - 1 ng/ml urine  
 Ppyrilamine - 50 ng/ml urine  
 Theobromine - 2000 ng/ml urine

(b) The official urine or blood test sample may not contain more than one of the above substances, including their metabolites or analogs, and may not exceed the concentrations established in this rule.

(2) Environmental substances.

(a) Certain substances can be considered "environmental" in that they are endogenous to the horse or that they can arise from plants traditionally grazed or harvested as equine feed or are present in equine feed because of contamination or exposure during the cultivation, processing, treatment, storage, or transportation phases. Certain drugs are recognized as substances of human use and could therefore be found in a horse. The following substances are permissible in test samples up to the stated concentrations:

Caffeine - 100 ng/ml serum or plasma  
 Benzoyllecgonine - 50 ng/ml urine  
 Morphine Glucuronides - 50 ng/ml urine

(b) If a preponderance of evidence presented shows that a positive test is the result of environmental substance or inadvertent exposure due to human drug use, that evidence should be considered as a mitigating factor in any disciplinary action taken against the trainer.

(3) Androgenic-anabolic steroids.

(a) The following androgenic-anabolic steroids are permissible in test samples up to the stated concentrations:

Stanozolol (Winstrol) - 1 ng/ml urine in all horses regardless of sex.

Boldenone (Equipose) - 15 ng/ml urine in intact males. No level is permitted in geldings, fillies or mares.

Nandrolone (Durabolin) - 1 ng/ml urine in geldings, fillies, and mares, and for nandrolone metabolite (5a-oestrane-3 $\beta$ .17a-diol) - 45 ng/ml urine in intact males.

Testosterone - 20 ng/ml urine in geldings. 55 ng/ml urine in fillies and mares. Samples from intact males will not be tested for the presence of testosterone.

(b) All other androgenic-anabolic steroids are prohibited in race horses.

Title of Rule and Other Identifying Information: Amending WAC 180-51-060 Minimum subject areas for high school graduation and 180-51-061 Minimum requirements for high school graduation; and adding a new rule that provides the minimum requirements for high school graduation for those students entering the ninth grade on or after July 1, 2009.

Hearing Location(s): Evergreen School District No. 114, Administrative Service Center, Evergreen Room, Tan Complex Building, 13501 N.E. 28 Street, Vancouver, WA, 98682, phone (360) 604-4009, on July 23, 2008, at 1:30 p.m.

Date of Intended Adoption: July 24, 2008.

Submit Written Comments to: Brad Burnham, Washington State Board of Education, P.O. Box 47206, 600 Washington Street S.E., Olympia, WA 98504-7206, e-mail brad.burnham@k12.wa.us, fax (360) 586-2357, by July 21, 2008.

Assistance for Persons with Disabilities: Contact Brad Burnham by July 21, 2008, TTY (360) 664-3631 or (360) 725-6025.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Amendments are proposed to: (1) WAC 180-51-060 to indicate that it applies only to those students who entered the ninth grade before July 1, 2004; and (2) WAC 180-51-061 to indicate that it applies only to students who have entered the ninth grade between July 1, 2004, and June 30, 2009. WAC 180-51-061 is also being amended to require the completion of a high school and beyond plan as a graduation requirement. A new rule is being proposed that provides the minimum high school graduation requirements for those students entering the ninth grade on or after July 1, 2009. The high school graduation requirements set forth in the proposed rule are the same as that in the existing version of WAC 180-51-061 with the exception of the following changes: The proposed rule requires that students take three credits of mathematics to graduate from high school. These credits must include certain mathematics courses taken in a progressive sequence that includes a third credit of mathematics in Algebra II, or Integrated Mathematics III. A student can elect to take a third credit of mathematics other than Algebra II or Integrated Mathematics III if certain conditions prescribed in the rule are met. Equivalent career and technical education (CTE) mathematics courses meeting the requirements of RCW 28A.230.097 can be taken to satisfy the required mathematics credits. Schools are required to align the required mathematics credits with the high school mathematics standards developed and revised by the office of superintendent of public instruction. The proposed rule also requires the completion of a high school and beyond plan as a high school graduation requirement.

Reasons Supporting Proposal: In 2007, the Washington state legislative [legislature] adopted SSHB [2SHB] 1906, codified at RCW 28A.305.215(8), requiring the state board of education to revise the high school graduation requirements under RCW 28A.230.090 to include a minimum of three credits of mathematics and prescribe the mathematics content in the three required credits. Proposed amendments to WAC 180-51-060 and 180-51-061 are necessary to reflect that the changes in the new rule do not apply to those students who entered the ninth grade before July 1, 2009. The current version of WAC 180-51-061 inadvertently excluded the high

### WSR 08-13-038

#### PROPOSED RULES

#### STATE BOARD OF EDUCATION

[Filed June 11, 2008, 3:03 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 07-19-036.

school and beyond plan graduation requirement when the rule was last amended. It is being amended to include this requirement as a graduation requirement for all students who enter the ninth grade on or after July 1, 2004.

Statutory Authority for Adoption: RCW 28A.305.-215(8), 28A.230.090.

Statute Being Implemented: RCW 28A.305.215(8), 28A.230.090.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: The Washington state board of education, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Edie Harding, 600 Washington Street S.E., Olympia, WA, 98504-7206, (360) 725-6025.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement is not required for this rule adoption.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to this rule adoption.

May 31, 2008  
 Edie Harding  
 Executive Director

AMENDATORY SECTION (Amending WSR 01-13-112, filed 6/20/01, effective 7/21/01)

**WAC 180-51-060 Minimum subject areas for high school graduation—Students entering the ninth grade before July 1, 2004.** (1) The minimum subject areas and credits therein shall be:

| SUBJECT   | CREDIT  |
|---|---------|
| English   | 3       |
| Mathematics   | 2       |
| Science*  | 2       |
| Social Studies                                      | 2 1/2   |
| United States History and Government                | (1)     |
| Washington State History and Government             | (1/2)** |
| Contemporary World History, Geography, and Problems | (1)**   |
| Occupational Education***                           | 1       |
| Physical Education                                  | 2       |
| Restricted Elective                                 | **** 1  |

\*At least one credit of the two science credits shall be in a laboratory science.

\*\*See WAC 180-51-075 for equivalencies.

| SUBJECT  | CREDIT |
|--|--------|
| ***"Occupational education" means credits resulting from a series of learning experiences designed to assist the student to acquire and demonstrate competency of skills under student learning goal four and which skills are required for success in current and emerging occupations. At a minimum, these competencies shall align with the definition of an exploratory course as proposed or adopted in the career and technical education program standards of the superintendent of public instruction. |        |
| ****This one credit requirement must be selected from visual or performing arts or any of the subject areas listed above.  |        |
| Electives  | 5 1/2  |
| Total  | 19     |

\*\*\*\*This one credit requirement must be selected from visual or performing arts or any of the subject areas listed above.

|           |       |
|-----------|-------|
| Electives | 5 1/2 |
| Total     | 19    |

(2) The minimum elective credits shall be met by additional courses in the required subject areas, by specific local district requirements, or by any course offered pursuant to WAC 180-50-115.

(3) In accordance with WAC 180-51-035, this section shall expire on June 30, 2014, for those students who begin the equivalent of a four-year high school program prior to July 1, 2004.

(4) The state board of education and superintendent of public instruction are not authorized by law to issue a high school diploma.

AMENDATORY SECTION (Amending WSR 07-07-051, filed 3/14/07, effective 4/14/07)

**WAC 180-51-061 Minimum requirements for high school graduation—Students entering the ninth grade as of July 1, 2004 through June 30, 2009.** (1) The statewide minimum subject areas and credits required for high school graduation(~~(beginning July 1, 2004,)~~) for students who enter the ninth grade or begin the equivalent of a four-year high school program as of July 1, 2004, through June 30, 2009, shall total 19 as listed below.

(a) Three **English** credits (reading, writing, and communications) that at minimum align with grade level expectations for ninth and tenth grade, plus content that is determined by the district. Assessment shall include the ~~((10th))~~ tenth grade Washington assessment of student learning beginning 2008.

(b) Two **mathematics** credits that at minimum align with mathematics grade level expectations for ninth and tenth grade, plus content that is determined by the district. Assessment shall include the ~~((10th))~~ tenth grade Washington assessment of student learning beginning 2008.

(c) Two **science** credits (physical, life, and earth) that at minimum align with grade level expectations for ninth and tenth grade, plus content that is determined by the district. At least one credit in laboratory science is required which shall be defined locally. Assessment shall include the ~~((10th))~~ tenth grade Washington assessment of student learning beginning 2010.

(d) Two and one-half **social studies** credits that at minimum align with the state's essential academic learning

requirements in civics, economics, geography, history, and social studies skills at grade ten and/or above plus content that is determined by the district. The assessment of achieved competence in this subject area is to be determined by the local district although state law requires districts to have "assessments or other strategies" in social studies at the high school level by 2008-09. In addition, districts shall require students to complete a classroom-based assessment in civics in the eleventh or twelfth grade also by 2008-09. The state superintendent's office has developed classroom-based assessment models for districts to use (RCW 28A.230.095). The social studies requirement shall consist of the following mandatory courses or equivalencies:

(i) One credit shall be required in United States history and government which shall include study of the Constitution of the United States. No other course content may be substituted as an equivalency for this requirement.

(ii) Under the provisions of RCW 28A.230.170 and 28A.230.090, one-half credit shall be required in Washington state history and government which shall include study of the Constitution of the state of Washington and is encouraged to include information on the culture, history, and government of the American Indian people who were the first inhabitants of the state.

(A) For purposes of the Washington state history and government requirement only, the term "secondary student" shall mean a student who is in one of the grades seven through twelve. If a district offers this course in the seventh or eighth grade, it can still count towards the state history and government graduation requirement. However, the course should only count as a high school credit if the academic level of the course exceeds the requirements for seventh and eighth grade classes and the course would qualify for high school credit, because the course is similar or equivalent to a course offered at a high school in the district as determined by the school district board of directors((-)) (RCW 28A.-230.090(4)((-)))<sub>2</sub>.

(B) The study of the United States and Washington state Constitutions shall not be waived, but may be fulfilled through an alternative learning experience approved by the local school principal under written district policy.

(C) Secondary school students who have completed and passed a state history and government course of study in another state may have the Washington state history and government requirement waived by their principal. The study of the United States and Washington state Constitutions required under RCW 28A.230.170 shall not be waived, but may be fulfilled through an alternative learning experience approved by the school principal under a written district policy.

(D) After completion of the tenth grade and prior to commencement of the eleventh grade, eleventh and twelfth grade students who transfer from another state, and who have or will have earned two credits in social studies at graduation, may have the Washington state history requirement waived by their principal if without such a waiver they will not be able to graduate with their class.

(iii) One credit shall be required in contemporary world history, geography, and problems. Courses in economics, sociology, civics, political science, international relations, or

related courses with emphasis on current problems may be accepted as equivalencies.

(e) Two **health and fitness** credits that at minimum align with current essential academic learning requirements at grade ten and/or above plus content that is determined by the local school district. The assessment of achieved competence in this subject area is to be determined by the local district although state law requires districts to have "assessments or other strategies" in health and fitness at the high school level by 2008-09. The state superintendent's office has developed classroom-based assessment models for districts to use (RCW 28A.230.095).

(i) The fitness portion of the requirement shall be met by course work in fitness education. The content of fitness courses shall be determined locally under WAC 180-51-025. Suggested fitness course outlines shall be developed by the office of the superintendent of public instruction. Students may be excused from the physical portion of the fitness requirement under RCW 28A.230.050. Such excused students shall be required to substitute equivalency credits in accordance with policies of boards of directors of districts, including demonstration of the knowledge portion of the fitness requirement.

(ii) "Directed athletics" shall be interpreted to include community-based organized athletics.

(f) One **arts** credit that at minimum is aligned with current essential academic learning requirements at grade ten and/or above plus content that is determined by the local school district. The assessment of achieved competence in this subject area is to be determined by the local district although state law requires districts to have "assessments or other strategies" in arts at the high school level by 2008-09. The state superintendent's office has developed classroom-based assessment models for districts to use (RCW 28A.-230.095). The essential content in this subject area may be satisfied in the visual or performing arts.

(g) One credit in **occupational education**. "Occupational education" means credits resulting from a series of learning experiences designed to assist the student to acquire and demonstrate competency of skills under student learning goal four and which skills are required for success in current and emerging occupations. At a minimum, these competencies shall align with the definition of an exploratory course as proposed or adopted in the career and technical education program standards of the office of the superintendent of public instruction. The assessment of achieved competence in this subject area is determined at the local district level.

(h) Five and one-half electives: Study in a world language other than English or study in a world culture may satisfy any or all of the required electives. The assessment of achieved competence in these subject areas is determined at the local district level.

(i) Each student shall complete a culminating project for graduation. The project shall consist of the student demonstrating both their learning competencies and preparations related to learning goals three and four. Each district shall define the process to implement this graduation requirement, including assessment criteria, in written district policy.



(j) Each student shall have a high school and beyond plan for their high school experience, including what they expect to do the year following graduation.

(k) Each student shall attain a certificate of academic achievement or certificate of individual achievement. The ~~((10th))~~ tenth grade Washington assessment of student learning and Washington alternate assessment system shall determine attainment.

(2) State board of education approved private schools under RCW 28A.305.130(5) may, but are not required to, align their curriculums with the state learning goals under RCW 28A.150.210 or the essential academic learning requirements under RCW 28A.655.070.

#### NEW SECTION

**WAC 180-51-066 Minimum requirements for high school graduation—Students entering the ninth grade on or after July 1, 2009.** (1) The statewide minimum subject areas and credits required for high school graduation, beginning July 1, 2009, for students who enter the ninth grade or begin the equivalent of a four-year high school program, shall total 20 as listed below.

(a) Three **English** credits (reading, writing, and communications) that at minimum align with grade level expectations for ninth and tenth grade, plus content that is determined by the district. Assessment shall include the tenth grade Washington assessment of student learning beginning 2008.

(b) Three **mathematics** credits that align with the high school mathematics standards as developed and revised by the office of superintendent of public instruction and satisfy the requirements set forth below:

(i) Unless otherwise provided for in (b)(iii) of this subsection, the three mathematics credits required under this section must include mathematics courses taken in the following progressive sequence:

- (A) Algebra I, geometry, and algebra II; or
- (B) Integrated mathematics I, integrated mathematics II, and integrated mathematics III; or
- (C) Any combination of three mathematics courses set forth in (b)(i)(A) and (B) of this subsection.

(ii) A student may elect to pursue a third credit of mathematics, other than algebra II or integrated mathematics III if all of the following requirements are met:

- (A) The student has completed, for credit, mathematics courses in:
  - (I) Algebra I and geometry; or
  - (II) Integrated mathematics I and integrated mathematics II; or
  - (III) Any combination of two mathematics courses set forth in (b)(ii)(A)(I) and (II) of this subsection;

(B) The student's elective choice is based on a career oriented program of study identified in the student's high school and beyond plan that is currently being pursued by the student;

(C) The student's parent(s)/guardian(s) (or designee for the student if a parent or guardian is unavailable) agree that the third credit of mathematics elected is a more appropriate course selection than algebra II or integrated mathematics III

because it will better serve the student's education and career goals;

(D) A meeting is held with the student, the parent(s)/guardian(s) (or designee for the student if a parent or guardian is unavailable), and a high school representative for the purpose of discussing the student's high school and beyond plan and advising the student of the requirements for credit bearing two and four year college level mathematics courses; and

(E) The school has the parent(s)/guardian(s) (or designee for the student if a parent or guardian is unavailable) sign a form acknowledging that the meeting with a high school representative has occurred, the information as required was discussed; and the parent(s)/guardian(s) (or designee for the student if a parent or guardian is unavailable) agree that the third credit of mathematics elected is a more appropriate course selection given the student's education and career goals.

(ii) Equivalent career and technical education (CTE) mathematics courses meeting the requirements set forth in RCW 28A.230.097 can be taken for credit instead of any of the mathematics courses set forth in (b)(i)(A) or (B) or (ii)(A)(I) or (II) of this subsection if the CTE mathematics courses are recorded on the student's transcript using the equivalent academic high school department designation and course title.

(c) Two **science** credits (physical, life, and earth) that at minimum align with grade level expectations for ninth and tenth grade, plus content that is determined by the district. At least one credit in laboratory science is required which shall be defined locally. Assessment shall include the tenth grade Washington assessment of student learning beginning 2010.

(d) Two and one-half **social studies** credits that at minimum align with the state's essential academic learning requirements in civics, economics, geography, history, and social studies skills at grade ten and/or above plus content that is determined by the district. The assessment of achieved competence in this subject area is to be determined by the local district although state law requires districts to have "assessments or other strategies" in social studies at the high school level by 2008-09. In addition, districts shall require students to complete a classroom-based assessment in civics in the eleventh or twelfth grade also by 2008-09. The state superintendent's office has developed classroom-based assessment models for districts to use (RCW 28A.230.095). The social studies requirement shall consist of the following mandatory courses or equivalencies:

(i) One credit shall be required in United States history and government which shall include study of the Constitution of the United States. No other course content may be substituted as an equivalency for this requirement.

(ii) Under the provisions of RCW 28A.230.170 and 28A.230.090, one-half credit shall be required in Washington state history and government which shall include study of the Constitution of the state of Washington and is encouraged to include information on the culture, history, and government of the American Indian people who were the first inhabitants of the state.

(A) For purposes of the Washington state history and government requirement only, the term "secondary student" shall mean a student who is in one of the grades seven

through twelve. If a district offers this course in the seventh or eighth grade, it can still count towards the state history and government graduation requirement. However, the course should only count as a high school credit if the academic level of the course exceeds the requirements for seventh and eighth grade classes and the course would qualify for high school credit, because the course is similar or equivalent to a course offered at a high school in the district as determined by the school district board of directors (RCW 28A.230.-090(4)).

(B) The study of the United States and Washington state Constitutions shall not be waived, but may be fulfilled through an alternative learning experience approved by the local school principal under written district policy.

(C) Secondary school students who have completed and passed a state history and government course of study in another state may have the Washington state history and government requirement waived by their principal. The study of the United States and Washington state Constitutions required under RCW 28A.230.170 shall not be waived, but may be fulfilled through an alternative learning experience approved by the school principal under a written district policy.

(D) After completion of the tenth grade and prior to commencement of the eleventh grade, eleventh and twelfth grade students who transfer from another state, and who have or will have earned two credits in social studies at graduation, may have the Washington state history requirement waived by their principal if without such a waiver they will not be able to graduate with their class.

(iii) One credit shall be required in contemporary world history, geography, and problems. Courses in economics, sociology, civics, political science, international relations, or related courses with emphasis on current problems may be accepted as equivalencies.

(e) Two **health and fitness** credits that at minimum align with current essential academic learning requirements at grade ten and/or above plus content that is determined by the local school district. The assessment of achieved competence in this subject area is to be determined by the local district although state law requires districts to have "assessments or other strategies" in health and fitness at the high school level by 2008-09. The state superintendent's office has developed classroom-based assessment models for districts to use (RCW 28A.230.095).

(i) The fitness portion of the requirement shall be met by course work in fitness education. The content of fitness courses shall be determined locally under WAC 180-51-025. Suggested fitness course outlines shall be developed by the office of the superintendent of public instruction. Students may be excused from the physical portion of the fitness requirement under RCW 28A.230.050. Such excused students shall be required to substitute equivalency credits in accordance with policies of boards of directors of districts, including demonstration of the knowledge portion of the fitness requirement.

(ii) "Directed athletics" shall be interpreted to include community-based organized athletics.

(f) One **arts** credit that at minimum is aligned with current essential academic learning requirements at grade ten

and/or above plus content that is determined by the local school district. The assessment of achieved competence in this subject area is to be determined by the local district although state law requires districts to have "assessments or other strategies" in arts at the high school level by 2008-09. The state superintendent's office has developed classroom-based assessment models for districts to use (RCW 28A.-230.095). The essential content in this subject area may be satisfied in the visual or performing arts.

(g) One credit in **occupational education**. "Occupational education" means credits resulting from a series of learning experiences designed to assist the student to acquire and demonstrate competency of skills under student learning goal four and which skills are required for success in current and emerging occupations. At a minimum, these competencies shall align with the definition of an exploratory course as proposed or adopted in the career and technical education program standards of the office of the superintendent of public instruction. The assessment of achieved competence in this subject area is determined at the local district level.

(h) Five and one-half electives: Study in a world language other than English or study in a world culture may satisfy any or all of the required electives. The assessment of achieved competence in these subject areas is determined at the local district level.

(i) Each student shall complete a culminating project for graduation. The project shall consist of the student demonstrating both their learning competencies and preparations related to learning goals three and four. Each district shall define the process to implement this graduation requirement, including assessment criteria, in written district policy.

(j) Each student shall have a high school and beyond plan for their high school experience, including what they expect to do the year following graduation.

(k) Each student shall attain a certificate of academic achievement or certificate of individual achievement. The tenth grade Washington assessment of student learning and Washington alternate assessment system shall determine attainment.

(2) State board of education approved private schools under RCW 28A.305.130(5) may, but are not required to, align their curriculums with the state learning goals under RCW 28A.150.210 or the essential academic learning requirements under RCW 28A.655.070.

#### WSR 08-13-045

#### PROPOSED RULES

#### DEPARTMENT OF

#### SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed June 12, 2008, 10:30 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-09-040.

Title of Rule and Other Identifying Information: The department is amending WAC 388-478-0020 Payment standards for temporary assistance for needy families (TANF),

state family assistance (SFA), general assistance - pregnancy (GA-S), general assistance - children with a legal guardian (GA-H) and refugee cash assistance (RCA) and 388-478-0035 Maximum earned income limits for TANF and SFA.

Hearing Location(s): Blake Office Park East, Rose Room, 4500 10th Avenue S.E., Lacey, WA 98503 (one block north of the intersection of Pacific Avenue S.E. and Alhadeff Lane. A map or directions are available at <http://www1.dshs.wa.gov/msa/rpau/docket.html> or by calling (360) 664-6094), on July 22, 2008, at 10:00 a.m.

Date of Intended Adoption: Not earlier than July 23, 2008.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, delivery 4500 10th Avenue S.E., Lacey, WA 98503, e-mail [RPAUDSHSRulesCoordinator@dshs.wa.gov](mailto:RPAUDSHSRulesCoordinator@dshs.wa.gov), fax (360) 664-6185, by 5 p.m. on July 22, 2008.

Assistance for Persons with Disabilities: Contact Jenisha Johnson, DSHS rules consultant, by July 15, 2008, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at [johnsj14@dshs.wa.gov](mailto:johnsj14@dshs.wa.gov).

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: These proposed rule changes are needed to revise the payment standards and the earned income limits for TANF, SFA and RCA.

Reasons Supporting Proposal: These WACs are being amended to increase payment standards to reflect the 3% increased [increase] authorized by section 207 (1)(e), chapter 329, Laws of 2008 (ESHB 2687).

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090 and section 207 (1)(e), chapter 329, Laws of 2008.

Statute Being Implemented: RCW 74.04.050, 74.04.-055, 74.04.057, 74.08.090 and section 207 (1)(e), chapter 329, Laws of 2008.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of social and health services, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Ian Horlor, P.O. Box 45470, Olympia, WA 98504-5470, (360) 725-4634.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These proposed rules do not have an economic impact on small businesses. The proposed amendments only affect DSHS clients by defining what the payment standards are for TANF, SFA and RCA clients.

A cost-benefit analysis is not required under RCW 34.05.328. These amendments are exempt as allowed under RCW 34.05.328 (5)(b)(vii) which states in-part, "[t]his section does not apply to...rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents." These rules affect financial eligibility and payment amounts.

June 4, 2008

Stephanie E. Schiller  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

**WAC 388-478-0020 Payment standards for TANF, SFA, (~~GA-S, GA-H~~) and RCA.** (1) The payment standards for temporary assistance for needy families (TANF), state family assistance (SFA), (~~general assistance for pregnant women (GA-S), general assistance for children (GA-H)~~) and refugee cash assistance (RCA) assistance units with obligations to pay shelter costs are:

| Assistance Unit Size | Payment Standard                   | Assistance Unit Size | Payment Standard                     |
|----------------------|------------------------------------|----------------------|--------------------------------------|
| 1                    | \$( <del>349</del> )<br><u>359</u> | 6                    | \$( <del>841</del> )<br><u>866</u>   |
| 2                    | ( <del>440</del> )<br><u>453</u>   | 7                    | ( <del>971</del> )<br><u>1,000</u>   |
| 3                    | ( <del>546</del> )<br><u>562</u>   | 8                    | ( <del>1,075</del> )<br><u>1,107</u> |
| 4                    | ( <del>642</del> )<br><u>661</u>   | 9                    | ( <del>1,180</del> )<br><u>1,215</u> |
| 5                    | ( <del>740</del> )<br><u>762</u>   | 10 or more           | ( <del>1,283</del> )<br><u>1,321</u> |

(2) The payment standards for TANF, SFA, (~~GA-S, GA-H~~) and RCA assistance units with shelter provided at no cost are:

| Assistance Unit Size | Payment Standard                   | Assistance Unit Size | Payment Standard                   |
|----------------------|------------------------------------|----------------------|------------------------------------|
| 1                    | \$( <del>212</del> )<br><u>218</u> | 6                    | \$( <del>511</del> )<br><u>526</u> |
| 2                    | ( <del>268</del> )<br><u>276</u>   | 7                    | ( <del>591</del> )<br><u>608</u>   |
| 3                    | ( <del>332</del> )<br><u>341</u>   | 8                    | ( <del>654</del> )<br><u>673</u>   |
| 4                    | ( <del>391</del> )<br><u>402</u>   | 9                    | ( <del>718</del> )<br><u>739</u>   |
| 5                    | ( <del>451</del> )<br><u>464</u>   | 10 or more           | ( <del>780</del> )<br><u>803</u>   |

AMENDATORY SECTION (Amending WSR 98-16-044, filed 7/31/98, effective 9/1/98)

**WAC 388-478-0035 Maximum earned income limits for TANF, (~~and~~) SFA and RCA.** To be eligible for temporary assistance for needy families (TANF), (~~or~~) state family assistance (SFA), or refugee cash assistance (RCA), a family's gross earned income must be below the following levels:

| Number of Family Members | Maximum Earned Income Level        | Number of Family Members | Maximum Earned Income Level            |
|--------------------------|------------------------------------|--------------------------|--|
| 1                        | \$( <del>698</del> )<br><u>718</u> | 6                        | \$( <del>1,682</del> )<br><u>1,732</u> |
| 2                        | ( <del>880</del> )<br><u>906</u>   | 7                        | ( <del>1,942</del> )<br><u>2,000</u>   |

|   |                           |            |                           |
|---|---------------------------|------------|---------------------------|
| 3 | ((1,092))<br><u>1,124</u> | 8          | ((2,150))<br><u>2,214</u> |
| 4 | ((1,284))<br><u>1,322</u> | 9          | ((2,360))<br><u>2,430</u> |
| 5 | ((1,480))<br><u>1,524</u> | 10 or more | ((2,566))<br><u>2,642</u> |

**WSR 08-13-046**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**

(Economic Services Administration)

[Filed June 12, 2008, 10:31 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-09-108.

Title of Rule and Other Identifying Information: The department is proposing to amend WAC 388-448-0180 How do we redetermine your eligibility when we decide you are eligible for general assistance expedited medicaid (GAX)?

Hearing Location(s): Blake Office Park East, Rose Room, 4500 10th Avenue S.E., Lacey, WA 98503 (one block north of the intersection of Pacific Avenue S.E. and Alhadeff Lane. A map or directions are available at <http://www1.dshs.wa.gov/msa/rpau/docket.html> or by calling (360) 664-6094), on July 22, 2008, at 10:00 a.m.

Date of Intended Adoption: Not earlier than July 23, 2008.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, delivery 4500 10th Avenue S.E., Lacey, WA 98503, e-mail [RPAUDSHSRulesCoordinator@dshs.wa.gov](mailto:RPAUDSHSRulesCoordinator@dshs.wa.gov), fax (360) 664-6185, by 5 p.m. on July 22, 2008.

Assistance for Persons with Disabilities: Contact Jenisha Johnson, DSHS rules consultant, by July 15, 2008, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at [johnsj14@dshs.wa.gov](mailto:johnsj14@dshs.wa.gov).

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed amendment will allow the department to extend medicaid benefits to GAX recipients in the SSI post-appeal process.

Reasons Supporting Proposal: The proposed amendments are necessary to consistently apply the definition of disabled as referenced in the medicaid state plan.

Statutory Authority for Adoption: RCW 74.08.090, 74.04.005, 42 C.F.R. §435.120, and 20 C.F.R. §416.1455.

Statute Being Implemented: RCW 74.08.090, 74.04.-005, 42 C.F.R. §435.120, and 20 C.F.R. §416.1455.

Rule is necessary because of federal law, 7 C.F.R. 273.

Name of Proponent: Department of social and health services, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Melissa Mathson, 712 Pear Street S.E., Olympia, WA 98503, (360) 725-4563.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These proposed rules do

not have an economic impact on small businesses. The proposed amendments only affect DSHS clients by allowing medicaid benefits to continue for GAX recipients who are in the SSI post-appeal process.

A cost-benefit analysis is not required under RCW 34.05.328. These amendments are exempt as allowed under RCW 34.05.328 (5)(b)(vii) which states in-part, "[t]his section does not apply to...rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents."

June 11, 2008

Stephanie E. Schiller  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 04-07-140, filed 3/22/04, effective 5/1/04)

**WAC 388-448-0180 How do we redetermine your eligibility when we decide you are eligible for general assistance expedited medicaid (GAX)?** (1) The maximum period of eligibility for GAX is twelve months before we must review additional medical evidence. If you remain on GAX at the end of the twelve-month period, we determine your eligibility using current medical evidence.

(2) If your application for SSI is denied, and the denial is upheld by an SSI/SSA administrative hearing (~~(before the end of the twelve-month incapacity period)~~), we change your program eligibility from GAX to ((GA and adjust the incapacity review date to be sixty days after the administrative hearing date)) GAU if you do not provide proof you have filed an appeal with the SSI/SSA appeals council with sixty days of your hearing decision.

(3) We change your program eligibility from GAX to GAU after the final SSI/SSA determination or if you fail to follow through with any part of the SSI/SSA appeals process.

**WSR 08-13-047**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**

(Economic Services Administration)

[Filed June 12, 2008, 10:32 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-09-106.

Title of Rule and Other Identifying Information: The department is amending WAC 388-478-0055 How much do I get from my state supplemental payments (SSP)?

Hearing Location(s): Blake Office Park East, Rose Room, 4500 10th Avenue S.E., Lacey, WA 98503 (one block north of the intersection of Pacific Avenue S.E. and Alhadeff Lane. A map or directions are available at <http://www1.dshs.wa.gov/msa/rpau/docket.html> or by calling (360) 664-6094), on July 22, 2008, at 10:00 a.m.

Date of Intended Adoption: Not earlier than July 23, 2008.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, delivery 4500 10th Avenue S.E., Lacey, WA 98503, e-mail RPAUDSHSRulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on July 22, 2008.

Assistance for Persons with Disabilities: Contact Jenisha Johnson, DSHS rules consultant, by July 15, 2008, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at johnsjl4@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is proposing to amend WAC 388-478-0055 to update the state supplemental payments (SSP) standard for residents of a medical institution. The current monthly rate is \$25.45. The department is proposing to increase the current rate to \$27.28 effective for the July 2008 monthly issuance.

Reasons Supporting Proposal: This change is in response to the state budget, ESHB 2687 that went into effect April 1, 2008. This amendment does not change eligibility requirements.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090.

Statute Being Implemented: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of social and health services, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Olga Walker, 712 Pear Street S.E., Olympia, 98501, (360) 725-4641.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These proposed changes do not have an economic impact on small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. These amendments are exempt as allowed under RCW 34.05.328:

Subsection (5)(b)(ii), rules relating only to internal governmental operations that are not subject to violation by a nongovernmental party;

Subsection (5)(b)(vii), "[t]his section does not apply to rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents."

June, 2008  
Stephanie E. Schiller  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 07-22-022, filed 10/26/07, effective 11/26/07)

**WAC 388-478-0055 How much do I get from my state supplemental payments (SSP)?** (1) The SSP is a payment from the state for certain SSI eligible people (see WAC 388-474-0012).

If you converted to the federal SSI program from state assistance in January 1974, because you were aged, blind, or disabled, and have remained continuously eligible for SSI since January 1974, the department calls you a grandfathered

client. Social Security calls you a mandatory income level (MIL) client.

A change in living situation, cost-of-living adjustment (COLA) or federal payment level (FPL) can affect a grandfathered (MIL) client. A grandfathered (MIL) client gets a federal SSI payment and a SSP payment, which totals the higher of one of the following:

(a) The state assistance standard set in December 1973, unless you lived in a medical institution at the time of conversion, plus the federal cost-of-living adjustments (COLA) since then; or

(b) The current payment standard.

(2) The monthly SSP rates for eligible persons under WAC 388-474-0012 and individuals residing in an institution are:

| SSP eligible persons                    | Monthly SSP Rate  |
|---|---|
| Individual (aged 65 and older)          | \$46.00   |
| Individual (blind as determined by SSA) | \$46.00   |
| Individual with an ineligible spouse    | \$46.00   |
| Grandfathered (MIL)                     | Varies by individual based on federal requirements. Payments range between \$0.54 and \$199.77. |

| Medical institution | Monthly SSP Rate                         |
|---------------------|--|
| Individual          | \$(( <del>25.45</del> ))<br><u>27.28</u> |

**WSR 08-13-076**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Aging and Disability Services Administration)  
[Filed June 16, 2008, 12:42 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 07-22-085.

Title of Rule and Other Identifying Information: The department is adding new sections to chapter 388-106 WAC, Long-term care services, to implement the roads to community living (RCL) project. RCL is Washington state's money follows the person demonstration project. It is designed to test services and supports which help consumers move from institutional settings into the community if they wish to.

The department may amend other rules as part of this rule-making process as necessary.

Hearing Location(s): Blake Office Park East, Rose Room, 4500 10th Avenue S.E., Lacey, WA 98503 (one block north of the intersection of Pacific Avenue S.E. and Alhadeff Lane. A map or directions are available at <http://www1.dshs>.

wa.gov/msa/rpau/docket.html or by calling (360) 664-6094, on July 22, 2008, at 10:00 a.m.

Date of Intended Adoption: Not earlier than July 23, 2008.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504-5850, delivery 4500 10th Avenue S.E., Lacey, WA 98503, e-mail DSHSR-PAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on July 22, 2008.

Assistance for Persons with Disabilities: Contact Jenisha Johnson, DSHS rules consultant, by July 15, 2008, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at johnsj14@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is drafting new WAC 388-106-0250, 388-106-0255, 388-106-0260, and 388-106-0265 under a new section entitled "roads to community living." These rules describe the project, eligibility, and time limited nature of demonstration project services under the money follows the person grant.

RCL is a demonstration project, funded by a five-year "money follows the person" grant authorized under Section 6071 of the Deficit Reduction Act of 2005 (P.L. 109-171).

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.520.

Statute Being Implemented: RCW 74.08.090, 74.09.-520.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of social and health services, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Elizabeth Prince, P.O. Box 45600, Olympia, WA 98504-5600, (360) 725-2561.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has analyzed these rules and determined that no new costs will be imposed on small businesses or nonprofit organizations.

A cost-benefit analysis is not required under RCW 34.05.328. Rules are exempt per RCW 34.05.328 (5)(b)(vii), relating only to client medical or financial eligibility.

June 16, 2008

Stephanie E. Schiller  
Rules Coordinator

#### NEW SECTION

##### **WAC 388-106-0250 What is the roads to community living (RCL) demonstration project and who is eligible?**

(1) Roads to community living (RCL) is a demonstration project, funded by a five-year "money follows the person" grant authorized under section 6071 of the deficit reduction act of 2005 (P.L. 109-171). It is designed to test services and supports which help customers move from institutional settings into the community if they wish to.

(2) To be eligible, the department must assess your needs in CARE and you must:

(a) Have a continuous six months or longer stay in a qualified institutional setting (hospital, nursing home, residential habilitation center);

(b) Be Medicaid eligible for at least thirty days prior to discharge from the institutional setting;

(c) Intend to move to a qualified community setting (home, apartment, licensed residential setting with four or less unrelated individuals); and

(d) Not be able to move into a qualified community setting using available long-term care resources.

(3) When you are discharged to a qualified community setting, you are eligible for continuous Medicaid coverage until your RCL services end.

#### NEW SECTION

**WAC 388-106-0255 How long are RCL services available to me?** Roads to community living (RCL) can be authorized for no longer than three hundred sixty-five days in a qualified community setting. Day one of the demonstration year is the day you move from the institutional setting into the qualified community setting. Day three hundred sixty-five is the last day you can receive demonstration services.

#### NEW SECTION

**WAC 388-106-0260 How do I pay for RCL services?** Depending on your income and resources, you may be required to pay participation toward the cost of your care, as outlined in chapters 388-515 or 388-106 WAC.

#### NEW SECTION

**WAC 388-106-0265 Do I have the right to a fair hearing while receiving RCL services?** Yes, you may request a fair hearing based on the rules outlined in WAC 388-106-1305 to contest eligibility decisions made by the department. Once your three hundred sixty-five days of roads to community living (RCL) eligibility end, per WAC 388-106-0255, you may not request a fair hearing to contest the conclusion of RCL services or to request an extension.

**WSR 08-13-077**

**PROPOSED RULES**

**DEPARTMENT OF**

**SOCIAL AND HEALTH SERVICES**

(Aging and Disability Services Administration)

[Filed June 16, 2008, 12:45 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-09-107.

Title of Rule and Other Identifying Information: The department is amending WAC 388-825-100 How will I be notified of decisions made by DDD?, 388-825-101 Why does DDD need to send my notices and correspondence to someone else?, and 388-825-102 What if I do not want my DDD notices and correspondence sent to anyone else?

Hearing Location(s): Blake Office Park East, Rose Room, 4500 10th Avenue S.E., Lacey, WA 98503 (one block north of the intersection of Pacific Avenue S.E. and Alhadeff Lane, behind Goodyear Courtesy Tire.) A map or directions are available at <http://www1.dshs.wa.gov/msa/rpau/docket.html> or by calling (360) 664-6094, on July 22, 2008, at 10:00 a.m.

Date of Intended Adoption: Not earlier than July 23, 2008.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, delivery 4500 10th Avenue S.E., Lacey, WA 98503, e-mail RPAUDSHSRulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on July 22, 2008.

Assistance for Persons with Disabilities: Contact Jenisha Johnson, DSHS rules consultant, by July 15, 2008, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at johnsj14@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is amending these rules to clarify who will be notified of decisions made by the division of developmental disabilities and to specify that both notices and correspondence will be sent to the appropriate parties.

Reasons Supporting Proposal: These amendments are necessary to clarify that the division will send both notices and written correspondence to the appropriate parties and define more clearly, who these affected parties may be.

Statutory Authority for Adoption: RCW 71.10.060, 71A.12.030.

Statute Being Implemented: Title 71A RCW.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of social and health services, governmental.

Name of Agency Personnel Responsible for Drafting: Steve Brink, 640 Woodland Square Loop S.E., Lacey, WA 98503-1045, P.O. Box 45310, Olympia, WA 98507-5310, e-mail brinksc@dshs.wa.gov, (360) 725-3416, fax (360) 404-0955; Implementation and Enforcement: Shannon Manion, 640 Woodland Square Loop S.E., Lacey, WA 98503-1045, P.O. Box 45310, Olympia, WA 98507-5310, e-mail maniosk@dshs.wa.gov, (360) 725-3454, fax (360) 404-0955.

No small business economic impact statement has been prepared under chapter 19.85 RCW. DDD has examined the rules and has determined that these amendments do not affect small businesses or small nonprofits.

A cost-benefit analysis is not required under RCW 34.05.328. These amendments are not considered significant rules as defined in RCW 34.05.328 (5)(c)(iii).

June 12, 2008

Stephanie E. Schiller  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 04-15-093, filed 7/16/04, effective 8/16/04)

**WAC 388-825-100 How will I be notified of (~~depart-~~ment) decisions made by DDD?** (1) Whenever possible,

DDD will notify all parties affected by the decision by phone or in person.

(2) If you are under the age of eighteen, written notifications will be mailed to:

(a) You; and (~~(at least one other person in the following priority:~~

~~(a))~~ (b) Your parent (~~(if you are under the age of eighteen)~~); or

~~((b))~~ (c) Your guardian or other legal representative(~~(;~~

~~(e) Other relatives;~~

~~(d) An advocacy agency such as Washington Protection and Advocacy System;~~

~~(e) A person who is not an employee of the department or to a person who contracts with the department).~~

(3) If you are (~~(an adult and do not have a legal guardian, the department will ask you to identify someone else)~~) age eighteen or older, written notifications will be mailed to you and:

(a) Your guardian or other legal representative; or

(b) A person identified by you to receive these notices in addition to yourself if you do not have a guardian or legal representative. The person identified by you cannot be an employee of DDD, a contractor with DDD or an employee of a contractor with DDD.

AMENDATORY SECTION (Amending WSR 04-15-093, filed 7/16/04, effective 8/16/04)

**WAC 388-825-101 Why does (~~the department~~) DDD need to send my notices and correspondence to someone else?** (~~The department~~) DDD sends your notices and correspondence to someone else(~~(, if needed,))~~ to (~~have others~~) assist you to understand the information and your appeal rights to department decisions.

AMENDATORY SECTION (Amending WSR 04-15-093, filed 7/16/04, effective 8/16/04)

**WAC 388-825-102 What if I do not want my DDD notices and correspondence sent to anyone else?** (1) If you are (~~(an adult)~~) age eighteen or older and do not have a legal guardian, you may request in writing that your DDD notices and correspondence be given only to you.

(2) (~~The department~~) DDD will review your request and comply with your request unless it determines there to be a risk of your losing rights.

(3) You (~~(will be given)~~) have the right to appeal (~~(rights to)~~) a denial of this request.

**WSR 08-13-078**

**PROPOSED RULES**

**DEPARTMENT OF**

**LABOR AND INDUSTRIES**

[Filed June 17, 2008, 7:54 a.m.]

Supplemental Notice to WSR 08-03-117.

Preproposal statement of inquiry was filed as WSR 07-11-146.

Title of Rule and Other Identifying Information: Chapter 296-200A WAC, Contractor certification of registration.

Hearing Location(s): Department of Labor and Industries, Tukwila Service Location, 12806 Gateway Drive, Tukwila, WA, on July 22, 2008, at 9:00 a.m.

Date of Intended Adoption: August 1, 2008.

Submit Written Comments to: Sally Elliott, Department of Labor and Industries, P.O. Box 44400, Olympia, WA 98504-4400, e-mail [yous235@lni.wa.gov](mailto:yous235@lni.wa.gov), fax (360) 902-5292, by July 22, 2008.

Assistance for Persons with Disabilities: Contact Sally Elliott by July 1, 2008, (360) 902-6411 or [yous235@lni.wa.gov](mailto:yous235@lni.wa.gov).

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is holding one additional public hearing to allow interested parties to comment on the small business economic impact study and cost-benefit analysis.

Reasons Supporting Proposal: See Purpose above.

Statutory Authority for Adoption: Chapter 18.27 RCW and chapter 436, Laws of 2007 (SHB 1843).

Statute Being Implemented: Chapter 18.27 RCW and chapter 436, Laws of 2007 (SHB 1843).

No small business economic impact statement has been prepared under chapter 19.85 RCW. We did not prepare a small business economic impact statement for this rule making because the rule will not impose costs on any business. Per subsection (1)(a) of RCW 19.85.030, an agency must "prepare a small businesses economic impact statement... if the proposed rule will impose more than minor costs on businesses in an industry."

Chapter 436, Laws of 2007 (SHB 1843), passed during the 2007 session of the Washington state legislature and made several changes to chapter 18.27 RCW. Some of these changes are listed below:

- Added/included the term "develop" to the definition of a contractor.
- Altered the definition of a general contractor to include a person whose business operations require the use of more than one building trade or craft upon a single job or project or under a single building permit.

The effective date of these changes was July 22, 2007. Previous to this date the law defined a general contractor as a contractor whose business operations required the use of more than two unrelated building trades or crafts.

The proposed new section WAC 296-200A-015 provides definitions, including a definition of a developer. This definition serves only to clarify the application of the statutory inclusion of developers as contractors pursuant to the statute. Additionally, it serves to limit the application of the term to include only residential development. As such, these rules impose no additional costs on any business.

The proposed new section WAC 296-200A-016 provides definitions for "specialty contractor" for the purpose of contractor registration. The department uses these definitions to classify businesses into the "building trades or crafts" governed by the statute described above. The definitions also outline the scope of work each specialty may perform. The department is publishing the proposed definitions only to

help contractors identify their proper classification and scope of work, but will not alter agency interpretation of the classifications. They will not alter the type of business a firm does or how they do that business, nor will they alter the agency's compliance activities. As such, they impose no additional costs on any business.

The remaining proposed sections simply clarify the rule without altering its intent, and provide mechanisms for citations, suspensions, and appeals, etc. As such, acting in compliance with the law imposes no new costs on any business.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Sally Elliott, P.O. Box 44400, Olympia, WA 98504-4400, phone (360) 902-6411, fax (360) 902-5292, e-mail [yous235@lni.wa.gov](mailto:yous235@lni.wa.gov).

June 17, 2008

Judy Schurke

Director

**WSR 08-13-079**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**

[Filed June 17, 2008, 7:58 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-09-118.

Title of Rule and Other Identifying Information: Prevailing wage fee changes, chapter 296-127 WAC.

Hearing Location(s): Department of Labor and Industries, 7273 Linderson Way S.W., Room S117, Tumwater, WA, on July 25, 2008, at 9:00 a.m.

Date of Intended Adoption: August 19, 2008.

Submit Written Comments to: Sally Elliott, P.O. Box 44400, Olympia, WA 98504-4400, e-mail [yous235@lni.wa.gov](mailto:yous235@lni.wa.gov), fax (360) 902-5292, by July 25, 2008.

Assistance for Persons with Disabilities: Contact Sally Elliott by July 7, 2008, at [yous235@lni.wa.gov](mailto:yous235@lni.wa.gov).

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this rule making is to update the filing fees for intents and affidavits. The legislature increased the filing fees from \$25 to \$40 during the 2008 legislative session. The rule making will remove the \$25 filing fee from the rule.

The filing fees for prevailing wage intents and affidavits will be removed from the rule. The rules will have a reference to RCW 39.12.070, which clearly states the current fee set by the legislature. This will prevent the program from having to conduct rule making every time a fee change occurs.

Reasons Supporting Proposal: See Purpose above.

Statutory Authority for Adoption: Chapter 39.12 RCW, RCW 43.22.270, and chapter 285, Laws of 2008 (EHB 3381).

Statute Being Implemented: Chapter 39.12 RCW, RCW 43.22.270, and chapter 285, Laws of 2008 (EHB 3381).



Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of labor and industries, governmental.

Name of Agency Personnel Responsible for Drafting: David Soma, Tumwater, Washington, (360) 902-5330; Implementation and Enforcement: Patrick Woods, Tumwater, Washington, (360) 902-6348.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has considered whether these proposed rules are subject to the Regulatory Fairness Act and has determined they do not require a small business economic impact statement because the proposed rules are in response [to] the passage of EHB 3381 (see RCW 19.85.025 referencing exemptions listed under RCW 34.05.310 (4)(c)).

A cost-benefit analysis is not required under RCW 34.05.328. The department has considered whether these proposed rules are subject to the cost-benefit analysis and has determined they do not require a cost-benefit analysis because the proposed rules are in response to the passage of EHB 3381 (see RCW 34.05.328 (5)(b)(iii)).

June 17, 2008

Judy Schurke

Director

AMENDATORY SECTION (Amending WSR 94-01-100, filed 12/16/93, effective 1/16/94)

**WAC 296-127-040 Statement of intent to pay prevailing wages.** (1) All statements of intent to pay prevailing wages submitted to the industrial statistician of the department shall be accompanied by ((a)) the fee ((of twenty-five dollars)) set in RCW 39.12.070 for each statement. Fees shall be made payable to the department of labor and industries.

(2) Any agency, division, or department of the state of Washington which through agreement with the department certifies statements of intent for its own contracts shall provide to the industrial statistician each month the number of statements of intent certified and quarterly shall send ((a)) the fee ((of twenty dollars)) set in RCW 39.12.070 for each statement of intent to pay prevailing wages it has certified. This fee shall be sent to the industrial statistician and be made payable to the department of labor and industries.

AMENDATORY SECTION (Amending WSR 94-01-100, filed 12/16/93, effective 1/16/94)

**WAC 296-127-045 Affidavit of wages paid.** (1) All affidavits of wages paid submitted to the industrial statistician of the department shall be accompanied by ((a)) the fee ((of twenty-five dollars)) set in RCW 39.12.070 for each affidavit of wages paid. All fees shall be made payable to the department of labor and industries.

(2) Any agency, division, or department of the state of Washington which through agreement with the department certifies affidavits of wages paid for its own contracts shall provide to the industrial statistician each month the number of affidavit of wages paid it has certified and quarterly shall send ((a)) the fee ((of twenty dollars)) set in RCW 39.12.070

for each affidavit of wages paid it has certified. This fee shall be sent to the industrial statistician and be made payable to the department of labor and industries.

### WSR 08-13-080

#### WITHDRAWAL OF PROPOSED RULES

#### GAMBLING COMMISSION

(By the Code Reviser's Office)

[Filed June 17, 2008, 8:13 a.m.]

WAC 230-14-047, proposed by the gambling commission in WSR 07-24-017 appearing in issue 07-24 of the State Register, which was distributed on December 19, 2007, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor  
Washington State Register

### WSR 08-13-087

#### PROPOSED RULES

#### FOREST PRACTICES BOARD

[Filed June 17, 2008, 1:16 p.m.]

Supplemental Notice to WSR 08-03-009.

Exempt from preproposal statement of inquiry under WSR 05-2-097 [05-20-097].

Title of Rule and Other Identifying Information: Achieving desired future conditions in riparian management zones. This rule proposal amends WAC 222-30-021(1) to change timber harvest and leave tree requirements in riparian management zones adjacent to Type S and F Waters as defined in WAC 222-16-030. It pertains to forest lands in western Washington.

Hearing Location(s): Borst Park, Kitchen 1, 902 Johnson Road, Centralia, on Tuesday, September 9, 2008, at 6:00 p.m.; at the Colville Public Library, 195 South Oak, Colville, on Wednesday, September 10, 2008, at 6:00 p.m.; at the Mount Vernon Fire Department Station 2, 1901 North LaVenture Road, Mt. Vernon, on Tuesday, September 16, 2008, at 6:00 p.m.; and at the Port Townsend Fire Station, 1256 Lawrence Street, Port Townsend, on Thursday, September 18, 2008, at 6:00 p.m.

Date of Intended Adoption: November 12, 2008.

Submit Written Comments to: Patricia Anderson, DNR Forest Practices Division, P.O. Box 47012, Olympia, WA 98504-7012, e-mail forest.practicesboard@dnr.wa.gov, fax (360) 902-1428, by September 19, 2008.

Assistance for Persons with Disabilities: Contact forest practices division at (360) 902-1400, by August 29, 2008, TTY (360) 902-1125.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: WAC 222-30-021 provides prescriptions and options to harvesting trees in forested "riparian management zones" as defined in WAC 222-16-010. Pursuant to RCW 76.09.370, the forest practices board incorporates a scientific-based adaptive management

process to determine the effectiveness of forest practices rules in aiding Washington's salmon recovery effort. Under this adaptive management process, a scientific study was completed by the forest practices board's cooperative monitoring, evaluation, and research committee. The study, entitled *Validation of the Western Washington Riparian Desired Future Condition (DFC) Performance Targets in the Washington State Forest Practices Rules with Data From Mature, Unmanaged, Conifer-Dominated Riparian Stands*, found that basal area per acre of mature, unmanaged conifer-dominated riparian stands are greater than the values used in the current rule.

In response to the DFC study findings, the board is considering three alternative rule amendments to WAC 222-30-021(1). The intended effects of all of the alternatives are to increase the basal area retained in riparian management zones, thereby decreasing allowable harvest.

- The first alternative would increase the target basal area per acre to three three hundred twenty-five square feet for all site classes that a riparian forest stand is projected to reach at one hundred forty years from the year of harvest in the riparian management zone.
- The second alternative would increase the target basal area per acre the same as the first alternative, and would also:
  - allow landowners to credit the required inner zone leave trees towards meeting the riparian zone basal area target; and
  - expand the table, "Option 2. Leaving trees closest to water," to include site classes IV and V on streams greater than ten feet in width.
- The third would increase the target basal area per acre the same as the first alternative, and will allow landowners to credit the required inner zone leave trees towards meeting the riparian zone basal area target.

**Reasons Supporting Proposal:** The proposed rule changes are based on recommendations resulting from the scientifically based adaptive management process outlined in WAC 222-12-045. Through this process, the board has determined that the forest practices rules should be adjusted to ensure that appropriate riparian buffers are maintained on forest land covered by the Forest Practices Act.

**Statutory Authority for Adoption:** RCW 76.09.040 and 76.09.370(6).

Rule is not necessitated by federal law, federal or state court decision.

**Name of Proponent:** Forest practices board, governmental.

**Name of Agency Personnel Responsible for Drafting:** Marc Engel, 1111 Washington Street S.E., Olympia, (360) 902-1390; **Implementation:** Gary Graves, 1111 Washington Street S.E., Olympia, (360) 902-1483; and **Enforcement:** Lenny Young, 1111 Washington Street S.E., Olympia, (360) 902-1744.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

Small Business Economic Impact Statement

See Reviser's note below.

A copy of the statement may be obtained by contacting Gretchen Robinson, P.O. Box 47012, Olympia, WA 98504-7012, phone (360) 902-1705, fax (360) 902-1428, e-mail gretchen.robinson@dnr.wa.gov.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Gretchen Robinson, P.O. Box 47012, Olympia, WA 98504-7012, phone (360) 902-1705, fax (360) 902-1428, e-mail gretchen.robinson@dnr.wa.gov. Note: The small business economic impact statement and the preliminary cost-benefit analysis are combined in the document, *Preliminary Economic Analysis, Forest Practices Rule Making, Affecting Timber Harvest in Riparian Zones in Western Washington*.

June 17, 2008

Victoria Christiansen  
Chair

**Reviser's note:** The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 08-14 issue of the Register.

**WSR 08-13-088**  
**PROPOSED RULES**  
**OLYMPIC REGION**  
**CLEAN AIR AGENCY**  
[Filed June 17, 2008, 2:52 p.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

**Title of Rule and Other Identifying Information:** Olympic Region Clean Air Agency Regulations, Rule 6.3 Asbestos and Rule 3.5 Asbestos Fees. The asbestos rule covers notification, procedures for emission control, and disposal for asbestos abatement and demolition projects. The permit fees for asbestos abatement and demolition are being increased.

**Hearing Location(s):** Olympic Region Clean Air Agency, 2940 B Limited Lane N.W., Olympia, WA 98502, on August 13, 2008, at 10:00 a.m.

**Date of Intended Adoption:** August 13, 2008.

**Submit Written Comments to:** Robert Moody, 2940 B Limited Lane N.W., Olympia, WA 98502, e-mail robert@orca.org, fax (360) 586-1044, by August 8, 2008.

**Assistance for Persons with Disabilities:** Contact Dan Nelson by August 4, 2008, (360) 586-1044.

**Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules:** The asbestos rules and associated fees have not changed since 1993. As a result cost recovery does not cover program expenditures. Significant changes to the rule include the elimination of the ten-day waiting period for owner-occupied residential asbestos abatement/demolition, dismissal of permit requirements for asbestos projects that are less than ten linear feet or eleven square feet, and requiring AHERA protocols for demolition surveys. Other changes include additional definitions and updated description of practices and procedures related to abatement and demolition. These changes will improve customer relations by allowing smaller jobs to be accomplished without a ten-day waiting period and will entirely eliminate the need

for permits for the smallest jobs. Fees are increasing in most project categories.

Reasons Supporting Proposal: Fee revenue has not covered the program expenses.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Statute Being Implemented: Chapter 70.94 RCW.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Olympic Region Clean Air Agency, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Robert Moody, 2940 B Limited Lane N.W., (360) 586-1044.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This agency is not subject to the Regulatory Fairness Act (chapter 19.85 RCW) because air pollution control authorities are not deemed state agencies (RCW 70.94.141).

A cost-benefit analysis is not required under RCW 34.05.328. Air pollution control authorities are not deemed to be state agencies (RCW 70.94.141).

June 17, 2008

Richard A. Stedman  
Executive Director

**Reviser's note:** The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 08-14 issue of the Register.

### WSR 08-13-091

#### WITHDRAWAL OF PROPOSED RULES DEPARTMENT OF HEALTH

[Filed June 18, 2008, 8:37 a.m.]

The department of health is withdrawing the CR-102 for WAC 246-976-990 that was filed October 23, 2007, and published in WSR 07-21-132. The original proposal was to revise a rule to increase site assessment fees for hospitals applying for Level III trauma service designation status. Since the filing of WSR 07-21-132, Initiative 960 was passed that disallows state agencies from increasing fees through the administrative code process. For this reason, the CR-102 for WAC 246-976-990 is no longer needed.

Individuals requiring information on this rule should contact Kathy Schmitt, manager, trauma designation, registry and quality assurance at (360) 236-2869.

Mary C. Selecky  
Secretary

### WSR 08-13-093

#### PROPOSED RULES DEPARTMENT OF HEALTH

(Board of Osteopathic Medicine and Surgery)

[Filed June 18, 2008, 8:40 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 07-16-064.

Title of Rule and Other Identifying Information: WAC 246-853-630 Use of laser, light, radiofrequency, and plasma devices as applied to the skin (osteopathic physicians) and 246-854-220 Use of laser, light, radiofrequency, and plasma devices as applied to the skin (osteopathic physician assistants).

Hearing Location(s): Oxford Suites, 1701 East Yakima Avenue, Yakima, WA 98901, on July 25, 2008, at 9:30 a.m.

Date of Intended Adoption: July 25, 2008.

Submit Written Comments to: Arlene Robertson, Program Manager, P.O. Box 47866, Olympia, WA 98504-7866, web site <http://www3.doh.wa.gov/policyreview/>, fax (360) 236-4945, by July 14, 2008.

Assistance for Persons with Disabilities: Contact Arlene Robertson by July 14, 2008, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rules will clarify that the use of laser, light, radiofrequency, and plasma (LLRP) devices classified as prescriptive medical devices by the Food and Drug Administration (FDA) are the practice of osteopathic medicine. The proposed rules will define delegation and supervision for the use of LLRP devices by osteopathic physicians and osteopathic physician assistants.

Reasons Supporting Proposal: The use of an LLRP device penetrates and alters human tissue and can result in complications such as visual impairment, blindness, inflammation, burns, scarring, hypopigmentation, and hyperpigmentation. The board of osteopathic medicine and surgery is concerned that individuals who have little or no formal medical training may be using the devices inappropriately and without adequate medical oversight and supervision.

Statutory Authority for Adoption: RCW 18.57.005, 18.57A.020, and 18.130.050.

Statute Being Implemented: Chapters 18.57 and 18.57A RCW.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of health, board of osteopathic medicine and surgery, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Arlene Robertson, 310 Israel Road S.E., Tumwater, WA 98501, (360) 236-4945.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

#### Small Business Economic Impact Statement

**1. Briefly Describe the Proposed Rule:** The board of osteopathic medicine and surgery (board) became aware that individuals in the state of Washington were receiving improper skin treatment or hair removal using LLRP devices after the department of health (DOH) received several complaints. The care was being given by unlicensed or unsupervised personnel. Some offices and clinics had a physician on site, some had a physician off-site, and others had no physician involvement at all. The board found that lasers were being used by physician assistants, registered nurses, cosmetologists, estheticians, and even unlicensed persons. The board is concerned that unlicensed or inadequately trained persons are using prescriptive devices on patients.

The board believes when used appropriately, these devices are generally safe and relatively easy to operate. But the potential for patient injury from untrained personnel, or inappropriate and negligent operation is significant. All but nineteen states have rules that regulate the use of LLRP devices. The board wishes to clarify this area of osteopathic medicine and set standards for the use of such devices by osteopathic physicians and osteopathic physician assistants in our state.

The proposed rules:

- Define LLRP devices as medical devices that: (a) Use a laser, noncoherent light, intense pulsed light, radiofrequency, or plasma to topically penetrate skin and alter human tissue; and (b) are classified by the federal FDA as prescription devices;
- Provide that an osteopathic physician or osteopathic physician assistant must use an LLRP device in accordance with standard medical practice;
- State that the use of an LLRP device is the practice of osteopathic medicine;
- Require an osteopathic physician or osteopathic physician assistant to be appropriately trained in the physics, safety, and techniques to use LLRP devices prior to using the device and to remain competent during use of the device;
- Require an osteopathic physician or osteopathic physician assistant to, prior to authorizing treatment with such a device, take the patient's medical history, perform an appropriate physical examination, make an appropriate diagnosis, recommend appropriate treatment, obtain the patient's informed consent (including informing the patient that a nonphysician may operate the device), provide instructions for emergency and follow-up care, and prepare an appropriate medical record;
- Permit an osteopathic physician or osteopathic physician assistant to delegate use of the device to a properly trained and licensed allied health care professional under certain circumstances, but require the osteopathic physician or osteopathic physician assistant to develop a specific protocol for the licensed allied health care professional to follow;
- Prohibit an osteopathic physician from delegating an LLRP for use on the globe of the eye;
- Require the delegating osteopathic physician to be on the immediate premises during the initial treatment to treat complications, provide consultation, and resolve problems, if indicated;
- Permit the delegating osteopathic physician to be temporarily absent during treatment of patients with established treatment plans provided a local back-up physician agrees in writing to treat complications, is reachable by phone, and can see the patient within sixty minutes;
- Require the delegating osteopathic physician assistant to be on the premises during all treatment with an LLRP device;
- Provide that regardless of who operates the device, the osteopathic physician is ultimately responsible for the safety of the patient;

- Require the osteopathic physician to establish a quality assurance program;
- Provide that the use of devices to penetrate and alter human tissue for a purpose other than to topically penetrate the skin constitutes surgery and is outside the scope of these rules; and
- Provide that these rules only apply to osteopathic physicians and osteopathic physician assistants.

**2. Is a Small Business Economic Impact Statement (SBEIS) Required for this Rule?** DOH has reviewed this proposal and has determined that an SBEIS is required because the rule does impose more than minor costs on an affected business.

**3. Which Industries Are Affected by this Rule?** The proposed rules will affect osteopathic medical offices and clinics in the state of Washington providing treatment with LLRP devices as applied to the skin.

**4. What Are the Costs of Complying with this Rule for Small Businesses (Those with Fifty or Fewer Employees) and for the Largest 10% of Businesses Affected?** The board does not know how many unlicensed individuals use LLRP devices. The International Medical Spa Association estimates there were 2500 medspas in 2008 up from 400 in 2004. Although the FDA requires prescription authority to purchase medical laser devices, unlicensed individuals can obtain the devices through second-hand markets. The FDA focuses on the manufacturers and not the regulation or enforcement of the end user. State medical boards must adopt rules to regulate the use of LLRP devices.

The board assumes that the proposed rules only impact small businesses.

There are potential costs to implement these rules. Osteopathic practitioners who have an LLRP device in their office or clinic may require training to use the device properly. Their staff may also require training on the devices. LLRP marketing companies often provide training at no cost. The osteopathic practitioner may also take a continuing medical education course which costs an average of \$225.00. The training required for these devices may be included in the licensee's continuing education requirements, resulting in no additional cost.

The proposed rules require the osteopathic physician or osteopathic physician assistant to complete the initial physical and history of the patient prior to initiating any treatment. This is the standard of care required for every patient. The proposed rules allow the osteopathic practitioner to delegate procedures to trained and licensed allied health care professionals. The cost impact to an osteopathic physician's office may potentially increase by adding an osteopathic physician assistant two days per week at \$354/week to supervise allied health care practitioners, to perform medical examinations, and create treatment plans.

In their absence, the osteopathic physician will have to contract with a back-up physician to supervise staff doing procedures that use an LLRP device. We assume that physicians going on extended leave will either close their office or set up reciprocal agreements to cover their patients and therefore we assume there to be no costs.

If an osteopathic physician assistant delegates the use of an LLRP device, the osteopathic physician assistant must be

on site for each treatment. Although the supervising osteopathic physician is required to be present at the site with the osteopathic physician assistant, direct supervision is not required. In the absence of the osteopathic physician assistant we assume that clinics will reschedule patient appointments so we assume there will be no costs.

Additional costs would be incurred for establishing a quality assurance program and protocols for allied health care professionals that would be using LLRP device. These are customarily used in most practices and would only need to be adapted to each individual practice. The delegating osteopathic physician would initially spend four hours establishing the quality assurance program and protocols, assuming an hourly rate of \$100, the cost would be \$400. An annual review would take approximately two hours and cost \$200.

In summary the board assumes the costs to comply with the proposed rule are: A one time start-up cost of \$400 to establish a quality assurance program; weekly expenses to delegate which range from \$0 to \$354; and an annual cost of \$200 to review the quality assurance program.

**5. Does the Rule Impose a Disproportionate Impact on Small Businesses?** There is no disproportionate impact on small businesses because the assumption is that there are no large businesses.

**6. If the Rule Imposes a Disproportionate Impact on Small Businesses, What Efforts Were Taken to Reduce That Impact (Or Why Is it Not "Legal and Feasible" to Do So) by:** It is not legal or feasible to mitigate the impact to small businesses because the standard of care must be followed by all osteopathic physicians and osteopathic physician assistants.

**7. How Are Small Businesses Involved in the Development of this Rule?** Small businesses have been involved through individuals on the DOH interested parties list and also through professional associations.

A copy of the statement may be obtained by contacting Arlene Robertson, P.O. Box 47866, Olympia, WA 98504-7866, phone (360) 236-4945, fax (360) 236-2406, e-mail arlene.robertson@doh.wa.gov.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Arlene Robertson, P.O. Box 47866, Olympia, WA 98504-7866, phone (360) 236-4945, fax (360) 236-2406, e-mail arlene.robertson@doh.wa.gov.

June 12, 2008  
Blake T. Maresh  
Executive Director

#### NEW SECTION

**WAC 246-853-630 Use of laser, light, radiofrequency, and plasma devices as applied to the skin.** (1) For the purposes of this section, laser, light, radiofrequency, and plasma (LLRP) devices are medical devices that:

(a) Use a laser, noncoherent light, intense pulsed light, radiofrequency, or plasma to topically penetrate skin and alter human tissue; and

(b) Are classified by the federal Food and Drug Administration as prescriptive devices.

(2) Because an LLRP device is used to treat disease, injuries, deformities, and other physical conditions in human beings, the use of an LLRP device is the practice of osteopathic medicine under RCW 18.57.001. The use of an LLRP device can result in complications such as visual impairment, blindness, inflammation, burns, scarring, hypopigmentation and hyperpigmentation.

(3) Use of medical devices using any form of energy to penetrate or alter human tissue for a purpose other than those in subsection (1) of this section constitutes surgery and is outside the scope of this section.

#### OSTEOPATHIC PHYSICIAN RESPONSIBILITIES

(4) An osteopathic physician must be appropriately trained in the physics, safety and techniques of using LLRP devices prior to using such a device, and must remain competent for as long as the device is used.

(5) An osteopathic physician must use an LLRP device in accordance with standard medical practice.

(6) Prior to authorizing treatment with an LLRP device, an osteopathic physician must take a history, perform an appropriate physical examination, make an appropriate diagnosis, recommend appropriate treatment, obtain the patient's informed consent (including informing the patient that an allied health care professional may operate the device), provide instructions for emergency and follow-up care, and prepare an appropriate medical record.

(7) Regardless of who performs LLRP device treatment, the osteopathic physician is ultimately responsible for the safety of the patient.

(8) Regardless of who performs LLRP device treatment, the osteopathic physician is responsible for assuring that each treatment is documented in the patient's medical record.

(9) The osteopathic physician must ensure that there is a quality assurance program for the facility at which LLRP device procedures are performed regarding the selection and treatment of patients. An appropriate quality assurance program shall include the following:

(a) A mechanism to identify complications and problematic effects of treatment and to determine their cause;

(b) A mechanism to review the adherence of supervised allied health care professionals to written protocols;

(c) A mechanism to monitor the quality of treatments;

(d) A mechanism by which the findings of the quality assurance program are reviewed and incorporated into future protocols required by subsection (10)(d) of this section and osteopathic physician supervising practices; and

(e) Ongoing training to maintain and improve the quality of treatment and performance of the treating allied health care professionals.

#### OSTEOPATHIC PHYSICIAN DELEGATION OF LLRP TREATMENT

(10) An osteopathic physician who meets the requirements in subsections (1) through (9) of this section may delegate an LLRP device procedure to a properly trained allied health care professional licensed under the authority of RCW 18.130.040, whose scope of practice allows the use of a prescriptive LLRP medical device, provided all the following conditions are met:

(a) The treatment in no way involves surgery as that term is understood in the practice of osteopathic medicine;

(b) Such delegated use falls within the supervised allied health care professional's lawful scope of practice;

(c) The LLRP device is not used on the globe of the eye;

(d) An osteopathic physician has a written office protocol for the supervised allied health care professional to follow in using the LLRP device. A written office protocol must include at a minimum the following:

(i) The identity of the individual osteopathic physician authorized to use the LLRP device and responsible for the delegation of the procedure;

(ii) A statement of the activities, decision criteria, and plan the supervised allied health care professional must follow when performing procedures delegated pursuant to this rule;

(iii) Selection criteria to screen patients for the appropriateness of treatments;

(iv) Identification of devices and settings to be used for patients who meet selection criteria;

(v) Methods by which the specified device is to be operated and maintained;

(vi) A description of appropriate care and follow-up for common complications, serious injury, or emergencies; and

(vii) A statement of the activities, decision criteria, and plan the supervised allied health care professional shall follow when performing delegated procedures, including the method for documenting decisions made and a plan for communication or feedback to the authorizing osteopathic physician concerning specific decisions made;

(e) The supervised allied health care professional has appropriate training including, but not limited to:

(i) Application techniques of each LLRP device;

(ii) Cutaneous medicine;

(iii) Indications and contraindications for such procedures;

(iv) Preprocedural and postprocedural care;

(v) Potential complications; and

(vi) Infectious disease control involved with each treatment;

(f) The delegating osteopathic physician ensures that the supervised allied health care professional uses the LLRP device only in accordance with the written office protocol, and does not exercise independent medical judgment when using the device;

(g) The delegating osteopathic physician shall be on the immediate premises during the patient's initial treatment and be able to treat complications, provide consultation, or resolve problems, if indicated. The supervised allied health care professional may complete the initial treatment if the physician is called away to attend to an emergency;

(h) Existing patients with an established treatment plan may continue to receive care during temporary absences of the delegating osteopathic physician provided there is a local back-up physician, licensed under chapter 18.57 or 18.71 RCW, who satisfies the requirements of subsection (4) of this section. The local back-up physician must agree in writing to treat complications, provide consultation or resolve problems if medically indicated. In case of an emergency the delegating osteopathic physician or a back-up physician shall be

reachable by phone and able to see the patient within sixty minutes.

(11) The use of, or the delegation of the use of, an LLRP device by an osteopathic physician assistant is covered by WAC 246-854-220.

(12) This section only applies to the use of LLRP devices by osteopathic physicians and osteopathic physician assistants.

#### NEW SECTION

**WAC 246-854-220 Use of laser, light, radiofrequency, and plasma devices as applied to the skin.** (1) For the purposes of this section, laser, light, radiofrequency, and plasma (LLRP) devices are medical devices that:

(a) Use a laser, noncoherent light, intense pulsed light, radiofrequency, or plasma to topically penetrate skin and alter human tissue; and

(b) Are classified by the federal Food and Drug Administration as prescriptive devices.

(2) Because an LLRP device is used to treat disease, injuries, deformities and other physical conditions of human beings, the use of an LLRP device is the practice of osteopathic medicine under RCW 18.57.001. The use of an LLRP device can result in complications such as visual impairment, blindness, inflammation, burns, scarring, hypopigmentation and hyperpigmentation.

(3) Use of medical devices using any form of energy to penetrate or alter human tissue for a purpose other than those in subsection (1) of this section constitutes surgery and is outside the scope of this section.

#### OSTEOPATHIC PHYSICIAN ASSISTANT RESPONSIBILITIES

(4) An osteopathic physician assistant may use an LLRP device with the consent of the sponsoring or supervising osteopathic physician who meets the requirements under WAC 246-853-630, is in compliance with the practice arrangement plan approved by the board, and in accordance with standard medical practice.

(5) An osteopathic physician assistant must be appropriately trained in the physics, safety and techniques of using LLRP devices prior to using such a device, and must remain competent for as long as the device is used.

(6) Prior to authorizing treatment with an LLRP device, an osteopathic physician assistant must take a history, perform an appropriate physical examination, make an appropriate diagnosis, recommend appropriate treatment, obtain the patient's informed consent (including informing the patient that an allied health care practitioner may operate the device), provide instructions for emergency and follow-up care, and prepare an appropriate medical record.

#### OSTEOPATHIC PHYSICIAN ASSISTANT DELEGATION OF LLRP TREATMENT

(7) An osteopathic physician assistant who meets the above requirements may delegate an LLRP device procedure to a properly trained allied health care professional licensed under the authorization of RCW 18.130.040, whose scope of practice allows the use of a prescriptive LLRP medical device provided all the following conditions are met:

(a) The treatment in no way involves surgery as that term is understood in the practice of medicine;

(b) Such delegated use falls within the supervised allied health care professional's lawful scope of practice;

(c) The LLRP device is not used on the globe of the eye; and

(d) The supervised allied health care professional has appropriate training including, but not limited to:

(i) Application techniques of each LLRP device;

(ii) Cutaneous medicine;

(iii) Indications and contraindications for such procedures;

(iv) Preprocedural and postprocedural care;

(v) Potential complications; and

(vi) Infectious disease control involved with each treatment;

(e) The delegating osteopathic physician assistant has written office protocol for the supervised allied health care professional to follow in using the LLRP device. A written office protocol must include at a minimum the following:

(i) The identity of the individual osteopathic physician assistant authorized to use the device and responsible for the delegation of the procedure;

(ii) A statement of the activities, decision criteria, and plan the supervised allied health care professional must follow when performing procedures delegated pursuant to this rule;

(iii) Selection criteria to screen patients for the appropriateness of treatments;

(iv) Identification of devices and settings to be used for patients who meet selection criteria;

(v) Methods by which the specified device is to be operated and maintained;

(vi) A description of appropriate care and follow-up for common complications, serious injury, or emergencies; and

(vii) A statement of the activities, decision criteria, and plan the supervised allied health care professional shall follow when performing delegated procedures, including the method for documenting decisions made and a plan for communication or feedback to the authorizing osteopathic physician assistant concerning specific decisions made. Documentation shall be recorded after each procedure on the patient's record or medical chart;

(f) The osteopathic physician assistant is responsible for ensuring that the supervised allied health care professional uses the LLRP device only in accordance with the written office protocol, and does not exercise independent medical judgment when using the device;

(g) The osteopathic physician assistant shall be on the immediate premises during any use of an LLRP device and be able to treat complications, provide consultation, or resolve problems, if indicated.