

**WSR 08-22-006**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 08-281—Filed October 24, 2008, 2:44 p.m., effective November 1, 2008]

Effective Date of Rule: November 1, 2008.

Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order:  
 Amending WAC 220-56-330.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: These rules reopen the fishery and adjust the open days per week. Available harvest shares allow the areas to be opened in this rule. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 24, 2008.

Phil Anderson  
 for Jeff Koenings  
 Director

NEW SECTION

**WAC 220-56-33000D Crab—Areas and seasons.**

Notwithstanding the provisions of WAC 220-56-330, it is unlawful to fish for or possess crab taken for personal use from Puget Sound except during the following seasons:

(1) Marine Area 4 east of the Bonilla-Tatoosh line and Marine Areas 5, 6, 9, 10, 12, and 13 - Open November 1, 2008 through 5:00 p.m. January 2, 2009, seven days a week.

(2) Marine Areas 7, 8-1, 8-2 and 11 - closed until further notice.

**WSR 08-22-010**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 08-282—Filed October 24, 2008, 4:16 p.m., effective October 28, 2008, 6:00 p.m.]

Effective Date of Rule: October 28, 2008, 6:00 p.m.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order:  
 Repealing WAC 220-52-04000B; and amending WAC 220-52-040.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The state may not authorize commercial shellfish harvests absent agreed planning or compliance with a process. The provisions of this rule are in conformity with agreed plans with applicable tribes, which have been entered as required by court order. Pot limits adjust harvest rates to comply with allocation objectives in agreed-to plans. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 24, 2008.

Phil Anderson  
 for Jeff Koenings  
 Director

NEW SECTION

**WAC 220-52-04000C Commercial crab fishery—Lawful and unlawful gear, methods, and other unlawful acts.** Notwithstanding the provisions of WAC 220-52-040:

Effective 6:00 p.m. October 28, 2008 until further notice, it is unlawful for any person to fish for crabs for commercial purposes with more than 50 pots per license per buoy tag number in Crab Management Region 1 (which includes Marine Fish Shellfish Catch Reporting Areas 20A, 20B, 21A, 21B, 22A and 22B), and 50 pots per license per buoy tag number in Crab Management Region 2 East (which includes

Marine Fish Shellfish Catch Reporting Areas 24A, 24B, 24C, 24D, and 26A-E)

The remaining buoy tags per license per region must be onboard the designated vessel and available for inspection in Crab Management Area 1 and Crab Management Area 2 East.

#### REPEALER

The following section of the Washington Administrative Code is repealed effective 6:00 p.m. October 28, 2008:

WAC 220-52-04000B Commercial crab fishery—  
Lawful and unlawful gear,  
methods, and other unlawful  
acts. (08-247)

**WSR 08-22-012  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 08-279—Filed October 24, 2008, 4:32 p.m., effective October 27, 2008]

Effective Date of Rule: October 27, 2008.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-07100U; and amending WAC 220-52-071.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Harvestable amounts of sea cucumbers are available in the sea cucumber districts listed. Prohibition of all diving within two days of scheduled sea cucumber openings discourages the practice of fishing on closed days and hiding the unlawful catch underwater until the legal opening. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 24, 2008.

Phil Anderson  
for Jeff Koenings  
Director

#### NEW SECTION

**WAC 220-52-07100V Sea cucumbers.** Notwithstanding the provisions of WAC 220-52-071, effective October 27, 2008 until further notice, it is unlawful to take or possess sea cucumbers taken for commercial purposes except as provided for in this section:

(1) Sea cucumber harvest using shellfish diver gear is allowed in Sea Cucumber Districts 1 and 5 on Monday through Friday of each week.

(2) Sea cucumber harvest using shellfish diver gear is allowed in Sea Cucumber District 3 on October 29 and 30, 2008 only.

(3) It is unlawful to dive for any purpose from a commercially licensed sea cucumber fishing vessel on Saturday and Sunday of each week, except by written permission from the Director.

#### REPEALER

The following section of the Washington Administrative Code is repealed effective October 27, 2008:

WAC 220-52-07100U Sea cucumbers. (08-263)

**WSR 08-22-013  
EMERGENCY RULES  
DEPARTMENT OF**

**SOCIAL AND HEALTH SERVICES**

(Aging and Disability Services Administration)

[Filed October 27, 2008, 6:29 a.m., effective October 27, 2008]

Effective Date of Rule: October 27, 2008.

Purpose: The department is amending the following rules to increase the personal needs allowance 3.3%, as directed by the Washington state 2007-09 operating budget (SHB 1128, chapter 522, Laws of 2007): WAC 388-515-1505 Financial eligibility requirements for long-term care services under COPES, New Freedom, PACE, MMIP, and WMIP and 388-106-0225 How do I pay for MPC?

Citation of Existing Rules Affected by this Order: Amending WAC 388-515-1505 and 388-106-0225.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.057, 74.08.090, 74.09.500, and 74.09.530.

Other Authority: Washington state 2007-09 operating budget (SHB 1128).

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: The Washington state 2007-09 operating budget (SHB 1128, chapter 522, Laws of 2007) increases the personal needs allowance (PNA) 3.3% effective July 1, 2008. A CR-101 was filed as WSR 08-09-012 on

April 4, 2008; and a CR-102 was filed as WSR 08-19-101 on September 17, 2008. An emergency rule is necessary while the department completes adoption of permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 2, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

Date Adopted: October 20, 2008.

Stephanie E. Schiller  
Rules and Policies Assistance Unit

**AMENDATORY SECTION** (Amending WSR 08-11-047, filed 5/15/08, effective 6/15/08)

**WAC 388-106-0225 How do I pay for MPC?** (1) If you live in your own home, you do not participate toward the cost of your personal care services.

(2) If you live in a residential facility and are:

(a) An SSI beneficiary who receives only SSI income, you only pay for board and room. You are allowed to keep a personal needs allowance of forty-one dollars and ~~((twelve))~~ forty-four cents per month;

(b) An SSI beneficiary who receives SSI and SSA benefits, you only pay for board and room. You are allowed to keep a personal needs allowance of forty-one dollars and ~~((twelve))~~ forty-four cents. You keep an additional twenty dollar disregard from non-SSI income;

(c) An SSI-related person under WAC 388-475-0050, you may be required to participate towards the cost of your personal care services in addition to your board and room if your financial eligibility is based on the facility's state contracted rate described in WAC 388-513-1305. You are allowed to keep a personal needs allowance of forty-one dollars and ~~((twelve))~~ forty-four cents. You keep an additional twenty dollar disregard from non-SSI income; or

(d) A GA-X client in a residential care facility, you are allowed to keep a personal allowance of only thirty-eight dollars and eighty-four cents per month. The remainder of your grant must be paid to the facility.

(3) The department pays the residential care facility from the first day of service through the:

(a) Last day of service when the Medicaid resident dies in the facility; or

(b) Day of service before the day the Medicaid resident is discharged.

**AMENDATORY SECTION** (Amending WSR 07-19-127, filed 9/19/07, effective 10/20/07)

**WAC 388-515-1505 Financial eligibility requirements for long-term care services under COPES, New Freedom, PACE, MMIP, and WMIP.** (1) This section describes the financial eligibility requirements and the rules used to determine a client's participation in the total cost of care for home or community-based long-term care (LTC) services provided under the following programs:

(a) Community options program entry system (COPES);  
(b) Program of all-inclusive care for the elderly (PACE);  
(c) Medicare/Medicaid integration project (MMIP);  
(d) Washington Medicaid integration partnership (WMIP);

(e) New Freedom consumer directed services (New Freedom); and

(f) Hospice services for clients not in a medical institution with gross income at or below the SIL and not eligible for another CN or MN Medicaid program.

(2) To be eligible, a client must:

(a) Meet the program and age requirements for the specific program, as follows:

(i) COPES, per WAC 388-106-0310;

(ii) PACE, per WAC 388-106-0705;

(iii) MMIP waiver services, per WAC 388-106-0725;

(iv) WMIP waiver services, per WAC 388-106-0750;

(v) New Freedom, per WAC 388-106-1410; or

(vi) Hospice, per chapter 388-551 WAC.

(b) Meet the aged, blind or disability criteria of the Supplemental Security Income (SSI) program as described in WAC 388-475-0050(1);

(c) Require the level of care provided in a nursing facility as described in WAC 388-106-0355;

(d) Be residing in a medical facility as defined in WAC 388-500-0005, or likely to be placed in one within the next thirty days in the absence of home or community-based LTC services provided under one of the programs listed in subsection (1) of this section;

(e) Have attained institutional status as described in WAC 388-513-1320;

(f) Be determined in need of home or community-based LTC services and be approved for a plan of care as described in subsection (2)(a);

(g) Be able to live at home with community support services and choose to remain at home, or live in a department-contracted:

(i) Enhanced adult residential care (EARC) facility;

(ii) Licensed adult family home (AFH); or

(iii) Assisted living (AL) facility.

(h) Not be subject to a penalty period of ineligibility for the transfer of an asset as described in WAC 388-513-1363, 388-513-1364, 388-513-1365 and 388-513-1366; and

(i) Meet the resource and income requirements described in subsections (3), (4), and (5) or be an SSI beneficiary not subject to a penalty period as described in subsection (2)(h).

(3) Refer to WAC 388-513-1315 for rules used to determine countable resources, income and eligibility standards.

(4) Excess resources are reduced in an amount equal to medical expenses incurred by the institutional client as described in WAC 388-513-1350 and:

(a) Must result in countable resources being at or below the resource standard in WAC 388-513-1350(1).

(b) If remaining resources are over the standard, the client is ineligible.

(5) Nonexcluded income must be at or below the SIL (300% of the federal benefit rate (FBR)) and is allocated in the following order:

(a) An earned income deduction of the first sixty-five dollars plus one-half of the remaining earned income;

(b) Maintenance and personal needs allowances as described in subsection (7), (8), (9), (10), and (11) of this section;

(c) Guardianship fees and administrative costs including any attorney fees paid by the guardian only as allowed by chapter 388-79 WAC;

(d) Income garnished for child support or withheld according to a child support order in the month of the garnishment (for current and back support):

(i) For the time period covered by the PNA; and

(ii) Is not counted as the child's income when determining the family allocation amount.

(e) Monthly maintenance needs allowance for the community spouse not to exceed that in WAC 388-513-1380 (5)(b) unless a greater amount is allocated as described in subsection (6) of this section. This amount:

(i) Is allowed only to the extent that the client's income is made available to the community spouse; and

(ii) Consists of a combined total of both:

(A) One hundred fifty percent of the two person federal poverty level. This standard increases annually on July 1st (<http://aspe.os.dhhs.gov/poverty/>); and

(B) Excess shelter expenses. For the purposes of this section, excess shelter expenses are the actual required maintenance expenses for the community spouse's principal residence. These expenses are:

(I) Rent;

(II) Mortgage;

(III) Taxes and insurance;

(IV) Any maintenance care for a condominium or cooperative; and

(V) The food assistance standard utility allowance (for LTC services this is set at the standard utility allowance (SUA) for a four-person household), provided the utilities are not included in the maintenance charges for a condominium or cooperative;

(VI) LESS the standard shelter allocation. This standard is based on thirty percent of one hundred fifty percent of the two person federal poverty level. This standard increases annually on July 1st (<http://aspe.os.dhhs.gov/poverty/>); and

(VII) Is reduced by the community spouse's gross countable income.

(f) A monthly maintenance needs amount for each minor or dependent child, dependent parent or dependent sibling of the community or institutionalized spouse based on the living arrangement of the dependent. If the dependent:

(i) Resides with the community spouse, the amount is equal to one-third of the community spouse income allocation as described in WAC 388-513-1380 (5)(b)(i)(A) that exceeds the dependent family member's income;

(ii) Does not reside with the community spouse, the amount is equal to the MNIL for the number of dependent family members in the home less the income of the dependent family members.

(iii) Child support received from a noncustodial parent is the child's income;

(g) Medical expenses incurred by the client and not used to reduce excess resources. Allowable medical expenses and reducing excess resources are described in WAC 388-513-1350.

(6) The amount allocated to the community spouse may be greater than the amount in subsection (5)(e) only when:

(a) A court enters an order against the client for the support of the community spouse; or

(b) A hearings officer determines a greater amount is needed because of exceptional circumstances resulting in extreme financial duress.

(7) A client who receives SSI, and lives at home as defined in WAC 388-106-0010 does not use income to participate in the cost of personal care.

(8) A client who receives SSI and lives in an enhanced adult residential center (EARC), adult family home (AFH) or assisted living (AL) does not use income to participate in the cost of personal care and:

(a) Retains a personal needs allowance (PNA) of sixty-two dollars and (~~seventy-eight~~) seventy-nine cents; and

(b) Uses income to pay the facility for the cost of room and board.

(c) Room and board is the SSI FBR minus sixty-two dollars and (~~seventy-eight~~) seventy-nine cents.

(9) A client who is eligible to receive CN-P Medicaid described in WAC 388-475-0100 (2)(a) and (b) and lives at home, defined in WAC 388-106-0010, does not use income to participate in the cost of personal care.

(10) A client who is eligible to receive CN-P Medicaid described in WAC 388-475-0100 (2)(a) and (b) and lives in an EARC, AFH or AL does not use income to participate in the cost of personal care and:

(a) Retains a personal needs allowance (PNA) of sixty-two dollars and (~~seventy-eight~~) seventy-nine cents; and

(b) Uses income to pay the facility for the cost of room and board.

(c) Room and board is the SSI FBR minus sixty-two dollars and (~~seventy-eight~~) seventy-nine cents.

(11) An institutionalized SSI-related client living:

(a) At home, retains a maintenance needs amount equal to the following:

(i) Up to one hundred percent of the one-person FPL, if the client is:

(A) Single; or

(B) Married, and is:

(I) Not living with the community spouse; or

(II) Whose spouse is receiving long-term care (LTC) services outside of the home.

(ii) Up to one hundred percent of the one-person FPL for each client, if both spouses are receiving COPES, New Freedom, PACE, MMIP, or WMIP services;

(iii) Up to the one-person medically needy income level (MNIL) for a married client who is living with a community

spouse who is not receiving COPEs, New Freedom, PACE, MMIP, or WMIP.

(b) In an EARC, AFH, or AL, retains a maintenance needs amount equal to the SSI FBR and:

(i) Retains a personal needs allowance (PNA) of sixty-two dollars and ~~((seventy-eight))~~ seventy-nine cents from the maintenance needs; and

(ii) Pays the remainder of the maintenance needs to the facility for the cost of room and board. (Refer to subsection (14) in this section for allocation of the balance of income remaining over maintenance needs.)

(12) A client who is eligible for the general assistance expedited Medicaid disability (GAX) program does not participate in the cost of personal care. When such a client lives:

(a) At home, the client retains the cash grant amount authorized under the general assistance program;

(b) In an AFH, the client retains a PNA of thirty-eight dollars and eighty-four cents, and pays remaining income and GAX grant to the facility for the cost of board and room; or

(c) In an EARC or AL, the client only receives a PNA of thirty-eight dollars and eighty-four cents and retains it.

(13) The total of the following amounts cannot exceed the SIL:

(a) Maintenance and personal needs allowances as described in subsections (7), (8), (9), (10), (11), and (12).

(b) Earned income deduction of the first sixty-five dollars plus one-half of the remaining earned income in subsection (5)(a); and

(c) Guardianship fees and administrative costs in subsection (5)(c).

(14) The client's remaining income after the allocations described in subsections (5) through (12) is the client's responsibility in the cost of care.

#### WSR 08-22-014

#### EMERGENCY RULES

#### DEPARTMENT OF

#### SOCIAL AND HEALTH SERVICES

(Health and Recovery Services Administration)

[Filed October 27, 2008, 6:32 a.m., effective October 28, 2008]

Effective Date of Rule: October 28, 2008.

Purpose: This emergency rule implements chapter 245, Laws of 2008, which states: The department shall provide coverage under chapter 74.09 RCW for smoking cessation counseling services, as well as prescription and nonprescription agents when used to promote smoking cessation, so long as such agents otherwise meet the definitions of "covered outpatient drug" in 42 U.S.C. Sec. 1396r-8(k). The department may initiate an individualized inquiry and determine and implement by rule appropriate coverage limitations as may be required to encourage the use of effective, evidence-based services and prescription and nonprescription agents. The department shall track per-capita expenditures for a cohort of clients that receive smoking cessation benefits, and submit a cost-benefit analysis to the legislature on or before January 1, 2012.

Citation of Existing Rules Affected by this Order:  
Amending WAC 388-530-2000 and 388-530-2100.

Statutory Authority for Adoption: Chapter 245, Laws of 2008.

Other Authority: RCW 74.08.090 and 74.09.500.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest; and that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: A public hearing was held on August 27, 2008, under WSR 08-15-007. Due to comments received, the health and recovery services administration (HRSA) is reviewing and modifying some of the sections, which has caused a delay in the permanent rule-making process. This emergency filing is necessary to continue the current emergency rule filed for WAC 388-530-2000 and 388-530-2100 under WSR 08-14-097 on June 30, 2008, which is set to expire on October 28, 2008. The emergency rule will continue to meet the requirements in chapter 245, Laws of 2008, while HRSA completes the permanent rule-making process.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 2, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

Date Adopted: September 25, 2008.

Stephanie E. Schiller  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 07-20-049, filed 9/26/07, effective 11/1/07)

**WAC 388-530-2000 Covered—Outpatient drugs, devices, and drug-related supplies.** (1) The department covers:

(a) Outpatient drugs, including over-the-counter drugs, as defined in WAC 388-530-1050, subject to the limitations and requirements in this chapter, when:

(i) The drug is approved by the Food and Drug Administration (FDA);

(ii) The drug is for a medically accepted indication as defined in WAC 388-530-1050;

(iii) The drug is not excluded from coverage under WAC 388-530-2100; and

(iv) The manufacturer has a signed drug rebate agreement with the federal Department of Health and Human Services (DHHS). Exceptions to the drug rebate requirement are described in WAC 388-530-7500 which describes the drug rebate program.

(b) Family planning drugs, devices, and drug-related supplies per chapter 388-532 WAC and as follows:

(i) Over-the-counter (OTC) family planning drugs, devices, and drug-related supplies without a prescription when the department determines it necessary for client access and safety.

(ii) Family planning drugs that do not meet the federal drug rebate requirement in WAC 388-530-7500 on a case-by-case basis; and

(iii) Contraceptive patches, contraceptive rings, and oral contraceptives, only when dispensed in at least a three-month supply, unless otherwise directed by the prescriber. There is no required minimum for how many cycles of emergency contraception may be dispensed.

(c) Prescription vitamins and mineral products, only as follows:

(i) When prescribed for clinically documented deficiencies;

(ii) Prenatal vitamins, when prescribed and dispensed to pregnant women; or

(iii) Fluoride varnish for children under the early and periodic screening, diagnosis, and treatment (EPSDT) program.

(d) Drug-related devices and drug-related supplies as an outpatient pharmacy benefit when:

(i) Prescribed by a provider with prescribing authority;

(ii) Essential for the administration of a covered drug;

(iii) Not excluded from coverage under WAC 388-530-2100; and

(iv) Determined by the department, that a product covered under chapter 388-543 WAC Durable medical equipment and supplies should be available at retail pharmacies.

(e) Preservatives, flavoring and/or coloring agents, only when used as a suspending agent in a compound.

(f) Over-the-counter (OTC) drugs, without a prescription, to promote smoking cessation only for clients who are eighteen years of age or older and participating in a department-approved smoking cessation program. Limitation extensions are prohibited for this service as described in WAC 388-501-0169.

(g) Prescription drugs to promote smoking cessation only for clients who are eighteen years of age or older and participating in a department-approved smoking cessation program. Limitation extensions are prohibited for this service as described in WAC 388-501-0169.

(2) Coverage determinations for the department are decided by:

(a) The department in consultation with federal guidelines; or

(b) The drug use review (DUR) board; and

(c) The department's medical consultants and the department's pharmacist(s).

(3) The department does not reimburse for any drug, device, or drug-related supply not meeting the coverage requirements under this section.

AMENDATORY SECTION (Amending WSR 07-20-049, filed 9/26/07, effective 11/1/07)

**WAC 388-530-2100 Noncovered—Outpatient drugs and pharmaceutical supplies.** (1) The department does not cover:

(a) A drug that is:

(i) Not approved by the Food and Drug Administration (FDA); or

(ii) Prescribed for a nonmedically accepted indication, including diagnosis, dose, or dosage schedule that is not evidenced-based.

(b) A drug prescribed:

(i) For weight loss or gain;

(ii) For infertility, frigidity, impotency;

(iii) For sexual or erectile dysfunction; or

(iv) For cosmetic purposes or hair growth(~~or~~

~~(v) To promote tobacco cessation, except as described in WAC 388-533-0400(20) tobacco cessation for pregnant women).~~

(c) Drugs used to treat sexual or erectile dysfunction, in accordance with section 1927 (d)(2)(K) of the Social Security Act, unless such drugs are used to treat a condition other than sexual or erectile dysfunction, and these uses have been approved by the Food and Drug Administration.

(d) Drugs listed in the federal register as "less-than-effective" ("DESI" drugs) or which are identical, similar, or related to such drugs.

(e) Outpatient drugs for which the manufacturer requires as a condition of sale that associated tests or monitoring services be purchased exclusively from the manufacturer or manufacturer's designee.

(f) A product:

(i) With an obsolete national drug code (NDC) for more than two years;

(ii) With a terminated NDC;

(iii) Whose shelf life has expired; or

(iv) Which does not have an eleven-digit NDC.

(g) Any drug regularly supplied by other public agencies as an integral part of program activity (e.g., immunization vaccines for children).

(h) Free pharmaceutical samples.

(i) Over-the-counter or prescription drugs to promote smoking cessation unless the client is eighteen years old or older and participating in a department-approved cessation program.

(2) A client can request an exception to rule (ETR) as described in WAC 388-501-0160.

**WSR 08-22-015**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**

(Aging and Disability Services Administration)

[Filed October 27, 2008, 6:34 a.m., effective October 28, 2008]

Effective Date of Rule: October 28, 2008.

Purpose: The purpose of this rule change is to implement the 17 level medicaid payment system for adult family homes (AFH) and licensed boarding homes with contracts to provide assisted living (AL), adult residential care (ARC), and enhanced adult residential care (EARC) services.

Citation of Existing Rules Affected by this Order: Amending WAC 388-105-0005.

Statutory Authority for Adoption: RCW 74.39.030 and 18.20.290.

Other Authority: Section 206 (16), chapter 329, Laws of 2008.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This emergency rule implements chapter 329, Laws of 2008. Section 929 states, "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately." This second emergency supersedes the first emergency filed as WSR 08-14-100. The department has circulated the rules through internal and external stakeholders,

incorporated comments, and plans to file the CR-102 in December 2008.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: October 20, 2008.

Stephanie E. Schiller  
 Rules Coordinator

AMENDATORY SECTION (Amending WSR 06-19-017, filed 9/8/06, effective 10/9/06)

**WAC 388-105-0005 The daily medicaid payment rates for clients assessed using the comprehensive assessment reporting evaluation (CARE) tool and that reside in adult family homes (AFH) and boarding homes contracted to provide assisted living (AL), adult residential care (ARC), and enhanced adult residential care (EARC) services.** For contracted AFH and boarding homes contracted to provide AL, ARC, and EARC services, the department pays the following daily rates for care of a Medicaid resident:

COMMUNITY RESIDENTIAL DAILY RATES FOR CLIENTS ASSESSED USING CARE					
KING COUNTY					
CARE CLASSIFICATION	AL Without Capital	AL With Capital	ARC	EARC	AFH
	Add-on	Add-on			
A Low <del>((1))</del>	<del>\$((65.30))</del> 69.22	<del>\$((70.41))</del> 74.64	<del>\$((46.18))</del> 48.95	<del>\$((46.18))</del> 48.95	<del>\$((46.82))</del> 48.32
A Med <del>((2))</del>	<del>\$((70.71))</del> 74.95	<del>\$((75.82))</del> 80.37	<del>\$((52.40))</del> 55.54	<del>\$((52.40))</del> 55.54	<del>\$((53.13))</del> 54.83
A High <del>((3))</del>	<del>\$((79.34))</del> 84.10	<del>\$((84.45))</del> 89.52	<del>\$((66.92))</del> 61.00	<del>\$((66.92))</del> 61.00	<del>\$((59.45))</del> 61.35
B Low <del>((4))</del>	<del>\$((65.30))</del> 69.22	<del>\$((70.41))</del> 74.64	<del>\$((46.18))</del> 48.95	<del>\$((46.18))</del> 48.95	<del>\$((46.82))</del> 48.56
B Med <del>((5))</del>	<del>\$((72.87))</del> 77.24	<del>\$((77.98))</del> 82.66	<del>\$((58.62))</del> 62.14	<del>\$((58.62))</del> 62.14	<del>\$((59.45))</del> 61.66
<u>B Med-High</u>	<u>\$87.48</u>	<u>\$92.90</u>	<u>\$66.07</u>	<u>\$66.07</u>	<u>\$66.06</u>
B High <del>((6))</del>	<del>\$((86.88))</del> 92.09	<del>\$((91.99))</del> 97.51	<del>\$((75.23))</del> 75.53	<del>\$((75.23))</del> 75.53	<del>\$((67.85))</del> 75.53
C Low <del>((7))</del>	<del>\$((70.71))</del> 74.95	<del>\$((75.82))</del> 80.37	<del>\$((52.40))</del> 55.54	<del>\$((52.40))</del> 55.54	<del>\$((53.13))</del> 54.83

			ARC	EARC	AFH
C Med ((8))	\$((79.34)) <u>84.10</u>	\$((84.45)) <u>89.52</u>	\$((66.92)) <u>69.72</u>	\$((66.92)) <u>69.72</u>	\$((67.85)) <u>70.02</u>
C ((High (9)) Med-High	\$((98.77)) <u>104.70</u>	\$((103.88)) <u>110.12</u>	\$((87.68)) <u>92.94</u>	\$((87.68)) <u>92.94</u>	\$((88.89)) <u>91.73</u>
C High	<u>\$105.74</u>	<u>\$111.16</u>	<u>\$93.82</u>	<u>\$93.82</u>	<u>\$93.01</u>
D Low ((10))	\$((72.87)) <u>77.24</u>	\$((77.98)) <u>82.66</u>	\$((58.62)) <u>75.07</u>	\$((58.62)) <u>75.07</u>	\$((67.85)) <u>71.38</u>
D Med ((11))	\$((79.34)) <u>85.82</u>	\$((84.45)) <u>91.24</u>	\$((66.92)) <u>86.98</u>	\$((66.92)) <u>86.98</u>	\$((76.28)) <u>87.36</u>
D Med-High	<u>\$110.98</u>	<u>\$116.40</u>	<u>\$110.61</u>	<u>\$110.61</u>	<u>\$105.12</u>
D High ((12))	\$((98.77)) <u>119.59</u>	\$((103.88)) <u>125.01</u>	\$((87.68)) <u>119.59</u>	\$((87.68)) <u>119.59</u>	\$((88.89)) <u>119.69</u>
E Med	<u>\$144.53</u>	<u>\$149.95</u>	<u>\$144.53</u>	<u>\$144.53</u>	<u>\$144.63</u>
E High	<u>\$169.47</u>	<u>\$174.89</u>	<u>\$169.47</u>	<u>\$169.47</u>	<u>\$169.57</u>

COMMUNITY RESIDENTIAL DAILY RATES FOR CLIENTS ASSESSED USING CARE  
METROPOLITAN COUNTIES\*

CARE CLASSIFICATION	AL Without Capital		AL With Capital		ARC	EARC	AFH
	Add-on	Add-on	Add-on	Add-on			
A Low ((1))	\$((59.90)) <u>63.49</u>	\$((64.54)) <u>68.41</u>	\$((46.18)) <u>48.95</u>	\$((46.18)) <u>48.95</u>	\$((46.18)) <u>48.95</u>	\$((46.18)) <u>48.95</u>	\$((46.82)) <u>48.32</u>
A Med ((2))	\$((63.15)) <u>66.94</u>	\$((67.79)) <u>71.86</u>	\$((50.32)) <u>53.34</u>	\$((50.32)) <u>53.34</u>	\$((50.32)) <u>53.34</u>	\$((50.32)) <u>53.34</u>	\$((51.03)) <u>52.66</u>
A High ((3))	\$((77.18)) <u>81.81</u>	\$((81.82)) <u>86.73</u>	\$((63.81)) <u>58.17</u>	\$((63.81)) <u>58.17</u>	\$((63.81)) <u>58.17</u>	\$((63.81)) <u>58.17</u>	\$((56.28)) <u>58.08</u>
B Low ((4))	\$((59.90)) <u>63.49</u>	\$((64.54)) <u>68.41</u>	\$((46.18)) <u>48.95</u>	\$((46.18)) <u>48.95</u>	\$((46.18)) <u>48.95</u>	\$((46.18)) <u>48.95</u>	\$((46.82)) <u>48.56</u>
B Med ((5))	\$((68.54)) <u>72.65</u>	\$((73.18)) <u>77.57</u>	\$((55.51)) <u>58.84</u>	\$((55.51)) <u>58.84</u>	\$((55.51)) <u>58.84</u>	\$((55.51)) <u>58.84</u>	\$((56.28)) <u>58.37</u>
B Med-High	<u>\$82.29</u>	<u>\$87.21</u>	<u>\$62.57</u>	<u>\$62.57</u>	<u>\$62.57</u>	<u>\$62.57</u>	<u>\$62.60</u>
B High ((6))	\$((84.73)) <u>89.81</u>	\$((89.37)) <u>94.73</u>	\$((71.08)) <u>73.40</u>	\$((71.08)) <u>73.40</u>	\$((71.08)) <u>73.40</u>	\$((71.08)) <u>73.40</u>	\$((64.70)) <u>73.40</u>
C Low ((7))	\$((63.15)) <u>66.94</u>	\$((67.79)) <u>71.86</u>	\$((50.32)) <u>53.56</u>	\$((50.32)) <u>53.56</u>	\$((50.32)) <u>53.56</u>	\$((50.32)) <u>53.56</u>	\$((51.03)) <u>53.05</u>
C Med ((8))	\$((77.18)) <u>81.81</u>	\$((81.82)) <u>86.73</u>	\$((63.81)) <u>68.82</u>	\$((63.81)) <u>68.82</u>	\$((63.81)) <u>68.82</u>	\$((63.81)) <u>68.82</u>	\$((64.70)) <u>68.31</u>
C ((High (9)) Med-High	\$((95.52)) <u>101.25</u>	\$((100.16)) <u>106.17</u>	\$((81.45)) <u>86.34</u>	\$((81.45)) <u>86.34</u>	\$((81.45)) <u>86.34</u>	\$((81.45)) <u>86.34</u>	\$((82.59)) <u>85.23</u>
C High	<u>\$102.26</u>	<u>\$107.18</u>	<u>\$91.84</u>	<u>\$91.84</u>	<u>\$91.84</u>	<u>\$91.84</u>	<u>\$90.43</u>
D Low ((10))	\$((68.54)) <u>72.65</u>	\$((73.18)) <u>77.57</u>	\$((55.51)) <u>74.04</u>	\$((55.51)) <u>74.04</u>	\$((55.51)) <u>74.04</u>	\$((55.51)) <u>74.04</u>	\$((64.70)) <u>69.80</u>
D Med ((11))	\$((77.18)) <u>83.48</u>	\$((81.82)) <u>88.40</u>	\$((63.81)) <u>85.24</u>	\$((63.81)) <u>85.24</u>	\$((63.81)) <u>85.24</u>	\$((63.81)) <u>85.24</u>	\$((72.06)) <u>85.01</u>



			ARC	EARC	AFH
<u>D Med-High</u>	<u>\$107.33</u>	<u>\$112.25</u>	<u>\$107.87</u>	<u>\$107.87</u>	<u>\$101.92</u>
D High ((12))	\$((95.52))	\$((100.16))	\$((81.45))	\$((81.45))	\$((82.59))
	<u>116.30</u>	<u>121.22</u>	<u>116.30</u>	<u>116.30</u>	<u>115.79</u>
<u>E Med</u>	<u>\$140.04</u>	<u>\$144.96</u>	<u>\$140.04</u>	<u>\$140.04</u>	<u>\$139.53</u>
<u>E High</u>	<u>\$163.78</u>	<u>\$168.70</u>	<u>\$163.78</u>	<u>\$163.78</u>	<u>\$163.27</u>

\*Benton, Clark, Franklin, Island, Kitsap, Pierce, Snohomish, Spokane, Thurston, Whatcom, and Yakima counties.

COMMUNITY RESIDENTIAL DAILY RATES FOR CLIENTS ASSESSED USING CARE NONMETROPOLITAN COUNTIES**					
CARE CLASSIFICATION	AL Without Capital		ARC	EARC	AFH
	Add-on	AL With Capital Add-on			
A Low ((1))	\$((58.83))	\$((63.77))	\$((46.18))	\$((46.18))	\$((46.82))
	<u>62.36</u>	<u>67.60</u>	<u>48.95</u>	<u>48.95</u>	<u>48.32</u>
A Med ((2))	\$((63.15))	\$((68.09))	\$((49.29))	\$((49.29))	\$((49.98))
	<u>66.94</u>	<u>72.18</u>	<u>52.25</u>	<u>52.25</u>	<u>51.58</u>
A High ((3))	\$((77.18))	\$((82.12))	\$((62.78))	\$((62.78))	\$((55.24))
	<u>81.81</u>	<u>87.05</u>	<u>57.23</u>	<u>57.23</u>	<u>57.01</u>
B Low ((4))	\$((58.83))	\$((63.77))	\$((46.18))	\$((46.18))	\$((46.82))
	<u>62.36</u>	<u>67.60</u>	<u>48.95</u>	<u>48.95</u>	<u>48.56</u>
B Med ((5))	\$((68.54))	\$((73.48))	\$((54.48))	\$((54.48))	\$((55.24))
	<u>72.65</u>	<u>77.89</u>	<u>57.75</u>	<u>57.75</u>	<u>57.29</u>
<u>B Med-High</u>	<u>\$82.29</u>	<u>\$87.53</u>	<u>\$61.40</u>	<u>\$61.40</u>	<u>\$61.38</u>
B High ((6))	\$((84.73))	\$((89.67))	\$((69.00))	\$((69.00))	\$((63.66))
	<u>89.81</u>	<u>95.05</u>	<u>69.42</u>	<u>69.42</u>	<u>69.42</u>
C Low ((7))	\$((63.15))	\$((68.09))	\$((49.29))	\$((49.29))	\$((49.98))
	<u>66.94</u>	<u>72.18</u>	<u>52.25</u>	<u>52.25</u>	<u>51.58</u>
C Med ((8))	\$((77.18))	\$((82.12))	\$((62.78))	\$((62.78))	\$((63.66))
	<u>81.81</u>	<u>87.05</u>	<u>65.05</u>	<u>65.05</u>	<u>65.70</u>
C ((High-9))	\$((95.52))	\$((100.46))	\$((78.34))	\$((78.34))	\$((79.44))
<u>Med-High</u>	<u>101.25</u>	<u>106.49</u>	<u>83.04</u>	<u>83.04</u>	<u>81.98</u>
<u>C High</u>	<u>\$102.26</u>	<u>\$107.50</u>	<u>\$86.81</u>	<u>\$86.81</u>	<u>\$85.52</u>
D Low ((10))	\$((68.54))	\$((73.48))	\$((54.48))	\$((54.48))	\$((63.66))
	<u>72.65</u>	<u>77.89</u>	<u>69.99</u>	<u>69.99</u>	<u>66.01</u>
D Med ((11))	\$((77.18))	\$((82.12))	\$((62.78))	\$((62.78))	\$((69.96))
	<u>83.48</u>	<u>88.72</u>	<u>80.57</u>	<u>80.57</u>	<u>80.39</u>
<u>D Med-High</u>	<u>\$107.33</u>	<u>\$112.57</u>	<u>\$101.96</u>	<u>\$101.96</u>	<u>\$96.37</u>
D High ((12))	\$((95.52))	\$((100.46))	\$((78.34))	\$((78.34))	\$((79.44))
	<u>109.93</u>	<u>115.17</u>	<u>109.93</u>	<u>109.93</u>	<u>109.48</u>
<u>E Med</u>	<u>\$132.36</u>	<u>\$137.60</u>	<u>\$132.36</u>	<u>\$132.36</u>	<u>\$131.92</u>
<u>E High</u>	<u>\$154.80</u>	<u>\$160.04</u>	<u>\$154.80</u>	<u>\$154.80</u>	<u>\$154.36</u>

\*\* Nonmetropolitan counties: Adams, Asotin, Chelan, Clallam, Columbia, Cowlitz, Douglas, Ferry, Garfield, Grant, Grays Harbor, Jefferson, Kittitas, Klickitat, Lewis, Lincoln, Mason, Okanogan, Pacific, Pend Orielle, San Juan, Skagit, Skamania, Stevens, Wahkiakum, Walla Walla and Whitman.

**WSR 08-22-016**  
**EMERGENCY RULES**  
**DEPARTMENT OF**

**SOCIAL AND HEALTH SERVICES**

(Aging and Disability Services Administration)

[Filed October 27, 2008, 6:35 a.m., effective October 28, 2008]

Effective Date of Rule: October 28, 2008.

Purpose: The department is creating new WAC 388-96-758 and 388-96-759 to increase compensation for low-wage workers in nursing homes beginning July 1, 2008, and to establish a system of reporting to ensure that the low-wage add-on increased the compensation/benefits for low-wage workers, increased staff, and/or paid for wage compression when low-wage workers' compensation was increased.

Statutory Authority for Adoption: Chapter 74.46 RCW.

Other Authority: Section 206(9), chapter 329, Laws of 2008.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest; and that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: New section 929, chapter 329, Laws of 2008, this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately. This second emergency supersedes the first emergency filed as WSR 08-14-106. The department has circulated the rules through internal and external stakeholders, incorporated comments, and plans to file the CR-102 in December 2008.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 2, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 2, Amended 0, Repealed 0.

Date Adopted: October 20, 2008.

Stephanie E. Schiller  
Rules Coordinator

NEW SECTION

**WAC 388-96-758 Add-on for low-wage workers.** (1)

Under section 206, chapter 329, Laws of 2008, effective July 1, 2008, the department will grant a low wage add-on pay-

ment not to exceed one dollar and fifty-seven cents per resident day to any nursing home provider that has indicated a desire to receive the add-on by May 30, 2008. A nursing home may use the add-on only for in-house staff and not for allocated, home office, or purchased service increases. A nursing home may use the add on to:

(a) Increase wages, benefits, and/or staffing levels for certified nurse aides;

(b) Increase wages and/or benefits but not staffing levels for dietary aides, housekeepers, laundry aides, or any other category of worker whose statewide average dollars-per-hour wage was less than fifteen dollars in calendar year 2006, according to cost report data. The department has determined that the additional categories of workers qualifying under this standard are:

(i) Activities directors and assistants;

(ii) Patient choices coordinators;

(iii) Central supply/ward clerks;

(iv) Expanded community service workers; and

(v) Social workers; and

(c) Address wage compression for related job classes immediately affected by wage increases to low-wage workers.

(2) A nursing home that received effective July 1, 2008 a low-wage add-on under chapter 329, Laws of 2008 shall report to the department its expenditure of that add-on by:

(a) Completing Cost Report Schedule L 1; and

(b) Returning it to the department by January 31, 2009.

(3) By examining Cost Report Schedule L 1, the department will determine whether the nursing home complied with the statutory requirements for distribution of the low wage add-on. When the department is unable to determine or unsure that the statutory requirements have been met, it will conduct an on site audit.

(4) When the department determines that the statutory requirements have been met, the low wage add-on will be reconciled at the same time as the regular settlement process but as a separate reconciliation. The reconciliation process will compare gross dollars received in the add-on to gross dollars spent.

(5) When the department determines that the low wage add-on has not been spent in compliance with the statutory requirements, then it will recoup the noncomplying amount as an overpayment.

(6) The department also will require the completing of Cost Report Schedule L 1 for any calendar year in which the low wage add-on is paid for six months or more. Subsections (1) through (5) of this section will apply to all completions of Cost Report Schedule L 1 irrespective of the calendar year in which it is paid.

(7) If the legislature extends the low-wage worker add-on in the state fiscal year 2010 budget, nursing home providers will have the opportunity again to elect whether they wish to receive the add-on in their July 1, 2009 rates.

NEW SECTION

**WAC 388-96-759 Standards for low-wage workers add-on.** (1) In accordance with WAC 388-96-758, the low-wage worker add-on must be used to provide increases in

wages or benefits, or to address resulting wage compression beginning on or after the date on which the add-on is first included in the rate. For the first year, that date is July 1, 2008. It may be used to increase staffing levels for certified nurse aides only. The add-on may not be used after July 1 to pay for increases beginning before that date.

(2) Any type of traditional employee benefit is allowable. Such benefits typically fall in one of two categories: retirement, and life or health insurance. However, nontraditional benefits are also allowable (for example, wellness benefits, subsidized meals, or assistance with daycare).

(3) The employer's share of payroll taxes associated with wages and benefits may be covered with the add-on.

(4) For purposes of wage compression, an "immediately affected" job class is one that is related to the low-wage worker category, either in the organizational structure (for example, it supervises the low-wage worker category) or by existing practice (for example, the facility has a benchmark of paying that job class a certain percentage more than the low-wage worker category). Facilities must be able to explain the basis of the relationship if requested. Because the statute refers to "resulting wage compression," a facility must use a portion of the add-on to increase wages or benefits before it may use any of the add-on to address any wage compression caused by such increase.

(5) A facility may use the add-on in relation to any of the job categories listed in WAC 388-96-758, regardless of whether the average wage it pays to its own employees is above fifteen dollars per hour, either before or after including the additional wages funded by the add-on.

(6) Wages or benefits, including employee bonuses, otherwise properly paid with the add on will not be considered as unallowable costs per RCW 74.46.410 (2)(x).

**WSR 08-22-019**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 08-280—Filed October 27, 2008, 3:48 p.m., effective November 1, 2008]

Effective Date of Rule: November 1, 2008.

Purpose: Amend sportfishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-61900M; and amending WAC 232-28-619.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: In response to a large return of late stock hatchery coho, the closed waters below the Cowlitz Salmon Hatchery barrier dam were recently reduced to increase potential harvest. To maintain an orderly fishery, the nonbuoyant lure restriction/night closure will be extended

one month. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 27, 2008.

J. P. Koenings  
Director

NEW SECTION

**WAC 232-28-61900M Exceptions to statewide rules—Cowlitz River.** Notwithstanding the provisions of WAC 232-28-619, effective November 1 through November 30, 2008 in those waters of the Cowlitz River from Mill Creek to 400 feet or posted markers below the barrier dam, non-buoyant lure restriction and night closure remain in effect.

REPEALER

The following section of the Washington Administrative Code is repealed effective December 1, 2008:

WAC 232-28-61900M Exceptions to statewide rules—Cowlitz River.

**WSR 08-22-034**

**EMERGENCY RULES**  
**SUPERINTENDENT OF**  
**PUBLIC INSTRUCTION**

[Filed October 30, 2008, 11:40 a.m., effective October 30, 2008, 11:40 a.m.]

Effective Date of Rule: Immediately.

Purpose: These rule revisions will allow medicaid revenue to be included in the 2009 levy lid and LEA calculations.

Citation of Existing Rules Affected by this Order: Amending WAC 392-139-310.

Statutory Authority for Adoption: RCW 28A.150.290.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Without the relief provided by this bill, school districts will have to roll back voter approved levies by \$993,567. School districts must certify levies to county commissioners on or before November 30th.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: October 30, 2008.

Dr. Terry Bergeson  
Superintendent of  
Public Instruction

AMENDATORY SECTION (Amending WSR 08-20-054, filed 9/24/08, effective 10/25/08)

**WAC 392-139-310 Determination of excess levy base.**

The superintendent of public instruction shall calculate each school district's excess levy base as provided in this section.

(1) Sum the following state and federal allocations from the prior school year(s) as determined in subsections (4) and (5) of this section:

(a) The basic education allocation as defined in WAC 392-139-115 and as reported on the August Report 1191;

(b) The state and federal categorical allocations for the following:

(i) Pupil transportation. Allocations for pupil transportation include allocations for the following accounts:

4199 Transportation - operations;  
4399 Transportation - operations;  
4499 Transportation - depreciation;  
6199 Transportation - operations;  
6299 Transportation - operations; and  
6399 Transportation - operations.

(ii) Special education. Allocations for special education include allocations for the following accounts:

4121 Special education;  
4321 Special education;  
6124 Special education supplemental;  
6224 Special education supplemental; and  
6324 Special education supplemental.

(iii) Education of highly capable students. Allocations for education of highly capable students include allocations identified by account 4174 Highly capable.

(iv) Compensatory education. Allocations for compensatory education include allocations identified by the following accounts:

3100 Barrier reduction;  
4155 Learning assistance;  
4165 Transitional bilingual;  
4163 Promoting academic success;  
4166 Student achievement;  
4365 Transitional bilingual;  
6151 Disadvantaged;  
6153 Migrant;  
6164 Limited English proficiency;  
6251 Disadvantaged;  
6253 Migrant;  
6264 Limited English proficiency;  
6267 Indian education - JOB;  
6268 Indian education - ED;  
6351 Disadvantaged;  
6353 Migrant;  
6364 Limited English proficiency;  
6367 Indian education - JOM; and  
6368 Indian education - ED.

(v) Food services. Allocations for food services include allocations identified by the following accounts:

4198 School food services (state);  
4398 School food services;  
6198 School food services (federal);  
6298 School food services;  
6398 School food services; and  
6998 USDA commodities.

(vi) Statewide block grant programs. Allocations for statewide block grant programs include allocations identified by the following accounts:

310004 Full-day kindergarten;  
4134 Middle school vocational;  
4175 Professional development;  
6176 Targeted assistance;  
6276 Targeted assistance; and  
6376 Targeted assistance.

(c) General federal programs. Allocations for general federal programs identified by the following accounts:

5200 General purpose direct federal grants - unassigned;  
6100 Special purpose - OSPI - unassigned;  
6121 Special education - Medicaid reimbursement;  
6138 Secondary vocational education;  
6146 Skills center;  
6152 School improvement;  
6154 Reading first;  
6162 Math and science - professional development;  
6200 Direct special purpose grants;  
6221 Special education - Medicaid reimbursement;  
6238 Secondary vocational education;  
6246 Skills center;  
6252 School improvement;  
6254 Reading first;  
6262 Math and science - professional development;  
6300 Federal grants through other agencies - unassigned;

6310 Medicaid administrative match;  
 6321 Special education - Medicaid reimbursement;  
 6338 Secondary vocational education;  
 6346 Skills center;  
 6352 School improvement;  
 6354 Reading first; and  
 6362 Math and science - professional development.

(2) Increase the result obtained in subsection (1) of this section by the percentage increase per full-time equivalent student in the state basic education appropriation between the prior school year and the current school year as stated in the state Operating Appropriations Act divided by 0.55.

(3) Revenue accounts referenced in this section are defined in the accounting manual for public school districts in the state of Washington.

(4) The dollar amount of revenues for state and federal categorical allocations identified in this section shall come from the following sources:

(a) The following state and federal categorical allocations are taken from the Report 1197 Column A (Annual Allotment Due):

3100 Barrier reduction;  
 310004 Full-day kindergarten;  
 4121 Special education;  
 4134 Middle school vocational;  
 4155 Learning assistance;  
 4163 Promoting academic success;  
 4165 Transitional bilingual;  
 4166 Student achievement;  
 4174 Highly capable;  
 4175 Professional development;  
 4198 School food services (state);  
 4199 Transportation - operations;  
 4499 Transportation - depreciation;  
 6121 Special education - Medicaid reimbursements;  
 6124 Special education - supplemental;  
 6138 Secondary vocational education;  
 6146 Skills center;  
 6151 Disadvantaged;  
 6152 School improvement;  
 6153 Migrant;  
 6154 Reading first;  
 6162 Math and science - professional development;  
 6164 Limited English proficiency;  
 6176 Targeted assistance;  
 6198 School food services (federal); and  
 6199 Transportation - operations.

(b) For the 2004 calendar year, the following state and federal allocations are taken from the F-195 budget including budget extensions.

For the 2005 calendar year and thereafter, the following federal allocations shall be taken from the school district's second prior year F-196 annual financial report:

4321 Special education;  
 4365 Transitional bilingual;  
 4398 School food services;  
 4399 Transportation - operations;  
 5200 General purpose direct federal grants - unassigned;  
 6100 Special purpose - OSPI - unassigned;

6200 Direct special purpose grants;  
 6221 Special education - Medicaid reimbursement;  
 6224 Special education supplemental;  
 6238 Secondary vocational education;  
 6246 Skills center;  
 6251 Disadvantaged;  
 6252 School improvement;  
 6253 Migrant;  
 6254 Reading first;  
 6262 Math and science - professional development;  
 6264 Limited English proficiency;  
 6267 Indian education - JOM;  
 6268 Indian education - ED;  
 6276 Targeted assistance;  
 6298 School food services;  
 6299 Transportation - operations;  
 6300 Federal grants through other agencies - unassigned;  
 6310 Medicaid administrative match;  
 6321 Special education - Medicaid reimbursement;  
 6324 Special education supplemental;  
 6338 Secondary vocational education;  
 6346 Skills center;  
 6351 Disadvantaged;  
 6352 School improvement;  
 6353 Migrant;  
 6354 Reading first;  
 6362 Math and science - professional development;  
 6364 Limited English proficiency;  
 6367 Indian education - JOM;  
 6368 Indian education - ED;  
 6376 Targeted assistance;  
 6398 School food services;  
 6399 Transportation - operations; and  
 6998 USDA commodities.

(c) For the 2009 calendar year only, 6121 Special education - Medicaid reimbursements shall be the prior year Medicaid payments as reported to the superintendent of public instruction from the department of social and health services.

(5) Effective for levy authority and local effort assistance calculations for the 2005 calendar year and thereafter:

(a) District revenues determined in subsection (4) of this section shall be reduced for revenues received as a fiscal agent. School districts shall report fiscal agent revenues pursuant to instructions provided by the superintendent of public instruction.

(b) The amount determined in subsection (4)(b) of this section, after adjustment for fiscal agent moneys, shall be inflated for one year using the percentage change in the implicit price deflator for personal consumption expenditures for the United States as published for the most recent twelve-month period by the Bureau of Economic Analysis of the Federal Department of Commerce.

(6) State and federal moneys generated by a school district's students and redirected by the superintendent of public instruction to an educational service district at the request of the school district shall be included in the district's levy base.

(7) State basic education moneys generated by a school district's students and allocated directly to a technical college shall be included in the district's levy base.

**WSR 08-22-040  
EMERGENCY RULES  
DEPARTMENT OF**

**SOCIAL AND HEALTH SERVICES**

(Aging and Disability Services Administration)

[Filed October 30, 2008, 4:46 p.m., effective November 3, 2008]

Effective Date of Rule: November 3, 2008.

Purpose: The department is amending chapter 388-828 WAC, the DDD assessment, to add the children's intensive in-home behavioral support program (CIIBS) eligibility algorithm.

Citation of Existing Rules Affected by this Order: Amending WAC 388-828-1620.

Statutory Authority for Adoption: RCW 71A.12.30 [71A.12.030].

Other Authority: Section 205 (1)(i), chapter 329, Laws of 2008, 2008 ESHB 2687.

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: The 2008 supplemental budget, ESHB 2687, section (1)(i) directs the department to develop and implement a federal HCBS waiver to provide intensive behavior support services for up to one hundred children with developmental disabilities and their families. DDD is incorporating rules for the CIIBS eligibility algorithm into chapter 388-828 WAC.

An initial public notice was filed September 29, 2008, as WSR 08-20-087. Stakeholder work is being completed and

the rules are expected to be formally proposed by January 2009.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 5, Amended 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 5, Amended 0, Repealed 1.

Date Adopted: October 27, 2008.

Stephanie E. Schiller  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 07-10-029, filed 4/23/07, effective 6/1/07)

**WAC 388-828-1620 How does DDD determine which panels are mandatory in your DDD assessment?** DDD determines which panels are mandatory in your DDD assessment by assigning you to a client group using the following table:

If you are approved by DDD to receive:	Your client group is:
(1) DDD ( <del>HCBS</del> ) <u>HCBS</u> waiver services per chapter 388-845 WAC; or (2) State-only residential services per chapter 388-825 WAC; or (3) ICF/MR services per 42 CFR 440 and 42 CFR 483.	Waiver and State-Only Residential
(4) Medicaid personal care (MPC) per chapter 388-106 WAC; or (5) DDD HCBS Basic, Basic Plus, <u>CIIBS</u> or Core waiver services per chapter 388-845 WAC and personal care services per chapter 388-106 WAC; or (6) Medically intensive health care program services per chapter 388-551 WAC; or (7) Adult day health services per chapter 388-106 WAC; or (8) Private duty nursing services per chapter 388-106 WAC; or (9) Community options program entry system (COPES) services per chapter 388-106 WAC; or (10) Medically needy residential waiver services per chapter 388-106 WAC; or (11) Medicaid nursing facility care services per chapter 388-106 WAC.	Other Medicaid Paid Services
(12) County employment services per chapter 388-850 WAC. (13) Other DDD paid services per chapter 388-825 WAC, such as: (a) Family support services; or (b) Professional services. (14) Nonwaiver voluntary placement program services per chapter 388-826 WAC; (15) SSP only per chapter 388-827 WAC;	State-Only Paid Services
(16) You are not approved to receive any DDD paid services.	No Paid Services

NEW SECTION

**WAC 388-828-8500 What is the children's intensive in-home behavioral support (CIIBS) program algorithm?** The children's intensive in-home behavioral support (CIIBS) program algorithm is a formula in the DDD assessment that

calculates your out-of-home placement risk score to determine your eligibility for the CIIBS waiver per chapter 388-845 WAC.

NEW SECTION

**WAC 388-828-8505** When does the DDD assessment run the CIIBS algorithm to determine your eligibility for the CIIBS waiver? The DDD assessment runs the CIIBS algorithm to determine your eligibility for the CIIBS waiver when your support assessment is moved to current and:

- (1) You are the assessed age of eight or older and under age eighteen;
- (2) Your behavior acuity level is high per WAC 388-828-5640;
- (3) Your caregiver's risk score is medium, high or immediate per WAC 388-828-5300;
- (4) Your ICF/MR score is eligible per WAC 388-828-4400; and
- (5) You are not enrolled in the CIIBS waiver.

NEW SECTION

**WAC 388-828-8515** How does DDD determine your CIIBS out-of-home placement risk score? Your CIIBS out-of-home placement risk score is calculated using the following table:

Section and WAC reference	If you meet the following criteria:	Then adjust your score by:	Score if you meet criteria
	Clients meeting eligibility criteria in WAC 388-828-8505		<b>Beginning Score = 0</b>
DDD Determination WAC 388-823-0500	Eligible condition of autism in the DDD determination.	Adding 40 points	=
ADL Acuity Level WAC 388-828-5480	Your ADL support needs level = high, medium or low	Subtracting 54 points	=
Behavior Acuity Scale WAC 388-828-5500 through 388-828-5640	Your most prominent behavior = assault/injury and Severity of your most prominent behavior = "potentially dangerous" or "life threatening"	Adding 14 points	=
Protective Supervision Acuity Scale WAC 388-828-5060	Your answer to the following question: "What level of monitoring does the client typically require during awake hours?" = "Line of sight/earshot"	Adding 13 points	=
DDD Caregiver Status Acuity WAC 388-828-5300	Your caregiver risk level = high or immediate	Adding 136 points	=
Backup Caregiver Status WAC 388-828-5320	Your answer to the following question: "Under what conditions are other caregiver(s) available?" = "No other caregiver available"	Adding 33 points	=
Mobility Acuity Scale WAC 388-828-5900	Your mobility acuity level = high, medium or low	Subtracting 15 points	=
		Sum of all of scores above is your CIIBS out-of-home placement risk score	=

NEW SECTION

**WAC 388-828-8510** What elements does the CIIBS algorithm use to calculate your out-of-home placement risk score? The CIIBS algorithm uses the following elements to determine your out-of-home placement risk score:

- (1) The DDD protective supervision acuity scale (WAC 388-828-5000 to 388-828-5100);
- (2) The DDD caregiver status acuity scale (WAC 388-828-5120 to 388-828-5360);
- (3) The DDD behavioral acuity scale (WAC 388-828-5500 to 388-828-5640);
- (4) The DDD activities of daily living (ADL) acuity scale (WAC 388-828-5380 to 388-828-5480);
- (5) The DDD mobility acuity scale (WAC 388-828-5380 to 388-828-5480); and
- (6) Eligible condition of "autism" as indicated in the DDD determination (WAC 388-823-0500).

NEW SECTION

**WAC 388-828-8520 How does DDD determine if I am eligible for the CIIBS waiver?** DDD uses the following table to determine if you are eligible for the CIIBS waiver based on your CIIBS out-of-home placement risk score per WAC 388-828-8510:

<b>If your CIIBS out-of-home placement risk score is:</b>	<b>Then your CIIBS eligibility is:</b>
96 or greater	Yes - Severe
17 through 95	Yes - High
Less than 17	No - (not eligible)

**WSR 08-22-097  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 08-283—Filed November 5, 2008, 10:24 a.m., effective November 5, 2008, 10:24 a.m.]

Effective Date of Rule: Immediately.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-61900J; and amending WAC 232-28-619.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The fishery will reduce the proportion of hatchery-origin steelhead on the spawning grounds, minimizing impact to wild steelhead and thus increase natural production. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: November 5, 2008.

J. P. Koenings  
Director

NEW SECTION

**WAC 232-28-61900N Exceptions to statewide rules—Columbia, Methow, Okanogan and Similkameen rivers.** Notwithstanding the provisions of WAC 232-28-619, it is unlawful to violate the following provisions in the following waters:

(1) For purposes of this section, "adipose fin clipped steelhead" means steelhead with an adipose fin clip and a healed scar at the site of the fin clip, whether or not any other fins are clipped or a healed scar is present at any other fin position.

(2) Columbia River:

(a) From Wells Dam to 400 feet below Chief Joseph Dam. Open until further notice. Selective gear rules, except bait and motorized vessels allowed. Night closure in effect. Daily limit may contain up to two adipose fin clipped steelhead. Release steelhead with anchor (floy) tag attached.

(b) From Rocky Reach Dam upriver to 400 feet below Wells Dam. Open November 6, 2008, until further notice. Daily limit may contain up to two adipose fin-clipped steelhead. Selective gear rules apply, except bait, scent and motorized vessels allowed, night closure in effect. Release steelhead with anchor (floy) tag attached.

(3) Methow River - Open until further notice: From the Hwy. 97 Bridge in Pateros upstream to the second powerline crossing, and from the first Hwy. 153 Bridge north of Pateros to the confluence with the Chewuch River, open. Closed waters from second powerline crossing to the first Hwy. 153 Bridge. Selective gear rules apply; except it is permissible to fish from motorized vessels. Night closure in effect. All species: Release all fish, except up to two adipose fin clipped steelhead per day may be retained. Beginning December 1 whitefish may be retained. Release steelhead with anchor (floy) tag attached. Whitefish gear rules do not apply.

(4) Okanogan River - Open until further notice: From mouth upstream, except closed from Lake Osoyoos Control Dam (Zosel Dam) downstream to first Highway 97 Bridge. Selective gear rules, except lawful to fish from motorized vessels. Night closure in effect. Daily limit may contain up to two adipose fin clipped steelhead. Release steelhead with anchor (floy) tag attached.

(5) Similkameen River - Mouth to 400 feet below Enloe Dam. Open November 15, 2008 until further notice. Selective gear rules. Night closure in effect. All species: Release all fish, except up to two adipose fin clipped steelhead per day may be retained, and whitefish may be retained beginning December 1. Release steelhead with anchor (floy) tag attached. Whitefish gear rules do not apply.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232-28-61900J	Exceptions to statewide rules—Columbia, Methow, Okanogan and Similkameen rivers. (08-258)
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