WSR 11-10-070
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Medicaid Purchasing Administration)
[Filed May 3, 2011, 7:32 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 09-04-073.

Title of Rule and Other Identifying Information: Amending WAC 388-546-5000 Nonemergency transportation program definitions, 388-546-5100 Nonemergency transportation program scope of coverage, 388-546-5200 Nonemergency transportation program broker and provider requirements, 388-546-5300 Nonemergency transportation program client requirements, 388-546-5400 Nonemergency transportation program general reimbursement limitations and 388-546-5500 Modifications of privately owned vehicles—Noncovered; and new sections WAC 388-546-5550 Nonemergency transportation—Exclusions and limitations, 388-546-5600 Nonemergency transportation—Intermediate stops or delays, 388-546-5700 Nonemergency transportation—Local provider and trips outside client's local community, 388-546-5800 Nonemergency transportation—Trips out-of-state/out-of-country, 388-546-5900 Nonemergency transportation—Meals, lodging, escort/guardian, 388-546-6000 Nonemergency transportation—Authorization, 388-546-6100 Nonemergency transportation—Noncovered, and 388-546-6200 Nonemergency transportation—Reimbursement.

Hearing Location(s): Office Building 2, Auditorium, DSHS Headquarters, 1115 Washington, Olympia, WA 98504 (public parking at 11th and Jefferson. A map is available at http://www1.dshs.wa.gov/msa/rpau/RPAU-OB-2directions.html or by calling (360) 664-6094), on June 21, 2011, at 10:00 a.m.

Date of Intended Adoption: Not sooner than June 22, 2011.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504-5850, delivery Office Building 2, DSHS Headquarters, 1115 Washington, Olympia, WA 98504, e-mail DSHSRPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on June 21, 2011.

Assistance for Persons with Disabilities: Contact Jennisha Johnson, DSHS rules consultant, by May 24, 2011, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at jennisha.johnson@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department of social and health services' medicaid purchasing administration (MPA) is proposing [changes] to WAC 388-546-5000 through 388-546-6200, Nonemergency medical transportation. The department reorganized the sections, added/removed/updated definitions, included a section on "covered trips," added a section for "exclusions and limitations," included a section for "intermediate stops or delays," added a new section regarding local provider and trips outside the client's local community, further clarified meals/lodging/escort/guardian, and expanded the section on reimbursement.

Reasons Supporting Proposal: These rule amendments are necessary to support the requirements for contracted nonemergency transportation brokers. Contracted brokers are responsible for the management of overall day-to-day operations necessary for the delivery of cost-efficient, appropriate medical transportation services, the maintenance of appropriate records, and meeting the requirements of these proposed rules. These rules also protect the health and safety of DSHS clients and further ensure program integrity.

Statutory Authority for Adoption: RCW 74.04.057, 74.08.090, 74.09.500.

Statute Being Implemented: RCW 74.08.090.

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

Name of Proponent: DSHS, MPA, governmental.

Name of Agency Personnel Responsible for Drafting: Wendy L. Boedigheimer, P.O. Box 45504, Olympia, WA 98504-5504, (360) 725-1306; Implementation and Enforcement: Walter Neal, P.O. Box 45530, Olympia, WA 98504-5506 [98504-5530], (360) 725-1703.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has analyzed the proposed rule amendments and determined that there are no new costs associated with these changes and they do not impose disproportionate costs on small businesses.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Walter Neal, P.O. Box 45530, Olympia, WA 98504-5530, phone (360) 725-1703, fax (360) 586-9727, e-mail Nealw@dshs.wa.gov.

April 28, 2011
Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 01-06-029, filed 3/2/01, effective 4/2/01)

WAC 388-546-5000 Nonemergency transportation ((~~program definitions~~)) General. ((~~The following terms apply to WAC 388-546-5000, 388-546-5100, 388-546-5200, 388-546-5300, 388-546-5400, and 388-546-5500:~~

~~"Broker"~~ ~~means an organization or entity contracted with the department of social and health services (DSHS)/ **medical assistance administration (MAA)** to arrange nonemergency transportation services for MAA's clients.~~

~~"Drop-off point"~~ ~~means the place authorized by the transportation broker for the client's trip to end.~~

~~"Escort"~~ ~~means a person authorized by the broker to be transported with a client to a medical service. An escort may be authorized depending on the client's age, mental state or capacity, safety requirements, mobility requirements, communication or translation requirements, or cultural issues.~~

~~"Guardian"~~ ~~means a person who is legally responsible for a client and who may be required to be present when a client is receiving medical services.~~

~~"Local provider of type"~~ ~~means the medical provider within the client's local community who fulfills the requirements of the medical appointment. The provider may vary by medical specialty, the provider's acceptance of MAA's cli-~~

~~ents, and whether managed care, primary care case management or third party participation is involved.~~

~~**"Noncompliance"** means a client:~~

~~(1) Engages in violent, seriously disruptive, or illegal conduct;~~

~~(2) Poses a direct threat to the health and/or safety of self or others; or~~

~~(3) Fails to be present at the pickup point of the trip.~~

~~**"Pickup point"** means the place authorized by MAA's transportation broker for the client's trip to begin.~~

~~**"Return trip"** means the return of the client to the client's home, or another authorized return point, from the location where a covered medical service has occurred.~~

~~**"Service mode"** means the method of transportation the transportation broker selects to use for an MAA client.~~

~~**"Stretcher trip"** means a transportation service that requires a client to be transported in a prone or supine position. This may be by stretcher, board or gurney (reclined and with feet elevated). Medical or safety requirements must be the basis for transporting a client in the prone or supine position.~~

~~**"Trip"** means transportation one-way from the **pickup point** to the **drop-off point** by an authorized transportation provider.~~

~~**"Urgent care"** means an unplanned appointment for a covered medical service with verification from an attending physician or facility that the client must be seen that day~~)) (1) The department covers nonemergency nonambulance transportation to and from covered healthcare services, as provided by the Code of Federal Regulations (42 CFR 431.53 and 42 CFR 440.170) subject to the limitations and requirements under WAC 388-546-5000 through 388-546-6200. See WAC 388-546-1000 for nonemergency ground ambulance transportation.

(2) The department pays for nonemergency transportation for clients covered under state-funded medical programs subject to funding appropriated by the legislature.

(3) Clients may not select the transportation provider(s) or the mode of transportation.

AMENDATORY SECTION (Amending WSR 08-08-064, filed 3/31/08, effective 5/1/08)

WAC 388-546-5100 Nonemergency transportation ((~~program scope of coverage~~))—Definitions. ((~~(1) The department's health and recovery services administration (HRSA) covers transportation that is necessary for its clients to receive **medically necessary** HRSA covered services. See WAC 388-546-0100 through 388-546-1000 for Ambulance transportation that covers emergency ambulance transportation and limited nonemergency ground ambulance transportation as medical services.~~

~~(2) Licensed ambulance providers, who contract with HRSA's transportation brokers, may be reimbursed for nonemergency transportation services under WAC 388-546-5200 as administrative services.~~

~~(3) HRSA covers nonemergency transportation under WAC 388-546-5000 through 388-546-5500 as an administrative service as provided by the Code of Federal Regulations (42 CFR 431.53 and 42 CFR 440.170 (a)(2)). As a result, clients may not select the transportation provider(s) or the mode of transportation (**service mode**).~~

~~(4) Prior authorization by HRSA is required for all out-of-state nonemergency transportation. Border areas as defined by WAC 388-501-0175 are considered in-state under this section and subsequent sections.~~

~~(a) HRSA reviews requests for out-of-state nonemergency transportation in accordance with regulations for covered healthcare services, including WAC 388-501-0180, 388-501-0182 and 388-501-0184.~~

~~(b) Nonemergency transportation is not provided to or from locations outside of the United States and U.S. territories, except for the limitations for British Columbia, Canada, identified in WAC 388-501-0184.~~

~~(5) HRSA requires all nonemergency transportation to and from covered services to meet the following:~~

~~(a) The covered service must be medically necessary as defined in WAC 388-500-0005;~~

~~(b) It must be the lowest cost available service mode that is both appropriate and accessible to the client's medical condition and personal capabilities; and~~

~~(c) Be limited to the **local provider of type** as follows:~~

~~(i) Clients receiving services provided under HRSA's fee-for-service program may be transported only to the local provider of type. HRSA's transportation **broker** is responsible for considering and authorizing exceptions.~~

~~(ii) Clients enrolled in HRSA's managed care (healthy options) program may be transported to any **provider** supported by the client's managed care plan. Clients may be enrolled in a managed care plan but are obtaining a specific service not covered under the plan. The requirements in subsection (5)(c)(i) apply to these fee-for-service services.~~

~~(6) HRSA does not cover nonemergency transportation services if the covered medical services are within three-quarters of a mile walking distance from the client's residence. Exceptions to this rule may be granted by HRSA's transportation broker based on the client's documented medical condition or personal capabilities, or based on safety or physical accessibility concerns, as described in WAC 388-546-5400(1).~~

~~(7) A client must use personal or informal transportation alternatives if they are available and appropriate to the client's needs.~~

~~(8) If a fixed-route public transportation service is available to the client within three-quarters of a mile walking distance, the broker may require the client to use the fixed-route public transportation system unless the need for more specialized transportation is present and documented. Examples of such a need are the client's use of a portable ventilator, a walker or a quad cane.~~

~~(9) HRSA does not cover any nonemergency transportation service that is not addressed in WAC 388-546-1000 or in 388-546-5000 through 388-546-5500. See WAC 388-501-0160 for information about obtaining approval for noncovered transportation services, known as exception to rule (ETR).~~

~~(10) If a medical service is approved by ETR, both the broker and MAA must separately prior approve transportation to that service.~~

~~(11) HRSA may exempt members of federally recognized Indian tribes from the brokered transportation program. Where HRSA approves the request of a tribe or a tribal agency to administer or provide transportation services under WAC 388-546-5000 through 388-546-5400, tribal members obtain their transportation services as provided by the tribe or tribal agency.~~

~~(12) A client who is denied service under this chapter may request a fair hearing per chapter 388-02 WAC~~)) The following definitions and those found in WAC 388-500-0005 apply to nonemergency medical brokered transportation. Unless otherwise defined in WAC 388-546-5200 through 388-546-6000, medical terms are used as commonly defined within the scope of professional medical practice in the state of Washington.

"Ambulance" - See WAC 388-546-0001.

"Broker" - An organization or entity contracted with the department to arrange nonemergency transportation services for department clients.

"Drop off point" - The location authorized by the transportation broker for the client's trip to end.

"Escort" - A person authorized by the transportation broker to accompany and be transported with a client to a healthcare service. An escort's transportation may be authorized depending on the client's age, mental state or capacity, safety requirements, mobility skills, communication skills, or cultural issues.

"Extended stay" - A period of time spanning seven consecutive days or longer for which a client receives healthcare services outside of his or her local community and for which he or she may request assistance with meals and/or lodging.

"Guardian" - A person who is legally responsible for a client and who may be required to be present when a client is receiving healthcare services.

"Local community" - The client's city or town of residence or nearest location to residence.

"Local provider" - A provider, as defined in WAC 388-500-0005, who delivers covered healthcare service within the client's local community, and the treatment facility where the services are delivered are also within the client's local community.

"Lodging and meals" - Temporary housing and meals in support of a client's out-of-area medical stay.

"Mode" - A method of transportation assistance used by the general public that an individual client can use in a specific situation. Methods that may be considered include:

- Air transport;
- Bus fares;
- Ferries/water taxis;
- Gas vouchers;
- Grouped or shared-ride vehicles;
- Mileage reimbursement;
- Parking;
- Stretcher vans or cars;
- Taxi;
- Tickets;
- Tolls;
- Volunteer drivers;
- Walking or other personal conveyance; and
- Wheelchair vans.

"Noncompliance or noncompliant" - When a client:

- Fails to appear at the pick-up point of the trip at the scheduled pick-up time;
- Misuses or abuses department-paid medical, transportation, or other services;
- Fails to comply with the rules, procedures, and/or policies of the department and/or those of the department's transportation brokers, the brokers' subcontracted transportation providers, and healthcare service providers;
- Poses a direct threat to the health and/or safety of self or others; or
- Engages in violent, seriously disruptive, or illegal conduct.

"Pickup point" - The location authorized by the department's transportation broker for the client's trip to begin.

"Return trip" - The return of the client to the client's residence, or another authorized drop-off point, from the location where a covered healthcare service has occurred.

"Short stay" - A period of time spanning one to six days for which a client receives healthcare services outside of his or her local community and for which he or she may request assistance with meals and/or lodging.

"Stretcher car or van" - A vehicle that can legally transport a client in a prone or supine position when the client does not require medical attention en route.

"Stretcher trip" - A transportation service that requires a client to be transported in a prone or supine position without medical attention during the trip. This may be by stretcher, board, gurney, or other appropriate device. Medical or safety requirements must be the basis for transporting a client in the prone or supine position.

"Trip" - Transportation one-way from the pickup point to the drop off point by an authorized transportation provider.

"Transportation provider" - An individual or company under contract with a broker, for the provision of trips.

"Urgent care" - An unplanned appointment for a covered medical service with verification from an attending physician or facility that the client must be seen that day or the following day.

AMENDATORY SECTION (Amending WSR 01-06-029, filed 3/2/01, effective 4/2/01)

WAC 388-546-5200 Nonemergency transportation ((~~program~~)) broker and provider requirements. (1) ((~~MAA requires that all nonambulance transportation providers serving MAA clients be under subcontract with the department's contracted transportation broker. MAA's transportation brokers may subcontract with ambulance providers for nonemergency trips in licensed ground ambulance vehicles as administrative services. See WAC 388-546-5100(2).~~

~~(2) MAA requires all contracted and subcontracted transportation providers under this chapter to be licensed, equipped, and operated in accordance with applicable federal, state, and local laws.~~

~~(3) MAA's transportation brokers determine the level of transportation service needed by the client and the mode of transportation to be used for each authorized **trip**~~.

~~(4) MAA's transportation brokers must comply with the terms specified in their contracts.~~

~~(5) MAA's transportation brokers may require up to forty-eight hours advance notice of a requested trip (see WAC 388-546-5300(2)) with the exception of hospital requests or **urgent care** trips. MAA allows its transportation brokers to accommodate requests that provide less than forty-eight hours advance notice, within the limits of the resources available to a broker at the time of the request.~~

~~(6) If MAA's transportation broker is not open for business and unavailable to give advance approval for a hospital discharge or urgent care request as described in subsection (5), the subcontracted transportation provider must either:~~

~~(a) Provide the transportation in accordance with the broker's instructions and request an after-the-fact authorization from the transportation broker within seventy-two hours of the transport; or~~

~~(b) Deny the transportation, if the requirements of this section cannot be met.~~

~~(7) If the subcontracted transportation provider provides transportation as described in subsection (6), the broker may agree to grant retroactive authorization as provided in WAC 388-546-5300(3). Such retroactive authorization must be:~~

~~(a) Documented as to the reasons retroactive authorization is needed; and~~

~~(b) Agreed to by the broker within seventy-two hours after the transportation to a medical appointment.~~

~~(8) MAA, through its transportation brokers, does not pay for transportation under the following conditions:~~

~~(a) Clients are not eligible for transportation services when medical services are within reasonable walking distance (normally three-quarters of a mile actual traveling distance), taking into account the client's documented medical condition and personal capabilities (see WAC 388-546-5100(6));~~

~~(b) Clients must use personal or informal transportation alternatives if they are available and appropriate to the clients' needs (see WAC 388-546-5100(7));~~

~~(c) If a fixed-route public transportation service is available to the client within three-quarters of a mile walking distance, the broker may require the client to use the fixed route public transportation under the terms of WAC 388-546-5100 (8);~~

~~(d) MAA or MAA's transportation broker may deny transportation services requested if the request is not necessary, suitable, or appropriate to the client's medical condition (see WAC 388-546-5100 (1) and (5)(a));~~

~~(e) The medical services requiring transportation must be services that are covered by the client's medical program (see WAC 488-546-5100(1)); or~~

~~(f) The transportation selected by the broker for the client must be the lowest cost available alternative that is both appropriate and accessible to the client's medical condition and personal capabilities.~~

~~(9) The transportation broker mails a written notice of denial to each client who is denied coverage of transportation within three business days of the denial~~)) (1) The department requires:

(a) Brokers and subcontracted transportation providers to be licensed, equipped, and operated in accordance with applicable federal, state, local laws, and the terms specified in their contracts;

(b) Brokers to:

(i) Screen their employees and subcontracted transportation providers and employees prior to hiring or contracting, and on an ongoing basis thereafter, to assure that employees and contractors are not excluded from receiving federal funds as required by 42 USC 1320a-7 and 42 USC 1320c-5; and

(ii) Report immediately to the department any information discovered regarding an employee's or contractor's exclusion from receiving federal funds in accordance with 42 USC 1320a-7 and 42 USC 1320c-5.

(c) Drivers and passengers to comply with all applicable federal, state, and local laws and regulations during transport.

(2) Brokers:

(a) Must determine the level of assistance needed by the client (e.g., curb-to-curb, door-to-door, door-through-door, hand-to-hand) and the mode of transportation to be used for each authorized trip;

(b) Must select the lowest cost available mode or alternative that is both accessible to the client and appropriate to the client's medical condition and personal capabilities;

(c) Must have subcontracts with transportation providers in order for the providers to be paid by the broker;

(d) Must provide transportation services comparable to those available to the general public in the local community;

(e) May subcontract with licensed ambulance providers for nonemergency trips in licensed ground ambulance vehicles; and

(f) May contract with a federally recognized tribe within the broker's service region to provide transportation services when requested by that tribe. When the department approves the request of a tribe or a tribal agency to administer or provide transportation services under WAC 388-546-5100 through 388-546-6200, tribal members may obtain their transportation services from the tribe or tribal agency with coordination from and payment through the transportation broker.

(3) If the broker is not open for business and is unavailable to give advance approval for transportation to an urgent care appointment or after a hospital discharge, the subcontracted transportation provider must either:

(a) Provide the transportation in accordance with the broker's instructions and request a retroactive authorization from the broker within two business days of the transport; or

(b) Deny the transportation, if the requirements of this section cannot be met.

(4) If the subcontracted transportation provider provides transportation as described in subsection (3)(a) of this section, the broker may agree to grant retroactive authorization and must document the reason in the client's trip record.

AMENDATORY SECTION (Amending WSR 01-06-029, filed 3/2/01, effective 4/2/01)

WAC 388-546-5300 Nonemergency transportation ((~~program~~)) —Client ((~~requirements~~)) eligibility. (1) ((~~Clients must be compliant with MAA's transportation brokers, the brokers' subcontracted transportation providers, and MAA's medical services providers. A client who is in **non-**~~

~~**compliance** may have limited transportation service mode options available. The broker mails the client a written notice of limited transportation service mode options within three business days of the broker's decision that transportation service mode options are limited.~~

~~(2) Clients must request, arrange and obtain authorization for transportation forty-eight hours in advance of a medical appointment. Exceptions to the forty-eight-hour advance arrangements are described in subsection (3) of this section and in WAC 388-546-5200 (5) and (6).~~

~~(3) If MAA's contracted broker is not open for business at the time nonemergency transportation is needed, the client must follow the transportation broker's instructions to obtain transportation service.~~

~~(4) MAA will cover a clients transportation to medically necessary covered services with local providers of type. Transportation services will be covered to nonlocal providers of type in the following circumstances:~~

~~(a) The client is enrolled in a healthy options managed health care plan and the client's primary care provider (PCP) or a PCP referred provider is not the closest available provider;~~

~~(b) The client's service is covered by a **third party** payer and the payer requires or refers the client to a specific provider;~~

~~(c) A charitable or other voluntary program (e.g., Shriners) is paying for the client's medical service;~~

~~(d) The medical service required by the client is not available within the local healthcare service area;~~

~~(e) The total cost to MAA is lower when the services are obtained outside of the local healthcare service area; or~~

~~(f) The out-of-area service is required to provide continuity of care for the client's ongoing care as:~~

~~(i) Documented by the client's primary care provider; and~~

~~(ii) Agreed to by MAA's contracted transportation broker.~~

~~(5) MAA may require transportation brokers to refer any of the exception categories listed in subsection (4) to MAA's medical director or the medical director's designee for review and/or prior authorization of the medical service.~~

~~(6) If local medical services are not available to a client because of **noncompliance** with MAA's transportation brokers, the brokers' subcontracted transportation providers, or MAA's medical services providers, MAA does not cover nonemergency transportation to out-of-area medical services for the client. MAA's contracted broker mails a written notice to the client within three business days of the broker's determination that the client's documented noncompliance results in a denial to out-of-area transportation services))~~ The department pays for nonemergency transportation for medical assistance clients, including clients enrolled in a department-contracted managed care organization (MCO), to and from healthcare services when the healthcare service(s) meets the requirements in WAC 388-546-5500.

(2) Clients assigned to the patient review and coordination (PRC) program according to WAC 388-501-0135 may be restricted to certain providers.

(a) Brokers may authorize transportation of a PRC client to only those providers to whom the client is assigned or referred by their primary care provider (PCP), or for covered services which do not require referrals.

(b) If a client assigned to PRC chooses to receive service from a provider, pharmacy, and/or hospital that is not in the client's local community, the client's transportation is limited per WAC 388-546-5700.

AMENDATORY SECTION (Amending WSR 01-06-029, filed 3/2/01, effective 4/2/01)

WAC 388-546-5400 Nonemergency transportation ((~~program general reimbursement limitations~~)) —Client responsibility. (1) ((~~To be reimbursed, MAA requires that a trip be a minimum of three-quarters of a mile from pick-up point to drop off point (see WAC 388-546-5100(6)). MAA's transportation broker may grant exceptions to the minimum distance requirement for any of the following conditions:~~

~~(a) When there is medical justification for a shorter trip;~~

~~(b) When the trip involves an area that MAA's contracted broker considers to be unsafe for the client, other riders, or the driver; or~~

~~(c) When the trip involves an area that the broker determines is not physically accessible to the client.~~

~~(2) MAA reimburses for **return trips** from covered medical services if the return trips are directly related to the original trips. MAA, through its transportation broker, may deny coverage of a return trip if any delays in the return trip are for reasons not directly related to the original trip.~~

~~(3) MAA does not reimburse any costs related to intermediate stops that are not directly related to the original approved trip.~~

~~(4) MAA's transportation broker may authorize intermediate stops that are directly related to the original approved trip if the broker determines that the intermediate stop is likely to limit or eliminate the need for supplemental covered trips. MAA considers the following reasons to be related to the original trip:~~

~~(a) Transportation to and from an immediate subsequent medical referral; or~~

~~(b) Transportation to a pharmacy to obtain one or more prescriptions when the pharmacy is within a reasonable distance of the original medical appointment route.~~

~~(5) MAA may pay the costs of meals and lodging for clients who must be transported to out-of-area medical services. MAA's transportation brokers make the determination that meals and lodging are necessary based on client need and the reasonableness of costs (as measured against state per diem rates).~~

~~(6) MAA may pay transportation costs, including meals and lodging, for authorized **escorts.** MAA's transportation brokers make the determination that the costs of escorts are necessary based on client need and reasonableness of costs (as measured against state per diem rates).~~

~~(7) MAA does not provide escorts or pay the wages of escorts. MAA does not pay for the transportation of an escort when the client is not present unless the broker documents exceptional circumstances causing the broker to determine that the service is necessary to ensure that the client has access to medically necessary care.~~

~~(8) MAA may reimburse for the transportation of a **guardian** with or without the presence of the client if the broker documents its determination that such a service is necessary to ensure that the client has access to medically necessary care~~)) Clients must comply with applicable state, local, and federal laws during transport.

(2) Clients must comply with the rules, procedures and/or policies of the department, brokers, the brokers' subcontracted transportation providers and healthcare service providers.

(3) A client who is noncompliant may have limited transportation mode options available.

(4) Clients must request, arrange, and obtain authorization for transportation at least two business days before a healthcare appointment, except when the request is for an urgent care appointment or a hospital discharge.

AMENDATORY SECTION (Amending WSR 10-05-079, filed 2/15/10, effective 3/18/10)

WAC 388-546-5500 ((~~Modifications of privately owned vehicles—Noncovered~~)) Nonemergency transportation—Covered trips. (1) The department ((~~does not cover the purchase or repair of equipment for privately owned vehicles or modifications of privately owned vehicles under the nonemergency transportation program.~~

~~(2) The purchase or repair of equipment for privately owned vehicles or modifications of privately owned vehicles is not a healthcare service. Exception to rule (ETR) as described in WAC 388-501-0160 is not available for this nonhealthcare service~~)) covers nonemergency transportation for medical assistance clients to and from healthcare services when all of the following apply:

(a) The healthcare services is:

(i) Within the scope of coverage of the eligible client's benefit services package; and

(ii) Covered as defined in WAC 388-501-0050 through 388-501-0065 and the specific program rules.

(b) The healthcare service is medically necessary as defined in WAC 388-500-0005;

(c) The healthcare service is being provided as follows (see subsection (3) of this section for exceptions):

(i) Under fee-for-service, by a department-contracted provider;

(ii) Through a department-contract managed care organization (MCO), by an MCO provider; or

(iii) Through a regional support network (RSN), by an RSN contractor.

(d) The trip is to the local provider as defined in WAC 388-546-5100 (see WAC 388-546-5700(3) for local provider exceptions);

(e) The transportation is the lowest cost available mode or alternative that is both accessible to the client and appropriate to the client's medical condition and personal capabilities;

(f) The trip is authorized by the broker in advance of a client's travel; and

(g) The trip is a minimum of three-quarters of a mile from pick-up point to the drop-off point (see WAC 388-546-6200(6) for exceptions to the minimum distance requirement).

(2) Coverage for nonemergency medical transportation is limited to one roundtrip per day, with the exception of multiple medical appointments.

(3) Subsection (1)(c) of this section does not apply if the covered healthcare services is paid for or provided by medicare, a third party insurance, Veteran's Administration, charitable or other voluntary program (Shriners, etc.).

NEW SECTION

WAC 388-546-5550 Nonemergency transportation—Exclusions and limitations. (1) The following service categories cited in WAC 388-501-0060 are subject to the following exclusions and limitations:

(a) Adult day health (ADH) - Nonemergency transportation for ADH services is not provided through the brokers. ADH providers are responsible for arranging or providing transportation to ADH services.

(b) Ambulance - Nonemergency ambulance transportation is not provided through the brokers except as specified in WAC 388-546-5200 (1)(d).

(c) Family planning services - Nonemergency transportation is not provided through the brokers for clients that are enrolled only in TAKE CHARGE or Family Planning Only Services.

(d) Hospice services - Nonemergency transportation is not provided through the brokers when the healthcare service is related to a client's hospice diagnosis. See WAC 388-551-1210.

(e) Medical equipment, durable (DME) - Nonemergency transportation is not provided through the brokers for DME services, with the exception of DME equipment that needs to be fitted to the client.

(f) Medical nutrition services - Nonemergency transportation is not provided through the brokers to pick up medical nutrition products.

(g) Medical supplies/equipment, nondurable (MSE) - Nonemergency transportation is not provided through the brokers for MSE services.

(h) Mental health services:

(i) Nonemergency transportation brokers generally provide one round trip per day to or from a mental health service. Additional trips for off-site activities, such as a visit to a recreational park, are the responsibility of the provider/facility.

(ii) Nonemergency transportation of involuntarily detained persons under the involuntary treatment act (ITA) is not a service provided or authorized by transportation brokers. Involuntary transportation is a service provided by an ambulance or a designated ITA transportation provider. See WAC 388-546-4000.

(i) Substance abuse services - Nonemergency transportation is not provided through the brokers for substance abuse services for clients under the state-funded medical programs (medical care services program (MCS)). See WAC 388-546-5200(2).

(j) Chemical dependency services - Nonemergency transportation is not provided through the brokers to or from the following:

(i) Residential treatment;
(ii) Intensive inpatient;
(iii) Recovery house;
(iv) Long-term treatment;
(v) Information and assistance services, which include:
(A) Alcohol and drug information school;
(B) Information and crisis services; and
(C) Emergency service patrol.

(2) The following medical assistance programs have limitations on trips:

(a) State-funded medical care services (MCS) program for clients covered by the disability lifeline program and the alcohol and drug addiction treatment and support act (ADATSA) - Nonemergency transportation for mental health services and substance abuse services is not provided through the brokers. The department does pay for nonemergency transportation to and from medical services as specified in WAC 388-501-0060, excluding mental health services and substance abuse services, and subject to any other limitations in this chapter or other program rules.

(b) Transitional bridge waiver for clients covered by the disability lifeline program and the alcohol and drug addiction treatment and support act (ADATSA) - Nonemergency transportation for mental health services and substance abuse services is not provided through the brokers. The department does pay for nonemergency transportation to and from medical services as covered in the transitional bridge waiver approved by the Centers for Medicare and Medicaid Services, excluding mental health services and substance abuse services, and subject to any other limitations in this chapter or other program rules.

NEW SECTION

WAC 388-546-5600 Nonemergency transportation—Intermediate stops or delays. (1) The department does not pay for any costs related to intermediate stops or delays that are not directly related to the original approved trip, including trips that would, or did, result in additional transportation costs due to client convenience.

(2) Brokers may authorize intermediate stops or delays for clients if the broker determines that the intermediate stop is:

(a) Directly related to the original approved trip; or

(b) Likely to limit or eliminate the need for supplemental covered trips.

(3) The department considers the following reasons to be related to the original trip:

(a) Transportation of the client to and from an immediate subsequent medical referral/appointment; or

(b) Transportation of the client to a pharmacy to obtain one or more prescriptions when the pharmacy is within a reasonable distance of the usual route to the medical appointment.

NEW SECTION

WAC 388-546-5700 Nonemergency transportation—Local provider and trips outside client's local community. (1) Clients receiving services provided under fee-for-service and/or through a department contracted managed care organization are transported to a local provider only.

(a) A local provider's medical specialty may vary as long as the provider is capable of providing medically necessary care that is the subject of the appointment or treatment;

(b) A provider's acceptance of the departments' clients may determine if the provider may be considered as an available local provider, along with whether managed care, primary care case management, or third party participation is involved.

(2) Brokers are responsible for considering and authorizing exceptions. See subsection (3) of this section for exceptions.

(3) A broker may transport a client to a provider outside the client's local community for covered healthcare services when any the following apply:

(a) The healthcare service is not available within the client's local community.

(i) If requested by the broker, the client must provide documentation from the client's primary care provider (PCP), specialist or other appropriate provider verifying the medical necessity for the client to be served by a healthcare provider outside of the client's local community.

(ii) If the service is not available locally, transportation may be authorized to the nearest provider where the service may be obtained.

(b) The transportation to a provider outside the client's local community is required for continuity of care.

(i) If requested by the broker, the client or their provider must submit documentation from the client's PCP, specialist or other appropriate provider verifying the existence of ongoing treatment for medically necessary care by the provider and the medical necessity for the client to continue to be served by the healthcare provider.

(ii) If the broker authorizes transportation to a provider outside the client's local community based on continuity of care, this authorization is for a limited period of time for completion of ongoing care for a specific medical condition. Each transport must be related to the ongoing treatment of the specific condition that requires continuity of care.

(iii) Ongoing treatment of the following medical conditions may qualify for transportation based on continuity of care:

(A) Active cancer treatment;
(B) Recent transplant (within the last twelve months);
(C) Scheduled surgery (within the next sixty days);
(D) Major surgery (within the previous sixty days); or
(E) Third trimester of pregnancy.

(c) The healthcare service is paid by a third payer who requires or refers the client to a specific provider within their network;

(d) The total cost to the department, including transportation costs, is lower when the healthcare service is obtained outside of the client's local community; and

(e) A provider outside the client's local community has been issued a global payment by the department for services the client will receive and the broker determines it to be cost effective to provide transportation for the client to complete treatment with this provider.

(4) Brokers determine whether an exception should be granted based on documentation from the client's healthcare providers and program rules. Brokers may refer requests to transport a client to a provider outside the client's local community for healthcare services to the department's medical director or the medical director's designee for review and/or authorization.

(5) When a client or a provider moves to a new community, the existence of a provider-client relationship, independent of other factors, does not constitute a medical need for the broker to authorize and pay for transportation to the previous provider.

(6) The healthcare service must be provided in the state of Washington or a designated border city, unless the department specifically authorizes transportation to an out of state provider in accordance with WAC 388-546-5800.

(7) The department does not authorize and pay for nonemergency transportation to providers outside the client's local community if the client's noncompliance is the reason a local healthcare provider or service is not available.

NEW SECTION

WAC 388-546-5800 Nonemergency transportation—Trips out-of-state/out-of-country. (1) The department reviews requests for out-of-state nonemergency transportation in accordance with regulations for covered healthcare services, including WAC 388-501-0180, 388-501-0182 and 388-501-0184.

(2) Nonemergency transportation is not provided to or from locations outside of the United States and U.S. territories, except for the limitations for British Columbia, Canada, identified in WAC 388-501-0184.

NEW SECTION

WAC 388-546-5900 Nonemergency transportation—Meals, lodging, escort/guardian. (1) The department may pay for meals and lodging for clients who must be transported to healthcare services outside of the client's local community. The department's transportation brokers determine when meals and lodging are necessary based on a client's individual need.

(2) Brokers may authorize payment for meals and lodging for up to one calendar month. Extensions beyond the initial calendar month must be prior authorized by the broker on a month-to-month, week-to-week, or as-needed basis.

(3) Brokers follow the department's guidelines in determining the reasonable costs of meals and lodging. The department's guidelines are:

(a) The reasonable cost of lodging for short and extended stays is measured against state per diem rates.

(b) For short stays, the cost of meals is measured against the state per diem rate.

(c) For extended stays, the reasonable cost of meals is measured against the state's basic food program. The maximum monthly allowable meal cost for extended stays is not to exceed the client's calculated monthly food benefit or state per diem rates.

(4) The department pays for the transportation of an authorized escort, including meals and lodging, when all of the following apply:

(a) The client is present, with the exception of subsection (5) of this section; and

(b) The broker determines the transportation costs of escorts are necessary based upon the client's age, mental state or capacity, safety requirements, mobility requirements, communication or translation requirements, or cultural issues.

(5) The department may authorize and pay for the transportation of an authorized escort or guardian, with or without the presence of the client, if the broker determines and documents the presence of the authorized escort or guardian is necessary to ensure that the client has access to medically necessary care.

(6) Lodging and meals for all out-of-state nonemergency transportation must be prior authorized by the department. Border areas as defined by WAC 388-501-0175 are considered in-state under this section and subsequent sections.

NEW SECTION

WAC 388-546-6000 Nonemergency transportation—Authorization. (1) The department contracts with brokers to authorize or deny requests for transportation services.

(2) Brokers may refer requests to transport a client to a provider to the department's medical director or designee for a review and/or authorization.

(3) Nonemergency medical transportation, other than ambulance, must be prior authorized by the broker. See WAC 388-546-5200 (3) and (4) and WAC 388-546-6200(4) for granting retroactive authorization.

(4) The broker mails a written notice of denial to each client who is denied authorization of transportation.

(5) A client who is denied nonemergency transportation under this chapter may request an administrative hearing, if one is available under state and federal law.

(6) If the department approves a medical service under exception to rule (ETR), the authorization requirements of this section apply to transportation services related to the ETR service.

NEW SECTION

WAC 388-546-6100 Nonemergency transportation—Noncovered. (1) The department does not cover any nonemergency transportation that is not specifically addressed in WAC 388-546-5000 through 388-546-6200.

(2) Brokers do not provide nonemergency transportation for admissions under the involuntary treatment act (ITA), as defined in WAC 388-546-4000.

(3) The department does not provide escorts or cover the cost of wages of escorts.

(4) The department does not cover the purchase or repair of equipment for privately owned vehicles or modifications of privately owned vehicles under the nonemergency transportation program. The purchase or repair of equipment for a privately owned vehicle or modification of a privately owned vehicle is not a healthcare service. Exception to rule (ETR)

as described in WAC 388-501-0160 is not available for this nonhealthcare service.

NEW SECTION

WAC 388-546-6200 Nonemergency transportation—Reimbursement. (1) To be reimbursed for trips, meals, and lodging, the requestor must receive prior authorization from the broker at least forty-eight hours in advance of the client's travel.

(2) A client must request reimbursement of preauthorized expenditures for trips, meals, and lodging within thirty days after his or her medical appointment(s). The broker may consider reimbursement requests beyond thirty days if a client shows good cause as defined in WAC 388-02-0020 for having not requested reimbursement within thirty days.

(3) To be reimbursed for mileage, fuel/gas, parking, bridge tolls, and ferry fees, the requestor must provide the broker with legible copies of:

(a) Receipt(s);

(b) The operator's driver license;

(c) Current vehicle registration; and

(d) Proof of insurance for the vehicle/operator at the time of the trip.

(4) The department or the broker may retroactively authorize and reimburse for transportation costs, including meals and lodging when:

(a) A client is approved for a retroactive eligibility period, or is approved for a delayed certification period as defined in WAC 388-500-0005;

(b) The transportation costs were not used to meet a client spenddown liability in accordance with WAC 388-519-0110;

(c) The transportation costs for which retroactive reimbursement is requested falls within the period of retroactive eligibility or delayed certification;

(d) The client received medically necessary services that were covered by their medical program for the date(s) of service for which retroactive reimbursement is requested; and

(e) The request for retroactive reimbursement is made within sixty days from the date of eligibility notification (award letter), not to exceed eight months from the date(s) of service for which reimbursement is requested.

(5) When transportation cost(s) are retroactively authorized, the reimbursement amount must not exceed the reimbursement amount that would have been authorized prior to the date(s) of service.

(6) To be paid by the broker for nonemergency transportation services:

(a) Ambulance providers must be subcontracted with the broker in accordance with WAC 388-546-5200 (1)(d).

(b) Nonambulance providers must be subcontracted with the broker in accordance with WAC 388-546-5200 (1)(c).

(7) The department, through its contracted brokers, does not pay for nonemergency transportation when:

(a) The healthcare service the client is requesting transportation to or from is not a service covered by the client's medical program.

(b) The covered healthcare service is within three-quarters of a mile from the pick-up point, except when:

(i) The client's documented and verifiable medical condition and personal capabilities demonstrates that the client is not able to walk three-quarters mile distance;

(ii) The trip involves an area that the broker determines is not physically accessible to the client.

(c) The client has personal or informal transportation resources that are available and appropriate to the clients' needs;

(d) Fixed-route public transportation service is available to the client within three-quarters of a mile walking distance. Exceptions to this rule may be granted by the transportation broker when the need for more specialized transportation is documented. Examples of such a need may be the client's use of a portable ventilator, a walker, or a quad cane; or

(e) The mode of transport that the client requests is not necessary, suitable, or appropriate to the client's medical condition.

WSR 11-10-071
PROPOSED RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Medicaid Purchasing Administration)

[Filed May 3, 2011, 7:43 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 10-20-160.

Title of Rule and Other Identifying Information: WAC 388-531-0100 Scope of coverage for physician-related and healthcare professional services—General and administrative, 388-531-0150 Noncovered physician-related and healthcare professional services—General and administrative, 388-531-0200 Physician-related and healthcare professional services requiring prior authorization, 388-531-0250 Who can provide and bill for physician-related and healthcare professional services, 388-531-0375 Audiology services, 388-531-0400 Client responsibility for reimbursement for physician-related services, 388-531-1000 Ophthalmic services, 388-531-1025 Oral healthcare services provided by dentists for clients age twenty-one and older—General, and 388-531-1300 Foot care services for clients twenty-one years of age and older.

Hearing Location(s): Office Building 2, Auditorium, DSHS Headquarters, 1115 Washington, Olympia, WA 98504 (public parking at 11th and Jefferson. A map is available at http://www1.dshs.wa.gov/msa/rpau/RPAU-OB-2directions.html or by calling (360) 664-6094), on June 21, 2011, at 10:00 a.m.

Date of Intended Adoption: Not sooner than June 22, 2011.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504-5850, delivery Office Building 2, DSHS Headquarters, 1115 Washington, Olympia, WA 98504, e-mail DSHSRPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on June 21, 2011.

Assistance for Persons with Disabilities: Contact Jennisha Johnson, DSHS rules consultant, by May 24, 2011, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at jennisha.johnson@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Upon order of the governor, the medicaid purchasing administration (MPA) must reduce its budget expenditures for the current fiscal year ending June 30, 2011, by 6.3 percent. To achieve this expenditure reduction, MPA is eliminating optional medical services from program benefit packages for clients twenty-one years of age and older. These medical services include vision, hearing, and dental. Chapter 388-531 WAC is being amended to include medical services previously listed in the programs to be eliminated that are necessary to, and included within, appropriate mandatory medical services under federal statutes and rules.

Reasons Supporting Proposal: Governor Gregoire issued Executive Order 10-04 on September 13, 2010, under the authority of RCW 43.88.110(7). In the executive order, the governor required DSHS and all other state agencies to reduce their expenditures in state fiscal year 2011 by approximately 6.3 percent. As a consequence of the executive order, funding is no longer available as of January 1, 2011, for the benefits that are being eliminated as part of these regulatory amendments.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: RCW 74.08.090.

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

Name of Proponent: DSHS, MPA, governmental.

Name of Agency Personnel Responsible for Drafting: Wendy L. Boedigheimer, P.O. Box 45504, Olympia, WA 98504-5504, (360) 725-1306; Implementation and Enforcement: Ellen Silverman, P.O. Box 45506, Olympia, WA 98504-5506, (360) 725-1570.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has analyzed the proposed rule amendments and determined that there are no new costs associated with these changes and they do not impose disproportionate costs on small businesses.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Ellen Silverman, P.O. Box 45506, Olympia, WA 98504-5506, phone (360) 725-1570, fax (360) 586-9727, e-mail Ellen.Silverman@dshs.wa.gov.

April 28, 2011
Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 08-12-030, filed 5/29/08, effective 7/1/08)

WAC 388-531-0100 Scope of coverage for physician-related and healthcare professional services—General and administrative. (1) The department covers healthcare services, equipment, and supplies listed in this chapter, according to department rules and subject to the limitations and requirements in this chapter, when they are:

(a) Within the scope of an eligible client's medical assistance program. Refer to WAC 388-501-0060 and 388-501-0065; and

(b) Medically necessary as defined in WAC 388-500-0005.

(2) The department evaluates a request for a service that is in a covered category under the provisions of WAC 388-501-0165.

(3) The department evaluates requests for covered services that are subject to limitations or other restrictions and approves such services beyond those limitations or restrictions as described in WAC 388-501-0169.

(4) The department covers the following physician-related services and healthcare professional services, subject to the conditions in subsections (1), (2), and (3) of this section:

(a) Allergen immunotherapy services;

(b) Anesthesia services;

(c) Dialysis and end stage renal disease services (refer to chapter 388-540 WAC);

(d) Emergency physician services;

(e) ENT (ear, nose, and throat) related services;

(f) Early and periodic screening, diagnosis, and treatment (EPSDT) services (refer to WAC 388-534-0100);

(g) ((~~Family planning~~)) Reproductive health services (refer to chapter 388-532 WAC);

(h) Hospital inpatient services (refer to chapter 388-550 WAC);

(i) Maternity care, delivery, and newborn care services (refer to chapter 388-533 WAC);

(j) Office visits;

(k) Vision-related services((~~,~~)) (refer to chapter 388-544 WAC for vision hardware for clients twenty years of age and younger);

(l) Osteopathic treatment services;

(m) Pathology and laboratory services;

(n) Physiatry and other rehabilitation services (refer to chapter 388-550 WAC);

(o) Foot care and podiatry services (refer to WAC 388-531-1300);

(p) Primary care services;

(q) Psychiatric services, provided by a psychiatrist;

(r) Psychotherapy services for children as provided in WAC 388-531-1400;

(s) Pulmonary and respiratory services;

(t) Radiology services;

(u) Surgical services;

(v) Cosmetic, reconstructive, or plastic surgery, and related services and supplies to correct physiological defects from birth, illness, or physical trauma, or for mastectomy reconstruction for post cancer treatment; ((~~and~~))

(w) Oral healthcare services for emergency conditions for clients twenty-one years of age and older, except for clients of the division of developmental disabilities (refer to WAC 388-531-1025); and

(x) Other outpatient physician services.

(5) The department covers physical examinations for medical assistance clients only when the physical examination is one or more of the following:

(a) A screening exam covered by the EPSDT program (see WAC 388-534-0100);

(b) An annual exam for clients of the division of developmental disabilities; or

(c) A screening pap smear, mammogram, or prostate exam.

(6) By providing covered services to a client eligible for a medical assistance program, a provider who has signed an agreement with the department accepts the department's rules and fees as outlined in the agreement, which includes federal and state law and regulations, billing instructions, and department issuances.

AMENDATORY SECTION (Amending WSR 10-19-057, filed 9/14/10, effective 10/15/10)

WAC 388-531-0150 Noncovered physician-related and healthcare professional services—General and administrative. (1) Except as provided in WAC 388-531-0100 and subsection (2) of this section, the department does not cover the following:

(a) Acupuncture, massage, or massage therapy;

(b) Any service specifically excluded by statute;

(c) Care, testing, or treatment of infertility, frigidity, or impotency. This includes procedures for donor ovum, sperm, womb, and reversal of vasectomy or tubal ligation;

(d) Cosmetic treatment or surgery, except for medically necessary reconstructive surgery to correct defects attributable to trauma, birth defect, or illness;

(e) Experimental or investigational services, procedures, treatments, devices, drugs, or application of associated services, except when the individual factors of an individual client's condition justify a determination of medical necessity under WAC 388-501-0165;

(f) Hair transplantation;

(g) Marital counseling or sex therapy;

(h) More costly services when the department determines that less costly, equally effective services are available;

(i) Vision-related services ((~~listed~~)) as ((~~noncovered in chapter 388-544 WAC;~~)) follows:

(i) Services for cosmetic purposes only;

(ii) Group vision screening for eyeglasses; and

(iii) Refractive surgery of any type that changes the eye's refractive error. The intent of the refractive surgery procedure is to reduce or eliminate the need for eyeglass or contact lens correction. This refractive surgery does not include intraocular lens implantation following cataract surgery.

(j) Payment for body parts, including organs, tissues, bones and blood, except as allowed in WAC 388-531-1750;

(k) Physician-supplied medication, except those drugs administered by the physician in the physician's office;

(l) Physical examinations or routine checkups, except as provided in WAC 388-531-0100;

(m) ((~~Routine foot care. This does not include clients who have a medical condition that affects the feet, such as diabetes or arteriosclerosis obliterans. Routine foot care includes, but is not limited to:~~

~~(i) Treatment of mycotic disease;~~

~~(ii) Removal of warts, corns, or calluses;~~

~~(iii) Trimming of nails and other hygiene care; or~~

~~(iv) Treatment of flat feet;~~

~~(n) Except as provided in WAC 388-531-1600, weight reduction and control services, procedures, treatments, devices, drugs, products, gym memberships, equipment for the purpose of weight reduction, or the application of associated services~~)) Foot care, unless the client meets criteria and conditions outlined in WAC 388-531-1300, as follows:

(i) Routine foot care, such as but not limited to:

(A) Treatment of tinea pedis;

(B) Cutting or removing warts, corns and calluses; and

(C) Trimming, cutting, clipping, or debriding of nails.

(ii) Nonroutine foot care, such as, but not limited to treatment of:

(A) Flat feet;

(B) High arches (cavus foot);

(C) Onychomycosis;

(D) Bunions and tailor's bunion (hallux valgus);

(E) Hallux malleus;

(F) Equinus deformity of foot, acquired;

(G) Cavovarus deformity, acquired;

(H) Adult acquired flatfoot (metatarsus adductus or pes planus);

(I) Hallux limitus.

(iii) Any other service performed in the absence of localized illness, injury, or symptoms involving the foot.

((~~(o)~~)) (n) Nonmedical equipment; ((~~and~~))

((~~(p)~~)) (o) Nonemergent admissions and associated services to out-of-state hospitals or noncontracted hospitals in contract areas;

(p) Bilateral cochlear implantation; and

(q) Routine or nonemergency medical and surgical dental services provided by a doctor of dental medicine or dental surgery for clients twenty one years of age and older, except for clients of the division of developmental disabilities.

(2) The department covers excluded services listed in (1) of this subsection if those services are mandated under and provided to a client who is eligible for one of the following:

(a) The EPSDT program;

(b) A medicaid program for qualified **medicare** beneficiaries (QMBs); or

(c) A waiver program.

AMENDATORY SECTION (Amending WSR 10-19-057, filed 9/14/10, effective 10/15/10)

WAC 388-531-0200 Physician-related and healthcare professional services requiring prior authorization. (1) The department requires **prior authorization** for certain services. Prior authorization includes **expedited prior authorization (EPA)** and **limitation extension (LE).** See WAC 388-501-0165.

(2) The EPA process is designed to eliminate the need for telephone prior authorization for selected admissions and procedures.

(a) The provider must create an authorization number using the process explained in the department's physician-related billing instructions.

(b) Upon request, the provider must provide supporting clinical documentation to the department showing how the authorization number was created.

(c) Selected ((~~nonemergent~~)) nonemergency admissions to contract hospitals require EPA. These are identified in the department billing instructions.

(d) Procedures ((~~requiring~~)) allowing expedited prior authorization include, but are not limited to, the following:

(i) ((~~Bladder repair;~~

~~(ii) Hysterectomy for clients age forty-five and younger, except with a diagnosis of cancer(s) of the female reproductive system;~~

~~(iii) Outpatient magnetic resonance imaging (MRI) and magnetic resonance angiography (MRA);~~

~~(iv)~~)) Reduction mammoplasties/mastectomy for ((~~geynecomastia~~)) gynecomastia; ((~~and~~))

(((~~v~~))) (ii) Strabismus surgery for clients eighteen years of age and older;

(iii) Meningococcal vaccine;

(iv) Placement of drug eluting stent and device;

(v) Cochlear implants for clients twenty years of age and younger;

(vi) Hyperbaric oxygen therapy;

(vii) Visual exam/refraction for clients twenty-one years of age and older;

(viii) Blepharoplasties; and

(ix) Neuropsychological testing for clients sixteen years of age and older.

(3) The department evaluates new technologies under the procedures in WAC 388-531-0550. These require prior authorization.

(4) Prior authorization is required for the following:

(a) Abdominoplasty;

(b) All inpatient hospital stays for **acute physical medicine and rehabilitation (PM&R);**

(c) Unilateral cochlear implants((~~, which also:~~

~~(i) For coverage, must be performed in an ambulatory surgery center (ASC) or an inpatient or outpatient hospital facility; and~~

~~(ii) For reimbursement, must have the invoice attached to the claim~~)) for clients twenty years of age and younger (refer to WAC 388-531-0375);

(d) Diagnosis and treatment of eating disorders for clients twenty-one years of age and older;

(e) Osteopathic manipulative therapy in excess of the department's published limits;

(f) Panniculectomy;

(g) Bariatric surgery (see WAC 388-531-1600); and

(h) Vagus nerve stimulator insertion, which also:

(i) For coverage, must be performed in an inpatient or outpatient hospital facility; and

(ii) For reimbursement, must have the invoice attached to the claim.

(i) Osseointegrated/bone anchored hearing aids (BAHA) for clients twenty years of age and younger;

(j) Removal or repair of previously implanted BAHA or cochlear device for clients twenty one years of age and older when medically necessary.

(5) The department may require a second opinion and/or consultation before authorizing any elective surgical procedure.

(6) Children six ((~~year~~)) years of age and younger do not require authorization for hospitalization.

AMENDATORY SECTION (Amending WSR 08-12-030, filed 5/29/08, effective 7/1/08)

WAC 388-531-0250 Who can provide and bill for physician-related and healthcare professional services. (1) The following enrolled providers are eligible to provide and bill for physician-related and healthcare professional services which they provide to eligible clients:

(a) Advanced registered nurse practitioners (ARNP);

(b) Federally qualified health centers (FQHCs);

(c) Health departments;

(d) Hospitals currently licensed by the department of health;

(e) Independent (outside) laboratories **CLIA** certified to perform tests. See WAC 388-531-0800;

(f) Licensed marriage and family therapists, only as provided in WAC 388-531-1400;

(g) Licensed mental health counselors, only as provided in WAC 388-531-1400;

(h) Licensed radiology facilities;

(i) Licensed social workers, only as provided in WAC 388-531-1400 and 388-531-1600;

(j) Medicare-certified ambulatory surgery centers;

(k) Medicare-certified rural health clinics;

(l) Providers who have a signed agreement with the department to provide screening services to eligible persons in the EPSDT program;

(m) Registered nurse first assistants (RNFA); and

(n) Persons currently licensed by the state of Washington department of health to practice any of the following:

(i) Dentistry (refer to chapter 388-535 WAC);

(ii) Medicine and osteopathy;

(iii) Nursing;

(iv) Optometry; or

(v) Podiatry.

(2) The department does not pay for services performed by any of the following practitioners:

(a) Acupuncturists;

(b) Christian Science practitioners or theological healers;

(c) Counselors, except as provided in WAC 388-531-1400;

(d) Herbalists;

(e) Homeopaths;

(f) Massage therapists as licensed by the Washington state department of health;

(g) Naturopaths;

(h) Sanipractors;

(i) Social workers, except those who have a master's degree in social work (MSW), and:

(i) Are employed by an FQHC;

(ii) Who have prior authorization to evaluate a client for bariatric surgery; or

(iii) As provided in WAC 388-531-1400.

(j) Any other licensed or unlicensed practitioners not otherwise specifically provided for in WAC ((~~388-502-0010~~)) 388-502-0002; or

(k) Any other licensed practitioners providing services which the practitioner is not:

(i) Licensed to provide; and

(ii) Trained to provide.

(3) The department pays practitioners listed in subsection (2) of this section for physician-related services if those services are mandated by, and provided to, clients who are eligible for one of the following:

(a) The EPSDT program;

(b) A medicaid program for qualified medicare beneficiaries (QMB); or

(c) A waiver program.

NEW SECTION

WAC 388-531-0375 Audiology services. (1) The department covers, with prior authorization, the implantation of a unilateral cochlear device for clients twenty years of age and younger with the following limitations:

(a) The client meets one of the following:

(i) Has a diagnosis of profound to severe bilateral, sensorineural hearing loss;

(ii) Has stimulable auditory nerves but has limited benefit from appropriately fitted hearing aids (e.g., fail to meet age-appropriate auditory milestones in the best-aided condition for young children, or score of less than ten or equal to forty percent correct in the best-aided condition on recorded open-set sentence recognition tests);

(iii) Has the cognitive ability to use auditory clues;

(iv) Is willing to undergo an extensive rehabilitation program;

(v) Has an accessible cochlear lumen that is structurally suitable for cochlear implantation;

(vi) Does not have lesions in the auditory nerve and/or acoustic areas of the central nervous system; or

(vii) Has no other contraindications to surgery; and

(b) The procedure is performed in an inpatient hospital setting or outpatient hospital setting.

(2) The department covers osseointegrated bone anchored hearing aids (BAHA) for clients twenty years of age and younger with prior authorization.

(3) The department covers replacement parts for BAHA and cochlear devices for clients twenty years of age and younger only. See WAC 388-547-0800.

(4) The department considers requests for removal or repair of previously implanted bone anchored hearing aids (BAHA) and cochlear devices for clients twenty one years of age and older only when medically necessary. Prior authorization from the department is required.

(5) For audiology, the department limits:

(a) Caloric vestibular testing to four units for each ear; and

(b) Sinusoidal vertical axis rotational testing to three units for each direction.

AMENDATORY SECTION (Amending WSR 01-01-012, filed 12/6/00, effective 1/6/01)

WAC 388-531-0400 Client responsibility for reimbursement for physician-related services. Clients may be responsible to reimburse the provider, as described under WAC 388-501-0100, for noncovered services ((~~that are not covered under the client's medical care program~~)) as defined in WAC 388-501-0050 or for services excluded from the client's benefits package as defined under WAC 388-501-0060. Clients whose care is provided under CHIP may be responsible for copayments as outlined in chapter 388-542 WAC. Also, see WAC 388-502-0160, Billing the client.

AMENDATORY SECTION (Amending WSR 01-01-012, filed 12/6/00, effective 1/6/01)

WAC 388-531-1000 Ophthalmic ((~~physician-related~~)) services. Refer to chapter 388-544 WAC for ((~~ophthalmic and~~)) vision-related ((~~services~~)) hardware coverage for clients twenty years of age and younger.

(1) The department covers, without prior authorization, eye examinations, refraction and fitting services with the following limitations:

(a) Once every twenty four months for asymptomatic clients twenty one years of age and older;

(b) Once every twelve months for asymptomatic clients twenty years of age and younger; or

(c) Once every twelve months, regardless of age, for asymptomatic clients of the division of developmental disabilities.

(2) The department covers additional examinations and refraction services outside the limitations described in subsection (1) of this section when:

(a) The provider is diagnosing or treating the client for a medical condition that has symptoms of vision problems or disease;

(b) The client is on medication that affects vision; or

(c) The service is necessary due to lost or broken eyeglasses/contacts. In this case:

(i) No type of authorization is required for clients twenty years of age or younger or for clients of the division of developmental disabilities, regardless of age.

(ii) Providers must follow the department's expedited prior authorization process to receive payment for clients twenty one years of age or older. Providers must also document the following in the client's file:

(A) The eyeglasses or contacts are lost or broken; and

(B) The last examination was at least eighteen months ago.

(3) The department covers visual field exams for the diagnosis and treatment of abnormal signs, symptoms, or injuries. Providers must document all of the following in the client's record:

(a) The extent of the testing;

(b) Why the testing was reasonable and necessary for the client; and

(c) The medical basis for the frequency of testing.

(4) The department covers orthoptics and vision training therapy. Providers must obtain prior authorization from the department.

(5) The department covers ocular prosthetics for clients when provided by any of the following:

(a) An ophthalmologist;

(b) An ocularist; or

(c) An optometrist who specializes in prosthetics.

(6) The department covers cataract surgery, without prior authorization when the following clinical criteria are met:

(a) Correctable visual acuity in the affected eye at 20/50 or worse, as measured on the Snellen test chart; or

(b) One or more of the following conditions:

(i) Dislocated or subluxated lens;

(ii) Intraocular foreign body;

(iii) Ocular trauma;

(iv) Phacogenic glaucoma;

(v) Phacogenic uveitis;

(vi) Phacoanaphylactic endopthalmitis; or

(vii) Increased ocular pressure in a person who is blind and is experiencing ocular pain.

(7) The department covers strabismus surgery as follows:

(a) For clients seventeen years of age and younger. The provider must clearly document the need in the client's record. The department does not require authorization for clients seventeen years of age and younger; and

(b) For clients eighteen years of age and older, when the clinical criteria are met. To receive payment, providers must follow the expedited prior authorization process. The clinical criteria are:

(i) The client has double vision; and

(ii) The surgery is not being performed for cosmetic reasons.

(8) The department covers blepharoplasty or blepharoptosis surgery for clients when all of the clinical criteria are met. To receive payment, providers must follow the department's expedited prior authorization process. The clinical criteria are:

(a) The client's excess upper eyelid skin is blocking the superior visual field; and

(b) The blocked vision is within ten degrees of central fixation using a central visual field test.

NEW SECTION

WAC 388-531-1025 Oral healthcare services provided by dentists for clients age twenty-one and older—General. This section does not apply to clients of the division of developmental disabilities. Refer to WAC 388-535-1099.

(1) Clients age twenty-one and older are eligible for the oral healthcare services listed in this section, subject to coverage limitations. The department pays for oral healthcare services provided by a dentist to clients age twenty-one and older when the services provided:

(a) Are within the scope of the eligible client's medical care program;

(b) Are medically necessary as defined in WAC 388-500-0005;

(c) Are emergency services and meet the criteria of coverage for emergency oral healthcare benefit listed in subsection (7) of this section;

(d) Are documented in the client's record in accordance with chapter 388-502 WAC;

(e) Meet the department's prior authorization requirements, if there are any;

(f) Are within prevailing standard of care accepted practice standards;

(g) Are consistent with a diagnosis of teeth, mouth and jaw disease or condition;

(h) Are reasonable in amount and duration of care, treatment, or service;

(i) Are billed using only the allowed procedure codes listed in the department's published billing instructions and fee schedules; and

(j) Are documented with a comprehensive description of the client's presenting symptoms, diagnosis and services provided, in the client's record, including the following, if applicable:

(i) Client's blood pressure, when appropriate;

(ii) A surgical narrative;

(iii) A copy of the post-operative instructions; and

(iv) A copy of all pre- and post-operative prescriptions.

(2) An appropriate consent form, if required, signed and dated by the client or the client's legal representative must be in the client's record.

(3) An anesthesiologist providing oral healthcare under this section must have a current provider's permit on file with the department.

(4) A healthcare provider providing oral or parenteral conscious sedation, or general anesthesia, must meet:

(a) The provider's professional organization guidelines;

(b) The department of health (DOH) requirements in chapter 246-817 WAC; and

(c) Any applicable DOH medical, dental, and nursing anesthesia regulations.

(5) Department-enrolled dental providers who are not specialized to perform oral and maxillofacial surgery (see WAC 388-535-1070(3)) must use only the current dental terminology (CDT) codes to bill claims for services that are listed in this section.

(6) Oral healthcare services must be provided in a clinic setting, with the exception of trauma related services.

(7) Emergency oral healthcare benefit.

(a) Medical and surgical services provided by a doctor of dental medicine or dental surgery, which, if provided by a physician, are considered a physician service, are included in the emergency oral healthcare benefit when the services are done on an emergency basis. All services are subject to prior authorization when indicated.

(b) The following set of services are covered under the emergency oral healthcare benefit when provided by a dentist to assess and treat pain, infection or trauma of the mouth, jaw, or teeth, including treatment of post-surgical complications, such as dry socket and services that are part of a cancer treatment regimen or part of a pre-transplant protocol:

(i) One emergency examination, per presenting problem, performed as a limited oral evaluation to:

(A) Evaluate the client's symptom of pain;

(B) Make a diagnosis; and

(C) Develop or implement a treatment plan, including a referral to another healthcare professional, such as an oral surgeon; or

(D) A second evaluation if the treatment initiated is conservative, such as prescribed antibiotics, and a subsequent visit is necessary for definitive treatment, such as tooth extraction. The treatment plan must be documented in the client's record.

(ii) Diagnostic radiographs (xrays).

(A) Radiographs include:

(I) Periapical; and

(II) Panoramic films, limited to one every three years.

(B) Radiographs must:

(I) Be required to make the diagnosis;

(II) Support medical necessity;

(III) Be of diagnostic quality, dated and labeled with the client's name;

(IV) Be retained by the provider as part of the client's record. The retained radiograph must be the original.

(C) Duplicate radiographs must be submitted with prior authorization requests or when the department requests a copy of the client's dental record.

(iii) Pulpal debridement. One gross pulpal debridement per client, per tooth, within a twelve-month period.

(iv) Extractions and surgical extractions for symptomatic teeth, limited to:

(A) Extraction of a nearly-erupted or fully erupted tooth or exposed root;

(B) Surgical removal of an erupted tooth only;

(C) Surgical removal of residual tooth roots; and

(D) Extraction of an impacted wisdom tooth when the tooth is not erupted.

(v) Palliative (emergency) treatment for the treatment of dental pain, one per client, per six-month period, during a limited oral evaluation appointment.

(vi) Local anesthesia and regional blocks as part of the global fee for any procedure being provided to a client.

(vii) Inhalation of nitrous oxide, once per day.

(viii) House or extended care facility visits, for emergency care as defined in this section.

(ix) Emergency office visits after regularly scheduled hours. The department limits coverage to one emergency visit per day, per provider.

(x) Therapeutic drug injections including drugs and/or medicaments (pharmaceuticals) only when used with general anesthesia.

(xi) Treatment of post-surgical complications, such as dry socket.

(c) Emergency healthcare benefit services provided by dentists specialized in oral maxillofacial surgery. Services that are covered under the emergency oral healthcare benefit to assess and treat pain, infection or trauma of the mouth, jaw, or teeth, including treatment of post-surgical complications, such as dry socket and services that are part of a cancer treatment regimen or part of a pre-transplant protocol:

(i) May be provided by dentists specialized in oral maxillofacial surgery; and

(ii) Are billed using only the allowed procedure codes listed in the department's published billing instructions and fee schedules.

(8) Prior Authorization for oral healthcare services provided by dentists for clients age twenty-one and older.

(a) The department uses the determination process described in WAC 388-501-0165 for covered oral healthcare services for clients age twenty-one and older for an emergency condition that requires prior authorization.

(b) The department requires a dental provider who is requesting prior authorization to submit sufficient objective clinical information to establish medical necessity. The request must be submitted in writing on the DSHS 13-835 general information for authorization form which may be obtained at http://dshs.wa.gov/msa/forms/eforms.html.

(c) The department may request additional information as follows:

(i) Additional radiographs (X rays);

(ii) Study models;

(iii) Photographs; and

(iv) Any other information as determined by the department.

(d) The department may require second opinions and/or consultations before authorizing any procedure.

(e) When the department authorizes an oral healthcare service for a client, that authorization indicates only that the specific service is medically necessary and an emergency, it is not a guarantee of payment. The authorization is valid for six months and only if the client is eligible and the service is covered in the client's healthcare benefit package on the date of service.

(f) The department denies a request for an oral healthcare service when the requested service:

(i) Is not covered in the client's healthcare benefit package;

(ii) Is covered by another department program;

(iii) Is covered by an agency or other entity outside the department; or

(iv) Fails to meet the clinical criteria, limitations, or restrictions in this section.

(9) Refer to chapter 388-535 WAC and WAC 388-531-1850 and 388-531-1900 for the payment methodologies used for the services listed in this section.

AMENDATORY SECTION (Amending WSR 10-19-057, filed 9/14/10, effective 10/15/10)

WAC 388-531-1300 ((~~Podiatric physician-related services~~)) Foot care services for clients twenty-one years of age and older. (1) ((~~The department covers podiatric services as listed in this section when provided by any of the following:~~

~~(a) A medical doctor;~~

~~(b) A doctor of osteopathy; or~~

~~(c) A podiatric physician.~~

~~(2) The department reimburses for the following:~~

~~(a) Nonroutine foot care when a medical condition that affects the feet (such as diabetes or arteriosclerosis obliterans) requires that any of the providers in subsection (1) of this section perform such care;~~

~~(b) One treatment in a sixty-day period for debridement of nails. The department covers additional treatments in this~~

~~period if documented in the client's medical record as being medically necessary;~~

~~(c) Impression casting. The department includes ninety-day follow-up care in the reimbursement;~~

~~(d) A surgical procedure performed on the ankle or foot, requiring a local nerve block, and performed by a qualified provider. The department does not reimburse separately for the anesthesia, but includes it in the reimbursement for the procedure; and~~

~~(e) Custom fitted and/or custom molded orthotic devices:~~

~~(i) The department's fee for the orthotic device includes reimbursement for a biomechanical evaluation (an evaluation of the foot that includes various measurements and manipulations necessary for the fitting of an orthotic device); and~~

~~(ii) The department includes an E&M fee reimbursement in addition to an orthotic fee reimbursement if the E&M services are justified and well documented in the client's medical record.~~

~~(3) The department does not reimburse podiatrists for any of the following radiology services:~~

~~(a) X rays for soft tissue diagnosis;~~

~~(b) Bilateral X rays for a unilateral condition;~~

~~(c) X rays in excess of two views;~~

~~(d) X rays that are ordered before the client is examined; or~~

~~(e) X rays for any part of the body other than the foot or ankle~~)) This section addresses care of the lower extremities (foot and ankle) referred to as foot care and applies to clients twenty-one years of age and older.

(2) The department covers the foot care services listed in this section when those services are provided by any of the following healthcare providers and billed to the department using procedure codes and diagnosis codes that are within their scope of practice:

(a) Physicians or physician's assistants-certified (PA-C);

(b) Osteopathic physicians, surgeons, or physician's assistant-certified (PA-C);

(c) Podiatric physicians and surgeons; or

(d) Advanced registered nurse practitioners (ARNP).

(3) The department covers evaluation and management visits to assess and diagnose conditions of the lower extremities. Once diagnosis is made, the department covers treatment if the criteria in subsection (4) of this section are met.

(4) The department pays for:

(a) Treatment of the following conditions of the lower extremities only when there is an acute condition, an exacerbation of a chronic condition, or presence of a systemic condition such as metabolic, neurologic, or peripheral vascular disease and evidence that the treatment will prevent, cure or alleviate a condition in the client that causes pain resulting in the inability to perform activities of daily living, acute disability, or threatens to cause the loss of life or limb, unless otherwise specified:

(i) Acute inflammatory processes such as, but not limited to tendonitis;

(ii) Circulatory compromise such as, but are not limited to:

(A) Lymphedema;

(B) Raynaud's disease;

(C) Thromboangiitis obliterans; and

(D) Phlebitis.

(iii) Injuries, fractures, sprains, and dislocations;

(iv) Gout;

(v) Lacerations, ulcerations, wounds, blisters;

(vi) Neuropathies (e.g., reflex sympathetic dystrophy, secondary to diabetes, charcot arthropathy);

(vii) Osteomyelitis;

(viii) Post-op complications;

(ix) Warts, corns, or calluses in the presence of an acute condition such as infection and pain effecting the client's ability to ambulate as a result of the warts, corns, or calluses and meets the criteria in subsection (4) of this section;

(x) Soft tissue conditions, such as, but are not limited to:

(A) Rashes;

(B) Infections (fungal, bacterial);

(C) Gangrene;

(D) Cellulitis of lower extremities;

(E) Soft tissue tumors; and

(F) Neuroma.

(xi) Nail bed infections (paronychia); and

(xii) Tarsal tunnel syndrome.

(b) Trimming and/or debridement of nails to treat, as applicable, conditions from the list in subsection (4)(a) of this section. The department pays for one treatment in a sixty-day period. The department covers additional treatments in this period if documented in the client's medical record as being medically necessary;

(c) A surgical procedure to treat one of the conditions in subsection (4) of this section performed on the lower extremities, and performed by a qualified provider;

(d) Impression casting to treat one of the conditions in subsection (4) of this section. The department includes ninety-day follow-up care in the reimbursement;

(e) Custom fitted and/or custom molded orthotic devices to treat one of the conditions in subsection (4) of this section.

(i) The department's fee for the orthotic device includes reimbursement for a biomechanical evaluation (an evaluation of the foot that includes various measurements and manipulations necessary for the fitting of an orthotic device); and

(ii) The department includes an evaluation and management (E&M) fee reimbursement in addition to an orthotic fee reimbursement if the E&M services are justified and well documented in the client's medical record.

(5) The department does not pay for:

(a) The following radiology services:

(i) Bilateral X-rays for a unilateral condition; or

(ii) X-rays in excess of three views; or

(iii) X-rays that are ordered before the client is examined.

(b) Podiatric physicians or surgeons for X-rays for any part of the body other than the foot or ankle.

WSR 11-10-073
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Medicaid Purchasing Administration)
[Filed May 3, 2011, 7:48 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-03-080.

Title of Rule and Other Identifying Information: WAC 388-400-0010 Who is eligible for state family assistance?, 388-424-0001 Citizenship and alien status—Definitions, 388-424-0006 Citizenship and alien status—Date of entry, 388-424-0009 Citizenship and alien status—Social security number (SSN) requirements, 388-424-0010 Citizenship and alien status—Eligibility for TANF, medicaid, and CHIP, 388-424-0015 Immigrant eligibility restrictions for the state family assistance, general assistance, and ADATSA programs, and 388-450-0156 When am I exempt from deeming?

Hearing Location(s): Office Building 2, Auditorium, DSHS Headquarters, 1115 Washington, Olympia, WA 98504 (public parking at 11th and Jefferson. A map is available at http://www1.dshs.wa.gov/msa/rpau/RPAU-OB-2directions.html or by calling (360) 664-6094), on June 21, 2011, at 10:00 a.m.

Date of Intended Adoption: Not sooner than June 22, 2011.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504-5850, delivery 1115 Washington Street S.E., Olympia, WA 98504, e-mail DSHSRPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on June 21, 2011.

Assistance for Persons with Disabilities: Contact Jennisha Johnson, DSHS rules consultant, by May 24, 2011, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at jennisha.johnson@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To bring citizenship/alien status rules into compliance with the federal Center for Medicare and Medicaid (CMS) guidelines. It expands the eligibility group of legally residing individuals which will allow: (1) Some children who are currently in a state-funded medical program to qualify for federally funded medical coverage, and (2) some pregnant women to have their postpartum period covered by federally funded medical.

Reasons Supporting Proposal: See Purpose statement.

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

Statute Being Implemented: RCW 74.04.050, 74.04.-057, and 74.08.090.

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

Name of Proponent: DSHS, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Kathy Johansen, P.O. Box 45534, Olympia, WA 98504-5534, (360) 725-9964.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule does not impact small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. Client eligibility rules for medical assistance are exempt from the cost-benefit analysis requirement per RCW 34.05.328 (5)(b)(vii).

April 27, 2011
Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 05-21-100, filed 10/18/05, effective 11/18/05)

WAC 388-400-0010 Who is eligible for state family assistance? (1) To be eligible for state family assistance (SFA), aliens must meet Washington state residency requirements as listed in WAC 388-468-0005 and immigrant eligibility requirements as listed in WAC 388-424-0015.

(2) You are eligible for SFA if you are not eligible for temporary assistance for needy families for the following reasons:

(a) You are a qualified alien and have been in the United States for less than five years as described in WAC 388-424-0006;

(b) You are ((~~a alien who is permanently residing in the United States under color of law (PRUCOL) as defined in WAC 388-424-0001~~)) a nonqualified alien, who meets the Washington state residency requirements as listed in WAC 388-468-0005;

(c) You are a nineteen or twenty-year-old student that meets the education requirements of WAC 388-404-0005;

(d) You are a caretaker relative of a nineteen or twenty-year-old student that meets the education requirements of WAC 388-404-0005; or

(e) You are a pregnant woman who has been convicted of misrepresenting their residence in order to receive benefits from two or more states at the same time.

AMENDATORY SECTION (Amending WSR 10-15-045, filed 7/13/10, effective 7/27/10)

WAC 388-424-0001 Citizenship and alien status—Definitions. ((~~**"American Indians"** born outside the United States. American Indians born outside the U.S. are eligible for benefits without regard to immigration status or date of entry if:~~

~~(1) They were born in Canada and are of fifty percent American Indian blood (but need not belong to a federally recognized tribe); or~~

~~(2) They are members of a federally recognized Indian tribe or Alaskan native village or corporation.~~

~~**"Hmong or Highland Lao."** These are members of the Hmong or Highland Laotian tribe, which rendered military assistance to the U.S. during the Vietnam era (August 5, 1964 to May 7, 1975), and are "lawfully present" in the United States. This category also includes the spouse (including unremarried widow or widower) or unmarried dependent child of such tribe members.~~

~~**"Nonimmigrants."** These individuals are allowed to enter the U.S. for a specific purpose, usually for a limited time. Examples include:~~

~~(1) Tourists,~~

(2) Students,

(3) Business visitors.

"PRUCOL" (Permanently residing under color of law) aliens. These are individuals who:

(1) Are not "qualified aliens" as described below; and

(2) Intend to reside indefinitely in the U.S.; and

(3) United States Citizenship and Immigration Services or USCIS (formerly the Immigration and Naturalization Service or INS) knows are residing in the U.S. and is not taking steps to enforce their departure.

"Qualified aliens." Federal law defines the following groups as "qualified aliens." All those not listed below are considered "nonqualified":

(1) **Abused spouses or children,** parents of abused children, or children of abused spouses, who have either:

(a) A pending or approved I-130 petition or application to immigrate as an immediate relative of a U.S. citizen or as the spouse or unmarried son or daughter of a Lawful Permanent Resident (LPR) - see definition of LPR below; or

(b) A notice of "prima facie" approval of a pending self-petition under the Violence Against Women Act (VAWA); or

(c) Proof of a pending application for suspension of deportation or cancellation of removal under VAWA; and

(d) The alien no longer resides with the person who committed the abuse.

(e) Children of an abused spouse do not need their own separate pending or approved petition but are included in their parent's petition if it was filed before they turned age twenty-one. Children of abused persons who meet the conditions above retain their "qualified alien" status even after they turn age twenty-one.

(f) An abused person who has initiated a self-petition under VAWA but has not received notice of prima facie approval is not a "qualified alien" but is considered PRUCOL. An abused person who continues to reside with the person who committed the domestic violence is also PRUCOL. For a definition of PRUCOL, see above.

(2) **Amerasians** who were born to U.S. citizen armed services members in Southeast Asia during the Vietnam war.

(3) Individuals who have been granted **asylum** under Section 208 of the Immigration and Nationality Act (INA).

(4) Individuals who were admitted to the U.S. as **conditional entrants** under Section 203 (a)(7) of the INA prior to April 1, 1980.

(5) **Cuban/Haitian entrants.** These are nationals of Cuba or Haiti who were paroled into the U.S. or given other special status.

(6) Individuals who are **lawful permanent residents** (LPRs) under the INA.

(7) Persons who have been granted **parole** into the U.S. for at least a period of one year (or indefinitely) under Section 212 (d)(5) of the INA, including "public interest" parolees.

(8) Individuals who are admitted to the U.S. as **refugees** under Section 207 of the INA.

(9) **Special immigrants from Iraq and Afghanistan** are individuals granted special immigrant status under section 101 (a)(27) of the Immigration and Nationality Act (INA). Under federal law, special immigrants from Iraq and Afghanistan, their spouses and unmarried children under twenty-one are to be treated the same as refugees in their eligibility for public assistance.

(10) Persons granted **withholding of deportation or removal** under Sections 243(h) (dated 1995) or 241 (b)(3) (dated 2003) of the INA.

"Undocumented aliens." These are persons who either:

(1) Entered the U.S. without inspection at the border, or

(2) Were lawfully admitted but have lost their status.

"U.S. citizens."

(1) The following individuals are considered to be citizens of the U.S.:

(a) Persons born in the U.S. or its territories (Guam, Puerto Rico, and the U.S. Virgin Islands; also residents of the Northern Mariana Islands who elected to become U.S. citizens); or

(b) Legal immigrants who have naturalized after immigrating to the U.S.

(2) Persons born abroad to at least one U.S. citizen parent may be U.S. citizens under certain conditions.

(3) Individuals under the age of eighteen automatically become citizens when they meet the following three conditions on or after February 27, 2001:

(a) The child is a lawful permanent resident (LPR);

(b) At least one of the parents is a U.S. citizen by birth or naturalization; and

(c) The child resides in the U.S. in the legal and physical custody of the citizen parent.

(4) For those individuals who turned eighteen before February 27, 2001, the child would automatically be a citizen if still under eighteen when he or she began lawful permanent residence in the U.S. and both parents had naturalized. Such a child could have derived citizenship when only one parent had naturalized if the other parent were dead, a U.S. citizen by birth, or the parents were legally separated and the naturalizing parent had custody.

"U.S. nationals." A U.S. national is a person who owes permanent allegiance to the U.S. and may enter and work in the U.S. without restriction. The following are the only persons classified as U.S. nationals:

(1) Persons born in American Samoa or Swain's Island after December 24, 1952; and

(2) Residents of the Northern Mariana Islands who did not elect to become U.S. citizens.

"Victims of trafficking." According to federal law, victims of trafficking have been subject to one of the following:

(1) Sex trafficking, in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained eighteen years of age; or

(2) The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

(3) Under federal law, persons who have been certified or approved as victims of trafficking by the federal Office of Refugee Resettlement (ORR) are to be treated the same as refugees in their eligibility for public assistance.

(4) Immediate family members of victims are also eligible for public assistance benefits as refugees. Immediate fam-

~~ily members are the spouse or child of a victim of any age and the parent or minor sibling if the victim is under twenty-one years old~~)) For the purposes of determining an individual's citizenship and alien status for public assistance, the following definitions apply:

(1) **"Qualified aliens"** are lawfully present immigrants defined in federal law as one of the following:

(a) Individuals lawfully admitted for permanent residence (LPRs).

(b) Individuals who are admitted to the U.S. as refugees under INA §207. The following individuals are treated the same as refugees in their eligibility for public assistance:

(i) Hmong or Highland Lao are members of a Hmong or Highland Laotian tribe which rendered military assistance to the U.S. during the Vietnam era (August 5, 1964 to May 7, 1975), and are "lawfully present" in the U.S. This category also includes the spouse (including un-remarried widow or widower) or unmarried dependent child of such tribal members.

(ii) Victims of trafficking according to federal law are:

(A) Individuals who have been certified or approved as victims of trafficking by the federal office of refugee resettlement.

(B) Immediate family members of trafficking victims. Immediate family members are the spouse or child of a victim of any age and the parent or minor sibling if the victim is under twenty-one years old.

(iii) Special immigrants from Iraq and Afghanistan are individuals granted special immigrant status under INA §101 (a)(27).

(c) Individuals who have been granted asylum under INA §208.

(d) Cuban/Haitian entrants. These are nationals of Cuba or Haiti who were paroled into the U.S. or given other special status.

(e) Abused spouses or children, parents of abused children, or children of abused spouses:

(i) When the alien no longer resides with the person who committed the abuse, and has one of the following:

(A) A pending or approved I-130 petition or application to immigrate as an immediate relative of a U.S. citizen or as the spouse or unmarried child under age twenty-one of a lawful permanent resident (LPR);

(B) A notice of "prima facie" approval of a pending self-petition under the violence against women act (VAWA); or

(C) Proof of a pending application for suspension of deportation or cancellation of removal under VAWA.

(ii) Children of an abused spouse do not need their own separate pending or approved petition, but are included in their parent's petition if it was filed before they turned twenty-one years old. Children of abused persons who meet the conditions above retain their "qualified alien" status even after they turn twenty-one years old.

(f) Individuals who have been granted parole into the U.S. for at least a period of one year (or indefinitely) under INA §212 (d)(5), including "public interest" parolees.

(g) Individual's granted withholding of deportation or removal under INA §243(h) or §241 (b)(3).

(h) Individuals who were admitted to the U.S. as conditional entrants under INA §203 (a)(7) prior to April 1, 1980.

(i) Amerasians who were born to U.S. citizen armed services members in Southeast Asia during the Vietnam War.

(2) **"Nonqualifed aliens"** are noncitizens who are lawfully present in the U.S. and who are not included in the definition of qualified aliens in subsection (1) of this section. Nonqualifed aliens may include:

(a) Citizens of Marshall Islands, Micronesia or Palau;

(b) Immigrants paroled into the U.S. for less than one year;

(c) Immigrants granted temporary protected status; or

(d) Nonimmigrants who are allowed entry into the U.S. for a specific purpose usually for a limited time are also nonqualified. Examples include:

(i) Business visitors;

(ii) Students; and

(iii) Tourists.

(3) **"Undocumented aliens"** are noncitizens without a lawful immigration status as defined in subsections (3) or (4) of this section, and who:

(a) Entered the U.S. illegally; or

(b) Were lawfully admitted but whose status expired or was revoked per United States Citizenship and Immigration Services (USCIS).

(4) **"U.S. citizens"** are one of the following:

(a) Individual's born in the United States or its territories (Guam, Puerto Rico, and the U.S. Virgin Islands; also residents of the Northern Mariana Islands who elected to become U.S. citizens).

(b) American Indians born outside the U.S. without regard to immigration status or date of entry if:

(i) They were born in Canada and are fifty percent American Indian blood (but need not belong to a federally recognized tribe); or

(ii) They are members of a federally recognized Indian tribe or Alaskan Native village or corporation.

(c) Individuals who have become naturalized U.S. citizens.

(d) Individuals born abroad to at least one U.S. citizen parent depending on conditions at the time of their birth, per title 8, subchapter III, section 1401 of the United States Code.

(e) Individuals who turn eighteen years of age on or after February 27, 2001, automatically become U.S. citizens if the following conditions are met while the individual is under age eighteen per INA 320.

(i) The individual is granted lawful permanent resident (LPR) status;

(ii) At least one of the individual's parents is a U.S. citizen by birth or naturalization; and

(iii) The individual:

(A) Resides in the U.S. in the legal and physical custody of the citizen parent; or

(B) Was adopted according to the requirements of INA 101 and resides in the U.S. in the legal and physical custody of the citizen parent.

(f) Individuals who turned eighteen before February 27, 2001, would have automatically become a citizen if, while the individual was still under eighteen, he or she became a lawful permanent resident and both his or her parents naturalized. Such individuals also may have derived citizenship when only one parent naturalized, if the other parent was

dead or a U.S. citizen by birth, or the individual's parents were separated and the naturalized parent had custody.

(5) "U.S. nationals" are persons who owe permanent allegiance to the U.S. and may enter and work in the U.S. without restriction. The following are the only persons classified as U.S. nationals:

(a) Persons born in American Samoa or Swain's Island after December 24, 1952; and

(b) Residents of the Northern Mariana Islands who did not elect to become U.S. citizens.

AMENDATORY SECTION (Amending WSR 10-15-045, filed 7/13/10, effective 7/27/10)

WAC 388-424-0006 Citizenship and alien status—Date of entry. (1) A person who physically entered the U.S. prior to August 22, 1996 and who continuously resided in the U.S. prior to becoming a "qualified alien" (as defined in WAC 388-424-0001) is not subject to the five-year bar on receiving TANF((,)) and nonemergency medicaid((, and SCHIP)) for nonpregnant adults.

(2) A person who entered the U.S. prior to August 22, 1996 but became "qualified" on or after August 22, 1996, or who physically entered the U.S. on or after August 22, 1996 and who requires five years of residency to be eligible for federal Basic Food, can only count years of residence during which they were a "qualified alien."

(3) A person who physically entered the U.S. on or after August 22, 1996 is subject to the five-year bar ((on)) for TANF((,)) and nonemergency medicaid((, and SCHIP)) for nonpregnant adults, unless exempt. The five-year bar starts on the date that "qualified" status is obtained. The medicaid and CHIP programs do not have a five-year bar for children under nineteen, children under twenty-one years of age who are residing in a medical institution as described in WAC 388-505-0230, or pregnant women.

(4) The following "qualified aliens," as defined in WAC 388-424-0001, are exempt from the five-year bar:

(a) Amerasian lawful permanent residents;

(b) Asylees;

(c) Cuban/Haitian entrants;

(d) Persons granted withholding of deportation or removal;

(e) Refugees;

(f) Special immigrants from Iraq and Afghanistan;

(g) Victims of trafficking who have been certified or had their eligibility approved by the office of refugee resettlement (ORR); and

(h) Lawful permanent residents, parolees, or battered aliens, as defined in WAC 388-424-0001, who are also an armed services member or veteran as described in WAC 388-424-0007.

((~~(5) In addition to subsection (4) of this section, the following "qualified aliens" are also exempt from the five-year bar on nonemergency medicaid and SCHIP:~~

~~(a) Pregnant women;~~

~~(b) Children under nineteen years of age; and~~

~~(c) Children under twenty-one years of age who are residing in a medical institution as described in WAC 388-505-0230.~~))

AMENDATORY SECTION (Amending WSR 10-15-068, filed 7/16/10, effective 8/16/10)

WAC 388-424-0009 Citizenship and alien status—Social Security number (SSN) requirements. (1) ((~~A "qualified alien," as defined in WAC 388-424-0001,~~)) Any person who has applied for a Social Security number (SSN) as part of their application for benefits cannot have benefits delayed, denied, or terminated pending the issuance of the SSN by the Social Security Administration (SSA).

(2) The following immigrants are not required to apply for an SSN:

(a) An alien, regardless of immigration status, who is applying for a program listed in WAC 388-476-0005(7);

(b) A ((~~PRUCOL (permanently residing under color of law) alien who is not in one of the PRUCOL groups~~)) nonqualified alien who is not applying for children or pregnancy related medical as listed in WAC 388-424-0010(4); and

(c) Members of a household who are not applying for benefits for themselves.

(3) "Qualified and nonqualified aliens," as defined in WAC 388-424-0001, ((~~and PRUCOL aliens in any of the PRUCOL groups listed in WAC 388-424-0010(4),~~)) who are applying for federal benefits but who are not authorized to work in the U.S., must still apply for a nonwork SSN. The department must assist them in this application without delay.

(4) ((~~An immigrant~~)) Any person who is otherwise eligible for benefits may choose not to provide the department with an SSN without jeopardizing the eligibility of others in the household. See WAC 388-450-0140 for how the income of such individuals is treated.

AMENDATORY SECTION (Amending WSR 10-15-068, filed 7/16/10, effective 8/16/10)

WAC 388-424-0010 Citizenship and alien status—Eligibility for TANF, medicaid, and CHIP. (1) To receive temporary assistance for needy families (TANF), medicaid, or children's health insurance program (CHIP) benefits, an individual must meet all other eligibility requirements and be one of the following as defined in WAC 388-424-0001:

(a) A United States (U.S.) citizen;

(b) A U.S. national;

(c) An American Indian born outside the U.S.;

(d) A "qualified alien";

(e) A victim of trafficking; or

(f) A Hmong or Highland Lao.

(2) A "qualified alien" who first physically entered the U.S. before August 22, 1996 as described in WAC 388-424-0006(1) may receive TANF, medicaid, and CHIP.

(3) A "qualified alien" who first physically entered the U.S. on or after August 22, 1996 cannot receive TANF, medicaid, or CHIP for five years after obtaining status as a qualified alien unless the criteria in WAC 388-424-0006 (4) or (5) are met.

(4) A lawfully present "nonqualified alien" child or pregnant woman as defined in ((~~one of the following PRUCOL (permanently residing under color of law) groups~~)) WAC 388-424-0001 who meet residency requirements as defined in WAC 388-468-0005 may receive medicaid or CHIP((:

~~(a) A citizen of a compact of free association state (Micronesia, Marshall Islands or Palau) who has been admitted to the U.S. as a nonimmigrant;~~

~~(b) An individual in temporary resident status as an amnesty beneficiary;~~

~~(c) An individual in temporary protected status;~~

~~(d) A family unity beneficiary;~~

~~(e) An individual currently under deferred enforced departure;~~

~~(f) An individual who is a spouse or child of a U.S. citizen with an approved Visa petition pending adjustment of status;~~

~~(g) A parent or child of an individual with special immigration status;~~

~~(h) A fiance of a U.S. citizen;~~

~~(i) A religious worker;~~

~~(j) An individual assisting the Department of Justice in a criminal investigation; or~~

~~(k) An individual with a petition of status pending of three years or longer~~)).

(5) An alien who is ineligible for TANF, medicaid or CHIP because of the five-year bar or because of their immigration status may be eligible for:

(a) Emergency benefits as described in WAC 388-436-0015 (consolidated emergency assistance program) and WAC 388-438-0110 (alien medical program); or

(b) State-funded cash or chemical dependency benefits as described in WAC 388-424-0015 (state family assistance (SFA), ((~~general assistance (GA)~~)) disability lifeline (DL) and the Alcohol and Drug Addiction Treatment and Support Act (ADATSA)), and medical benefits as described in WAC 388-424-0016; or

(c) Pregnancy medical benefits for noncitizen women as described in WAC 388-462-0015(3); or

(d) State-funded apple health for kids as described in WAC 388-505-0210 ((~~(2) or~~)) (5).

AMENDATORY SECTION (Amending WSR 04-15-004, filed 7/7/04, effective 8/7/04)

WAC 388-424-0015 Immigrant eligibility restrictions for the state family assistance, general assistance, and ADATSA programs. (1) To receive state family assistance (SFA) benefits, you must be:

(a) A "qualified alien" as defined in WAC 388-424-0001 who is ineligible for TANF due to the five-year bar as described in WAC 388-424-0006(3); or

(b) A ((~~PRUCOL alien as defined in WAC 388-424-0001~~)) nonqualified alien who meets the Washington state residency requirements as listed in WAC 388-468-0005, including a noncitizen American Indian who does not meet the criteria in WAC 388-424-0001.

(2) To receive general assistance (GA) benefits, you must be ineligible for the TANF, SFA, or SSI program for a reason other than failure to cooperate with program requirements, and belong to one of the following groups as defined in WAC 388-424-0001:

(a) A U.S. citizen;

(b) A U.S. national;

(c) An American Indian born outside the U.S.;

(d) A "qualified alien" or similarly defined lawful immigrant such as ((~~Hmong or Highland Lao or~~)) victim of trafficking; or

(e) A ((~~PRUCOL~~)) nonqualified alien who meets the Washington state residency requirements as listed in WAC 388-468-0005.

(3) To receive ADATSA benefits, you must belong to one of the following groups as defined in WAC 388-424-0001:

(a) A U.S. citizen;

(b) A U.S. national;

(c) An American Indian born outside the U.S.;

(d) A "qualified alien" or similarly defined lawful immigrant such as ((~~Hmong or Highland Lao or~~)) victim of trafficking; or

(e) A ((~~PRUCOL~~)) nonqualified alien who meets the Washington state residency requirements as listed in WAC 388-468-0005.

AMENDATORY SECTION (Amending WSR 10-15-043, filed 7/13/10, effective 8/1/10)

WAC 388-450-0156 When am I exempt from deeming? (1) If you meet any of the following conditions, you are **permanently** exempt from deeming and we do not count your sponsor's income or resources against your benefits:

(a) The Immigration and Nationality Act (INA) does not require you to have a sponsor. Immigrants who are not required to have a sponsor include those with the following status with ((~~Immigration and Naturalization Service (INS)~~)) United States Citizenship and Immigration Services (USCIS):

(i) Refugee;

(ii) Parolee;

(iii) Asylee;

(iv) Cuban/Haitian entrant; or

(v) ((~~Haitian entrant~~)) Special immigrant from Iraq or Afghanistan.

(b) You were sponsored by an organization or group as opposed to an individual;

(c) You do not meet the alien status requirements to be eligible for benefits under chapter 388-424 WAC;

(d) You have worked or can get credit for forty qualifying quarters of work under Title II of the Social Security Act. We do not count a quarter of work toward this requirement if the person working received TANF, food stamps, Basic Food, SSI, CHIP, or nonemergency medicaid benefits. We count a quarter of work by the following people toward your forty qualifying quarters:

(i) Yourself;

(ii) Each of your parents for the time they worked before you turned eighteen years old (including the time they worked before you were born); and

(iii) Your spouse if you are still married or your spouse is deceased.

(e) You become a United States (U.S.) Citizen;

(f) Your sponsor is dead; or

(g) If ((~~INS~~)) USCIS or a court decides that you, your child, or your parent was a victim of domestic violence from your sponsor and:

(i) You no longer live with your sponsor; and

(ii) Leaving your sponsor caused your need for benefits.

(2) You are exempt from the deeming process while you are in the same AU as your sponsor;

(3) For children and pregnancy medical programs, you are exempt from sponsor deeming requirements.

(4) For Basic Food, you are exempt from deeming while you are under age eighteen.

((~~(4)~~)) (5) For state family assistance, ((~~general assistance~~)) disability lifeline (DL), state-funded Basic Food benefits, and state-funded medical assistance for legal immigrants you are exempt from the deeming process if:

(a) Your sponsor signed the affidavit of support more than five years ago;

(b) Your sponsor becomes permanently incapacitated; or

(c) You are a qualified alien according to WAC 388-424-0001 and you:

(i) Are on active duty with the U.S. armed forces or you are the spouse or unmarried dependent child of someone on active duty;

(ii) Are an honorably-discharged veteran of the U.S. armed forces or you are the spouse or unmarried dependent child of an honorably-discharged veteran;

(iii) Were employed by an agency of the U.S. government or served in the armed forces of an allied country during a military conflict between the U.S. and a military opponent; or

(iv) Are a victim of domestic violence and you have petitioned for legal status under the Violence Against Women Act.

((~~(5)~~)) (6) If you, your child, or your parent was a victim of domestic violence, you are exempt from the deeming process for twelve months if:

(a) You no longer live with the person who committed the violence; and

(b) Leaving this person caused your need for benefits.

((~~(6)~~)) (7) If your AU has income at or below one hundred thirty percent of the federal poverty level (FPL), you are exempt from the deeming process for twelve months. This is called the "indigence exemption." You may choose to use this exemption or not to use this exemption in full knowledge of the possible risks involved. See risks in subsection (9) below. For this rule, we count the following as income to your AU:

(a) Earned and unearned income your AU receives from any source; and

(b) Any noncash items of value such as free rent, commodities, goods, or services you receive from an individual or organization.

((~~(7)~~)) (8) If you use the indigence exemption, and are eligible for a federal program, we are required by law to give the United States attorney general the following information:

(a) The names of the sponsored people in your AU;

(b) That you are exempt from deeming due to your income;

(c) Your sponsor's name; and

(d) The effective date that your twelve-month exemption began.

((~~(8)~~)) (9) If you use the indigence exemption, and are eligible for a state program, we do not report to the United States attorney general.

((~~(9)~~)) (10) If you choose not to use the indigence exemption:

(a) You could be found ineligible for benefits for not verifying your sponsor's income and resources; or

(b) You will be subject to regular deeming rules under WAC 388-450-0160.

WSR 11-11-047

PROPOSED RULES

DEPARTMENT OF HEALTH

(Nursing Care Quality Assurance Commission)

[Filed May 13, 2011, 9:59 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 10-13-101.

Title of Rule and Other Identifying Information: WAC 246-841-530 through 246-841-585 creating new sections establishing alternative programs for home care aides-certified and medical assistants-certified to qualify for nursing assistant certification.

Hearing Location(s): Department of Health, 243 Israel Road S.E., Town Center Three, Room 512, Tumwater, WA 98504, check in with the security guard for escort to meeting room, on June 21, 2011, at 8:00 a.m.

Date of Intended Adoption: June 21, 2011.

Submit Written Comments to: Terry J. West, Department of Health, P. O. Box 47864, Olympia, WA 98504, web site http://www3.doh.wa.gov/policyreview/, fax (360) 236-4738, by June 17, 2011.

Assistance for Persons with Disabilities: Contact Terry West by June 17, 2011, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rules establish alternative program requirements for home care aides-certified and medical assistants-certified to meet the nursing assistant certification level of training. The rules outline the requirements for development of the program and requirements for graduates applying for nursing assistant certification.

Reasons Supporting Proposal: ESSB 6582 (2010) requires the nursing care quality assurance commission to adopt rules that recognize relevant training and experience and provide career advancement opportunities for home care aides-certified and medical assistants-certified. The proposed rules meet the intent of the legislation by establishing program requirements that will allow medical assistants-certified and home care aides-certified to qualify to take the nursing assistant competency evaluation and apply for nursing assistant certification.

Statutory Authority for Adoption: Chapter 18.88A RCW, ESSB 6582 (chapter 169, Laws of 2010).

Statute Being Implemented: Chapter 18.88A RCW, ESSB 6582 (chapter 169, Laws of 2010).

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The nursing care quality assurance commission approves the nursing assistant training programs. These proposed rules outline alternative training and the recognition process for schools or facilities. The proposed rules also outline the application process for home care aides-certified and medical assistants-certified to become nursing assistant-certified.

Name of Proponent: Nursing care quality assurance commission, governmental.

Name of Agency Personnel Responsible for Drafting: Paula R. Meyer, MSN, RN, P.O. Box 47864, Olympia, WA 98504, (360) 236-4713; Implementation and Enforcement: Terry J. West, P.O. Box 47864, Olympia, WA 98504, (360) 236-4712.

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

Small Business Economic Impact Statement

Section 1. What is the scope of the proposed rule package? ESSB 6582 (2010) requires the nursing care quality assurance commission (commission) to adopt rules establishing criteria for alternative training programs for existing home care aides-certified and medical assistants-certified to complete so they may be eligible to qualify to take the nursing assistant-certified competency evaluation. The proposed rules will give existing home care aides-certified and medical assistants-certified the option to take an alternative 24-hour training program to supplement their existing education rather than complete the standard nursing assistant training program, which is 121-hours of classroom and clinical training. Upon completion of the alternative training and competency evaluation, applicants are eligible to apply for a nursing assistant-certified (NAC) credential. Rules shall recognize and not duplicate relevant training and experience. Rules shall also provide for career advancement opportunities.

There are currently 42,664 NACs in Washington state. Home care aide-certified is a new profession. The department of health (department) will begin regulating home care aides in 2011. The title "medical assistant-certified" is a working title for health care workers who have graduated from programs offering medical assistant degrees. Washington does not currently issue a credential to medical assistants. There are, however, some Washington schools offering medical assistant degrees. The department does not have a tally or count of the number of people that have graduated with a medical assistant degree.

Section 2. Which businesses are impacted by the proposed rule package? What are their North American Industry Classification System (NAICS) codes? What are their minor cost thresholds?

NAICS Code 4, 5 or 6 digit	NAICS Business Description	# of Businesses in Washington	Minor Cost Threshold = 1% of Average Annual Payroll	Minor Cost Threshold = .3% of Average Annual Receipts
611519	**Other Technical and Trade Schools**[1]	116	$3,040	$2,938
611210	**Community Colleges/Junior Colleges**	Not Available in NAICS	Not Available in NAICS	Not Available in NAICS

2007 NAICS Data

[1] This United States industry comprises establishments primarily engaged in offering job or career vocational or technical courses (except cosmetology and barber training, aviation and flight training, and apprenticeship training). The curriculums offered by these schools are highly structured and specialized and lead to job-specific certification.

Section 3. What is the estimated cost per business of the proposed rule? The commission conducted a survey to determine if any parties were considering creating an alternative training program and if so, to obtain estimated costs to create an alternative NAC training program for those recognized as home care aid-certified and medical assistant-certified. The commission sent a survey to four hundred fifty individuals on the DSHS listserv. This listserv is composed of individuals and schools affiliated with existing NAC training programs. The survey asked participates to provide costs to develop the program, including salaries, materials, supplies, equipment and "other" costs. The total costs reported by seventeen of the nineteen respondents were $5,000 or less. The other two respondents, however, reported substantially higher cost estimates ($16,900 and $29,700).

The commission recognizes that in addition to the costs for creating the alternative training program, facilities and schools that elect to offer such training will also incur ongoing costs associated with offering the program. For example, these entities will incur costs such as salary of the instructors, administration (application process, recordkeeping, etc.) and facilities (rent, equipment). This analysis does not attempt to quantify these costs, the assumption is these costs will drive tuition costs for the courses being offered.

Section 4. Does the rule impose more than minor costs on two or more impacted businesses? Yes. Several respondents provided cost estimates for creating an alternative training program that exceed the minor cost threshold for their industry.

Section 5. Does the rule have a disproportionate impact on small businesses? Yes. The NAICS indicates that there are both small and large businesses in the impacted business classification. It appears that the required tasks and associated costs to develop an alternative training program would be comparable to both small and large businesses. Therefore, using the "cost per employee" methodology, the commission assumes that there will be a disproportionate impact on small businesses because they have fewer employees than large businesses.

Section 6. Did we make an effort to reduce the impact of the rule? The commission made an effort to reduce the impact of the rule in the following ways:

- The commission reviewed the proposed curriculum of home care aide-certified and the existing curriculum for medical assistant-certified to the curriculum for NAC. Only the gaps between the curriculums were included in the rules.
- The proposed rules reduce recordkeeping by requiring the same kinds of recordkeeping whether a school has an alternative training program or a standard nursing assistant training program.
- The rules allow the program to assess the student to determine what additional training they deem necessary. The rules outline the minimum standards but leave options for the schools. This allows the school to incorporate their existing nursing assistant training program requirements as much as possible. This also allows the school flexibility because each student has different skill sets. The skill sets can be assessed by the school and only the gaps in their training need to be addressed. This reduces the cost of a school in providing alternative training.

Section 7. Did we involve small businesses in the rule development process? Yes. Both of the stakeholder meetings involved representatives from schools, employers and existing nursing assistant training programs. The commission sent invitations to the nursing list serve [listserv] which includes nurses, facilities, employers and nursing assistant training programs.

In addition, the commission sent a survey to all nursing assistant training programs asking for additional information. The survey asked questions about interest in developing an alternative program. The survey asked about the cost to develop a program, staffing levels needed and cost to students. A summary of the results from this survey are included in this document.

Section 8. Will businesses have to hire or fire any employees because of the requirements in the rule? The commission's analysis concludes that there will not be any jobs lost as a result of the proposed rules. If a school or facility chooses to develop an alternative training program they may choose to employ additional staff or use their existing staff.

A copy of the statement may be obtained by contacting Terry J. West, Department of Health, P.O. Box 47864, Olympia, WA 98504, phone (360) 236-4712, fax (360) 236-4738, e-mail terry.west@doh.wa.gov.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Terry J. West, Department of Health, P.O. Box 47864, Olympia, WA 98504, phone (360) 236-4712, fax (360) 236-4738, e-mail terry.west@doh.wa.gov.

May 12, 2011
Paula R. Meyer, MSN, RN
Executive Director
Nursing Care Quality Assurance Commission

NEW SECTION

WAC 246-841-530 Alternative program—Purpose. The commission intends to establish criteria for an alternative program for home care aid-certified and medical assistant-certified that will provide continued opportunity for recruitment and career advancement in nursing, recognize relevant training, and maintain a single standard for competency.

The alternative program is intended to provide twenty-four hours of additional training, including clinical training, on topics not addressed in the specified training for certification as a home care aide or medical assistant, that will meet the requirements necessary to take the nursing assistant-certified competency evaluation.

Successful completion of an approved alternative program may allow the home care aide-certified and medical assistant-certified to meet requirements to complete a competency evaluation. Successful completion of the competency evaluation may allow an applicant who is a home care aide-certified or medical assistant-certified to become a nursing assistant-certified. The nursing assistant-certified credential may then qualify an individual for entry into a nursing program.

NEW SECTION

WAC 246-841-535 Alternative program—Definitions. The definitions in this section apply throughout WAC 246-841-530 through 246-841-585.

(1) **Home care aide-certified** means any person certified under chapter 18.88B RCW.

(2) **Medical assistant-certified** means a person certified by a medical assistant program accredited by the Commission on Accreditation of Allied Health Education Programs (CAAHEP) or the American Association of Medical Assistants and the American Medical Association.

(3) **Nursing assistant-certified** means any person certified under chapter 18.88A RCW.

NEW SECTION

WAC 246-841-545 Home care aide-certified alternative program requirements. The commission may approve alternative programs for individuals credentialed as home care aides-certified to successfully complete in order to qualify to take the nursing assistant-certified competency evaluation.

(1) An alternative program shall:

(a) Meet the requirements of WAC 246-841-420.

(b) Have a competency based curriculum composed of learning objectives and activities. The curriculum content shall include:

(i) Measuring vital signs, height and weight, fluid and food input and output.

(ii) Developmental tasks associated with developmental and age specific processes.

(iii) Use and care of prosthetic devices.

(iv) Provision of adequate ventilation, warmth, light, and quiet for the client.

(v) Principles of good body mechanics for self and clients to lift and move clients or heavy items.

(vi) Achieving competence in reading, writing, speaking and understanding English at the level necessary to:

(A) Use terminology accepted in health care settings.

(B) Accurately record and report observations, actions and information in a timely manner.

(vii) The scope of practice of nursing assistant-certified.

(viii) The workers right to know law.

(ix) The Uniform Disciplinary Act, including RCW 18.130.180.

(c) Have a program director:

(i) Who is currently licensed as a registered nurse (RN) in good standing in the state of Washington and has a minimum of three years of experience as an RN with at least one year of experience in direct patient care; and

(ii) Who has successfully completed a training course on adult instruction or can demonstrate that he or she has one year experience teaching adults, unless the program director works exclusively in a secondary educational setting.

(A) The training course on adult instruction must provide instruction in understanding the adult learner, techniques for teaching adults, classroom methods for teaching adults and audio-visual techniques for teaching adults.

(B) Acceptable experience does not include in-service education or patient teaching.

(iii) Who has a minimum of one year experience within the past three years in caring for the elderly or chronically ill of any age or both if also acting as an instructor.

(2) The program director may select instructional staff to assist in the teaching of the course. Instructional staff must meet the following requirements:

(a) Hold a current Washington state license to practice as a registered or licensed practical nurse in good standing; and
(b) Have a minimum of one year experience within the past three years in caring for the elderly or chronically ill of any age.

(3) Instructional staff may assist the program director in development of curricula, teaching modalities, and evaluation. The instructor must be under the supervision of the program director at all times.

(4) A guest lecturer or individual with expertise in a specific course unit may be used in the classroom setting for teaching without commission approval, following the program director's review of the currency of content. The guest lecturer, where applicable, must hold a license, certificate or registration in good standing in their field of expertise.

NEW SECTION

WAC 246-841-550 Medical assistant-certified alternative program requirements. The commission may approve alternative programs for individual medical assistant-certified to successfully complete in order to qualify to take the nursing assistant-certified competency evaluation.

(1) An alternative program shall:

(a) Submit documentation of meeting all requirements of WAC 246-841-420.

(b) Have a competency based curriculum composed of learning objectives and activities. The curriculum content shall include:

(i) Measurement of fluid and food input and output.

(ii) Participation in planning and nursing reporting process.

(iii) Bathing, oral care, and skin care.

(iv) Personal care tasks, appropriate to chronological age and developmental stage of residents.

(v) Grooming and dressing.

(vi) Toileting.

(vii) Eating and hydration, including:

(A) Techniques to prevent choking and aspiration; and

(B) Health and sanitation in food services.

(viii) Basic restorative services.

(A) Use of assistive devices in ambulation, transferring, eating and dressing.

(B) Range of motion.

(C) Turning and positioning.

(D) Transferring and ambulating.

(E) Use and care of prosthetic devices.

(ix) Client resident rights and promotion of independence.

(A) Assistance in getting to and joining in activities appropriate to chronological age of resident.

(B) Respect for client's property.

(C) Use of restraints and acknowledges agency policies that may apply to restraints.

(x) An environment with adequate ventilation, warmth, light, and quiet.

(xi) Rules and regulations, including:

(A) The scope of practice, nursing assistant-certified.

(B) The workers right to know law.

(C) The Uniform Disciplinary Act, including RCW 18.130.180.

(c) Have a program director:

(i) Who is currently licensed as a registered nurse (RN) in good standing in the state of Washington and has a minimum of three years of experience as an RN, with at least one year of experience in direct patient care.

(ii) Who has successfully completed a training course on adult instruction or can demonstrate that he or she has one year experience teaching adults unless the program director works exclusively in a secondary educational setting.

(A) The training course on adult instruction must provide instruction in understanding the adult learner, techniques for teaching adults, classroom methods for teaching adults and audio-visual techniques for teaching adults.

(B) Acceptable experience does not include in-service education or patient teaching.

(iii) Who has a minimum of one year experience within the past three years in caring for the elderly or chronically ill of any age if also acting as an instructor.

(2) The program director may select instructional staff to assist in the teaching of the course. Instructional staff must meet the following requirements:

(a) Hold a current Washington state license to practice as a registered or licensed practical nurse in good standing; and
(b) Have a minimum of one year experience within the past three years in caring for the elderly or chronically ill of any age.

(3) Instructional staff may assist the program director in development of curricula, teaching modalities, and evaluation. The instructor must be under the supervision of the program director at all times.

(4) A guest lecturer or individual with expertise in a specific course unit may be used in the classroom setting for teaching without commission approval, following the program director's review of the currency of content. The guest

lecturer, where applicable, must hold a license, certificate or registration in good standing in their field of expertise.

NEW SECTION

WAC 246-841-555 Responsibilities of the program director in alternative programs. The program director of an alternative program is responsible for:

(1) Development and use of a curriculum which:

(a) Meets the requirements of WAC 246-841-545; or

(b) Meets the requirements of WAC 246-841-550.

(2) Ensuring compliance with the requirements of WAC 246-841-500 and 246-841-510.

(3) Verifying home care aides-certified have a valid certification before admission to the alternative program.

(4) Verifying medical assistants-certified have certification before admission to the alternative program.

(5) Direct supervision of all students during clinical experience. Direct supervision means an approved program director or instructor observes students performing tasks.

(6) Ensuring the clinical instructor has no concurrent duties during the time he or she is instructing students.

(7) Maintaining an environment acceptable to teaching and learning.

(8) Supervising all instructors involved in the course. This includes clinical instructors and guest lecturers.

(9) Ensuring students are not asked to, or allowed to perform any clinical skill with patients or clients until the students have demonstrated the skill satisfactorily to an instructor in a practice setting.

(10) Evaluating knowledge and skills of students before verifying completion of the course.

(11) Providing students a verification of completion when requirements of the course have been satisfied.

(12) Providing adequate time for students to complete the objectives of the course. The time may vary with skills of the learners and teaching or learning variables.

(13) Establishing an evaluation process to assess mastery of competencies.

NEW SECTION

WAC 246-841-560 Alternative program application for approval, denial, or withdrawal. (1) An applicant for an alternative program must submit a completed application provided by the department of health. The application will include forms and instructions to submit the following:

(a) Program objectives;

(b) Required curriculum and content.

(2) The commission shall comply with WAC 246-841-430 when denying or withdrawing an approval of an alternative program.

(3) An alternative program that has been denied or had an approval withdrawn shall have the right to a hearing to appeal the commission's decision according to the provisions of chapters 18.88A and 34.05 RCW, the Administrative Procedure Act, Parts IV and V.

NEW SECTION

WAC 246-841-570 Recordkeeping and administrative procedures for approved alternative programs. An alternative program shall comply with all the requirements in WAC 246-841-510.

NEW SECTION

WAC 246-841-573 Closure of an alternative program. Before an approved alternative program closes it shall notify the commission in writing, stating the reason and the date of intended closing.

NEW SECTION

WAC 246-841-575 Alternative program—Eligibility to complete the nursing assistant-certified competency examination. Graduates of alternative programs who meet all application requirements are deemed eligible to complete the nursing assistant-certified competency evaluation approved by the commission.

Competency evaluation means the measurement of an individual's knowledge and skills as related to safe, competent performance as a nursing assistant-certified.

NEW SECTION

WAC 246-841-578 Application requirements. To be eligible to apply for nursing assistant-certified the applicant must:

(1) Be currently credentialed as a home care aide-certified; or

(2) Be a medical assistant-certified as defined in WAC 246-841-535;

(3) Have completed a cardiopulmonary resuscitation course;

(4) Have completed seven hours of AIDS education and training as required in chapter 246-12 WAC, part 8; and

(5) Have successfully completed the competency evaluation.

NEW SECTION

WAC 246-841-585 Application for nursing assistant-certified from an alternative program. (1) An applicant for nursing assistant-certified who has successfully completed an approved alternative program as a home care aide-certified must submit to the department:

(a) A completed application for nursing assistant-certified.

(b) A copy of certificate of completion from an approved alternative program for home care aides-certified.

(c) Documentation verifying current certification as a home care aide.

(d) Evidence of completion of a cardiopulmonary resuscitation course.

(e) Evidence of completion of seven hours of AIDS education and training.

(f) Applicable fees as required in WAC 246-841-990.

(2) An applicant for nursing assistant-certified who successfully completed an approved alternative program as a medical assistant-certified must submit to the department:

(a) A completed application for nursing assistant-certified;

(b) A copy of certificate of completion from approved alternative program for medical assistant-certified;

(c) An official transcript from the nationally accredited medical assistant program;

(d) Evidence of completion of an adult cardiopulmonary resuscitation course;

(e) Evidence of completion of seven hours of AIDS education and training; and

(f) Applicable fees as required in WAC 246-841-990.

WSR 11-11-048
PROPOSED RULES
FOREST PRACTICES BOARD

[Filed May 13, 2011, 12:20 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 10-18-045.

Title of Rule and Other Identifying Information: Road maintenance and abandonment plans: Extending the performance period to July 1, 2021.

Hearing Location(s): Department of Natural Resources Region Office, 919 North Township, NW Conference Center, Sedro Wolleey [Woolley], on June 23, 2011, at 6 p.m.; at the North Olympic Library, 2210 South Peabody Street, Raymond Carver Meeting Room, Port Angeles, on June 28, 2011, at 6 p.m.; and at Centralia Community College, 420 West Walnut, Hanson Board Room, Centralia, on June 30, 2011, at 6 p.m.

Date of Intended Adoption: August 9, 2011.

Submit Written Comments to: Patricia Anderson, DNR Forest Practices Division, 1111 Washington Street S.E., P.O. Box 47012, Olympia, WA 98504-7012, e-mail forest.practicesboard@dnr.wa.gov, fax (360) 902-1428, by 5 p.m. on July 1, 2011.

Assistance for Persons with Disabilities: Contact forest practices division at (360) 902-1400, by June 13, 2011, TTY (360) 902-1125.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The forest practices board is considering amendments to WAC 222-24-050 and 222-24-051 to give forest landowners the opportunity to extend the performance period for road maintenance and abandonment plans (RMAPs) up to five years, until 2021. RMAPs are forest landowner plans that specify and schedule the work necessary to improve and maintain forest roads to standards detailed in chapter 222-24 WAC and prevent damage to public resources.

Reasons Supporting Proposal: The proposed rule change is the result of a recommendation to the board on August 10, 2010, from the forest practices adaptive management program's policy committee. The original completion date (July 1, 2016, which is fifteen years from the effective date of the 2001 forests and fish rule package) was based on an estimate of the time landowners would reasonably need to fund and accomplish their road improvements. The board is considering this rule change because of the financial hardship forest landowners have experienced since the 2008 economic downturn and its effect on home construction and timber prices.

Statutory Authority for Adoption: RCW 76.09.040.

Statute Being Implemented: Not applicable.

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: Donelle Mahan, 1111 Washington Street S.E., Olympia, (360) 902-1396; Implementation and Enforcement: Julie Sackett, 1111 Washington Street S.E., Olympia, (360) 902-1405.

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

Small Business Economic Impact Statement

The forest practices board is considering a rule change to allow forest landowners who have RMAPs to apply for an extension of the deadline for up to five years. The proposed rule change would amend WAC 222-24-050 and 222-24-051, changing the completion date for RMAPs from July 1, 2016, to July 1, 2021.

The board's objective is to be responsive to a request from private forest landowners with RMAPs to adjust the RMAP completion schedule to provide relief from a reduced cash flow situation in Washington's timber industry due to the recent economic recession without reducing the legal commitment to complete forest road improvements necessary to protect and restore water quality and fish habitat.

The economic impacts of the rule change are limited to large private forest landowners, which is the regulated community in this case. There are some small forest landowners who elected to plan under a full RMAP pursuant to WAC 222-24-050; those landowners would be authorized to request an extension just as large forest landowners would under the proposed rule.[1]

SMALL BUSINESS IMPACTS: A small business economic impact statement (SBEIS) is required by the Regulatory Fairness Act (chapter 19.85 RCW) to consider the impacts on small businesses of administrative rules adopted by state agencies. The statute defines small businesses as those with fifty or fewer employees. To determine whether the proposed rule will have a disproportionate cost impact on small businesses, the impact statement compares the cost of compliance for small business with the cost of compliance for the ten percent of businesses that are the largest businesses required to comply with the proposed rule.

Small Business Analysis: There are no new or additional requirements or costs imposed on any members of the regulated community by the proposed rule change since it affords the opportunity for large forest landowners to elect to apply for an extension of the RMAP performance period of up to five years. Choosing whether to extend the RMAP performance period is voluntary on the part of the business (landowner), whether it is a large business, a small business,

or an individual. Therefore, there is no disproportionate cost impact on small businesses[2].

Reducing Costs for Small Businesses: RCW 19.85.-030 and [19.85].040 address an agency's responsibility in rule making to consider how costs may be reduced for small businesses, based on the extent of disproportionate impact on the small businesses. As stated above, there is no disproportionate impact on small businesses.

Estimated Number of Jobs Created or Lost: RCW 19.85.040 (2)(d) requires that the SBEIS include "(a)n estimate of the number of jobs that will be created or lost as the result of compliance with the proposed rule."

The proposed rule does not result in any jobs being created or lost for the regulated community. However, the number of associated road construction jobs involved in doing RMAP work would be deferred into the future; there would be fewer in 2011-2016, and those jobs lost the first five years would be shifted forward into the last five years when there would have been no RMAP-related jobs.

[1] The state of Washington has agreed not to seek an RMAP time extension on public lands managed by the department of natural resources and the department of fish and wildlife, even though the proposed rule language would allow it.

[2] "Small businesses" for the purpose of this analysis are those members of the regulated community (large forest landowners) with fifty or fewer employees and is not to be confused with "small forest landowners" which has a distinct statutory definition.

A copy of the statement may be obtained by contacting Gretchen Robinson, 1111 Washington Street S.E., 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, 1111 Washington Street S.E., P.O. Box 47012, Olympia, WA 98504-7012, phone (360) 902-1705, fax (360) 902-1428, e-mail gretchen. robinson@dnr.wa.gov.

May 13, 2011
Peter Goldmark
Chair

AMENDATORY SECTION (Amending WSR 06-11-112, filed 5/18/06, effective 6/18/06)

WAC 222-24-050 *Road maintenance and abandonment. The goals for road maintenance are established in WAC 222-24-010. Guidelines for how to meet these goals and standards are in ((~~the~~)) board manual section 3. Replacement will not be required for existing culverts functioning with little risk to public resources or for culverts installed under an approved forest practices application or notification and are capable of passing fish, until the end of the culvert's functional life.

The goals for road maintenance outlined in this chapter are expected to be achieved by July 1, 2016. The strategies for achieving the goals are different for large forest landowners and small forest landowners.

For large forest landowners, all forest roads must be improved and maintained to the standards of this chapter prior to July 1, 2016; however, large or small forest landowners may request an extension of up to five years, or July 1, 2021, as outlined in WAC 222-24-051(8). Work performed toward meeting the standards must generally be even flow over the ((~~fifteen-year~~)) performance period with priorities for achieving the most benefit to the public resources early in the period. These goals will be achieved through the road maintenance and abandonment plan process outlined in WAC ((~~22-24-051 [222-24-051]~~)) 222-24-051.

For small forest landowners, the goals will be achieved through the road maintenance and abandonment plan process outlined in WAC 222-24-0511, by participation in the state-led family forest fish passage program, and by compliance with the Forest Practices Act and rules. The purpose of the family forest fish passage program is to assist small forest landowners in providing fish passage by offering cost-share funding and prioritizing projects on a watershed basis, fixing the worst fish passage barriers first. The department, in consultation with the departments of ecology and fish and wildlife, will monitor the extent, effectiveness, and progress of checklist road maintenance and abandonment plan implementation and report to the legislature and the board by December 31, 2008, and December 31, 2013.

AMENDATORY SECTION (Amending WSR 06-11-112, filed 5/18/06, effective 6/18/06)

WAC 222-24-051 *Large forest landowner road maintenance schedule. All forest roads must be included in an approved road maintenance and abandonment plan by July 1, 2006. This includes all roads that were constructed or used for forest practices after 1974. Inventory and assessment of orphan roads must be included in the road maintenance and abandonment plans as specified in WAC 222-24-052(4).

*(1) Landowners must maintain a schedule of submitting plans to the department that cover 20% of their roads or land base each year.

*(2) For those portions of their ownership that fall within a watershed administrative unit covered by an approved watershed analysis plan, chapter 222-22 WAC, landowners may follow the watershed administrative unit-road maintenance plan, providing the roads they own are covered by the plan. A proposal to update the road plan to meet the current road maintenance standards must be submitted to the department for review on or before the next scheduled road maintenance plan review. If annual reviews are not required as part of the watershed analysis road plan, the plan must be updated by October 1, 2005. All roads in the planning area must be in compliance with the current rules by July 1, 2016 or by the extension deadline approved by the department under subsection (8) of this section.

*(3) Plans will be submitted by landowners on a priority basis. Road systems or drainages in which improvement, abandonment or maintenance have the highest potential benefits to the public resource are the highest priority. Based upon a "worst first" principle, work on roads that affect the following are presumed to be the highest priority:

(a) Basins containing, or road systems potentially affecting, waters which either contain a listed threatened or endangered fish species under the federal or state law or a water body listed on the current 303(d) water quality impaired list for road related issues.

(b) Basins containing, or road systems potentially affecting, sensitive geology/soils areas with a history of slope failures.

(c) Road systems or basins where other restoration projects are in progress or may be planned coincident to the implementation of the proposed road plan.

(d) Road systems or basins likely to have the highest use in connection with future forest practices.

*(4) Based upon a "worst first" principle, road maintenance and abandonment plans must pay particular attention to:

(a) Roads with fish passage barriers;

(b) Roads that deliver sediment to typed water;

(c) Roads with evidence of existing or potential instability that could adversely affect public resources;

(d) Roads or ditchlines that intercept groundwater; and

(e) Roads or ditches that deliver surface water to any typed waters.

*(5) Road maintenance and abandonment plans must include:

(a) Ownership maps showing all forest roads, including orphan roads; planned and potential abandonment, all typed water, Type A and B Wetlands that are adjacent to or crossed by roads, stream adjacent parallel roads and an inventory of the existing condition; and

(b) Detailed description of the first years work with a schedule to complete the entire plan within ((~~fifteen years~~)) the performance period; and

(c) Standard practices for routine road maintenance; and

(d) Storm maintenance strategy that includes prestorm planning, emergency maintenance and post storm recovery; and

(e) Inventory and assessment of the risk to public resources or public safety of orphaned roads; and

(f) The landowner or landowner representative's signature.

*(6) Priorities for road maintenance work within plans are:

(a) Removing fish passage barriers beginning on roads affecting the most habitat first, generally starting at the bottom of the basin and working upstream;

(b) Preventing or limiting sediment delivery (areas where sediment delivery or mass wasting will most likely affect bull trout habitat will be given the highest priority);

(c) Correcting drainage or unstable sidecast in areas where mass wasting could deliver to public resources or threaten public safety;

(d) Disconnecting road drainage from typed waters;

(e) Repairing or maintaining stream-adjacent parallel roads with an emphasis on minimizing or eliminating water and sediment delivery;

(f) Improving hydrologic connectivity by minimizing the interruption of surface water drainage, interception of subsurface water, and pirating of water from one basin to another; and

(g) Repair or maintenance work which can be undertaken with the maximum operational efficiency.

*(7) Initial plans must be submitted to the department during the year 2001 as scheduled by the department.

*(8) Requests to extend the completion date of road maintenance and abandonment plans may lead to the reapproval of the road maintenance and abandonment plan for up to five years, or July 1, 2021. Requests must be made at least one hundred twenty days prior to the plan's anniversary date by 2014.

(a) Landowner requests for an extension must include:

(i) The length of time for the extension period; and

(ii) A revised road maintenance and abandonment plan according to subsections (3) through (6) of this section.

(b) The department shall provide forty-five days for the departments of ecology and fish and wildlife, affected tribes, and interested parties to review a revised road maintenance and abandonment plan.

(c) The approval or a denial of a road maintenance and abandonment plan's extension request will occur at least thirty days prior to the anniversary date of the initial plan's submittal.

(d) A landowner with an approved extension and revised road maintenance and abandonment plan must report work accomplished in accordance with subsection (9) of this section.

*(9) Each year on the anniversary date of the plan's submittal, landowners must report work accomplished for the previous year and submit to the department a detailed description of the upcoming year's work including modifications to the existing work schedule.

The department's review and approval will be conducted in consultation with the departments of ecology((~~, the department of~~)) and fish and wildlife, affected tribes, and interested parties. The department will:

(a) Review the progress of the plans annually with the landowner to determine if the plan is being implemented as approved; and

(b) The plan will be reviewed by the department and approved or returned to the applicant with concerns that need to be addressed within forty-five days of the plan's submittal.

(c) Additional plans will be signed by the landowner or the landowner's representative.

*((~~(9)~~)) (10) The department shall require the use of standardized forms as referenced in board manual section 3 for landowners requesting extensions under subsection (8) of this section and for annual reporting under subsection (9) of this section.

(11) The department will facilitate an annual water resource inventory area (WRIA) meeting with landowners, the departments of fish and wildlife((~~, the department of~~)) and ecology, affected tribes, the National Marine Fisheries Service, the U.S. Fish and Wildlife Service, affected counties, local U.S. Forest Service, watershed councils, and other interested parties. The purpose of the meeting is to:

(a) Suggest priorities for road maintenance and abandonment planning; and

(b) Exchange information on road maintenance and stream restoration projects.

*((~~(10)~~)) (12) Regardless of the schedule for plan development, roads that are currently used or proposed to be used for timber hauling must be maintained in a condition that prevents potential or actual damage to public resources. If the department determines that log haul on such a road will cause

or has the potential to cause material damage to a public resource, the department may require the applicant to submit a plan to address specific issues or segments on the haul route.

*(((~~(11)~~))) (13) If a landowner is found to be out of compliance with the work schedule of an approved road maintenance and abandonment plan and the department determines that this work is necessary to prevent potential or actual damage to public resources, then the department will exercise its authority under WAC 222-46-030 (notice to comply) and WAC 222-46-040 (stop work order) to restrict use of the affected road segment.

(a) The landowner may submit a revised maintenance plan for maintenance and abandonment and request permission to use the road for log haul.

(b) The department must approve use of the road if the revised maintenance plan provides protection of the public resource and maintains the overall schedule of maintenance of the road system or basin.

*(((~~(12)~~))) (14) If a landowner is notified by the department that their road(s) has the potential to damage public resources, the landowner must, within 90 days, submit to the department for review and approval a plan or plans for those drainages or road systems within the area identified by the department.

*(15) The department will notify the departments of ecology and fish and wildlife, affected tribes, and interested parties if actions taken under this section result in a change to an approved road maintenance and abandonment plan.

(16) When the department approves or denies a road maintenance and abandonment plan extension under subsection (8) of this section, that decision may be appealed to the appeals board in accordance with RCW 43.21B.110 and 43.21B.230.

WSR 11-11-068
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF ECOLOGY
(By the Code Reviser's Office)
[Filed May 17, 2011, 8:32 a.m.]

WAC 173-334-140, proposed by the department of ecology in WSR 10-22-017 appearing in issue 10-22 of the State Register, which was distributed on November 17, 2010, 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 11-11-069
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(By the Code Reviser's Office)
[Filed May 17, 2011, 8:32 a.m.]

WAC 388-865-0255, 388-865-0256, 388-865-0257 and 388-865-0258, proposed by the department of social and health services in WSR 10-22-122 appearing in issue 10-22 of the State Register, which was distributed on November 17, 2010, 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 11-11-070
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(By the Code Reviser's Office)
[Filed May 17, 2011, 8:33 a.m.]

WAC 388-106-0125, proposed by the department of social and health services in WSR 10-22-123 appearing in issue 10-22 of the State Register, which was distributed on November 17, 2010, 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 11-11-077
PROPOSED RULES
SPOKANE REGIONAL CLEAN AIR AGENCY
[Filed May 17, 2011, 2:18 p.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 70.94.141(1).

Title of Rule and Other Identifying Information: Adoption of SRCAA Regulation I, Section 6.18 - Indirect Source Rule.

Hearing Location(s): Spokane Regional Clean Air Agency (SRCAA), 3104 East Augusta Avenue, Spokane, WA 99207, on July 7, 2011, at 9:30 a.m.

Date of Intended Adoption: July 7, 2011.

Submit Written Comments to: April Westby, 3104 East Augusta Avenue, Spokane, WA 99207, e-mail awestby@spokanecleanair.org, fax (509) 477-4727, by June 24, 2011.

Assistance for Persons with Disabilities: Contact Barbara Nelson by July 6, 2011, (509) 477-4727, ext. 116.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Purpose: Adopt

new rule to regulate indirect sources in Spokane County with PM2.5 emissions above 0.5 tons/year and/or NOx emissions above twenty-five tons/year that cause or contribute to: A violation of one or more federal, state, and/or local ambient air quality standards; or an adverse human health effect.

Indirect sources are defined as: Any facility, building, structure, or installation, or combination thereof, which generates or attracts mobile sources that result in emissions of any air contaminant or toxic air contaminant. The definition of indirect source does not include construction sites that generate mobile source emissions for less than one year or facilities that are solely comprised of public roadways (e.g., freeways are not considered indirect sources under this rule).

Indirect sources could potentially include warehouses, industrial parks, rail yards, transportation centers, airports, truck stops, etc.

Anticipated Effects: The new rule will establish requirements for indirect sources that meet the applicability criteria in the rule. These indirect sources have been unregulated by SRCAA in the past.

Reasons Supporting Proposal: EPA recently adopted a one hour NO2 ambient standard and has proposed a more stringent ozone ambient standard (NOx is a precursor to ozone). In addition, diesel particulate matter has been identified by Washington and other states as a toxic air pollutant and is a component of PM2.5. Indirect sources can be a significant source of NOx, diesel particulate matter and PM2.5 emissions. The indirect source rule will establish requirements for affected indirect sources which may lower ambient levels of NOx, particulate matter, and PM2.5.

Statutory Authority for Adoption: RCW 70.94.141 and 70.94.380(2).

Statute Being Implemented: Chapter 70.94 RCW; 42 U.S.C. 7401 et. seq. and 42 U.S.C. 7412.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The new indirect source rule will affect indirect sources in Spokane County with PM2.5 emissions above 0.5 tons/year and/or NOx emissions above twenty-five tons/year that cause or contribute to: A violation of one or more federal, state, and/or local ambient air quality standards; or an adverse human health effect. The rule requires affected indirect sources to submit an emission reduction plan (ERP) to SRCAA for approval which outlines measures to be taken to reduce emissions to the greatest degree practicable in the shortest time practicable. Once the ERP is approved by SRCAA, the indirect source must implement the ERP.

Name of Proponent: SRCAA, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: April Westby, 3104 East Augusta Avenue, Spokane, WA 99207, (509) 477-4727.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This is a local air pollution agency rule. Chapter 19.85 RCW does not apply to local air pollution agency rule development.

A cost-benefit analysis is not required under RCW 34.05.328. This is a local agency rule and pursuant to RCW 70.94.141(1), RCW 34.05.328 does not apply to this rule development.

May 17, 2011
April L. Westby
Environmental Engineer

NEW SECTION

SECTION 6.18 INDIRECT SOURCE RULE

A. Applicability.

1. The provisions of this rule apply to indirect sources located in Spokane County with actual or projected (for new indirect sources) calendar year PM2.5 emissions above 0.5 tons/year and/or actual or projected (for new indirect sources) calendar year NOx emissions above 25 tons/year that cause or contribute to:

a. a violation of one or more federal, state, and/or local ambient air quality standards; or

b. an adverse human health effect.

2. When making a determination as to whether an indirect source is subject to Section 6.18, the Agency shall:

a. provide the owner or operator of the indirect source with written notice that the Agency intends to make an applicability determination and a reasonable opportunity to submit relevant data to the Agency before an applicability decision is made by the Agency;

b. use scientific and engineering principles to determine the emissions from mobile source activity at the indirect source as accurately as possible, given the Agency's resources;

c. assess the ambient impact of the mobile source emissions within the boundaries of the indirect source as accurately as possible, using computer air quality modeling, given the Agency's resources;

d. utilize any health information prepared by a federal, state, or local government agency; and

e. provide the owner or operator of the indirect source with a written applicability determination.

3. The owner or operator of an affected indirect source has the opportunity to challenge the Agency's applicability determination by providing additional information for the agency to consider, provided the requirements in Section 6.18.A.3.a & b are met:

a. The owner or operator of the indirect source must submit a written request challenging the applicability determination to the Agency no later than 30 calendar days after receipt of the Agency's applicability determination.

b. No later than 60 calendar days after submitting a timely written request challenging the Agency's applicability determination, the owner or operator of the indirect source must submit a plan to the Agency with a detailed description of all data being challenged and a description of all additional data and/or information that the owner or operator intends to submit to the Agency for its consideration. All additional data and/or information identified in the plan must be submitted to the Agency no later than 180 calendar days after the plan is submitted to the Agency, unless an extension is approved by the Agency in writing.

c. After reviewing all additional data and information submitted by the owner or operator of the indirect source, the Agency will decide whether to modify or confirm its original

applicability determination. The Agency will notify the owner or operator of the indirect source of whether the original applicability determination has been modified or confirmed no later than 90 days after all additional data and information has been submitted to the Agency.

B. Definitions

1. Adverse human health effect means harmful and undesired changes to body function or cell structure that might lead to disease or health problems as indicated by, but not limited to:

a. higher than average or expected occurrences of cancer; and/or

b. measured or modeled levels of toxic air pollutant(s) which exceed 1 in 100,000 cancer risk based on a 70 year exposure.

2. Indirect Source means any facility, building, structure, or installation, or combination thereof, which generates or attracts mobile sources that results in emissions of any air contaminant or toxic air contaminant. The definition of indirect source does not include construction sites that generate mobile source emissions for less than one year or facilities that are solely comprised of public roadways (e.g., freeways are not considered indirect sources under this rule).

3. Mobile source means any non-stationary source of air pollution, including but not limited to cars, trucks, motorcycles, buses, airplanes, and locomotives.

4. New Indirect Source means the construction or modification of an indirect source that increases the amount of any air contaminant or toxic air contaminant emitted by mobile sources within the boundary of the indirect source.

C. Emission Reduction Plan.

1. An owner or operator of an indirect source who has been notified in writing by the Agency that it is subject to the provisions of this rule shall submit an emission reduction plan to the Agency for review and approval, according to all of the following requirements:

a. The emission reduction plan shall describe the emission reduction measures which will be implemented by the affected indirect source owner or operator to reduce emissions within the boundaries of the indirect source in Spokane County, along with a timetable for implementation of each emission reduction measure. The emission reduction plan shall be designed to reduce PM2.5 and/or NOx emissions within the boundaries of the indirect source in Spokane County to the greatest degree practicable in the shortest time practicable. For new sources, the emissions reduction measures contained in the emission reduction plan must reduce PM2.5 and/or NOx emissions within the boundaries of the indirect source in Spokane County to levels which will not cause a violation of any ambient air quality standards or an adverse human health effect.

b. For existing indirect sources, the emission reduction measures contained in the emission reduction plan must be completed within 5 years after the Agency approves the plan, unless an extension is granted by the Agency in writing.

c. For new indirect sources, the emission reduction measures contained in the emission reduction plan must be completed prior to commencing construction of the project, unless otherwise approved by the Agency in writing.

d. The emission reduction plan shall be submitted to the Agency no later than 30 calendar days after notification in writing that an affected indirect source is subject to the indirect source rule, unless an extension is granted by the Agency in writing.

e. The Agency will review the proposed emission reduction plan submitted by an affected indirect source owner or operator and inform the owner or operator within 30 calendar days if the plan is accepted or needs modification. If the plan needs modification, the Agency will provide the affected indirect source owner or operator with a description of the modifications that are required and a deadline for submittal of a revised proposed emission reduction plan to SRCAA for review.

f. After the proposed emission reduction plan is deemed acceptable by the Agency, the Agency will issue a preliminary approval of the emission reduction plan to the indirect source owner or operator. A 30-day public comment period is required to be held on the preliminary approval of the emission reduction plan, according to the requirements given in SRCAA Regulation I, Section 5.05.C. All comments received during the public comment period shall be considered by the Agency prior to the issuance of a final decision on the emission reduction plan.

g. Once an emission reduction plan is approved by the Agency, it is considered final and shall be implemented. It shall be unlawful for an indirect source to fail to comply with an emission reduction plan approved by the Agency.

2. It shall be unlawful for the owner or operator of an indirect source who has been notified in writing by the Agency that it is subject to the provisions of this rule to fail to comply with the requirements given in Section 6.18.C.1.

WSR 11-11-081
PROPOSED RULES
GAMBLING COMMISSION
[Filed May 17, 2011, 3:32 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-07-109.

Title of Rule and Other Identifying Information: WAC 230-15-050 Minimum cash on hand requirements.

Hearing Location(s): Vancouver Heathman Lodge, 7801 Greenwood Drive, Vancouver, WA 98662, on August 11 or 12, 2011, at 9:00 a.m. or 1:00 p.m. NOTE: Meeting dates and times are tentative. Visit our web site at www.wsgc.wa.gov and select public meeting about ten days before the meeting to confirm meeting date/location/start time.

Date of Intended Adoption: August 11 or 12, 2011.

Submit Written Comments to: Susan Arland, P.O. Box 42400, Olympia, WA 98504-2400, e-mail SusanA@wsgc.wa.gov, fax (360) 486-3625, by August 1, 2011.

Assistance for Persons with Disabilities: Contact Gail Grate, executive assistant, by August 1, 2011, TTY (360) 486-3637 or (360) 486-3453.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Victor Mena, representing Washington Gold Casinos, has submitted a petition

for rule change requesting that house-banked card room licensees offering a large prize be authorized to keep funds greater than $30,000 in a separate bank account, rather than at their business premises. The petition was filed for further discussion at the May 2011 commission meeting.

Reasons Supporting Proposal: The petitioner states in his letter that safety is the reason for the proposed rule change. The petitioner verbally stated to staff that he offers a house-banked card game, which has a current prize of $100,000. He doesn't believe it is safe to have all the cash to pay the prize at the premise because it raises the risk of theft and possible robbery. Also, there is a risk to player(s) that win the prize and are paid in cash.

Statutory Authority for Adoption: RCW 9.46.070, 9.46.0282.

Statute Being Implemented: Not applicable.

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

Name of Proponent: Victor Mena, representing Washington Gold Casinos, private.

Name of Agency Personnel Responsible for Drafting: Susan Arland, Rules Coordinator, Lacey, (360) 486-3466; Implementation: Rick Day, Director, Lacey, (360) 486-3446; and Enforcement: Mark Harris, Assistant Director, Lacey, (360) 486-3579.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement was not prepared because the proposed rule change does not impose more than minor costs, as defined in chapter 19.85 RCW, to licensees.

A cost-benefit analysis is not required under RCW 34.05.328. The Washington state gambling commission is not an agency that is statutorily required to prepare a cost-benefit analysis under RCW 34.05.328.

May 17, 2011
Susan Arland
Rules Coordinator

AMENDATORY SECTION (Amending Order 640, filed 1/9/09, effective 2/9/09)

WAC 230-15-050 Minimum cash on hand requirements. (1) Card game licensees must have sufficient cash on hand to redeem all chips issued for play and pay out all prizes.

(2) Within three hours of opening for the business day, at a time included in the internal controls, house-banked card game licensees must have at least the following minimum amount of cash on premises in their cage, safe, and vault combined:

(a) One thousand dollars for each house-banked table on the gambling floor; plus

(b) The amount of the largest single prize available, excluding jackpot prizes when WAC rules require a deposit into a separate bank account (for example, player-supported jackpots and progressive jackpots). If the amount of the largest single prize available is over thirty thousand dollars, the licensee may keep any balance over thirty thousand dollars in a separate bank account. A licensee must keep a separate bank account for each business premises.

For example: If a house-banked card room has fifteen house-banked tables and a largest single prize of twenty-three thousand dollars, before opening, the ((~~cage~~)) licensee must have at least thirty-eight thousand dollars on hand: 15 tables x $1,000 = $15,000 + largest single prize of $23,000 = $38,000.

(3) Except for the restrictions on player-supported jackpot pay outs in WAC 230-15-405 and progressive jackpot pay outs in WAC 230-15-690, licensees may pay prizes by check if sufficient funds are available on deposit.

(4) Failure to keep funds to cash in chips, pay prizes, or redeem gambling related checks is prima facie evidence of fraud. Meeting the minimum cage cash amount does not relieve the licensee from the requirement to have sufficient funds available to redeem all chips and pay out all prizes.

WSR 11-11-084
PROPOSED RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Medicaid Purchasing Administration)
[Filed May 18, 2011, 8:40 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 10-23-122.

Title of Rule and Other Identifying Information: WAC 388-475-0820 SSI-related medical—Child-related income exclusions, 388-475-0840 SSI-related medical—Work- and agency-related income exclusions, 388-475-0900 SSI-related medical—Allocating income, 388-475-0920 SSI-related medical—Deeming/allocation of income from nonapplying spouse (new), 388-475-0940 SSI-related medical—Deeming income from an ineligible parent(s) to a child applying for SSI-related medical (new), 388-475-0960 SSI-related medical—Allocating income—How the department considers income and resources when determining eligibility for an individual applying for noninstitutional medicaid when another household member is receiving institutional medicaid (new), and 388-506-0620 SSI-related medical clients (repeal).

Hearing Location(s): Office Building 2, Auditorium, DSHS Headquarters, 1115 Washington, Olympia, WA 98504 (public parking at 11th and Jefferson. A map is available at http://www1.dshs.wa.gov/msa/rpau/RPAU-OB-2directions.html or by calling (360) 664-6094), on July 5, 2011, at 10:00 a.m.

Date of Intended Adoption: Not sooner than July 6, 2011.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504-5850, delivery 1115 Washington Street S.E., Olympia, WA 98504, e-mail DSHSRPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on July 5, 2011.

Assistance for Persons with Disabilities: Contact Jennisha Johnson, DSHS rules consultant, by June 21, 2011, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at jennisha.johnson@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules:

- DSHS is updating WAC to change the deeming and allocation rules for SSI-related medical programs so they mirror the federal rules. The department is creating new WAC to further clarify deeming rules relating to deeming from ineligible parents to applicant children; deeming between an applicant spouse and a non-applying spouse; and deeming between spouses when one spouse is institutionalized.
- DSHS is adding new language in WAC 388-475-0840 to support the student earned income exclusion and adding language in WAC 388-475-0820 to define a student for SSI-related medical.
- DSHS is repealing WAC 388-506-0620 and incorporating the language to a new rule in chapter 388-475 WAC series.

Reasons Supporting Proposal: See Purpose statement above.

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

Statute Being Implemented: RCW 74.04.050, 74.04.-057, 74.08.090, 74.09.500.

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: Catherine Fisher, P.O. Box 45534, Olympia, WA 98504-5534, (360) 725-1357.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule does not impact small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. Client eligibility rules for medical assistance are exempt from the cost-benefit analysis requirement per RCW 34.05.328 (5)(b)(vii).

May 13, 2011
Katherine I. Vasquez
Rules Coordinator

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 11-12 issue of the Register.

WSR 11-11-085
PROPOSED RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Medicaid Purchasing Administration)

[Filed May 18, 2011, 8:45 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-05-082.

Title of Rule and Other Identifying Information: WAC 388-501-0180 Healthcare services provided outside the state of Washington—General provisions and 388-501-0184 Healthcare services provided outside of the United States and U.S. territories or in a foreign country.

Hearing Location(s): Office Building 2, Auditorium, DSHS Headquarters, 1115 Washington, Olympia, WA 98504 (public parking at 11th and Jefferson. A map is available at http://www1.dshs.wa.gov/msa/rpau/RPAU-OB-2directions.html or by calling (360) 664-6094), on June 21, 2011, at 10:00 a.m.

Date of Intended Adoption: Not sooner than June 22, 2011.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504-5850, delivery 1115 Washington Street S.E., Olympia, WA 98504, e-mail DSHSRPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on June 21, 2011.

Assistance for Persons with Disabilities: Contact Jennisha Johnson, DSHS rules consultant, by June 7, 2011, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at jennisha.johnson@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules:

- Amend WAC to comply with Section 6505 of the Patient Protection and Affordable Care Act of 2010, which prohibits state medicaid agencies from making payments to institutions or entities located outside of the United States for healthcare services furnished to medical assistance clients out-of-country. Clarify that payment to providers who have furnished such services may be made to financial institutions or entities located within the United States.
- Correct subsections (3) and (4) of WAC 388-501-0184 to read as follows: "For those medical assistance clients identified in subsection (2) of this section, …"

Reasons Supporting Proposal: Inform providers and other stakeholders of the change(s) in federal law. These policy changes are final. The department has to implement them or risk loss of federal matching funds. Implementation requires the department to submit a state plan amendment (SPA) and make necessary changes to WAC.

Statutory Authority for Adoption: RCW 74.04.057, 74.08.090, and 74.09.510.

Statute Being Implemented: RCW 74.08.090.

Rule is necessary because of federal law, Section 6505 of the Patient Protection and Affordable Care Act of 2010.

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

Name of Agency Personnel Responsible for Drafting: Jason R. P. Crabbe, P.O. Box 45504, Olympia, WA 98504-5504, (360) 725-1346; Implementation and Enforcement: Carolyn Adams, P.O. Box 45510, Olympia, WA 98504-5510, (360) 725-1854.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This is just a "housekeeping" change to correct errant WAC citations.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Carolyn Adams, Special Assistant for Healthcare Reform Implementation, Department of Social and Health

Services, Division of Rates and Finance, P.O. Box 45510, Olympia, WA 98504, e-mail Carolyn.Adams@dshs.wa.gov.

May 13, 2011
Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 08-08-064, filed 3/31/08, effective 5/1/08)

WAC 388-501-0180 Healthcare services provided outside the state of Washington—General provisions. WAC 388-501-0180 through 388-501-0184 apply only to services payable on a fee-for-service basis for Washington state medical assistance clients.

(1) Subject to the exceptions and limitations in this section, WAC 388-501-0182 and 388-501-0184, the department covers emergency and nonemergency out-of-state healthcare services provided to eligible Washington state medical assistance clients when the services are:

(a) Within the scope of the client's healthcare program as specified under chapter 388-501 WAC;

(b) Allowed to be provided outside the state of Washington by specific program WAC; and

(c) Medically necessary as defined in WAC 388-500-0005.

(2) The department does not cover services provided outside the state of Washington under the Involuntary Treatment Act (chapter 71.05 RCW and chapter 388-865 WAC), including designated bordering cities.

(3) When the department pays for covered healthcare services furnished to an eligible Washington state medical assistance client outside the state of Washington, its payment is payment in full according to 42 CFR 447.15. ((~~The department does not pay when the provider refuses to accept the department's payment as payment in full.~~))

(4) The department determines coverage for transportation services provided out of state, including ambulance services, according to chapter 388-546 WAC.

(5) With the exception of designated bordering cities (see WAC 388-501-0175), if the client travels out of state expressly to obtain healthcare, the service(s) must be prior authorized by the department. See WAC 388-501-0182 for requirements related to out-of-state nonemergency treatment and WAC 388-501-0165 for the department's medical necessity determination process.

(6) The department does not cover healthcare services provided outside the United States and U.S. territories, with the exception of British Columbia, Canada. See WAC 388-501-0184 for limitations on coverage of, and payment for, healthcare provided to medical assistance clients in British Columbia, Canada.

(7) See WAC 388-502-0120 for provider requirements for payment of healthcare provided outside the state of Washington.

AMENDATORY SECTION (Amending WSR 08-08-064, filed 3/31/08, effective 5/1/08)

WAC 388-501-0184 Healthcare services provided outside of the United States and U.S. territories or in a foreign country. For the purposes of this section the term "healthcare services" does not include the diagnosis and treatment for alcohol and/or substance abuse and mental health services.

(1) The provisions of WAC 388-501-0182 apply to this section.

(2) The department does not pay for healthcare services furnished in a foreign country, except for medical services furnished in the province of British Columbia, Canada, under the conditions specified in this section. The department pays for medical services furnished in British Columbia, Canada to the following Washington state medical assistance clients only:

(a) Those who reside in Point Roberts, Washington;

(b) Those who reside in Washington communities along the border with British Columbia, Canada (see subsection (3) of this section for further clarification); and

(c) Members of the Canadian First Nations who live in Washington state.

(3) For those medical assistance clients identified in subsection ((~~(1)~~)) (2) of this section, the department covers emergency and nonemergency medical services provided in British Columbia, Canada, when the services are:

(a) Within the scope of the client's healthcare program as specified in chapter 388-501 WAC;

(b) Allowed to be provided outside the United States and U.S. territories by specific program WAC; and

(c) Medically necessary as defined in WAC 388-500-0005.

(4) For those medical assistance clients identified in subsection ((~~(1)~~)) (2) of this section, the department covers nonemergency medical services in British Columbia, Canada, only when:

(a) It is general practice for Washington state medical assistance clients residing in these particular localities to use medically necessary resources across the Canadian border; or

(b) The medical services in British Columbia, Canada are closer or more readily accessible to the client's Washington state residence. As applied to nonemergency medical services, the phrase "closer or more readily accessible to the client's Washington state residence" means:

(i) There is not a United States provider for the same service within twenty-five miles of the client's Washington state residence; and

(ii) The closest Canadian provider of service is closer than the closest U.S. provider of the service.

(5) The department does not cover services provided ((~~outside of the United States~~)) in British Columbia, Canada under the Involuntary Treatment Act (chapter 71.05 RCW and chapter 388-865 WAC).

(6) When the department pays for covered medical services furnished to a Washington state medical assistance client in British Columbia, Canada, its payment is payment in full according to 42 CFR 447.15. ((~~The department does not pay when the provider refuses to accept the department's payment as payment in full.~~))

(7) A British Columbia, Canada provider who furnished healthcare services and/or covered items to a medical assistance client will receive payment from the department only when:

(a) Such reimbursement is made to a financial institution or entity located within the United States in U.S. dollars; and

(b) The participating British Columbia, Canada provider:

(i) Has signed a core provider agreement with the department;

(ii) Satisfies all medicaid conditions of participation;

(iii) Meets functionally equivalent licensing requirements; and

(iv) Complies with the same utilization control standards as in-state providers.

WSR 11-11-090
PROPOSED RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Economic Services Administration)

[Filed May 18, 2011, 8:56 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 10-21-095.

Title of Rule and Other Identifying Information: The department is amending WAC 388-416-0005 How long can I get Basic Food?

Hearing Location(s): Office Building 2, Auditorium, DSHS Headquarters, 1115 Washington Street S.E., Olympia, WA 98504 (public parking at 11th and Jefferson. A map is available at http://www.dshs.wa.gov/msa/rpau/RPAU-OB-2 directions.html or by calling (360) 664-6094), on June 21, 2011, at 10:00 a.m.

Date of Intended Adoption: Not earlier than June 22, 2011.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504-5850, delivery 1115 Washington Street S.E., Olympia, WA 98504, e-mail DSHSRPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on June 21, 2011.

Assistance for Persons with Disabilities: Contact Jennisha Johnson, DSHS rules consultant, by June 7, 2011, 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 extend the certification period for a Basic Food assistance unit (AU) from up to six months to up to twelve months if the AU:

- Includes a nonexempt able-bodied adult without dependents;
- Receives services under the Alcohol and Drug Addiction Treatment and Support Act;
- Is homeless;
- Is a migrant or seasonal farmworker.

Reasons Supporting Proposal: The proposed amendments will allow all Basic Food AUs that are not receiving benefits under the Washington state combined application project (WASHCAP) to have a consistent certification period of up to twelve months.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, and 74.08.090.

Statute Being Implemented: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, and 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: Kim Chea, P.O. Box 45470, Olympia, WA 98504-5470, (360) 725-4653.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rules 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 (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."

May 13, 2011
Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 10-07-007, filed 3/4/10, effective 4/4/10)

WAC 388-416-0005 How long can I get Basic Food? (1) The length of time the department determines your assistance unit (AU) is eligible to get Basic Food is called a certification period. The department may certify your AU for up to twelve months, unless:

(a) ((~~**Six months** if your AU:~~

~~(i) Includes an able-bodied adult without dependents (ABAWD) who receives Basic Food in your AU and your AU does not live in an exempt area as described in WAC 388-444-0030;~~

~~(ii) Includes a person who receives ADATSA benefits as described in chapter 388-800 WAC;~~

~~(iii) Is considered homeless under WAC 388-408-0050; or~~

~~(iv) Includes a migrant or seasonal farmworker as described under WAC 388-406-0021.~~

~~(b) **Twelve months** if your AU does not meet any of the conditions for six months.~~

~~(2) If~~)) You receive food assistance under WASHCAP, we set your certification period as described under WAC 388-492-0090.

(b) You receive transitional food assistance, we set your certification period as described under WAC 388-489-0015.

(((~~(3) If your AU is homeless **or** includes an ABAWD when you live in a nonexempt area, we may shorten your certification period.~~))

(((~~(4)~~))) (2) We terminate your Basic Food benefits ((~~when~~)) before the end of your certification period in subsection (1) if:

(a) You fail to complete a mid-certification review as described under WAC 388-418-0011;

(b) We get proof of a change that makes your AU ineligible; or

(((~~(b)~~))) (c) We get information that your AU is ineligible((~~,~~)) and

(((~~(c)~~))) you do not provide needed information to verify your AU's circumstances.

WSR 11-11-091
PROPOSED RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
(Division of Child Support)
[Filed May 18, 2011, 9:04 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-07-074.

Title of Rule and Other Identifying Information: The division of child support (DCS) proposes to amend WAC 388-14A-4200 to strike subsection (4) because we believe that subsection (4) goes beyond the intent of RCW 26.18.190, the statute which the rule is meant to implement.

Hearing Location(s): Office Building 2, Auditorium, DSHS Headquarters, 1115 Washington, Olympia, WA 98504 (public parking at 11th and Jefferson. A map is available at http://www1.dshs.wa.gov/msa/rpau/RPAU-OB-2directions.html or by calling (360) 664-6094), on June 21, 2011, at 10:00 a.m.

Date of Intended Adoption: Not earlier than June 22, 2011.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504-5850, delivery 1115 Washington Street S.E., Olympia, WA 98504, e-mail DSHSRPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on June 21, 2011.

Assistance for Persons with Disabilities: Contact Jennisha Johnson, DSHS rules consultant, by June 7, 2011, 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: DCS has determined that subsection (4) of the current rule does not allow DCS to give credit to a noncustodial parent for dependent disability payments paid on the noncustodial parent's behalf for his or her children unless the payments are made to the custodial payment or the state. RCW 26.18.190 does not contain this limitation.

Statutory Authority for Adoption: RCW 26.18.190, 26.23.035, 74.08.090, and 74.20A.055.

Statute Being Implemented: RCW 26.18.190.

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: Nancy Koptur, DCS HQ, P.O. Box 9162, Olympia, WA 98507-9162, (360) 664-5065.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule does not have an economic impact on small businesses. It only affects individuals who have support obligations or individuals who are owed child support.

A cost-benefit analysis is not required under RCW 34.05.328. The rule does meet the definition of a significant legislative rule but DSHS/DCS rules relating to the care of dependent children are exempt from preparing further analysis under RCW 34.05.328 (5)(b)(vii).

May 13, 2011
Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 01-03-089, filed 1/17/01, effective 2/17/01)

WAC 388-14A-4200 Do I get credit for dependent disability payments paid on my behalf to my children? (1) When the department of labor and industries or a self-insurer pays compensation under chapter 51.32 RCW on behalf of or on account of the child or children of a noncustodial parent (NCP), the division of child support (DCS) treats the amount of compensation the department or self-insurer pays on behalf of the child or children as if the NCP paid the compensation toward the NCP's child support obligations.

(2) When the Social Security administration pays Social Security disability dependency benefits, retirement benefits, or survivors insurance benefits on behalf of or on account of the child or children of an NCP who is a disabled person, a retired person, or a deceased person, DCS treats the amount of benefits paid for the child or children as if the NCP paid the benefits toward the NCP's child support obligation for the period for which benefits are paid.

(3) Under no circumstances does the NCP have a right to reimbursement of any compensation paid under subsection (1) or (2) of this section.

(((~~(4) The NCP gets credit only for payments made to the custodial parent or the state. The NCP does not get credit for dependent payments made to the NCP.~~)))

WSR 11-11-092
PROPOSED RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed May 18, 2011, 9:06 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-07-081.

Title of Rule and Other Identifying Information: Amendments to WAC 388-14A-5015 and 388-14A-5100 in order to implement SSB 6893 (61st legislature 2010, 2nd sp. sess.), which amended RCW 26.23.035(5) by suspending the child support pass-through as of May 1, 2011.

Hearing Location(s): Office Building 2, Auditorium, DSHS Headquarters, 1115 Washington, Olympia, WA 98504 (public parking at 11th and Jefferson. A map is available at http://www1.dshs.wa.gov/msa/rpau/RPAU-OB-2directions.

html or by calling (360) 664-6094), on June 21, 2011, at 10:00 a.m.

Date of Intended Adoption: Not earlier than June 22, 2011.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504-5850, delivery 1115 Washington Street S.E., Olympia, WA 98504, e-mail DSHSRPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on June 21, 2011.

Assistance for Persons with Disabilities: Contact Jennisha Johnson, DSHS rules consultant, by June 7, 2011, 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 division of child support (DCS) is amending sections in chapter 388-14A WAC, to implement SSB 6893 (61st legislature 2010, 2nd sp. sess.), which amended RCW 26.23.035(5) by suspending the child support pass-through as of May 1, 2011. DCS adopted emergency rules under WSR 11-10-025 to meet the effective date of the statute, and continues with the regular rule-making process and will adopt final rules as soon as possible.

Reasons Supporting Proposal: For budgetary reasons, the legislature adopted SSB 6893 (61st legislature 2010, 2nd sp. sess.) suspending the child support pass-through as of May 1, 2011.

Statutory Authority for Adoption: RCW 26.23.035, 74.08.090.

Statute Being Implemented: RCW 26.23.035.

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: Nancy Koptur, DCS HQ, P.O. Box 9162, Olympia, WA 98507-9162, (360) 664-5065.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule does not have an economic impact on small businesses. It only affects individuals who have support obligations or individuals who are owed child support.

A cost-benefit analysis is not required under RCW 34.05.328. The rule does meet the definition of a significant legislative rule but DSHS/DCS rules relating to the care of dependent children are exempt from preparing further analysis under RCW 34.05.328 (5)(b)(vii).

May 13, 2011
Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 09-02-059, filed 1/5/09, effective 1/27/09)

WAC 388-14A-5015 What is a pass-through payment? (1) Between October 1, 2008 and April 30, 2011, the division of child support (DCS) passed through a portion of child support collections to a family receiving TANF.

(2) A pass-through payment ((~~is~~)) was the portion of a support collection applied to assigned support that the state ((~~elects~~)) elected to pay to a family ((~~currently~~)) receiving TANF at the time the collection was received. The pass-through payment ((~~is~~)) was paid in the following amounts:

(a) Up to one hundred dollars per month to a family with one child in the assistance unit.

(b) Up to two hundred dollars per month to a family with two or more children in the assistance unit.

(((~~(2)~~))) (3) The pass-through ((~~is~~)) was paid from collections ((~~which are~~)) distributed to either current support or assigned arrears.

(((~~(3)~~))) (4) The pass-through amount ((~~can never~~)) for any month could not exceed the amount collected in ((~~the~~)) that month.

AMENDATORY SECTION (Amending WSR 09-02-059, filed 1/5/09, effective 1/27/09)

WAC 388-14A-5100 How does the division of child support notify the custodial parent about support collections? (1) The division of child support (DCS) mails a distribution and disbursement statement once each month to the last known address of a person for whom it received a support collection during the month, except as provided under subsection (6) of this section.

(2) DCS includes the following information in the distribution and disbursement statement:

(a) The amount of support collections DCS received and the date of collection;

(b) A description of how DCS distributed each support collection between current support and the support debt and any fees required by state or federal law;

(c) The amount DCS claims as reimbursement for public assistance paid, if applicable;

(d) The amount kept by the state to repay public assistance paid to the family;

(e) The amount disbursed to the family as a pass-through payment under WAC 388-14A-5015 for collections received between October 1, 2008 and April 30, 2011;

(f) The amount disbursed to the family as a payment on support owed to the family;

(g) The amount kept by the state to pay the twenty-five dollar annual fee, if applicable; and

(h) The amount kept by the state to repay child support paid to the family in error.

(3) The person to whom a distribution and disbursement statement is sent may file a request for a hearing under subsection (4) of this section within ninety days of the date of the statement to contest how DCS distributed the support collections, and must make specific objections to the statement. The effective date of a hearing request is the date DCS receives the request.

(4) A hearing under this section is for the limited purpose of determining if DCS correctly distributed the support money described in the contested statement.

(a) There is no hearing right regarding fees that have been charged on a case.

(b) If a custodial parent (CP) wants to request a hardship waiver of the fee, the CP may request a conference board under WAC 388-14A-6400.

(5) A person who requests a late hearing must show good cause for being late.

(6) This section does not require DCS to send a distribution and disbursement statement to a recipient of payment services only.

WSR 11-11-093
PROPOSED RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Economic Services Administration)

[Filed May 18, 2011, 9:07 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-09-059.

Title of Rule and Other Identifying Information: The department is amending WAC 388-406-0060 What happens when my application is denied?

Hearing Location(s): Office Building 2, Auditorium, DSHS Headquarters, 1115 Washington Street S.E., Olympia, WA 98504 (public parking at 11th and Jefferson. A map is available at http://www.dshs.wa.gov/msa/rpau/RPAU-OB-2 directions.html or by calling (360) 664-6094), on June 21, 2011, at 10:00 a.m.

Date of Intended Adoption: Not earlier than June 22, 2011.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504-5850, delivery 1115 Washington Street S.E., Olympia, WA 98504, e-mail DSHSRPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on June 21, 2011.

Assistance for Persons with Disabilities: Contact Jennisha Johnson, DSHS rules consultant, by June 7, 2011, 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 subsection (1)(b) of this rule which describes when an application is denied for lack of information. Subsection (1)(b) incorrectly references WAC 388-414-0001 Do I have to meet all eligibility requirements for Basic Food? This reference should be changed to WAC 388-490-0005 The department requires proof before authorizing benefits for cash, medical, and Basic Food. Application processing rules are based on federal regulations.

Reasons Supporting Proposal: These changes are necessary to align application processing rules with federal regulations as stated above.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090.

Statute Being Implemented: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 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: Kim Chea, P.O. Box 45470, Olympia, WA 98504-5470, (360) 725-4653.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rules do not have an economic impact on small businesses. The proposed amendment clarifies when an application is denied for lack of information.

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."

May 13, 2011

Katherine I. Vasquez

Rules Coordinator

AMENDATORY SECTION (Amending WSR 03-22-039, filed 10/28/03, effective 12/1/03)

WAC 388-406-0060 What happens when my application is denied? (1) We (the department) deny your application for cash, medical, or Basic Food benefits if:

(a) You do not show for your interview appointment for cash or Basic Food if required under WAC 388-452-0005, you have not rescheduled, and your application is over thirty days old; or

(b) We do not have the information we need to determine your eligibility within ten days of requesting the information from your assistance unit (AU) under WAC ((~~388-414-0001~~)) 388-490-0005, and you did not ask for additional time to give us the information; or

(c) Your entire AU does not meet certain eligibility criteria to get benefits; or

(d) For Basic Food, your application has not been processed by the sixtieth day because of a delay on your part.

(2) If we deny your application, you do not get benefits unless:

(a) You mistakenly apply for benefits you already get; or

(b) We reconsider your eligibility under WAC 388-406-0065 and you are eligible to get benefits.

(3) We can reconsider if you are eligible for benefits under the requirements of WAC 388-406-0065 even after your application is denied.

(4) We give or send a letter to you explaining why your application was denied as required under WAC 388-458-0011.

(5) If you disagree with our decision about your application, you can ask for a fair hearing. If we deny your application because we do not have enough information to decide that you are eligible, the hearing issue is whether you are eligible using:

(a) Information we already have; and

(b) Any more information you can give us.

WSR 11-11-094
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed May 18, 2011, 9:09 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-02-068.

Title of Rule and Other Identifying Information: The department is proposing changes to WAC 388-478-0020 Payment standards for TANF, SFA and RCA, 388-478-0035 Maximum earned income limits for TANF, SFA and RCA, and 388-436-0050 Determining financial need and benefit amount for CEAP.

Hearing Location(s): Office Building 2, Auditorium, DSHS Headquarters, 1115 Washington, Olympia, WA 98504 (public parking at 11th and Jefferson. A map is available at http://www1.dshs.wa.gov/msa/rpau/RPAU-OB-2directions.html or by calling (360) 664-6094), on June 21, 2011, at 10:00 a.m.

Date of Intended Adoption: Not earlier than June 22, 2011.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504-5850, delivery 1115 Washington Street S.E., Olympia, WA 98504, e-mail DSHSRPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on June 21, 2011.

Assistance for Persons with Disabilities: Contact Jennisha Johnson, DSHS rules consultant, by June 7, 2011, 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 reduce payment standards and maximum earned income limits by fifteen percent.

Reasons Supporting Proposal: The department needs to make further reductions to TANF-related programs in order to achieve a balanced WorkFirst budget for the 2011-13 biennium (which begins July 1, 2011). This reduction is necessary to address a growing WorkFirst budget shortfall, driven by increased demand for services by families affected by the economic recession as described in the "WorkFirst reductions" announcement dated December 17, 2010. In November 2010, the department announced reductions necessary to keep the WorkFirst budget in balance based on a projected WorkFirst deficit of approximately $225 million for the next biennium. On December 15, 2010, Governor Gregoire announced a proposed 2011-2013 budget cut needed to close an additional $4.6 billion projected shortfall in the next state fiscal biennium, and proposed eliminating or restructuring many state programs, agencies, boards and commissions. See the governor's proposed budget for SFY 2011-2013 at http://www.governor.wa.gov/priorities/budget/press_packet.pdf.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.770, 74.08.090, and chapters 74.08A and 74.12 RCW.

Statute Being Implemented: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, and chapters 74.08A and 74.12 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, Implementation and Enforcement: Aurea Figueroa-Rogers, P.O. Box 45470, Olympia, WA 98504-5470, (360) 725-4623.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule does 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 (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."

May 13, 2011
Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 09-14-040, filed 6/24/09, effective 7/25/09)

WAC 388-436-0050 Determining financial need and benefit amount for CEAP. (1) To be eligible for CEAP assistance, the assistance unit's nonexcluded income, minus allowable deductions, must be less than ninety percent of the TANF payment standard for households with shelter costs. The net income limit for CEAP assistance units is:

Assistance Unit Members	Net Income Limit
1	$ ((~~323~~)) 275
2	((~~407~~)) 346
3	((~~505~~)) 429
4	((~~594~~)) 505
5	((~~685~~)) 582
6	((~~779~~)) 662
7	((~~900~~)) 762
8 or more	((~~996~~)) 847

(2) The assistance unit's allowable amount of need is the lesser of:

(a) The TANF payment standard, based on assistance unit size, for households with shelter costs as specified under WAC 388-478-0020; or

(b) The assistance unit's actual emergent need, not to exceed maximum allowable amounts, for the following items:

Need Item: Maximum allowable amount by assistance unit size:

	1	2	3	4	5	6	7	8 or more
Food	$((~~217~~)) 184	$((~~276~~)) 235	$((~~341~~)) 290	$((~~402~~)) 342	$((~~463~~)) 394	$((~~526~~)) 447	$((~~600~~)) 510	$((~~664~~)) 564
Shelter	((~~265~~)) 225	((~~334~~)) 284	((~~416~~)) 354	((~~490~~)) 417	((~~564~~)) 479	((~~639~~)) 543	((~~740~~)) 629	((~~818~~)) 695
Clothing	((~~31~~)) 26	((~~39~~)) 33	((~~48~~)) 41	((~~57~~)) 48	((~~65~~)) 55	((~~75~~)) 64	((~~85~~)) 72	((~~96~~)) 82
Minor Medical Care	((~~184~~)) 156	((~~234~~)) 199	((~~290~~)) 247	((~~341~~)) 290	((~~393~~)) 334	((~~444~~)) 377	((~~516~~)) 439	((~~570~~)) 485
Utilities	((~~89~~)) 76	((~~113~~)) 96	((~~140~~)) 119	((~~164~~)) 139	((~~189~~)) 161	((~~216~~)) 184	((~~250~~)) 213	((~~276~~)) 235
Household maintenance	((~~65~~)) 55	((~~83~~)) 71	((~~103~~)) 88	((~~121~~)) 103	((~~140~~)) 119	((~~159~~)) 135	((~~183~~)) 156	((~~202~~)) 172
Job related transportation	((~~359~~)) 305	((~~453~~)) 385	((~~562~~)) 478	((~~661~~)) 562	((~~762~~)) 648	((~~866~~)) 736	((~~1000~~)) 850	((~~1107~~)) 941
Child related transportation	((~~359~~)) 305	((~~453~~)) 385	((~~562~~)) 478	((~~661~~)) 562	((~~762~~)) 648	((~~866~~)) 736	((~~1000~~)) 850	((~~1107~~)) 941

(3) The assistance unit's CEAP payment is determined by computing the difference between the allowable amount of need, as determined under subsection (2) of this section, and the total of:

(a) The assistance unit's net income, as determined under subsection (1) of this section;

(b) Cash on hand, if not already counted as income; and

(c) The value of other nonexcluded resources available to the assistance unit.

(4) The assistance unit is not eligible for CEAP if the amount of income and resources, as determined in subsection (3) of this section, is equal to or exceeds its allowable amount of need.

AMENDATORY SECTION (Amending WSR 08-16-105, filed 8/5/08, effective 9/5/08)

WAC 388-478-0020 Payment standards for TANF, SFA, and RCA. (1) The maximum monthly payment standards for temporary assistance for needy families (TANF), state family assistance (SFA), 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	$((~~359~~)) 305	6	$((~~866~~)) 736
2	((~~453~~)) 385	7	((~~1,000~~)) 850
3	((~~562~~)) 478	8	((~~1,107~~)) 941
4	((~~661~~)) 562	9	((~~1,215~~)) 1,033
5	((~~762~~)) 648	10 or more	((~~1,321~~)) 1,123

(2) The maximum monthly payment standards for TANF, SFA, and RCA assistance units with shelter provided at no cost are:

Assistance Unit Size	Payment Standard	Assistance Unit Size	Payment Standard
1	$((~~218~~)) 185	6	$((~~526~~)) 447
2	((~~276~~)) 235	7	((~~608~~)) 517
3	((~~341~~)) 290	8	((~~673~~)) 572
4	((~~402~~)) 342	9	((~~739~~)) 628
5	((~~464~~)) 394	10 or more	((~~803~~)) 683

AMENDATORY SECTION (Amending WSR 08-16-105, filed 8/5/08, effective 9/5/08)

WAC 388-478-0035 Maximum earned income limits for TANF, SFA and RCA. To be eligible for temporary assistance for needy families (TANF), 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 Monthly Earned Income Level
1	$((~~718~~)) 610	6	$((~~1,732~~)) 1,472
2	((~~906~~)) 770	7	((~~2,000~~)) 1,700
3	((~~1,124~~)) 955	8	((~~2,214~~)) 1,882
4	((~~1,322~~)) 1,124	9	((~~2,430~~)) 2,066
5	((~~1,524~~)) 1,295	10 or more	((~~2,642~~)) 2,246

WSR 11-11-096
PROPOSED RULES
DEPARTMENT OF REVENUE
[Filed May 18, 2011, 10:26 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-06-038.

Title of Rule and Other Identifying Information: WAC 458-40-660 Timber excise tax—Stumpage value tables.

Hearing Location(s): Capital Plaza Building, 4th Floor Conference Room, 1025 Union Avenue S.E., Olympia, WA 98504, on June 21, 2011, at 10:00 a.m.

Date of Intended Adoption: June 28, 2011.

Submit Written Comments to: Mark E. Bohe, P.O. Box 47453, Olympia, WA 98504-7453, e-mail markbohe@dor.wa.gov, by June 21, 2011.

Assistance for Persons with Disabilities: Contact Martha Thomas at (360) 725-7497 no later than ten days before the hearing date. Deaf and hard of hearing individuals may call 1-800-451-7985 (TTY users).

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: RCW 84.33.091 requires the department to revise the stumpage value tables every six months. The department establishes stumpage value tables to apprise timber harvesters of the timber values used to calculate the timber excise tax. The values in the proposed rule will apply to the second half of 2011.

Copies of draft rules are available for viewing and printing on our web site at http://dor.wa.gov/content/FindALawOrRule/RuleMaking/agenda.aspx.

Reasons Supporting Proposal: The law requires that these stumpage values be updated as of January 1 and July 1 of each year.

Statutory Authority for Adoption: RCW 82.32.300, 82.01.060(2), and 84.33.096.

Statute Being Implemented: RCW 84.33.091.

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

Name of Proponent: Washington state department of revenue, governmental.

Name of Agency Personnel Responsible for Drafting: Mark E. Bohe, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 534-1574; Implementation and Enforcement: Stuart Thronson, 1025 Union Avenue S.E., Suite #300, Olympia, WA, (360) 570-3230.

No small business economic impact statement has been prepared under chapter 19.85 RCW.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Mark Bohe, P.O. Box 47453, Olympia, WA 98504-7453, e-mail markbohe@dor.wa.gov, fax (360) 534-1606. The proposed rule is a significant legislative rule as defined by RCW 34.05.328.

May 17, 2011
Alan R. Lynn
Rules Coordinator

AMENDATORY SECTION (Amending WSR 11-02-014, filed 12/29/10, effective 1/1/11)

WAC 458-40-660 Timber excise tax—Stumpage value tables—Stumpage value adjustments. (1) **Introduction.** This rule provides stumpage value tables and stumpage value adjustments used to calculate the amount of a harvester's timber excise tax.

(2) **Stumpage value tables.** The following stumpage value tables are used to calculate the taxable value of stumpage harvested from ((~~January~~)) July 1 through ((~~June 30~~)) December 31, 2011:

((~~**TABLE 1 Proposed Stumpage Value Table**~~
~~**Stumpage Value Area 1**~~
~~January 1 through June 30, 2011~~

~~Stumpage Values per Thousand Board Feet Net Scribner Log Scale(1)~~

~~Species Name~~	~~Species Code~~	~~Timber Quality Code Number~~	~~Hauling Distance Zone Number~~				
			~~1~~	~~2~~	~~3~~	~~4~~	~~5~~
~~Douglas-Fir~~	~~DF~~	~~1~~	~~$312~~	~~$305~~	~~$298~~	~~$291~~	~~$284~~
		~~2~~	~~312~~	~~305~~	~~298~~	~~291~~	~~284~~
		~~3~~	~~312~~	~~305~~	~~298~~	~~291~~	~~284~~
		~~4~~	~~312~~	~~305~~	~~298~~	~~291~~	~~284~~
~~Western Redcedar(2)~~	~~RC~~	~~1~~	~~567~~	~~560~~	~~553~~	~~546~~	~~539~~
~~Western Hemlock(3)~~	~~WH~~	~~1~~	~~286~~	~~279~~	~~272~~	~~265~~	~~258~~
		~~2~~	~~286~~	~~279~~	~~272~~	~~265~~	~~258~~
		~~3~~	~~286~~	~~279~~	~~272~~	~~265~~	~~258~~
		~~4~~	~~286~~	~~279~~	~~272~~	~~265~~	~~258~~
~~Red Alder~~	~~RA~~	~~1~~	~~339~~	~~332~~	~~325~~	~~318~~	~~311~~
		~~2~~	~~300~~	~~293~~	~~286~~	~~279~~	~~272~~
~~Black Cottonwood~~	~~BC~~	~~1~~	~~65~~	~~58~~	~~51~~	~~44~~	~~37~~
~~Other Hardwood~~	~~OH~~	~~1~~	~~196~~	~~189~~	~~182~~	~~175~~	~~168~~
~~Douglas-Fir Poles & Piles~~	~~DFL~~	~~1~~	~~624~~	~~617~~	~~610~~	~~603~~	~~596~~
~~Western Redcedar Poles~~	~~RCL~~	~~1~~	~~1215~~	~~1208~~	~~1201~~	~~1194~~	~~1187~~
~~Chipwood(4)~~	~~CHW~~	~~1~~	~~5~~	~~4~~	~~3~~	~~2~~	~~1~~

((**TABLE 1 – Proposed Stumpage Value Table**
Stumpage Value Area 1
January 1 through June 30, 2011

Stumpage Values per Thousand Board Feet Net Scribner Log Scale(1)

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number 1	2	3	4	5
RC Shake & Shingle Blocks(5)	RCS	1	164	157	150	143	136
RC & Other Posts(6)	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees(7)	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees(7)	TFX	1	0.50	0.50	0.50	0.50	0.50

(1) Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
(2) Includes Alaska-Cedar.
(3) Includes all Hemlock, Spruce, true Fir species and Pines, or any other conifer not listed in this table.
(4) Stumpage value per ton.
(5) Stumpage value per cord.
(6) Stumpage value per 8 lineal feet or portion thereof.
(7) Stumpage value per lineal foot.t

TABLE 2 – Proposed Stumpage Value Table
Stumpage Value Area 2
January 1 through June 30, 2011

Stumpage Values per Thousand Board Feet Net Scribner Log Scale(1)

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number 1	2	3	4	5
RC Shake & Shingle Blocks(5)	RCS	1	164	157	150	143	136
RC & Other Posts(6)	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees(7)	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees(7)	TFX	1	0.50	0.50	0.50	0.50	0.50

(1) Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
(2) Includes Alaska-Cedar.
(3) Includes all Hemlock, Spruce, true Fir species and Pines, or any other conifer not listed in this table.
(4) Stumpage value per ton.
(5) Stumpage value per cord.
(6) Stumpage value per 8 lineal feet or portion thereof.
(7) Stumpage value per lineal foot.

TABLE 2 – Proposed Stumpage Value Table
Stumpage Value Area 2
January 1 through June 30, 2011

Stumpage Values per Thousand Board Feet Net Scribner Log Scale(1)

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number 1	2	3	4	5
Douglas-Fir	DF	1	$327	$320	$313	$306	$299
		2	327	320	313	306	299
		3	327	320	313	306	299
		4	302	295	288	281	274
Western Redcedar(2)	RC	1	567	560	553	546	539
Western Hemlock(3)	WH	1	313	306	299	292	285
		2	313	306	299	292	285
		3	313	306	299	292	285
		4	313	306	299	292	285
Red Alder	RA	1	339	332	325	318	311
		2	300	293	286	279	272
Black Cottonwood	BC	1	65	58	51	44	37
Other Hardwood	OH	1	196	189	182	175	168
Douglas-Fir Poles & Piles	DFL	1	624	617	610	603	596
Western Redcedar Poles	RCL	1	1215	1208	1201	1194	1187
Chipwood(4)	CHW	1	5	4	3	2	1

TABLE 3 – Proposed Stumpage Value Table
Stumpage Value Area 3
January 1 through June 30, 2011

Stumpage Values per Thousand Board Feet Net Scribner Log Scale(1)

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number 1	2	3	4	5
Douglas-Fir(2)	DF	1	$345	$338	$331	$324	$317
		2	345	338	331	324	317
		3	345	338	331	324	317
		4	315	308	301	294	287
Western Redcedar(3)	RC	1	567	560	553	546	539
Western Hemlock(4)	WH	1	293	286	279	272	265
		2	293	286	279	272	265
		3	293	286	279	272	265
		4	293	286	279	272	265
Red Alder	RA	1	339	332	325	318	311
		2	300	293	286	279	272
Black Cottonwood	BC	1	65	58	51	44	37
Other Hardwood	OH	1	196	189	182	175	168
Douglas-Fir Poles & Piles	DFL	1	624	617	610	603	596
Western Redcedar Poles	RCL	1	1215	1208	1201	1194	1187
Chipwood(5)	CHW	1	5	4	3	2	1

TABLE 3 Proposed Stumpage Value Table
Stumpage Value Area 3
January 1 through June 30, 2011

Stumpage Values per Thousand Board Feet Net Scribner Log Scale(1)

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number 1	2	3	4	5
RC Shake & Shingle Blocks(6)	RCS	1	164	157	150	143	136
RC & Other Posts(7)	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees(8)	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees(8)	TFX	1	0.50	0.50	0.50	0.50	0.50

(1) Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
(2) Includes Western Larch.
(3) Includes Alaska-Cedar.
(4) Includes all Hemlock, Spruce, true Fir species and Pines, or any [other conifer not listed in this table.]
(5) Stumpage value per ton.
(6) Stumpage value per cord.
(7) Stumpage value per 8 lineal feet or portion thereof.
(8) Stumpage value per lineal foot.

TABLE 4 Proposed Stumpage Value Table
Stumpage Value Area 4
January 1 through June 30, 2011

Stumpage Values per Thousand Board Feet Net Scribner Log Scale(1)

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number 1	2	3	4	5
Douglas-Fir(2)	DF	1	$341	$334	$327	$320	$313
		2	341	334	327	320	313
		3	341	334	327	320	313
		4	327	320	313	306	299
Lodgepole Pine	LP	1	114	107	100	93	86
Ponderosa Pine	PP	1	141	134	127	120	113
		2	120	113	106	99	92
Western Redcedar(3)	RC	1	567	560	553	546	539
Western Hemlock(4)	WH	1	293	286	279	272	265
		2	293	286	279	272	265
		3	293	286	279	272	265
		4	293	286	279	272	265
Red Alder	RA	1	339	332	325	318	311
		2	300	293	286	279	272
Black Cottonwood	BC	1	65	58	51	44	37
Other Hardwood	OH	1	196	189	182	175	168

TABLE 4 Proposed Stumpage Value Table
Stumpage Value Area 4
January 1 through June 30, 2011

Stumpage Values per Thousand Board Feet Net Scribner Log Scale(1)

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number 1	2	3	4	5
Douglas-Fir Poles & Piles	DFL	1	624	617	610	603	596
Western Redcedar Poles	RCL	1	1215	1208	1201	1194	1187
Chipwood(5)	CHW	1	5	4	3	2	1
RC Shake & Shingle Blocks(6)	RCS	1	164	157	150	143	136
RC & Other Posts(7)	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees(8)	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees(8)	TFX	1	0.50	0.50	0.50	0.50	0.50

(1) Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
(2) Includes Western Larch.
(3) Includes Alaska-Cedar.
(4) Includes all Hemlock, Spruce and true Fir species, or any other conifer not listed in this table.
(5) Stumpage value per ton.
(6) Stumpage value per cord.
(7) Stumpage value per 8 lineal feet or portion thereof.
(8) Stumpage value per lineal foot.

TABLE 5 Proposed Stumpage Value Table
Stumpage Value Area 5
January 1 through June 30, 2011

Stumpage Values per Thousand Board Feet Net Scribner Log Scale(1)

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number 1	2	3	4	5
Douglas-Fir(2)	DF	1	$339	$332	$325	$318	$311
		2	339	332	325	318	311
		3	339	332	325	318	311
		4	328	321	314	307	300
Lodgepole Pine	LP	1	114	107	100	93	86
Ponderosa Pine	PP	1	141	134	127	120	113
		2	120	113	106	99	92
Western Redcedar(3)	RC	1	567	560	553	546	539
Western Hemlock(4)	WH	1	275	268	261	254	247
		2	275	268	261	254	247
		3	275	268	261	254	247
		4	275	268	261	254	247
Red Alder	RA	1	339	332	325	318	311

TABLE 5 Proposed Stumpage Value Table
Stumpage Value Area 5
January 1 through June 30, 2011

Stumpage Values per Thousand Board Feet Net Scribner Log Scale[1]

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number 1	2	3	4	5
		2	300	293	286	279	272
Black Cottonwood	BC	1	65	58	51	44	37
Other Hardwood	OH	1	196	189	182	175	168
Douglas-Fir Poles & Piles	DFL	1	624	617	610	603	596
Western Redcedar Poles	RCL	1	1215	1208	1201	1194	1187
Chipwood[5]	CHW	1	5	4	3	2	1
RC Shake & Shingle Blocks[6]	RCS	1	164	157	150	143	136
RC & Other Posts[7]	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees[8]	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees[8]	TFX	1	0.50	0.50	0.50	0.50	0.50

[1] Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
[2] Includes Western Larch.
[3] Includes Alaska-Cedar.
[4] Includes all Hemlock, Spruce and true Fir species, or any other conifer not listed in this table.
[5] Stumpage value per ton.
[6] Stumpage value per cord.
[7] Stumpage value per 8 lineal feet or portion thereof.
[8] Stumpage value per lineal foot.

TABLE 6 Proposed Stumpage Value Table
Stumpage Value Area 6
January 1 through June 30, 2011

Stumpage Values per Thousand Board Feet Net Scribner Log Scale[1]

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number 1	2	3	4	5
Douglas-Fir[2]	DF	1	$127	$120	$113	$106	$99
Lodgepole Pine	LP	1	114	107	100	93	86
Ponderosa Pine	PP	1	141	134	127	120	113
		2	120	113	106	99	92
Western Redcedar[3]	RC	1	377	370	363	356	349
True Firs and Spruce[4]	WH	1	117	110	103	96	89
Western White Pine	WP	1	94	87	80	73	66
Hardwoods	OH	1	23	16	9	2	1

TABLE 6 Proposed Stumpage Value Table
Stumpage Value Area 6
January 1 through June 30, 2011

Stumpage Values per Thousand Board Feet Net Scribner Log Scale[1]

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number 1	2	3	4	5
Western Redcedar Poles	RCL	1	377	370	363	356	349
Small Logs[5]	SML	1	17	16	15	14	13
Chipwood[5]	CHW	1	2	1	1	1	1
RC Shake & Shingle Blocks[6]	RCS	1	164	157	150	143	136
LP & Other Posts[7]	LPP	1	0.35	0.35	0.35	0.35	0.35
Pine Christmas Trees[8]	PX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees[9]	DFX	1	0.25	0.25	0.25	0.25	0.25

[1] Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
[2] Includes Western Larch.
[3] Includes Alaska-Cedar.
[4] Includes all Hemlock, Spruce and true Fir species, or any other conifer not listed in this table.
[5] Stumpage value per ton.
[6] Stumpage value per cord.
[7] Stumpage value per 8 lineal feet or portion thereof.
[8] Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.
[9] Stumpage value per lineal foot.

TABLE 7 Proposed Stumpage Value Table
Stumpage Value Area 7
January 1 through June 30, 2011

Stumpage Values per Thousand Board Feet Net Scribner Log Scale[1]

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number 1	2	3	4	5
Douglas-Fir[2]	DF	1	$127	$120	$113	$106	$99
Lodgepole Pine	LP	1	114	107	100	93	86
Ponderosa Pine	PP	1	141	134	127	120	113
		2	120	113	106	99	92
Western Redcedar[3]	RC	1	377	370	363	356	349
True Firs and Spruce[4]	WH	1	117	110	103	96	89
Western White Pine	WP	1	94	87	80	73	66
Hardwoods	OH	1	23	16	9	2	1
Western Redcedar Poles	RCL	1	377	370	363	356	349

~~**TABLE 7 Proposed Stumpage Value Table**~~
~~**Stumpage Value Area 7**~~
~~January 1 through June 30, 2011~~

~~Stumpage Values per Thousand Board Feet Net Scribner Log Scale(1)~~

~~Species Name~~	~~Species Code~~	~~Timber Quality Code Number~~	~~Hauling Distance Zone Number~~				
			~~1~~	~~2~~	~~3~~	~~4~~	~~5~~
~~Small Logs(5)~~	~~SML~~	~~1~~	~~17~~	~~16~~	~~15~~	~~14~~	~~13~~
~~Chipwood(5)~~	~~CHW~~	~~1~~	~~2~~	~~1~~	~~1~~	~~1~~	~~1~~
~~RC Shake & Shingle Blocks(6)~~	~~RCS~~	~~1~~	~~164~~	~~157~~	~~150~~	~~143~~	~~136~~
~~LP & Other Posts(7)~~	~~LPP~~	~~1~~	~~0.35~~	~~0.35~~	~~0.35~~	~~0.35~~	~~0.35~~
~~Pine Christmas Trees(8)~~	~~PX~~	~~1~~	~~0.25~~	~~0.25~~	~~0.25~~	~~0.25~~	~~0.25~~
~~Other Christmas Trees(9)~~	~~DFX~~	~~1~~	~~0.25~~	~~0.25~~	~~0.25~~	~~0.25~~	~~0.25~~

~~(1) Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.~~
~~(2) Includes Western Larch.~~
~~(3) Includes Alaska-Cedar.~~
~~(4) Includes all Hemlock, Spruce and true Fir species, or any other conifer not listed in this table.~~
~~(5) Stumpage value per ton.~~
~~(6) Stumpage value per cord.~~
~~(7) Stumpage value per 8 lineal feet or portion thereof.~~
~~(8) Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.~~
~~(9) Stumpage value per lineal foot.~~

~~**TABLE 8 Proposed Stumpage Value Table**~~
~~**Stumpage Value Area 10**~~
~~January 1 through June 30, 2011~~

~~Stumpage Values per Thousand Board Feet Net Scribner Log Scale(1)~~

~~Species Name~~	~~Species Code~~	~~Timber Quality Code Number~~	~~Hauling Distance Zone Number~~				
			~~1~~	~~2~~	~~3~~	~~4~~	~~5~~
~~Douglas-Fir(2)~~	~~DF~~	~~1~~	~~$327~~	~~$320~~	~~$313~~	~~$306~~	~~$299~~
		~~2~~	~~327~~	~~320~~	~~313~~	~~306~~	~~299~~
		~~3~~	~~327~~	~~320~~	~~313~~	~~306~~	~~299~~
		~~4~~	~~313~~	~~306~~	~~299~~	~~292~~	~~285~~
~~Lodgepole Pine~~	~~LP~~	~~1~~	~~114~~	~~107~~	~~100~~	~~93~~	~~86~~
~~Ponderosa Pine~~	~~PP~~	~~1~~	~~141~~	~~134~~	~~127~~	~~120~~	~~113~~
		~~2~~	~~120~~	~~113~~	~~106~~	~~99~~	~~92~~
~~Western Redcedar(3)~~	~~RC~~	~~1~~	~~553~~	~~546~~	~~539~~	~~532~~	~~525~~
~~Western Hemlock(4)~~	~~WH~~	~~1~~	~~279~~	~~272~~	~~265~~	~~258~~	~~251~~
		~~2~~	~~279~~	~~272~~	~~265~~	~~258~~	~~251~~
		~~3~~	~~279~~	~~272~~	~~265~~	~~258~~	~~251~~
		~~4~~	~~279~~	~~272~~	~~265~~	~~258~~	~~251~~

~~**TABLE 8 Proposed Stumpage Value Table**~~
~~**Stumpage Value Area 10**~~
~~January 1 through June 30, 2011~~

~~Stumpage Values per Thousand Board Feet Net Scribner Log Scale(1)~~

~~Species Name~~	~~Species Code~~	~~Timber Quality Code Number~~	~~Hauling Distance Zone Number~~				
			~~1~~	~~2~~	~~3~~	~~4~~	~~5~~
~~Red Alder~~	~~RA~~	~~1~~	~~325~~	~~318~~	~~311~~	~~304~~	~~297~~
		~~2~~	~~286~~	~~279~~	~~272~~	~~265~~	~~258~~
~~Black Cottonwood~~	~~BC~~	~~1~~	~~51~~	~~44~~	~~37~~	~~30~~	~~23~~
~~Other Hardwood~~	~~OH~~	~~1~~	~~182~~	~~175~~	~~168~~	~~161~~	~~154~~
~~Douglas-Fir Poles & Piles~~	~~DFL~~	~~1~~	~~610~~	~~603~~	~~596~~	~~589~~	~~582~~
~~Western Redcedar Poles~~	~~RCL~~	~~1~~	~~1201~~	~~1194~~	~~1187~~	~~1180~~	~~1173~~
~~Chipwood(5)~~	~~CHW~~	~~1~~	~~5~~	~~4~~	~~3~~	~~2~~	~~1~~
~~RC Shake & Shingle Blocks(6)~~	~~RCS~~	~~1~~	~~164~~	~~157~~	~~150~~	~~143~~	~~136~~
~~RC & Other Posts(7)~~	~~RCP~~	~~1~~	~~0.45~~	~~0.45~~	~~0.45~~	~~0.45~~	~~0.45~~
~~DF Christmas Trees(8)~~	~~DFX~~	~~1~~	~~0.25~~	~~0.25~~	~~0.25~~	~~0.25~~	~~0.25~~
~~Other Christmas Trees(8)~~	~~TFX~~	~~1~~	~~0.50~~	~~0.50~~	~~0.50~~	~~0.50~~	~~0.50~~

~~(1) Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.~~
~~(2) Includes Western Larch.~~
~~(3) Includes Alaska-Cedar.~~
~~(4) Includes all Hemlock, Spruce and true Fir species, or any other conifer not listed in this table.~~
~~(5) Stumpage value per ton.~~
~~(6) Stumpage value per cord.~~
~~(7) Stumpage value per 8 lineal feet or portion thereof.~~
~~(8) Stumpage value per lineal foot.~~))

PROPOSED STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 1
July 1 through December 31, 2011

Stumpage Values per Thousand Board Feet Net Scribner Log Scale(1)

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir	DF	1	$393	$386	$379	$372	$365
		2	393	386	379	372	365
		3	393	386	379	372	365
		4	393	386	379	372	365
Western Redcedar(2)	RC	1	701	694	687	680	673
Western Hemlock(3)	WH	1	370	363	356	349	342
		2	370	363	356	349	342
		3	370	363	356	349	342
		4	370	363	356	349	342

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number 1	2	3	4	5
Red Alder	RA	1	419	412	405	398	391
		2	388	381	374	367	360
Black Cottonwood	BC	1	94	87	80	73	66
Other Hardwood	OH	1	210	203	196	189	182
Douglas-Fir Poles & Piles	DFL	1	665	658	651	644	637
Western Redcedar Poles	RCL	1	1358	1351	1344	1337	1330
Chipwood[4]	CHW	1	12	11	10	9	8
RC Shake & Shingle Blocks[5]	RCS	1	164	157	150	143	136
RC & Other Posts[6]	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees[7]	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees[7]	TFX	1	0.50	0.50	0.50	0.50	0.50

[1] Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.

[2] Includes Alaska-Cedar.

[3] Includes all Hemlock, Spruce, true Fir species and Pines, or any other conifer not listed in this page.

[4] Stumpage value per ton.

[5] Stumpage value per cord.

[6] Stumpage value per 8 lineal feet or portion thereof.

[7] Stumpage value per lineal foot.

PROPOSED STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 2
July 1 through December 31, 2011

Stumpage Values per Thousand Board Feet Net Scribner Log Scale[1]

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number 1	2	3	4	5
Douglas-Fir	DF	1	$424	$417	$410	$403	$396
		2	424	417	410	403	396
		3	424	417	410	403	396
		4	424	417	410	403	396
Western Redcedar[2]	RC	1	701	694	687	680	673
Western Hemlock[3]	WH	1	380	373	366	359	352
		2	380	373	366	359	352
		3	380	373	366	359	352
		4	380	373	366	359	352
Red Alder	RA	1	419	412	405	398	391
		2	388	381	374	367	360
Black Cottonwood	BC	1	94	87	80	73	66
Other Hardwood	OH	1	210	203	196	189	182
Douglas-Fir Poles & Piles	DFL	1	665	658	651	644	637
Western Redcedar Poles	RCL	1	1358	1351	1344	1337	1330
Chipwood[4]	CHW	1	12	11	10	9	8
RC Shake & Shingle Blocks[5]	RCS	1	164	157	150	143	136
RC & Other Posts[6]	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees[7]	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees[7]	TFX	1	0.50	0.50	0.50	0.50	0.50

[1] Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.

[2] Includes Alaska-Cedar.

[3] Includes all Hemlock, Spruce, true Fir species and Pines, or any other conifer not listed in this page.

[4] Stumpage value per ton.

[5] Stumpage value per cord.

[6] Stumpage value per 8 lineal feet or portion thereof.

[7] Stumpage value per lineal foot.

PROPOSED STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 3
July 1 through December 31, 2011

Stumpage Values per Thousand Board Feet Net Scribner Log Scale[1]

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number 1	2	3	4	5
Douglas-Fir[2]	DF	1	$398	$391	$384	$377	$370
		2	398	391	384	377	370
		3	398	391	384	377	370
		4	306	299	292	285	278
Western Redcedar[3]	RC	1	701	694	687	680	673
Western Hemlock[4]	WH	1	333	326	319	312	305
		2	333	326	319	312	305
		3	333	326	319	312	305
		4	333	326	319	312	305
Red Alder	RA	1	419	412	405	398	391
		2	388	381	374	367	360
Black Cottonwood	BC	1	94	87	80	73	66
Other Hardwood	OH	1	210	203	196	189	182
Douglas-Fir Poles & Piles	DFL	1	665	658	651	644	637
Western Redcedar Poles	RCL	1	1358	1351	1344	1337	1330
Chipwood[5]	CHW	1	12	11	10	9	8

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number 1	2	3	4	5
RC Shake & Shingle Blocks[6]	RCS	1	164	157	150	143	136
RC & Other Posts[7]	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees[8]	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees[8]	TFX	1	0.50	0.50	0.50	0.50	0.50

[1] Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
[2] Includes Western Larch.
[3] Includes Alaska-cedar.
[4] Includes all Hemlock, Spruce, true Fir species and Pines, or any other conifer not listed in this page.
[5] Stumpage value per ton.
[6] Stumpage value per cord.
[7] Stumpage value per 8 lineal feet or portion thereof.
[8] Stumpage value per lineal foot.

PROPOSED STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 4
July 1 through December 31, 2011

Stumpage Values per Thousand Board Feet Net Scribner Log Scale[1]

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number 1	2	3	4	5
Douglas-Fir[2]	DF	1	$435	$428	$421	$414	$407
		2	435	428	421	414	407
		3	435	428	421	414	407
		4	435	428	421	414	407
Lodgepole Pine	LP	1	123	116	109	102	95
Ponderosa Pine	PP	1	203	196	189	182	175
		2	147	140	133	126	119
Western Redcedar[3]	RC	1	701	694	687	680	673
Western Hemlock[4]	WH	1	323	316	309	302	295
		2	323	316	309	302	295
		3	323	316	309	302	295
		4	323	316	309	302	295
Red Alder	RA	1	419	412	405	398	391
		2	388	381	374	367	360
Black Cottonwood	BC	1	94	87	80	73	66
Other Hardwood	OH	1	210	203	196	189	182
Douglas-Fir Poles & Piles	DFL	1	665	658	651	644	637
Western Redcedar Poles	RCL	1	1358	1351	1344	1337	1330
Chipwood[5]	CHW	1	12	11	10	9	8

[1] Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
[2] Includes Western Larch.
[3] Includes Alaska-Cedar.
[4] Includes all Hemlock, Spruce and true Fir species, or any other conifer not listed in this page.
[5] Stumpage value per ton.
[6] Stumpage value per cord.
[7] Stumpage value per 8 lineal feet or portion thereof.
[8] Stumpage value per lineal foot.

PROPOSED STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 5
July 1 through December 31, 2011

Stumpage Values per Thousand Board Feet Net Scribner Log Scale[1]

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number 1	2	3	4	5
Douglas-Fir[2]	DF	1	$416	$409	$402	$395	$388
		2	416	409	402	395	388
		3	416	409	402	395	388
		4	416	409	402	395	388
Lodgepole Pine	LP	1	123	116	109	102	95
Ponderosa Pine	PP	1	203	196	189	182	175
		2	147	140	133	126	119
Western Redcedar[3]	RC	1	701	694	687	680	673
Western Hemlock[4]	WH	1	352	345	338	331	324
		2	352	345	338	331	324
		3	352	345	338	331	324
		4	352	345	338	331	324
Red Alder	RA	1	419	412	405	398	391
		2	388	381	374	367	360
Black Cottonwood	BC	1	94	87	80	73	66
Other Hardwood	OH	1	210	203	196	189	182
Douglas-Fir Poles & Piles	DFL	1	665	658	651	644	637
Western Redcedar Poles	RCL	1	1358	1351	1344	1337	1330
Chipwood[5]	CHW	1	12	11	10	9	8

PROPOSED STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 5
July 1 through December 31, 2011

Stumpage Values per Thousand Board Feet Net Scribner Log Scale[1]

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number 1	2	3	4	5
RC Shake & Shingle Blocks[6]	RCS	1	164	157	150	143	136
RC & Other Posts[7]	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees[8]	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees[8]	TFX	1	0.50	0.50	0.50	0.50	0.50

[1] Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
[2] Includes Western Larch.
[3] Includes Alaska-Cedar.
[4] Includes all Hemlock, Spruce and true Fir species, or any other conifer not listed in this page.
[5] Stumpage value per ton.
[6] Stumpage value per cord.
[7] Stumpage value per 8 lineal feet or portion thereof.
[8] Stumpage value per lineal foot.

PROPOSED STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 6
July 1 through December 31, 2011

Stumpage Values per Thousand Board Feet Net Scribner Log Scale[1]

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number 1	2	3	4	5
Douglas-Fir[2]	DF	1	$125	$118	$111	$104	$97
Lodgepole Pine	LP	1	123	116	109	102	95
Ponderosa Pine	PP	1	203	196	189	182	175
		2	147	140	133	126	119
Western Redcedar[3]	RC	1	428	421	414	407	400
True Firs and Spruce[4]	WH	1	123	116	109	102	95
Western White Pine	WP	1	150	143	136	129	122
Hardwoods	OH	1	32	25	18	11	4
Western Redcedar Poles	RCL	1	428	421	414	407	400
Small Logs[5]	SML	1	18	17	16	15	14
Chipwood[5]	CHW	1	4	3	2	1	1
RC Shake & Shingle Blocks[6]	RCS	1	164	157	150	143	136
LP & Other Posts[7]	LPP	1	0.35	0.35	0.35	0.35	0.35
Pine Christmas Trees[8]	PX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees[9]	DFX	1	0.25	0.25	0.25	0.25	0.25

[1] Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
[2] Includes Western Larch.
[3] Includes Alaska-Cedar.
[4] Includes all Hemlock, Spruce and true Fir species, or any other conifer not listed in this page.
[5] Stumpage value per ton.
[6] Stumpage value per cord.
[7] Stumpage value per 8 lineal feet or portion thereof.
[8] Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.
[9] Stumpage value per lineal foot.

PROPOSED STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 7
July 1 through December 31, 2011

Stumpage Values per Thousand Board Feet Net Scribner Log Scale[1]

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number 1	2	3	4	5
Douglas-Fir[2]	DF	1	$125	$118	$111	$104	$97
Lodgepole Pine	LP	1	123	116	109	102	95
Ponderosa Pine	PP	1	203	196	189	182	175
		2	147	140	133	126	119
Western Redcedar[3]	RC	1	428	421	414	407	400
True Firs and Spruce[4]	WH	1	123	116	109	102	95
Western White Pine	WP	1	150	143	136	129	122
Hardwoods	OH	1	32	25	18	11	4
Western Redcedar Poles	RCL	1	428	421	414	407	400
Small Logs[5]	SML	1	18	17	16	15	14
Chipwood[5]	CHW	1	4	3	2	1	1
RC Shake & Shingle Blocks[6]	RCS	1	164	157	150	143	136
LP & Other Posts[7]	LPP	1	0.35	0.35	0.35	0.35	0.35
Pine Christmas Trees[8]	PX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees[9]	DFX	1	0.25	0.25	0.25	0.25	0.25

[1] Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
[2] Includes Western Larch.

(3) Includes Alaska-Cedar.
(4) Includes all Hemlock, Spruce and true Fir species, or any other conifer not listed in this page.
(5) Stumpage value per ton.
(6) Stumpage value per cord.
(7) Stumpage value per 8 lineal feet or portion thereof.
(8) Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.
(9) Stumpage value per lineal foot.

PROPOSED STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 10
July 1 through December 31, 2011

Stumpage Values per Thousand Board Feet Net Scribner Log Scale(1)

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number 1	2	3	4	5
Douglas-Fir(2)	DF	1	$421	$414	$407	$400	$393
		2	421	414	407	400	393
		3	421	414	407	400	393
		4	421	414	407	400	393
Lodgepole Pine	LP	1	123	116	109	102	95
Ponderosa Pine	PP	1	203	196	189	182	175
		2	147	140	133	126	119
Western Redcedar(3)	RC	1	687	680	673	666	659
Western Hemlock(4)	WH	1	309	302	295	288	281
		2	309	302	295	288	281
		3	309	302	295	288	281
		4	309	302	295	288	281
Red Alder	RA	1	405	398	391	384	377
		2	374	367	360	353	346
Black Cottonwood	BC	1	80	73	66	59	52
Other Hardwood	OH	1	196	189	182	175	168
Douglas-Fir Poles & Piles	DFL	1	651	644	637	630	623
Western Redcedar Poles	RCL	1	1344	1337	1330	1323	1316
Chipwood(5)	CHW	1	12	11	10	9	8
RC Shake & Shingle Blocks(6)	RCS	1	164	157	150	143	136
RC & Other Posts(7)	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees(8)	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees(8)	TFX	1	0.50	0.50	0.50	0.50	0.50

(1) Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
(2) Includes Western Larch.
(3) Includes Alaska-Cedar.
(4) Includes all Hemlock, Spruce and true Fir species, or any other conifer not listed in this page.
(5) Stumpage value per ton.
(6) Stumpage value per cord.
(7) Stumpage value per 8 lineal feet or portion thereof.
(8) Stumpage value per lineal foot.

(3) **Harvest value adjustments.** The stumpage values in subsection (2) of this rule for the designated stumpage value areas are adjusted for various logging and harvest conditions, subject to the following:

(a) No harvest adjustment is allowed for special forest products, chipwood, or small logs.

(b) Conifer and hardwood stumpage value rates cannot be adjusted below one dollar per MBF.

(c) Except for the timber yarded by helicopter, a single logging condition adjustment applies to the entire harvest unit. The taxpayer must use the logging condition adjustment class that applies to a majority (more than 50%) of the acreage in that harvest unit. If the harvest unit is reported over more than one quarter, all quarterly returns for that harvest unit must report the same logging condition adjustment. The helicopter adjustment applies only to the timber volume from the harvest unit that is yarded from stump to landing by helicopter.

(d) The volume per acre adjustment is a single adjustment class for all quarterly returns reporting a harvest unit. A harvest unit is established by the harvester prior to harvesting. The volume per acre is determined by taking the volume logged from the unit excluding the volume reported as chipwood or small logs and dividing by the total acres logged. Total acres logged does not include leave tree areas (RMZ, UMZ, forested wetlands, etc.,) over 2 acres in size.

(e) A domestic market adjustment applies to timber which meet the following criteria:

(i) **Public timber—**Harvest of timber not sold by a competitive bidding process that is prohibited under the authority of state or federal law from foreign export may be eligible for the domestic market adjustment. The adjustment may be applied only to those species of timber that must be processed domestically. According to type of sale, the adjustment may be applied to the following species:

Federal Timber Sales: All species except Alaska-cedar. (Stat. Ref. - 36 C.F.R. 223.10)

State, and Other Nonfederal, Public Timber Sales: Western Redcedar only. (Stat. Ref. - 50 U.S.C. appendix 2406.1)

(ii) **Private timber—**Harvest of private timber that is legally restricted from foreign export, under the authority of The Forest Resources Conservation and Shortage Relief Act (Public Law 101-382), (16 U.S.C. Sec. 620 et seq.); the Export Administration Act of 1979 (50 U.S.C. App. 2406(i)); a Cooperative Sustained Yield Unit Agreement made pursuant to the act of March 29, 1944 (16 U.S.C. Sec. 583-583i); or Washington Administrative Code (WAC 240-15-015(2)) is also eligible for the Domestic Market Adjustment.

The following harvest adjustment tables apply from ((~~January~~)) July 1 through ((~~June 30~~)) December 31, 2011:

TABLE 9—Harvest Adjustment Table
Stumpage Value Areas 1, 2, 3, 4, 5, and 10
((~~January~~)) July 1 through ((~~June 30~~)) December 31, 2011

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
I. Volume per acre		

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
Class 1	Harvest of 30 thousand board feet or more per acre.	$0.00
Class 2	Harvest of 10 thousand board feet to but not including 30 thousand board feet per acre.	-$15.00
Class 3	Harvest of less than 10 thousand board feet per acre.	-$35.00
II. Logging conditions		
Class 1	Ground based logging a majority of the unit using tracked or wheeled vehicles or draft animals.	$0.00
Class 2	Cable logging a majority of the unit using an overhead system of winch driven cables.	-$50.00
Class 3	Applies to logs yarded from stump to landing by helicopter. This does not apply to special forest products.	-$145.00
III. Remote island adjustment:		
	For timber harvested from a remote island	-$50.00
IV. Thinning		
Class 1	A limited removal of timber described in WAC 458-40-610 (28)	-$100.00

TABLE 10—Harvest Adjustment Table
Stumpage Value Areas 6 and 7
((~~January~~)) July 1 through ((~~June 30~~)) December 31, 2011

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
I. Volume per acre		
Class 1	Harvest of more than 8 thousand board feet per acre.	$0.00
Class 2	Harvest of 8 thousand board feet per acre and less.	-$8.00
II. Logging conditions		
Class 1	The majority of the harvest unit has less than 40% slope. No significant rock outcrops or swamp barriers.	$0.00
Class 2	The majority of the harvest unit has slopes between 40% and 60%. Some rock outcrops or swamp barriers.	-$50.00
Class 3	The majority of the harvest unit has rough, broken ground with slopes over 60%. Numerous rock outcrops and bluffs.	-$75.00
Class 4	Applies to logs yarded from stump to landing by helicopter. This does not apply to special forest products.	-$145.00
Note:	A Class 2 adjustment may be used for slopes less than 40% when cable logging is required by a duly promulgated forest practice regulation. Written documentation of this requirement must be provided by the taxpayer to the department of revenue.	
III. Remote island adjustment:		
	For timber harvested from a remote island	-$50.00

TABLE 11—Domestic Market Adjustment

Class	Area Adjustment Applies	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
Class 1:	SVA's 1 through 6, and 10	$0.00
Class 2:	SVA 7	$0.00

Note: The adjustment will not be allowed on special forest products.

(4) **Damaged timber.** Timber harvesters planning to remove timber from areas having damaged timber may apply to the department of revenue for an adjustment in stumpage values. The application must contain a map with the legal descriptions of the area, an accurate estimate of the volume of damaged timber to be removed, a description of the damage sustained by the timber with an evaluation of the extent to which the stumpage values have been materially reduced from the values shown in the applicable tables, and a list of estimated additional costs to be incurred resulting from the removal of the damaged timber. The application must be received and approved by the department of revenue before the harvest commences. Upon receipt of an application, the department of revenue will determine the amount of adjustment to be applied against the stumpage values. Timber that has been damaged due to sudden and unforeseen causes may qualify.

(a) Sudden and unforeseen causes of damage that qualify for consideration of an adjustment include:

(i) Causes listed in RCW 84.33.091; fire, blow down, ice storm, flood.

(ii) Others not listed; volcanic activity, earthquake.

(b) Causes that do not qualify for adjustment include:

(i) Animal damage, root rot, mistletoe, prior logging, insect damage, normal decay from fungi, and pathogen caused diseases; and

(ii) Any damage that can be accounted for in the accepted normal scaling rules through volume or grade reductions.

(c) The department of revenue will not grant adjustments for applications involving timber that has already been harvested but will consider any remaining undisturbed damaged timber scheduled for removal if it is properly identified.

(d) The department of revenue will notify the harvester in writing of approval or denial. Instructions will be included for taking any adjustment amounts approved.

(5) **Forest-derived biomass,** has a $0/ton stumpage value.

WSR 11-11-097
PROPOSED RULES
DEPARTMENT OF HEALTH

[Filed May 18, 2011, 11:56 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-15-085.

Title of Rule and Other Identifying Information: Chapter 246-470 WAC, establishing a new chapter for the prescription monitoring program.

Hearing Location(s): Department of Health, Point Plaza East, Rooms 152 and 153, 310 Israel Road S.E., Tumwater, WA 98501, on June 27, 2011, at 1:30 p.m.

Date of Intended Adoption: July 22, 2011.

Submit Written Comments to: John Hilger, P.O. Box 47852, Olympia, WA 98504-7852, web site http://www3.doh.wa.gov/policyreview/, fax (360) 236-2901, by June 27, 2011.

Assistance for Persons with Disabilities: Contact John Hilger by June 24, 2011, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Chapter 70.225 RCW directs the department to establish rules to implement a prescription monitoring program (PMP). The proposed rule establishes requirements for adding additional drugs, dispenser data submission, accessing information from the program, confidentiality, and penalties and sanctions.

Reasons Supporting Proposal: Chapter 70.225 RCW requires the department to adopt rules to establish and maintain a PMP. The program is intended to improve health care quality and effectiveness by reducing diversion and the abuse of controlled substances, reducing duplicative prescribing and over-prescribing of controlled substances, and improving controlled substance prescribing practices.

Statutory Authority for Adoption: Chapter 70.225 RCW, E2SSB 5930 (chapter 259, Laws of 2007).

Statute Being Implemented: Chapter 70.225 RCW, E2SSB 5930 (chapter 259, Laws of 2007).

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

Name of Proponent: Department of health, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Chris Baumgartner, 310 Israel Road S.E., Tumwater, WA 98501, (360) 236-4806; and Enforcement: Lisa Hodgson, 310 Israel Road S.E., Tumwater, WA 98501, (360) 236-2927.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A copy of the statement may be obtained by contacting John Hilger, P.O. Box 47852, Olympia, WA 98504-7852, phone (360) 236-2929, fax (360) 236-2901, e-mail john.hilger@doh.wa.gov. The proposed rule would not impose more than minor costs on businesses in an industry.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting John Hilger, P.O. Box 47852, Olympia, WA 98504-7852, phone (360) 236-2929, fax (360) 236-2901, e-mail john.hilger@doh.wa.gov.

May 18, 2011
Mary C. Selecky
Secretary

Chapter 246-470 WAC

PRESCRIPTION MONITORING PROGRAM

NEW SECTION

WAC 246-470-001 Purpose. These rules implement the prescription monitoring program, established by the legislature in chapter 70.225 RCW, as a means to promote the public health, safety, and welfare and to detect and prevent prescription drug abuse.

NEW SECTION

WAC 246-470-010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly indicates otherwise:

(1) "Authentication" means information, electronic device, or certificate provided by the department or their designee to a data requestor to electronically access prescription monitoring information. The authentication may include, but is not limited to, a user name, password, or an identification electronic device or certificate.

(2) "Controlled substance" has the same meaning provided in RCW 69.50.101.

(3) "Department" means the department of health.

(4) "Dispenser" means a practitioner or pharmacy that delivers to the ultimate user a schedule II, III, IV, or V controlled substance or other drugs identified by the board of pharmacy in WAC 246-470-020, but does not include:

(a) A practitioner or other authorized person who only administers, as defined in RCW 69.41.010, a controlled substance or other drugs identified by the board of pharmacy in WAC 246-470-020; or

(b) A licensed wholesale distributor or manufacturer, as defined in chapter 18.64 RCW, of a controlled substance or other drugs identified by the board of pharmacy in WAC 246-470-020.

(5) "Patient" means the person or animal who is the ultimate user of a drug for whom a prescription is issued or for whom a drug is dispensed.

(6) "Patient address" means the current geographic location of the patient's residence. If the patient address is in care of another person or entity, the address of that person or entity is the "patient address" of record. When alternate addresses are possible, they must be recorded in the following order of preference:

(a) The geographical location of the residence, as would be identified when a telephone is used to place a 9-1-1 call; or

(b) An address as listed by the United States Postal Service; or

(c) The common name of the residence and town.

(7) "Pharmacist" means a person licensed to engage in the practice of pharmacy.

(8) "Prescriber" means a licensed health care professional with authority to prescribe controlled substances.

(9) "Prescription monitoring information" means information submitted to and maintained by the prescription monitoring program.

(10) "Program" means the prescription monitoring program established under chapter 70.225 RCW.

(11) "Valid photographic identification" means:

(a) A driver's license or instruction permit issued by any United States state or province of Canada. If the patient's driver's license has expired, the patient must also show a valid temporary driver's license with the expired card.

(b) A state identification card issued by any United States state or province of Canada.

(c) An official passport issued by any nation.

(d) A United States armed forces identification card issued to active duty, reserve, and retired personnel and the personnel's dependents.

(e) A merchant marine identification card issued by the United States Coast Guard.

(f) A state liquor control identification card. An official age identification card issued by the liquor control authority of any United States state or Canadian province.

(g) An enrollment card issued by the governing authority of a federally recognized Indian tribe located in Washington, if the enrollment card incorporates security features comparable to those implemented by the department of licensing for Washington drivers' licenses and are recognized by the liquor control board.

NEW SECTION

WAC 246-470-020 Adding additional drugs to the program. Pursuant to RCW 70.225.020, the board of pharmacy may add additional drugs to the list of drugs being monitored by the program by requesting the department amend these rules.

NEW SECTION

WAC 246-470-030 Data submission requirements for dispensers. A dispenser shall provide to the department the dispensing information required by RCW 70.225.020 and this section for all scheduled II, III, IV, and V controlled substances and for drugs identified by the board of pharmacy pursuant to WAC 246-470-020.

(1) Dispenser identification number. A dispenser shall acquire and maintain an identification number issued to dispensing pharmacies by the National Council for Prescription Drug Programs or a prescriber identifier issued to authorized prescribers of controlled substances by the Drug Enforcement Administration, United States Department of Justice.

(2) Submitting data. A dispenser shall submit data to the department electronically, not later than one week from the date of dispensing, and in the format required by the department.

(a) A dispenser shall submit for each dispensing the following information and any additional information required by the department:

(i) Patient identifier. A patient identifier is the unique identifier assigned to a particular patient by the dispenser;

(ii) Name of the patient for whom the prescription is ordered including first name, middle initial, last name, and generational suffixes, if any;

(iii) Patient date of birth;

(iv) Patient address;

(v) Patient gender;

(vi) Drug dispensed;

(vii) Date of dispensing;

(viii) Quantity and days supply dispensed;

(ix) Refill information;

(x) Prescriber identifier;

(xi) Prescription issued date;

(xii) Dispenser identifier;

(xiii) Prescription fill date and number;

(xiv) Source of payment indicated by one of the following:

(A) Private pay (cash, change, credit card, check);

(B) Medicaid;

(C) Medicare;

(D) Commercial insurance;

(E) Military installations and veterans affairs;

(F) Workers compensation;

(G) Indian nations;

(H) Other; and

(xv) When practicable, the name of person picking up or dropping off the prescription, as verified by valid photographic identification.

(b) A nonresident, licensed pharmacy that delivers controlled substances, as defined in RCW 18.64.360, is required to submit only the transactions for patients with a Washington state zip code.

(c) Data submission requirements do not apply to:

(i) The department of corrections or pharmacies operated by a county for the purpose of providing medications to offenders in state or county correctional institutions who are receiving pharmaceutical services from a state or county correctional institution's pharmacy. A state or county correctional institution's pharmacy must submit data to the program related to each offender's current prescriptions for controlled substances upon the offender's release from a state or county correctional institution.

(ii) Medications provided to patients receiving inpatient services provided at hospitals licensed under chapter 70.41 RCW or patients of such hospitals receiving services at the clinics, day surgery areas, or other settings within the hospital's license where the medications are administered in single doses; or medications provided to patients receiving outpatient services provided at ambulatory surgical facilities licensed under chapter 70.230 RCW.

NEW SECTION

WAC 246-470-040 Patient access to information from the program. A patient, or a patient's personal representative authorized under Title 11 RCW (Probate and trust law) and Title 7 RCW (Special proceedings and actions), may obtain a report listing all prescription monitoring information that pertains to the patient.

(1) Procedure for obtaining information. A patient or a patient's personal representative requesting information pur-

suant to this section shall submit a written request in person at the department, or at any other place specified by the department. The written request must be in a format established by the department.

(2) Identification required. The patient or the patient's personal representative must provide valid photographic identification prior to obtaining access to the information requested in this section.

(3) Proof of personal representation. Before obtaining access to the information pursuant to this section, a personal representative shall provide either:

(a) An official attested copy of the judicial order granting them authority to gain access to the health care records of the patient;

(b) In the case of parents of a minor child, a certified copy of the birth certificate of the minor child or other certified legal documents establishing parentage or guardianship; or

(c) In the case of persons holding power of attorney, the original document establishing the power of attorney.

The department may verify the patient authorization by any reasonable means prior to providing the information to the patient's personal representative.

NEW SECTION

WAC 246-470-050 Pharmacist, prescriber or other health care practitioner access to information from the program. A pharmacist, prescriber, and licensed health care practitioner authorized by a prescriber may obtain prescription monitoring information relating to their patients, for the purpose of providing medical or pharmaceutical care.

(1) Registration for access. A pharmacist, prescriber, and licensed health care practitioner authorized by a prescriber shall register with the department in order to receive an authentication to access the electronic system. The registration process shall be established by the department.

(2) Verification by the department. The department shall verify the authentication and identity of the pharmacist, prescriber, or licensed health care practitioner authorized by a prescriber before allowing access to any prescription monitoring information.

(3) Procedure for accessing prescription information. A pharmacist, prescriber, or licensed health care practitioner authorized by a prescriber may access information from the program electronically, using the authentication issued by the department.

(4) A pharmacist, prescriber, or licensed health care practitioner authorized by a prescriber may alternately submit a written request via mail or facsimile transmission in a manner and format established by the department.

(5) Reporting lost or stolen authentication. If the authentication issued by the department is lost, missing, or the security of the authentication is compromised, the pharmacist, prescriber, or licensed health care practitioner authorized by a prescriber shall notify the department by telephone and in writing as soon as reasonably possible.

(6) All requests for, uses of, and disclosures of prescription monitoring information by authorized persons must be consistent with the program's mandate as outlined in RCW 70.225.040 and this chapter.

NEW SECTION

WAC 246-470-060 Law enforcement, prosecutorial officials, coroners, and medical examiners' access to information from the program. Local, state, or federal law enforcement officers and prosecutorial officials may obtain prescription monitoring information for a bona fide specific investigation involving a designated person. A local, state, or federal coroner or medical examiner may obtain prescription monitoring information for a bona fide specific investigation to determine cause of death.

(1) Registration for access. Local, state, or federal law enforcement officers, prosecutorial officials, coroners, and medical examiners shall register with the department in order to receive an authentication to access information from the program. The registration process shall be established by the department.

(2) Verification by the department. The department shall verify the authentication and identity of local, state, or federal law enforcement officers, prosecutorial officials, coroners, and medical examiners before allowing access to any prescription monitoring information.

(3) Procedure for accessing prescription information. Local, state, or federal law enforcement officers, prosecutorial officials, coroners and medical examiners may access information from the program electronically using the authentication issued by the department.

(4) Local, state, or federal law enforcement officers and prosecutorial officials shall electronically attest that the requested information is required for a bona fide specific investigation involving a designated person prior to accessing prescription monitoring information.

(5) Local, state, or federal coroner or medical examiners shall electronically attest that the requested information is required for a bona fide specific investigation to determine cause of death prior to accessing prescription monitoring information.

(6) Local, state, or federal law enforcement officers, prosecutorial officials, coroners and medical examiners may alternately submit a written request via mail or facsimile transmission in a format established by the department. The written request must contain an attestation that the requested information is required for a bona fide specific investigation involving a designated person or for a bona fide specific investigation to determine cause of death.

(7) Reporting lost or stolen authentication. If the authentication issued by the department is lost, missing, or the security of the authentication is compromised, the local, state, and federal law enforcement officers, prosecutorial officials, coroners or medical examiners shall notify the department by telephone and in writing as soon as reasonably possible.

(8) All requests for, uses of, and disclosures of prescription monitoring information by authorized persons must be consistent with the program's mandate as outlined in RCW 70.225.040 and this chapter.

NEW SECTION

WAC 246-470-070 Other prescription monitoring program's access to information from the program. Established prescription monitoring programs may obtain prescription monitoring information for requests from within their jurisdiction that do not violate the provisions of this chapter or chapter 70.225 RCW.

(1) The other prescription monitoring program must provide substantially similar protections for patient information as the protections provided in chapter 70.225 RCW.

(2) The department may share information with other prescription monitoring programs qualified under this section through a clearinghouse or prescription monitoring program information exchange that meets federal health care information privacy requirements.

(3) All requests for, uses of, and disclosures of prescription monitoring information by authorized persons must be consistent with the program's mandate as outlined in RCW 70.225.040 and this chapter.

NEW SECTION

WAC 246-470-080 Access by public or private research entities to information from the program. (1) The department may provide prescription monitoring information in a format established by the department to any public or private entity for statistical, research, or educational purposes.

(2) Before the department releases any requested information, the department shall remove information that could be used to identify individual patients, dispensers, prescribers, and persons who received prescriptions from dispensers.

(3) To obtain information from the program a public or private entity shall submit a request in a format established by the department.

(4) All requests for, uses of, and disclosures of prescription monitoring information by the requesting entity must be consistent with the program's mandate as outlined in RCW 70.225.040 and this chapter.

NEW SECTION

WAC 246-470-090 Confidentiality. Under RCW 70.225.040, prescription monitoring information is confidential, and maintained in compliance with chapter 70.02 RCW and federal health care information privacy requirements.

NEW SECTION

WAC 246-470-100 Penalties and sanctions. In addition to the penalties described in RCW 70.225.060, if the department determines a person has intentionally or knowingly used or disclosed prescription monitoring information in violation of chapter 70.225 RCW, the department may take action including, but not limited to:

(1) Terminating access to the program;

(2) Filing a complaint with appropriate health profession regulatory entities; or

(3) Reporting the violation to law enforcement.