WSR 13-02-013
EMERGENCY RULES
DEPARTMENT OF FISH AND WILDLIFE

[Order 12-288—Filed December 20, 2012, 9:29 a.m., effective January 1, 2013]

Effective Date of Rule: January 1, 2013.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-35000U and 220-56-38000C; and amending WAC 220-56-350 and 220-56-380.

Statutory Authority for Adoption: RCW 77.12.047 and 77.04.020.

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

Reasons for this Finding: Recreational clam effort at both [of] these beaches increased significantly in 2012, and state shares were overharvested, requiring a shorter season in 2013. A clam population survey on the newly-certified portion of Belfair State Park will be conducted in March 2013, and a possible season extension may follow, depending on the results of that survey. Oyster season should coincide with the clam season on this beach. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 2, Amended 0, Repealed 2.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: December 20, 2012.

Philip Anderson
Director

NEW SECTION

WAC 220-56-35000U Clams other than razor clams—Areas and seasons. Notwithstanding the provisions of WAC 220-56-350, effective January 1 through March 31, 2013, it is unlawful to take, dig for and possess clams, cockles, and mussels taken for personal use from the following public tidelands:

(1) Belfair State Park

(2) Oyster Reserves of North Bay (Case Inlet)

[NEW SECTION]

WAC 220-56-38000C Oysters—Areas and seasons. Notwithstanding the provisions of WAC 220-56-380, effective January 1 through March 31, 2013, it is unlawful to take and possess oysters taken for personal use from the following public tidelands:

(1) Oyster Reserves of North Bay (Case Inlet)

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

REPEALER

The following sections of the Washington Administrative Code are repealed effective April 1, 2013:

WAC 220-56-35000U	Clams other than razor clams—Areas and seasons.
WAC 220-56-38000C	Oysters—Areas and seasons.

WSR 13-02-025
EMERGENCY RULES
SUPERINTENDENT OF PUBLIC INSTRUCTION

[Filed December 20, 2012, 3:47 p.m., effective December 20, 2012, 3:47 p.m.]

Effective Date of Rule: Immediately.

Purpose: To file a second emergency amendment to WAC 392-101-010 Conduct of administrative hearings. This amendment is to clarify the child nutrition programs actually covered under subsection (5) and which C.F.R. corresponds to these programs, as well as to add a subsection (8) and determine if any other programs need to change cases that are appealed and heard by office of administrative hearings (OAH).

Citation of Existing Rules Affected by this Order: Amending WAC 392-101-010.

Statutory Authority for Adoption: Chapter 28A.325 RCW.

Under RCW 34.05.350 the agency for good cause finds that in order to implement the requirements or reductions in appropriations enacted in any budget for fiscal year 2009, 2010, 2011, 2012 or 2013, which necessitates the need for the immediate adoption, amendment, or repeal of a rule, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the fiscal needs or requirements of the agency.

Reasons for this Finding: To give the office of superintendent of public instruction the authority to send appeals for the national school breakfast program, the school breakfast program, and the special milk program through OAH. The WAC currently only defines the child and adult food care program and the summer food service program; however, we need all of the appeals of the child nutrition program findings to be heard through OAH.

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

Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

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

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

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

Date Adopted: December 20, 2012.

Randy Dorn
Superintendent of
Public Instruction

AMENDATORY SECTION (Amending WSR 08-22-035, filed 10/30/08, effective 11/30/08)

WAC 392-101-010 Conduct of administrative hearings. The superintendent of public instruction hereby assigns the following administrative hearings to the office of administrative hearings and hereby delegates to the administrative law judge conducting any such hearing the authority to render the final decision by the superintendent of public instruction:

(1) Nonresident transfer appeals pursuant to WAC 392-137-055(2).

(2) Special education hearings pursuant to WAC 392-171-531.

(3) Equal educational opportunity complaints pursuant to WAC 392-190-075.

(4) Professional certification appeals pursuant to WAC 180-75-030.

(5) National school lunch program, special milk program for children, school breakfast program, summer food service program, and child and adult care food program ((~~and summer food service program~~)) appeals pursuant to 7 C.F.R. Parts 210, 215, 220, 225 and 226.

(6) Traffic safety education appeals pursuant to WAC 392-153-005 through 392-153-040.

(7) Bus driver authorization appeals pursuant to chapter 392-144 WAC.

(8) Audit resolution appeals of agency management decisions regarding resolution of state and federal audit findings pursuant to chapter 392-115 WAC.

WSR 13-02-029
EMERGENCY RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Aging and Disability Services Administration)

[Filed December 20, 2012, 4:05 p.m., effective December 28, 2012]

Effective Date of Rule: December 28, 2012.

Purpose: To amend and add specific sections of chapter 388-828 WAC, Division of developmental disabilities assessment rules, to be in compliance with the requirements of SSB 6384 and related federal waivers recently renewed through Centers for Medicare and Medicaid Services (CMS). These changes define the methodology used to determine DDD community access services eligibility and the number of eligible hours each month for community access services.

This subsequent emergency will supersede the original emergency filed on August 30, 2012, as WSR 12-18-053 which expires on December 28, 2012, and remain in effect until January 18, 2013, when the permanent rule filed as WSR 13-01-080 becomes effective.

Citation of Existing Rules Affected by this Order: Amending WAC 388-828-4420.

Statutory Authority for Adoption: RCW 71A.12.030 General authority of secretary—Rule adoption and 34.05.350 (1)(c) Emergency rules and amendments.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest; that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule; and that in order to implement the requirements or reductions in appropriations enacted in any budget for fiscal year 2009, 2010, 2011, 2012 or 2013, which necessitates the need for the immediate adoption, amendment, or repeal of a rule, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the fiscal needs or requirements of the agency.

Reasons for this Finding: The passing of SSB 6384 required coordination with CMS to agree on waiver language before we could develop new WAC language. The changes to CARE incorporate the waiver and WAC changes that take us from a dollar limitation to an acuity based assessment that the division of developmental disabilities staff will use to determine eligibility and the amount of services a client is eligible for. These scheduled changes will prevent clients from being incorrectly found not eligible or found eligible but for more services than they qualify. This emergency rule making keeps language in effect as adopted by WSR 12-08-053 [12-18-053] until adopted under the permanent rule-making process.

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

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

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

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

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

Date Adopted: December 18, 2012.

Katherine I. Vasquez
Rules Coordinator

NEW SECTION

WAC 388-828-4165 How does DDD determine your total raw score for each subscale in the SIS support needs scale? (1) DDD adds the raw scores (WAC 388-828-4160) for each activity assessed in each subscale of the SIS support needs scale to determine your total raw score for that subscale.

(2) The raw score for question number 9 in the home living activities subscale (WAC 388-828-4200) "using currently prescribed equipment or treatment" is not included in the total raw score for the home living activities subscale.

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

WAC 388-828-4420 How does DDD determine your percentile rank and standard score for each subscale in the SIS support needs scale? DDD uses the following table to convert your total raw score for each subscale into a percentile ranking:

If your raw score for the following SIS subscale is:							
Home Living	Community Living	Lifelong Learning	Employment Support	Health and Safety	Social Activities	Then your percentile rank for the SIS subscale is:	And your standard score for the SIS subscale is:
						>99	20
>88	>94					>99	19
87-88	93-94					>99	18
85-86	91-92			>97		99	17
81-84	88-90	>96	>95	92-97	>97	98	16
77-80	84-87	92-96	91-95	86-91	91-97	95	15
73-76	79-83	86-91	85-90	79-85	84-90	91	14
68-72	74-78	79-85	78-84	72-78	76-83	84	13
62-67	69-73	72-78	70-77	65-71	68-75	75	12
55-61	63-68	64-71	61-69	57-64	58-67	63	11
48-54	56-62	55-63	52-60	49-56	48-57	50	10
40-47	49-55	46-54	42-51	42-48	38-47	37	9
32-39	41-48	36-45	32-41	34-41	28-37	25	8
25-31	33-40	27-35	23-31	27-33	19-27	16	7
18-24	25-32	18-26	15-22	20-26	10-18	9	6
11-17	16-24	9-17	7-14	13-19	3-9	5	5
3-10	6-15	<9	<7	7-12	<3	2	4
<3	<6			1-6		1	3
				<1		<1	2
						<1	1

NEW SECTION

WAC 388-828-4440 How does DDD determine your SIS support needs index percentile ranking? (1) DDD determines your SIS support needs index percentile ranking by adding together the standard scores (WAC 388-828-4420) for the following supports intensity scale assessment subscales:

(a) Home living activities in WAC 388-828-4200.

(b) Community living activities in WAC 388-828-4220.

(c) Lifelong learning activities in WAC 388-828-4240.

(d) Employment activities in WAC 388-828-4260.

(e) Health and safety activities in WAC 388-828-4280.

(f) Social activities in WAC 388-828-4300.

(2) Your standard scores for the above scales are added together to determine the sum of the standard scores.

(3) The supplemental protection and advocacy activities scale, and the exceptional medical and behavioral supports scales are not used in determining your support needs index percentile ranking.

(4) The sum of the standard scores is converted to your support needs index percentile ranking using the following table:

If the sum of the standard scores is:	Your support needs index percentile is:
≥91	>99
90	99
89	99
88	99
87	98
86	98
85	97
84	97
83	96
82	95
81	95
80	94
79	93
78	92
77	91
76	89
75	87
74	86
73	84
72	82
71	81
70	77
69	75
68	73
67	70
66	68
65	65
64	63
63	58
62	55
61	53
60	50
59	47
58	45
57	39
56	37
55	35
54	32
53	30
52	27
51	25
50	23
49	19
48	18
47	16
46	14
45	13
44	13
43	9
42	8
41	7
40	6
39	5
38	5
37	4
36	3
35	3
34	2
33	2
32	1
31	1
30	1
≤29	<1

NEW SECTION

WAC 388-828-9300 What is the DDD community access acuity scale? The DDD community access acuity scale is an algorithm DDD uses to determine the number of support hours you may receive when you are approved for community access services.

NEW SECTION

WAC 388-828-9310 How does DDD determine the number of hours you may receive each month for community access services? (1) The number of hours of community access services you may receive each month is based on your community access service level.

(2) DDD determines your community access service level based on your SIS support needs index percentile ranking (WAC 388-828-4440) as detailed in the following table:

If your SIS support needs index percentile ranking according to WAC 388-828-4440 is:	Your community access service level is:	The number of hours you may receive for community access services each month is:
0 - 9th percentile	A	Up to 3 hours
10th - 19th percentile	B	Up to 6 hours
20th - 29th percentile	C	Up to 9 hours
30th - 44th percentile	D	Up to 12 hours
45th - 59th percentile	E	Up to 15 hours

If your SIS support needs index percentile ranking according to WAC 388-828-4440 is:	Your community access service level is:	The number of hours you may receive for community access services each month is:
60th - 74th percentile	F	Up to 18 hours
75th - 100th percentile	G	Up to 20 hours

WSR 13-02-030
EMERGENCY RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Aging and Disability Services Administration)
[Filed December 20, 2012, 4:06 p.m., effective December 28, 2012]

Effective Date of Rule: December 28, 2012.

Purpose: To add new sections to chapter 388-828 WAC, Division of developmental disabilities assessment rules, to be in compliance with the requirements of SSB 6384 and related federal waivers recently renewed through Centers for Medicare and Medicaid Services (CMS). These changes define the methodology used to determine eligibility for employment support services.

This subsequent emergency will supersede the original emergency filed as WSR 12-18-054 on August 30, 2012, which expires on December 28, 2012, and will remain in effect until January 18, 2013, when the permanent rule filed as WSR 13-01-076 becomes effective.

Statutory Authority for Adoption: RCW 71A.12.030 General authority of secretary—Rule adoption and 34.05.350 (1)(c) Emergency rules and amendments.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest; that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule; and that in order to implement the requirements or reductions in appropriations enacted in any budget for fiscal year 2009, 2010, 2011, 2012 or 2013, which necessitates the need for the immediate adoption, amendment, or repeal of a rule, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the fiscal needs or requirements of the agency.

Reasons for this Finding: The passing of SSB 6384 required coordination with CMS to agree on waiver language before we could develop new WAC language. This emergency filing adds new language that defines eligibility for employment services, keeping in effect language adopted under emergency filed as WSR 12-18-054.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 8, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

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

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 8, Amended 0, Repealed 0.

Date Adopted: December 18, 2012.

Katherine I. Vasquez
Rules Coordinator

DDD EMPLOYMENT ACUITY SCALE

NEW SECTION

WAC 388-828-9325 How does DDD determine the number of hours you may receive for employment support services? DDD determines the number of hours you may receive for employment services using information from the following:

(1) Your employment support level determined as described in WAC 388-828-9205;

(2) Your employment status determined as described in WAC 388-828-9330;

(3) Your employment service level and employment service hours determined as described in WAC 388-828-9335;

(4) Your employment service type;

(5) You meet one of the conditions identified as described in WAC 388-828-9345 and require add-on hours identified in WAC 388-828-9350.

NEW SECTION

WAC 388-828-9330 How does DDD determine your employment status? DDD determines your employment status to be:

(1) **"Working"** when you meet one of the following conditions:

(a) In the twelve months prior to your assessment:

(i) You have been employed for nine consecutive months; and

(ii) You have earned at least minimum wage.

(b) You are currently self-employed and meet one of the following:

(i) The activities of your employment meet the Internal Revenue Service (IRS) rules for a business;

(ii) You have a business plan demonstrating feasibility as determined by the division of vocational rehabilitation or an impartial, agreed upon, third party business expert; or

(iii) You are licensed, if required, and follow all local, state, and federal regulations and rules.

(2) **"In training/job development"** when you do not meet either of the conditions for "working."

NEW SECTION

WAC 388-828-9335 How does DDD determine your employment service level? DDD determines your employment service level using the following table:

If your employment support level in WAC 388-828-9205 is:	And your employment status in WAC 388-828-9330 is:	Then your employment service level is:	And your employment service hours per month are:
None	Working	A	0
	In Training/Job Development	B	0
Low	Working	C	4
	In Training/Job Development	D	7
Medium	Working	E	7
	In Training/Job Development	F	9
High	Working	G	11
	In Training/Job Development	H	12

NEW SECTION

WAC 388-828-9340 How does your employment service type affect how your employment service hours are used? Your employment service type determines where and how your service hours are provided.

(1) Individual supported employment:

(a) Your employment services are provided in typical community-based settings;

(b) The focus of employment services is on obtaining and/or maintaining integrated employment at or above the state's minimum wage in the general workforce; and

(c) Your employment services are not shared with others.

(2) Group supported employment:

(a) Your employment services are provided in typical community-based settings;

(b) The focus of employment services is on providing ongoing supervised employment that will lead to greater opportunities for competitive and integrated employment and career advancement at or above minimum wage; and

(c) Your employment service provider works with you and others in a group setting.

(3) Prevocational services:

(a) Your employment services are:

(i) Provided in specialized or segregated settings for individuals with developmental disabilities; and

(ii) Include monthly employment related activities in the community.

(b) Service and supports are designed to further habilitation goals that will lead to greater opportunities for competitive and integrated employment and career advancement at or above the state's minimum wage; and

(c) Your employment service provider works with you and others in a group setting.

NEW SECTION

WAC 388-828-9345 Can you receive fewer than the number of hours allocated to you in your employment service level? Yes. You may be authorized to receive fewer than the number of hours allocated if one or more of the following factors is detailed on your employment plan:

(1) You can independently find and maintain employment.

(2) Your employment is stable and you need few support hours to maintain it.

(3) You have natural supports from co-workers, family, friends, or others who support you in finding and maintaining a job.

(4) Your job schedule does not require the full amount of supports allocated to your supported employment service level.

(5) You choose to receive fewer hours of support than are allocated for your supported employment service level.

(6) There are other factors in your employment plan which indicate you can find and maintain a job with fewer support hours.

NEW SECTION

WAC 388-828-9350 Are there conditions when DDD will authorize additional hours to your monthly employment service hours? DDD may authorize the use of add-on hours in addition to your monthly employment service hours when your employment support plan identifies a need for additional service hours related to:

(1) Your work schedule;

(2) The number of jobs you have;

(3) The appropriateness of job match;

(4) Natural supports available to you on the job;

(5) Health limitations;

(6) Provider travel time and distance;

(7) Behavioral or physical needs that may affect the safety of you and others while at work;

(8) Other factors detailed in your employment plan which indicate a need for add-on hours to help you find or maintain a job.

NEW SECTION

WAC 388-828-9355 How many add-on hours are you eligible to receive? DDD uses the following table to determine the maximum number of add-on hours you are eligible to receive.

If you meet one of the conditions in WAC 388-828-9350 and your employment level is:	You are eligible to receive up to the following amount of add-on hours:
A	0
B	0
C	5
D	7
E	5
F	7

If you meet one of the conditions in WAC 388-828-9350 and your employment level is:	You are eligible to receive up to the following amount of add-on hours:
G	12
H	14

NEW SECTION

WAC 388-828-9360 What are short-term employment supports? (1) Short-term employment supports is a service that allows DDD to approve additional service hours in addition to the amount of your employment service base hours (see WAC 388-828-9335) and add-on hours (see WAC 388-828-9345) when:

(a) You are beginning a new job;

(b) There is a planned or unexpected change in your job or job duties;

(c) Your current employment is at risk and short-term supports are needed to assist you in maintaining your current job; or

(d) You are stuck on your pathway to employment and need individualized technical assistance.

(2) Short-term employment supports may be authorized for a maximum of three months at a time and may be reauthorized when:

(a) The circumstances identified in section WAC 388-828-9360(1) continue, evidenced by, receipt of a current employment work plan or review describing the need; and

(b) Both your employment provider and county recommend continuing the use of short-term employment supports.

WSR 13-02-031
EMERGENCY RULES
DEPARTMENT OF FISH AND WILDLIFE

[Order 12-289—Filed December 20, 2012, 4:13 p.m., effective January 1, 2013]

Effective Date of Rule: January 1, 2013.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order: Amending WAC 232-28-619.

Statutory Authority for Adoption: RCW 77.15.045, 77.12.047, and 77.04.020.

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

Reasons for this Finding: One of the provisions of the Washington fish and wildlife commission's new draft policy, "Columbia River Basin Salmon Management," included requiring sport anglers fishing for salmon and steelhead in the mainstem Columbia River to use barbless hooks beginning in 2013. The Oregon fish and wildlife commission approved a similar policy earlier this month, and the Washington commission is scheduled to take action on the policy during a public meeting January 12, 2013. This regulation is needed to maintain concurrent regulations between Oregon and Washington in those waters of the mainstem Columbia River where the two states share a boundary. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: December 20, 2012.

James B. Scott, Jr.
for Philip Anderson
Director

NEW SECTION

WAC 232-28-61900L Freshwater exceptions to statewide rules. Notwithstanding the provisions of WAC 232-28-619 and WAC 220-56-123, effective January 1, 2013, until further notice, it is unlawful to use other than barbless hooks while fishing for salmon, steelhead and cutthroat trout in the mainstem Columbia River, including the north jetty, from Buoy 10 upstream to the Washington/Oregon border above McNary Dam.

WSR 13-02-032
EMERGENCY RULES
DEPARTMENT OF FISH AND WILDLIFE

[Order 12-287—Filed December 20, 2012, 4:15 p.m., effective December 28, 2012, 12:01 p.m.]

Effective Date of Rule: December 28, 2012, 12:01 p.m.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-36000M; and amending WAC 220-56-360.

Statutory Authority for Adoption: RCW 77.12.047 and 77.04.020.

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

Reasons for this Finding: Survey results show that adequate clams are available for harvest in Razor Clam Areas 1, 2 and those portions of Razor Clam Area 3 opened for harvest. Washington department of health has certified clams from these beaches to be safe for human consumption. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: December 20, 2012.

James B. Scott, Jr.
for Philip Anderson
Director

NEW SECTION

WAC 220-56-36000M Razor clams—Areas and seasons. Notwithstanding the provisions of WAC 220-56-360, it is unlawful to dig for or possess razor clams taken for personal use from any beach in Razor Clam Areas 1, 2, or 3, except as provided for in this section:

1. Effective 12:01 p.m. December 29 through 11:59 p.m. December 31, 2012, razor clam digging is allowed in Razor Clam Area 1. Digging is allowed from 12:01 p.m. to 11:59 p.m. each day only.

2. Effective 12:01 p.m. December 28 through 11:59 p.m. December 31, 2012, razor clam digging is allowed in Razor Clam Area 2. Digging is allowed from 12:01 p.m. to 11:59 p.m. each day only.

3. Effective 12:01 p.m. December 30 through 11:59 p.m. December 31, 2012, razor clam digging is allowed in that portion Razor Clam Area 3 that is between the Grays Harbor North Jetty and the Copalis River (Grays Harbor County). Digging is allowed from 12:01 p.m. to 11:59 p.m. each day only.

4. Effective 12:01 p.m. December 29 through 11:59 p.m. December 31, 2012, razor clam digging is allowed in that portion Razor Clam Area 3 that is between the Copalis River and the southern boundary of the Quinault Indian Nation (Grays Harbor County). Digging is allowed from 12:01 p.m. to 11:59 p.m. each day only.

5. It is unlawful to dig for razor clams at any time in Long Beach, Twin Harbors Beach or Copalis Beach Clam sanctuaries defined in WAC 220-56-372.

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

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. January 1, 2013:

WAC 220-56-36000M	Razor clams—Areas and seasons.

WSR 13-02-044
EMERGENCY RULES
DEPARTMENT OF FISH AND WILDLIFE

[Order 12-292—Filed December 21, 2012, 4:32 p.m., effective January 1, 2013]

Effective Date of Rule: January 1, 2013.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order: Amending WAC 232-28-619.

Statutory Authority for Adoption: RCW 77.12.047 and 77.04.020.

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

Reasons for this Finding: Large aggregations of white sturgeon hold in the shallow slough east of Rooster Rock State Park between Sand Island and the Oregon shore during the winter/spring months. High harvests and snagging problems have prompted emergency closures the past three winters. Washington department of fish and wildlife is proposing to adopt this action as a permanent rule in March 2013. Oregon department of fish and wildlife has adopted this as a permanent rule. This action conforms Washington state rules with Oregon state rules. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: December 21, 2012.

Lisa M. Veneroso
for Philip Anderson
Director

NEW SECTION

WAC 232-28-61900N Exceptions to statewide rules—Columbia River. Notwithstanding the provisions of WAC 232-28-619, effective January 1, 2013, until further notice, angling for all species is prohibited from a line between the upstream end of Sand Island (near Rooster Rock) on the Columbia River, to a marker on the Oregon shore, downstream to a line between the lower end of Sand Island and a marker on the Oregon shore.

WSR 13-02-045
EMERGENCY RULES
DEPARTMENT OF FISH AND WILDLIFE

[Order 12-291—Filed December 21, 2012, 4:38 p.m., effective January 1, 2013]

Effective Date of Rule: January 1, 2013.

Purpose: Amend recreational fishing rules.

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

Statutory Authority for Adoption: RCW 77.15.045, 77.12.047, and 77.04.020.

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

Reasons for this Finding: Establishes the winter-period white sturgeon retention season in Bonneville Reservoir. Fishery managers determined that closing the fishery to sturgeon retention February 11 will reserve about eight hundred fifty fish for a summer retention season. Conforms Washington state rules with Oregon state rules. Regulation is consistent with joint Washington-Oregon action of December 18, 2012. There is insufficient time to adopt permanent [rules].

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

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

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

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

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

Date Adopted: December 21, 2012.

Lisa M. Veneroso
for Philip Anderson
Director

NEW SECTION

WAC 232-28-61900M Exceptions to statewide rules—Columbia River sturgeon. Notwithstanding the provisions of WAC 232-28-619:

(1) Effective immediately through December 31, 2012, it is unlawful to retain white sturgeon caught in those waters of the Columbia River from the mouth upstream to Bonneville Dam, and all adjacent Washington tributaries.

(2) Effective January 1 through February 10, 2013, it is permissible to retain legal-size white sturgeon caught in those waters of the Columbia River and tributaries from Bonneville Dam upstream to The Dalles Dam.

(3) Effective 12:01 a.m. February 11, 2013, until further notice, it is unlawful to retain sturgeon caught in those waters of the Columbia River and tributaries from Bonneville Dam upstream to The Dalles Dam.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232-28-61900X	Exceptions to statewide rules—Columbia River sturgeon. (12-255)

WSR 13-02-062
EMERGENCY RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Aging and Disability Services Administration)

[Filed December 27, 2012, 1:55 p.m., effective December 28, 2012]

Effective Date of Rule: December 28, 2012.

Purpose: To amend and add new sections to chapter 388-845 WAC, DDD home and community based services waivers, to be in compliance with the requirements of SSB 6384 and related federal waivers recently renewed through Centers for Medicare and Medicaid Services (CMS). These changes add dental services as a waiver service and align this chapter with the changes being made to those in chapter 388-828 WAC for community services. This emergency filing supersedes and replaces the previous emergency filed as WSR 12-18-055.

Citation of Existing Rules Affected by this Order: Amending WAC 388-845-0110, 388-845-0205, 388-845-0210, 388-845-0215, 388-845-0220, 388-845-0225, 388-845-0505, 388-845-0800, 388-845-0820, 388-845-1110, 388-845-1105, 388-845-1150, 388-845-1400, 388-845-1410, 388-845-2110, 388-845-2205, and 388-845-2210.

Statutory Authority for Adoption: RCW 71A.12.030 General authority of secretary—Rule adoption and 34.05.350 (1)(c) Emergency rules and amendments.

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

manent rule would be contrary to the public interest; that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule; and that in order to implement the requirements or reductions in appropriations enacted in any budget for fiscal year 2009, 2010, 2011, 2012 or 2013, which necessitates the need for the immediate adoption, amendment, or repeal of a rule, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the fiscal needs or requirements of the agency.

Reasons for this Finding: The passing of SSB 6384 required coordination with CMS to agree on waiver language before we could develop new WAC language. This emergency filing adds dental as a waiver service, keeping in effect language adopted under emergency filed as WSR 12-18-055. The division of developmental disabilities is required to develop and implement the use of a consistent, statewide outcome-based vendor contract for employment and day services as recommended by the joint legislative audit and review committee to include activity listings and dollars appropriated for: Employment services, day services, child development services and county administration of services to the developmentally disabled.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 2, Amended 17, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

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

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 2, Amended 17, Repealed 0.

Date Adopted: December 19, 2012.

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 13-03 issue of the Register.

WSR 13-02-063
EMERGENCY RULES
HEALTH CARE AUTHORITY
(Medicaid Program)

[Filed December 27, 2012, 3:10 p.m., effective December 27, 2012, 3:10 p.m.]

Effective Date of Rule: Immediately.

Purpose: Upon order of the governor, the health care authority (HCA) reduced its budget expenditures for fiscal year 2011 and 2012 by reducing or eliminating a number of optional medical services from program benefits packages for clients twenty-one years of age and older. These medical services include vision, hearing, and dental care. Sections in chapter 182-501 WAC and WAC 182-502-0160 are being amended to reflect and support these program cuts.

Citation of Existing Rules Affected by this Order: Amending WAC 182-501-0050, 182-501-0060, 182-501-0065, 182-501-0070, and 182-502-0160.

Statutory Authority for Adoption: RCW 41.05.021.

Other Authority: Chapter 564, Laws of 2011 (2ESSHB [2E2SHB] 1738).

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest; that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule; and that in order to implement the requirements or reductions in appropriations enacted in any budget for fiscal year 2009, 2010, 2011, 2012 or 2013, which necessitates the need for the immediate adoption, amendment, or repeal of a rule, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the fiscal needs or requirements of the agency.

Reasons for this Finding: 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 for the benefits was eliminated effective January 1, 2011, as part of these regulatory amendments. HCA is proceeding with the permanent rule adoption process initiated by the CR-101 filed under WSR 10-22-12 [10-22-121]. HCA is currently preparing a draft for the permanent rule to share with stakeholders for their input. HCA anticipates filing the CR-102 sometime in February 2013.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 5, Repealed 0.

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

Date Adopted: December 27, 2012.

Kevin M. Sullivan
Rules Coordinator

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

WAC 182-501-0050 Health care general coverage. WAC ((~~388-501-0050~~)) 182-501-0050 through ((~~388-501-0065~~)) 182-501-0065 describe the health care services available to a client on a fee-for-service basis or to a client enrolled in a managed care organization (MCO) (defined in WAC ((~~388-538-050~~)) 182-538-050). For the purposes of this section, health care services includes treatment, equipment, related supplies, and drugs. WAC ((~~388-501-0070~~)) 182-501-0070 describes noncovered services.

(1) Health care service categories listed in WAC ((~~388-501-0060~~)) 182-501-0060 do not represent a contract for health care services.

(2) For the provider to receive payment, the client must be eligible for the covered health care service on the date the health care service is performed or provided.

(3) Under the ((~~department's~~)) agency's or its designee's fee-for-service programs, providers must be enrolled with the ((~~department~~)) agency or its designee and meet the requirements of chapter ((~~388-502~~)) 182-502 WAC to be paid for furnishing health care services to clients.

(4) The ((~~department~~)) agency or its designee pays only for the health care services that are:

(a) ((~~Within the scope of~~)) Included in the client's ((~~medical program~~)) health care benefits package as described in WAC 182-501-0060;

(b) Covered - See subsection (9) of this section;

(c) Ordered or prescribed by a health care provider who meets the requirements of chapter ((~~388-502~~)) 182-502 WAC;

(d) Medically necessary as defined in WAC ((~~388-500-0005~~)) 182-500-0070;

(e) Submitted for authorization, when required, in accordance with WAC ((~~388-501-0163~~)) 182-501-0163;

(f) Approved, when required, in accordance with WAC ((~~388-501-0165~~)) 182-501-0165;

(g) Furnished by a provider according to chapter ((~~388-502~~)) 182-502 WAC; and

(h) Billed in accordance with ((~~department~~)) agency or its designee program rules and the ((~~department's~~)) agency's current published billing instructions and numbered memoranda.

(5) The ((~~department~~)) agency or its designee does not pay for any health care service requiring prior authorization from the ((~~department~~)) agency or its designee, if prior authorization was not obtained before the health care service was provided; unless:

(a) The client is determined to be retroactively eligible for medical assistance; and

(b) The request meets the requirements of subsection (4) of this section.

(6) The ((~~department~~)) agency does not reimburse clients for health care services purchased out-of-pocket.

(7) The ((~~department~~)) agency does not pay for the replacement of ((~~department-purchased~~)) agency-purchased equipment, devices, or supplies which have been sold, gifted, lost, broken, destroyed, or stolen as a result of the client's carelessness, negligence, recklessness, deliberate intent, or misuse unless:

(a) Extenuating circumstances exist that result in a loss or destruction of ((~~department-purchased~~)) agency-purchased equipment, devices, or supplies, through no fault of the client that occurred while the client was exercising reasonable care under the circumstances; or

(b) Otherwise allowed under ((~~chapter 388-500 WAC~~)) specific agency program rules.

(8) The ((~~department's~~)) agency's refusal to pay for replacement of equipment, device, or supplies will not extend beyond the limitations stated in specific ((~~department~~)) agency program rules.

(9) **Covered health care services.**

(a) Covered health care services are either:

(i) "Federally mandated" - Means the state of Washington is required by federal regulation (42 C.F.R. 440.210 and 220) to cover the health care service for medicaid clients; or

(ii) "State-option" - Means the state of Washington is not federally mandated to cover the health care service but has chosen to do so at its own discretion.

(b) The ((~~department~~)) agency or its designee may limit the scope, amount, duration, and/or frequency of covered health care services. Limitation extensions are authorized according to WAC ((~~388-501-0169~~)) 182-501-0169.

(10) **Noncovered health care services.**

(a) The ((~~department~~)) agency or its designee does not pay for any health care service((~~:~~

~~(i) That federal or state laws or regulations prohibit the department from covering; or~~

~~(ii)~~)) listed as noncovered in WAC ((~~388-501-0070~~)) 182-501-0070 or in any other agency program rule. The ((~~department~~)) agency or its designee evaluates a request for a noncovered health care service only if an exception to rule is requested according to the provisions in WAC ((~~388-501-0160~~)) 182-501-0160.

(b) When a noncovered health care service is recommended during the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) exam and then ordered by a provider, the ((~~department~~)) agency or its designee evaluates the health care service according to the process in WAC ((~~388-501-0165~~)) 182-501-0165 to determine if it is medically necessary, safe, effective, and not experimental (see WAC ((~~388-534-0100~~)) 182-534-0100 for EPSDT rules).

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

WAC 182-501-0060 Health care coverage—((~~Scope of covered categories of service~~)) Program benefits packages—Scope of service categories. (((~~(1) This rule provides a list (see subsection (5)) of medical, dental, mental health, and substance abuse categories of service covered by the department under categorically needy (CN) medicaid, medically needy (MN) medicaid, Alien Emergency Medical (AEM), and medical care services (MCS) programs. MCS means the limited scope of care financed by state funds and provided to general assistance and Alcohol and Drug Addiction Treatment and Support Act (ADATSA) program clients.~~

~~(2) Not all categories of service listed in this section are covered under every medical program, nor do they represent a contract for services. Services are subject to the exclusions,~~

limitations, and eligibility requirements contained in department rules.

(3) Services covered under each listed category:

(a) Are determined by the department after considering available evidence relevant to the service or equipment to:

(i) Determine efficacy, effectiveness, and safety;

(ii) Determine impact on health outcomes;

(iii) Identify indications for use;

(iv) Compare alternative technologies; and

(v) Identify sources of credible evidence that use and report evidence-based information.

(b) May require prior authorization (see WAC 388-501-0165), or expedited authorization when allowed by the department.

(c) Are paid for by the department and subject to review both before and after payment is made. The department or the client's managed care organization may deny or recover payment for such services, equipment, and supplies based on these reviews.

(4) The department does not pay for covered services, equipment, or supplies that:

(a) Require prior authorization from the department, if prior authorization was not obtained before the service was provided;

(b) Are provided by providers who are not contracted with the department as required under chapter 388-502 WAC;

(c) Are included in a department waiver program identified in chapter 388-515 WAC; or

(d) Are covered by a third-party payer (see WAC 388-501-0200), including medicare, if the third-party payer has not made a determination on the claim or has not been billed by the provider.

(5) **Scope of covered service categories.** The following table lists the department's covered categories of health care services.

• Under the four program columns (CN, MN, MCS, and AEM), the letter "C" means a service category is covered for that program, subject to any limitations listed in the specific medical assistance program WAC and department issuances.

• The letter "N" means a service category is not covered under that program.

• The letter "E" means the service category is available on ly if it is necessary to treat the client's emergency medical condition and may require prior authorization from the department.

• Refer to WAC 388-501-0065 for a description of each service category and for the specific program WAC containing the limitations and exclusions to services.

Service Categories	CN*	MN	MCS	AEM
(a) Adult day health	C	C	N	E
(b) Ambulance (ground and air)	C	C	C	E
(c) Blood processing/administration	C	C	C	E
(d) Dental services	C	C	C	E
(e) Detoxification	C	C	C	E
(f) Diagnostic services (lab & x-ray)	C	C	C	E
(g) Family planning services	C	C	C	E
(h) Health care professional services	C	C	C	E
(i) Hearing care (audiology/hearing exams/aids)	C	C	C	E
(j) Home health services	C	C	C	E
(k) Hospice services	C	C	N	E
(l) Hospital services - inpatient/outpatient	C	C	C	E
(m) Intermediate care facility/services for mentally retarded	C	C	C	E
(n) Maternity care and delivery services	C	C	N	E
(o) Medical equipment, durable (DME)	C	C	C	E
(p) Medical equipment, nondurable (MSE)	C	C	C	E
(q) Medical nutrition services	C	C	C	E
(r) Mental health services	C	C	C	E
(s) Nursing facility services	C	C	C	E
(t) Organ transplants	C	C	C	N
(u) Out-of-state services	C	C	N	E
(v) Oxygen/respiratory services	C	C	C	E
(w) Personal care services	C	C	N	N
(x) Prescription drugs	C	C	C	E
(y) Private duty nursing	C	C	N	E
(z) Prosthetic/orthotic devices	C	C	C	E
(aa) School medical services	C	C	N	N
(bb) Substance abuse services	C	C	C	E
(cc) Therapy -occupational/physical/speech	C	C	C	E
(dd) Vision care (exams/lenses)	C	C	C	E

*Clients enrolled in the State Children's Health Insurance Program and the Children's Health Program receive CN scope of medical care.)) (1) This rule provides a table that lists:

(a) The categorically needy (CN) medicaid, medically needy (MN) medicaid, and medical care services (MCS) programs (include incapacity-based medical care services and the medical component of the Alcohol and Drug Addiction Treatment and Support Act (ADATSA) program); and

(b) The benefits packages showing what service categories are included for each program.

(2) Within a service category included in a benefits package, some services may be covered and others noncovered.

(3) Services covered within each service category included in a benefits package:

(a) Are determined, in accordance with WAC 182-501-0050 and 182-501-0055 when applicable.

(b) May be subject to limitations, restrictions, and eligibility requirements contained in agency rules.

(c) May require prior authorization (see WAC 182-501-0165), or expedited authorization when allowed by the agency or its designee.

(d) Are paid for by the agency or its designee and subject to review both before and after payment is made. The agency or its designee or the client's managed care organization may deny or recover payment for such services, equipment, and supplies based on these reviews.

(4) The agency or its designee does not pay for covered services, equipment, or supplies that:

(a) Require prior authorization from the agency or its designee, if prior authorization was not obtained before the service was provided;

(b) Are provided by providers who are not contracted with the agency or its designee as required under chapter 182-502 WAC;

(c) Are included in an agency or its designee waiver program identified in chapter 182-515 WAC; or

(d) Are covered by a third-party payor (see WAC 182-501-0200), including medicare, if the third-party payor has not made a determination on the claim or has not been billed by the provider.

(5) Other programs:

(a) Early and periodic screening, diagnosis, and treatment (EPSDT) services are not addressed in the table. For EPSDT services, see chapter 182-534 WAC and WAC 182-501-0050(10).

(b) The following programs are not addressed in the table:

(i) Alien emergency medical (AEM) services (see chapter 182-507 WAC);

(ii) TAKE CHARGE program (see WAC 182-532-700 through 182-532-790); and

(iii) Psychiatric indigent inpatient program (see WAC 182-550-2600).

(6) **Scope of service categories.** The following table lists the agency's categories of health care services.

(a) Under the CN and MN headings there are two columns. One addresses clients twenty years of age and younger and the other addresses clients twenty-one years of age and older.

(b) The letter **"Y"** means a service category is included for that program. Services within each service category are subject to limitations and restrictions listed in the specific medical assistance program WAC and agency issuances.

(c) The letter **"N"** means a service category is not included for that program.

(d) Refer to WAC 182-501-0065 for a description of each service category and for the specific program WAC containing the limitations and restrictions to services.

Service Categories	CN[1] 20-	21+	MN 20-	21+	MCS
Ambulance (ground and air)	Y	Y	Y	Y	Y
Behavioral health services	Y	Y	Y	Y	Y
• Mental health (MH) inpatient care	Y	Y	Y	Y	Y
• MH outpatient community care	Y	Y	Y	Y	Y[2]
• MH psychiatric visits	Y	Y	Y	Y	Y[3]
• MH medication management	Y	Y	Y	Y	Y
• Substance use disorder (SUD) detoxification	Y	Y	Y	Y	Y
• SUD diagnostic assessment	Y	Y	Y	Y	Y
• SUD residential treatment	Y	Y	Y	Y	Y
• SUD outpatient treatment	Y	Y	Y	Y	Y
Blood/blood products/related services	Y	Y	Y	Y	Y
Dental services	Y	Y[4]	Y	Y[4]	Y[4]
Diagnostic services (lab and X ray)	Y	Y	Y	Y	Y
Health care professional services	Y	Y	Y	Y	Y
Hearing evaluations	Y	Y	Y	Y	Y
Hearing aids	Y	N	Y	N	N
Home health services	Y	Y	Y	Y	Y
Hospice services	Y	Y	Y	Y	N
Hospital services - Inpatient/outpatient	Y	Y	Y	Y	Y

Service Categories	CN[1] 20-	21+	MN 20-	21+	MCS
Intermediate care facility/services for persons with intellectual disabilities	Y	Y	Y	Y	Y
Maternity care and delivery services	Y	Y	Y	Y	Y
Medical equipment, durable (DME)	Y	Y	Y	Y	Y
Medical equipment, nondurable (MSE)	Y	Y	Y	Y	Y
Medical nutrition services	Y	Y	Y	Y	Y
Nursing facility services	Y	Y	Y	Y	Y
Organ transplants	Y	Y	Y	Y	Y
Out-of-state services	Y	Y	Y	Y	N
Outpatient rehabilitation services (OT, PT, ST)	Y	Y	Y	N	Y
Oxygen/respiratory services	Y	Y	Y	Y	Y
Personal care services	Y	Y	N	N	N
Prescription drugs	Y	Y	Y	Y	Y
Private duty nursing	Y	Y	Y	Y	N
Prosthetic/orthotic devices	Y	Y	Y	Y	Y
Psychological evaluation[5]	Y	Y	Y	Y	N
Reproductive health services	Y	Y	Y	Y	Y
School-based medical services	Y	N	Y	N	N
Vision care - Exams, refractions, and fittings	Y	Y	Y	Y	Y
Vision hardware - Frames and lenses	Y	N	Y	N	N

[1] Clients enrolled in the children's health insurance program and the apple health for kids program receive CN-scope of medical care.

[2] Restricted to incapacity-based MCS clients enrolled in managed care.

[3] Incapacity-based MCS clients can receive one psychiatric diagnostic evaluation per year and eleven monthly visits per year for medication management.

[4] Restricted to those clients who meet the categorical requirements described in WAC 182-535-1060.

[5] Only two allowed per lifetime.

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

WAC 182-501-0065 Health care coverage—Description of ((~~covered~~)) categories of service. This rule provides a brief description of the medical, dental, mental health, and substance ((~~abuse~~)) use disorder (SUD) service categories listed in the table in WAC ((~~388-501-0060~~)) 182-501-0060. The description of services under each category is not intended to be all inclusive.

(1) For categorically needy (CN), medically needy (MN), and medical care services (MCS), refer to the WAC citations listed in the following descriptions for specific details regarding each service category. ((~~For Alien Emergency Medical (AEM) services, refer to WAC 388-438-0110.~~))

(2) The following service categories are subject to the exclusions, limitations, restrictions, and eligibility requirements contained in ((~~department~~)) agency rules:

(a) ((**~~Adult day health—~~**~~Skilled nursing services, counseling, therapy (physical, occupational, speech, or audiology), personal care services, social services, general therapeutic activities, health education, nutritional meals and snacks, supervision, and protection. [WAC 388-71-0702 through 388-71-0776]~~

~~(b)~~)) **Ambulance((—)) -** Emergency medical transportation and ambulance transportation for nonemergency medical needs. ((~~[WAC 388-546-0001 through 388-546-4000]~~

~~(c)~~)) (WAC 182-546-0001 through 182-546-4000.)

(b) **Behavioral health services -** Crisis mental health services are available to state residents through the regional support networks (RSNs).

(i) Mental health inpatient care - Voluntary and involuntary admissions for psychiatric services. (WAC 182-550-2600.)

(ii) Mental health outpatient (community mental health) services - Nonemergency, nonurgent counseling. (WAC 182-531-1400, 388-865-0215, and 388-865-0230.)

(iii) Psychiatric visits. (WAC 182-531-1400 and 388-865-0230.)

(iv) Mental health medication management. (WAC 182-531-1400.)

(v) Substance use disorder detoxification. (WAC 182-508-0305 and 182-550-1100; WAC 182-556-0400(3).)

(vi) Substance use disorder diagnostic assessment. (WAC 182-508-0330.)

(vii) Substance use disorder residential treatment. (WAC 182-508-0310 through 182-508-0375; and WAC 182-556-0100.)

(viii) Substance use disorder outpatient treatment. (WAC 182-508-0310 through 182-508-0375; WAC 182-533-0701 through 182-533-0730; WAC 182-556-0100 and 182-556-0400.)

(c) **Blood ((~~processing/administration —~~)), blood products, and related services -** Blood and/or blood derivatives, including synthetic factors, plasma expanders, and their

administration. ((~~[WAC 388-550-1400 and 388-550-1500]~~)) (WAC 182-550-1400 and 182-550-1500.)

(d) **Dental services((—)) -** Diagnosis and treatment of dental problems including emergency treatment and preventive care. ((~~[Chapters 388-535 and 388-535A WAC]~~)) (Chapters 182-535 and 182-535A WAC.)

(e) ((~~**Detoxification**—Inpatient treatment performed by a certified detoxification center or in an inpatient hospital setting. [WAC 388-800-0020 through 388-800-0035; and 388-550-1100]~~

~~(f)~~)) **Diagnostic services((—)) -** Clinical testing and imaging services. ((~~[WAC 388-531-0100; 388-550-1400 and 388-550-1500]~~

~~(g) **Family planning services**—Gynecological exams; contraceptives, drugs, and supplies, including prescriptions; sterilization; screening and treatment of sexually transmitted diseases; and educational services. [WAC 388-532-530]~~

~~(h)~~)) (WAC 182-531-0100; WAC 182-550-1400 and 182-550-1500.)

(f) **Health care professional services((—)) -** Office visits, emergency oral health, emergency room, nursing facility, home-based, and hospital-based care; surgery, anesthesia, pathology, radiology, and laboratory services; obstetric services; kidney dialysis and renal disease services; osteopathic care, podiatry services, physiatry, and pulmonary/respiratory services; and allergen immunotherapy. ((~~[Chapter 388-531 WAC]~~

~~(i)~~)) (Chapter 182-531 WAC.)

(g) **Hearing ((~~care~~—)) evaluations -** Audiology; diagnostic evaluations; hearing exams and testing((~~; and hearing aids. [WAC 388-544-1200 and 388-544-1300; 388-545-700; and 388-531-0100]~~

~~(j)~~)). (WAC 182-531-0100 and 182-531-0375.)

(h) **Hearing aids -** (Chapter 182-547 WAC.)

(i) **Home health services((—)) -** Intermittent, short-term skilled nursing care, occupational therapy, physical therapy, speech therapy, home infusion therapy, and health aide services, provided in the home. ((~~[WAC 388-551-2000 through 388-551-2220]~~

~~(k)~~)) (WAC 182-551-2000 through 182-551-2220.)

(j) **Hospice services((—)) -** Physician services, skilled nursing care, medical social services, counseling services for client and family, drugs, medications (including biologicals), medical equipment and supplies needed for palliative care, home health aide, homemaker, personal care services, medical transportation, respite care, and brief inpatient care. This benefit also includes services rendered in a hospice care center and pediatric palliative care services. ((~~[WAC 388-551-1210 through 388-551-1850]~~

~~(l)~~)) (WAC 182-551-1210 through 182-551-1850.)

(k) **Hospital services—Inpatient/outpatient((—)) -** Emergency room; hospital room and board (includes nursing care); inpatient services, supplies, equipment, and prescription drugs; surgery, anesthesia; diagnostic testing, laboratory work, blood/blood derivatives; radiation and imaging treatment and diagnostic services; and outpatient or day surgery, and obstetrical services. ((~~[Chapter 388-550 WAC]~~

~~(m)~~)) (Chapter 182-550 WAC.)

(l) **Intermediate care facility/services for ((~~mentally retarded~~—)) persons with intellectual disabilities -** Habilitative training, health-related care, supervision, and residential care. ((~~[Chapter 388-835 WAC]~~

~~(n)~~)) (Chapter 388-835 WAC.)

(m) **Maternity care and delivery services((—)) -** Community health nurse visits, nutrition visits, behavioral health visits, midwife services, maternity and infant case management services, family planning services and community health worker visits. ((~~[WAC 388-533-0330]~~

~~(o)~~)) (WAC 182-533-0300.)

(n) **Medical equipment, durable (DME)((—)) -** Wheelchairs, hospital beds, respiratory equipment; ((~~prosthetic and orthotic devices;~~)) casts, splints, crutches, trusses, and braces. ((~~[WAC 388-543-1100]~~

~~(p)~~)) (Chapter 182-543 WAC.)

(o) **Medical equipment, nondurable (MSE)((—)) -** Antiseptics, germicides, bandages, dressings, tape, blood monitoring/testing supplies, braces, belts, supporting devices, decubitus care products, ostomy supplies, pregnancy test kits, syringes, needles, ((~~transcutaneous electrical nerve stimulators (TENS) supplies,~~)) and urological supplies. ((~~[WAC 388-543-2800]~~

~~(q)~~)) (Chapter 182-543 WAC.)

(p) **Medical nutrition services((—)) -** Enteral and parenteral nutrition, including supplies. ((~~[Chapters 388-553 and 388-554 WAC]~~

~~(r) **Mental health services**—Inpatient and outpatient psychiatric services and community mental health services. [Chapter 388-865 WAC]~~

~~(s)~~)) (Chapters 182-553 and 182-554 WAC.)

(q) **Nursing facility services((—)) -** Nursing, therapies, dietary, and daily care services. ((~~[Chapter 388-97 WAC]~~

~~(t)~~)) (Chapter 388-97 WAC.)

(r) **Organ transplants((—)) -** Solid organs, e.g., heart, kidney, liver, lung, pancreas, and small bowel; bone marrow and peripheral stem cell; skin grafts; and corneal transplants. ((~~[WAC 388-550-1900 and 388-550-2000, and 388-556-0400]~~

~~(u)~~)) (WAC 182-550-1900 and 182-556-0400.)

(s) **Out-of-state services**((~~—Emergency services; prior authorized care. Services provided in bordering cities are treated as if they were provided in state. [WAC 388-501-0175 and 388-501-0180; 388-531-1100; and 388-556-0500]~~

~~(v)~~)) - See WAC 182-502-0120 for services out-of-state.

(t) **Outpatient rehabilitation services (OT, PT, ST) -** Evaluations, assessments, and treatment. (Chapter 182-545 WAC.)

(u) **Oxygen/respiratory services((—)) -** Oxygen, oxygen equipment and supplies; oxygen and respiratory therapy, equipment, and supplies. ((~~[Chapter 388-552 WAC]~~

~~(w)~~)) (Chapter 182-552 WAC.)

(v) **Personal care services((—)) -** Assistance with activities of daily living (e.g., bathing, dressing, eating, managing medications) and routine household chores (e.g., meal preparation, housework, essential shopping, transportation to medical services). ((~~[~~))(WAC 388-106-0010, ((~~[388-106-]0300, [388-106-]0400, [388-106-]0500, [388-106-]0600, [388-106-]0700, [388-106-]0720 and [388-106-]0900]~~

~~(x)~~)) 388-106-0200, 388-106-0300, 388-106-0600, 388-106-0700, 388-106-0745, and 388-106-0900.)

(w) **Prescription drugs((—)) -** Outpatient drugs (including in nursing facilities), both generic and brand name; drug devices and supplies; some over-the-counter drugs; oral, topical, injectable drugs; vaccines, immunizations, and biologicals; and family planning drugs, devices, and supplies. ((~~[WAC 388-530-1100]~~)) (WAC 182-530-2000.) Additional coverage for medications and prescriptions is addressed in specific program WAC sections.

(((~~(y)~~))) (x) **Private duty nursing((—)) -** Continuous skilled nursing services provided in the home, including client assessment, administration of treatment, and monitoring of medical equipment and client care for clients seventeen years of age and under. ((~~[WAC 388-551-3000.]~~)) (WAC 182-551-3000.) For benefits for clients eighteen years of age and older, see WAC 388-106-1000 through 388-106-1055.

(((~~(z)~~))) (y) **Prosthetic/orthotic devices((—)) -** Artificial limbs and other external body parts; devices that prevent, support, or correct a physical deformity or malfunction. ((~~[WAC 388-543-1100]~~

~~(aa) **School-medical services**—Medical services provided in schools to children with disabilities under the Individuals with Disabilities Education Act (IDEA). [Chapter 388-537 WAC]~~

~~(bb) **Substance abuse services**—Chemical dependency assessment, case management services, and treatment services. [WAC 388-533-0701 through 388-533-0730; 388-556-0100 and 388-556-0400; and 388-800-0020]~~

~~(cc) **Therapy—Occupational/physical/speech**—Evaluations, assessments, and treatment. [WAC 388-545-300, 388-545-500, and 388-545-700]~~

~~(dd)~~)) (WAC 182-543-1100.)

(z) **Psychological evaluation -** Complete diagnostic history, examination, and assessment, including the testing of cognitive processes, visual motor responses, and abstract abilities. (WAC 388-865-0610.)

(aa) **Reproductive health services -** Gynecological exams; contraceptives, drugs, and supplies, including prescriptions; sterilization; screening and treatment of sexually transmitted diseases; and educational services. (WAC 182-532-530.)

(bb) **School-based medical services -** Medical services provided in schools to children with disabilities under the Individuals with Disabilities Education Act (IDEA). (Chapter 182-537 WAC.)

(cc) **Vision care((—)) -** Eye exams, refractions, ((~~frames, lenses,~~)) fittings, visual field testing, vision therapy, ocular prosthetics, and surgery. ((~~[WAC 388-544-0250 through 388-544-0550]~~)) (WAC 182-531-1000.)

(dd) **Vision hardware -** Frames and lenses. (Chapter 182-544 WAC.)

AMENDATORY SECTION (Amending WSR 12-18-062, filed 8/31/12, effective 10/1/12)

WAC 182-501-0070 Health care coverage—Noncovered services. (1) The medicaid agency or its designee does not pay for any health care service not listed or referred to as a covered health care service under the medical programs described in WAC 182-501-0060, regardless of medical necessity. For the purposes of this section, health care services includes treatment, equipment, related supplies, and drugs. Circumstances in which clients are responsible for payment of health care services are described in WAC 182-502-0160.

(2) This section does not apply to health care services provided as a result of the early and periodic screening, diagnosis, and treatment (EPSDT) program as described in chapter 182-534 WAC.

(3) The ((~~department~~)) agency or its designee does not pay for any ancillary health care service(s) provided in association with a noncovered health care service.

(4) The following list of noncovered health care services is not intended to be exhaustive. Noncovered health care services include, but are not limited to:

(a) Any health care service specifically excluded by federal or state law;

(b) Acupuncture, Christian Science practice, faith healing, herbal therapy, homeopathy, massage, massage therapy, naturopathy, and sanipractice;

(c) Chiropractic care for adults;

(d) Cosmetic, reconstructive, or plastic surgery, and any related health care services, not specifically allowed under WAC 182-531-0100(4)((~~.~~));

(e) Discography;

(f) Ear or other body piercing;

(g) Face lifts or other facial cosmetic enhancements;

(h) Fertility, infertility or sexual dysfunction testing, and related care, drugs, and/or treatment including but not limited to:

(i) Artificial insemination;

(ii) Donor ovum, sperm, or surrogate womb;

(iii) In vitro fertilization;

(iv) Penile implants;

(v) Reversal of sterilization; and

(vi) Sex therapy.

(i) Gender reassignment surgery and any surgery related to trans-sexualism, gender identity disorders, and body dysmorphism, and related health care services or procedures, including construction of internal or external genitalia, breast augmentation, or mammoplasty;

(j) Hair transplants, epilation (hair removal), and electrolysis;

(k) Marital counseling;

(l) Motion analysis, athletic training evaluation, work hardening condition, high altitude simulation test, and health and behavior assessment;

(m) Nonmedical equipment;

(n) Penile implants;

(o) Prosthetic testicles;

(p) Psychiatric sleep therapy;

(q) Subcutaneous injection filling;

(r) Tattoo removal;

(s) Transport of Involuntary Treatment Act (ITA) clients to or from out-of-state treatment facilities, including those in bordering cities;

(t) Upright magnetic resonance imaging (MRI); and

(u) Vehicle purchase - New or used vehicle.

(5) For a specific list of noncovered health care services in the following service categories, refer to the WAC citation:

(a) Ambulance transportation and nonemergent transportation as described in chapter 182-546 WAC;

(b) Dental services ((~~for clients twenty years of age and younger~~)) as described in chapter 182-535 WAC;

(c) Durable medical equipment as described in chapter 182-543 WAC;

(d) Hearing care services as described in chapter 182-547 WAC;

(e) Home health services as described in WAC 182-551-2130;

(f) Hospital services as described in WAC 182-550-1600;

(g) Health care professional services as described in WAC 182-531-0150;

(h) Prescription drugs as described in chapter 182-530 WAC;

(i) Vision care ((~~services~~)) hardware for clients twenty years of age and younger as described in chapter 182-544 WAC; and

(j) Vision care exams as described in WAC 182-531-1000.

(6) A client has a right to request an administrative hearing, if one is available under state and federal law. When the agency or its designee denies all or part of a request for a noncovered health care service(s), the agency or its designee sends the client and the provider written notice, within ten business days of the date the decision is made, that includes:

(a) A statement of the action the agency or its designee intends to take;

(b) Reference to the specific WAC provision upon which the denial is based;

(c) Sufficient detail to enable the recipient to:

(i) Learn why the agency's or its designee's action was taken; and

(ii) Prepare a response to the agency's or its designee's decision to classify the requested health care service as noncovered.

(d) The specific factual basis for the intended action; and

(e) The following information:

(i) Administrative hearing rights;

(ii) Instructions on how to request the hearing;

(iii) Acknowledgment that a client may be represented at the hearing by legal counsel or other representative;

(iv) Instructions on how to request an exception to rule (ETR) or nonformulary justification (NFJ);

(v) Information regarding agency-covered health care services, if any, as an alternative to the requested noncovered health care service; and

(vi) Upon the client's request, the name and address of the nearest legal services office.

(7) A client can request an exception to rule (ETR) as described in WAC 182-501-0160.

AMENDATORY SECTION (Amending WSR 12-18-062, filed 8/31/12, effective 10/1/12)

WAC 182-502-0160 Billing a client. (1) The purpose of this section is to specify the limited circumstances in which:

(a) Fee-for-service or managed care clients can choose to self-pay for medical assistance services; and

(b) Providers (as defined in WAC 182-500-0085) have the authority to bill fee-for-service or managed care clients for medical assistance services furnished to those clients.

(2) The provider is responsible for:

(a) Verifying whether the client is eligible to receive medical assistance services on the date the services are provided;

(b) Verifying whether the client is enrolled with a medicaid agency-contracted managed care organization (MCO);

(c) Knowing the limitations of the services within the scope of the eligible client's medical program (see WAC 182-501-0050 (4)(a) and 182-501-0065);

(d) Informing the client of those limitations;

(e) Exhausting all applicable medicaid agency or agency-contracted MCO processes necessary to obtain authorization for requested service(s);

(f) Ensuring that translation or interpretation is provided to clients with limited English proficiency (LEP) who agree to be billed for services in accordance with this section; and

(g) Retaining all documentation which demonstrates compliance with this section.

(3) Unless otherwise specified in this section, providers must accept as payment in full the amount paid by the agency or agency-contracted MCO for medical assistance services furnished to clients. See 42 C.F.R. § 447.15.

(4) A provider must not bill a client, or anyone on the client's behalf, for any services until the provider has completed all requirements of this section, including the conditions of payment described in the agency's rules, the agency's fee-for-service billing instructions, and the requirements for billing the agency-contracted MCO in which the client is enrolled, and until the provider has then fully informed the client of his or her covered options. A provider must not bill a client for:

(a) Any services for which the provider failed to satisfy the conditions of payment described in the agency's rules, the agency's fee-for-service billing instructions, and the requirements for billing the agency-contracted MCO in which the client is enrolled.

(b) A covered service even if the provider has not received payment from the agency or the client's MCO.

(c) A covered service when the agency or its designee denies an authorization request for the service because the required information was not received from the provider or the prescriber under WAC 182-501-0165 (7)(c)(i).

(5) If the requirements of this section are satisfied, then a provider may bill a fee-for-service or a managed care client for a covered service, defined in WAC 182-501-0050(9), or a noncovered service, defined in WAC 182-501-0050(10) and 182-501-0070. The client and provider must sign and date the HCA form 13-879, Agreement to Pay for Healthcare Services, before the service is furnished. Form 13-879, including translated versions, is available to download at http://hrsa.dshs.wa.gov/mpforms.shtml. The requirements for this subsection are as follows:

(a) The agreement must:

(i) Indicate the anticipated date the service will be provided, which must be no later than ninety calendar days from the date of the signed agreement;

(ii) List each of the services that will be furnished;

(iii) List treatment alternatives that may have been covered by the agency or agency-contracted MCO;

(iv) Specify the total amount the client must pay for the service;

(v) Specify what items or services are included in this amount (such as pre-operative care and postoperative care). See WAC 182-501-0070(3) for payment of ancillary services for a noncovered service;

(vi) Indicate that the client has been fully informed of all available medically appropriate treatment, including services that may be paid for by the agency or agency-contracted MCO, and that he or she chooses to get the specified service(s);

(vii) Specify that the client may request an exception to rule (ETR) in accordance with WAC 182-501-0160 when the agency or its designee denies a request for a noncovered service other than a nonformulary drug and that the client may choose not to do so;

(viii) Specify that the client and their prescriber may request a nonformulary justification (NFJ) in accordance with WAC 182-530-2300 for a nonformulary drug and that the client may choose not to do so;

(ix) Specify that the client may request an administrative hearing in accordance with chapter 182-526 WAC to appeal the agency's or its designee denial of a request for prior authorization of a covered service and that the client may choose not to do so;

(x) Be completed only after the provider and the client have exhausted all applicable agency or agency-contracted MCO processes necessary to obtain authorization of the requested service, except that the client may choose not to request an ETR or an administrative hearing regarding agency or agency designee denials of authorization for requested service(s); and

(xi) Specify which reason in subsection (b) below applies.

(b) The provider must select on the agreement form one of the following reasons (as applicable) why the client is agreeing to be billed for the service(s). The service(s) is:

(i) Not covered by the agency or the client's agency-contracted MCO and the ETR process as described in WAC 182-501-0160 or the NFJ process as described in WAC 182-530-2300 has been exhausted and the service(s) is denied;

(ii) Not covered by the agency or the client's agency-contracted MCO and the client has been informed of his or her right to an ETR or NFJ and has chosen not to pursue an ETR as described in WAC 182-501-0160 or the NFJ process as described in WAC 182-530-2300;

(iii) Covered by the agency or the client's agency-contracted MCO, requires authorization, and the provider completes all the necessary requirements; however the agency or its designee denied the service as not medically necessary (this includes services denied as a limitation extension under WAC 182-501-0169); or

(iv) Covered by the agency or the client's agency-contracted MCO and does not require authorization, but the client has requested a specific type of treatment, supply, or equipment based on personal preference which the agency or MCO does not pay for and the specific type is not medically necessary for the client.

(c) For clients with limited English proficiency, the agreement must be the version translated in the client's primary language and interpreted if necessary. If the agreement is translated, the interpreter must also sign it;

(d) The provider must give the client a copy of the agreement and maintain the original and all documentation which supports compliance with this section in the client's file for six years from the date of service. The agreement must be made available to the agency or its designee for review upon request; and

(e) If the service is not provided within ninety calendar days of the signed agreement, a new agreement must be completed by the provider and signed by both the provider and the client.

(6) There are limited circumstances in which a provider may bill a client without executing form 13-879, Agreement to Pay for Healthcare Services, as specified in subsection (5) of this section. The following are those circumstances:

(a) The client, the client's legal guardian, or the client's legal representative:

(i) Was reimbursed for the service directly by a third party (see WAC 182-501-0200); or

(ii) Refused to complete and sign insurance forms, billing documents, or other forms necessary for the provider to bill the third party insurance carrier for the service.

(b) The client represented himself/herself as a private pay client and not receiving medical assistance when the client was already eligible for and receiving benefits under a medical assistance program. In this circumstance, the provider must:

(i) Keep documentation of the client's declaration of medical coverage. The client's declaration must be signed and dated by the client, the client's legal guardian, or the client's legal representative; and

(ii) Give a copy of the document to the client and maintain the original for six years from the date of service, for agency or the agency's designee review upon request.

(c) The bill counts toward the financial obligation of the client or applicant (such as spenddown liability, client participation as described in WAC 388-513-1380, emergency medical expense requirement, deductible, or copayment required by the agency or its designee). See subsection (7) of this section for billing a medically needy client for spenddown liability;

(d) The client is under the agency's or an agency-contracted MCO's patient review and coordination (PRC) program (WAC 182-501-0135) and receives nonemergency services from providers or health care facilities other than those to whom the client is assigned or referred under the PRC program;

(e) The client is a dual-eligible client with medicare Part D coverage or similar creditable prescription drug coverage and the conditions of WAC 182-530-7700 (2)(a)(iii) are met;

(f) The service((~~s provided to a TAKE CHARGE or family planning only client are not within the scope of~~)) is within a service category excluded from the client's benefits package. See WAC 182-501-0060;

(g) The services were noncovered ambulance services (see WAC 182-546-0250(2));

(h) A fee-for-service client chooses to receive nonemergency services from a provider who is not contracted with the agency or its designee after being informed by the provider that he or she is not contracted with the agency or its designee and that the services offered will not be paid by the client's health care program; and

(i) An agency-contracted MCO enrollee chooses to receive nonemergency services from providers outside of the MCO's network without authorization from the MCO, i.e., a nonparticipating provider.

(7) Under chapter 182-519 WAC, an individual who has applied for medical assistance is required to spend down excess income on health care expenses to become eligible for coverage under the medically needy program. An individual must incur health care expenses greater than or equal to the amount that he or she must spend down. The provider is prohibited from billing the individual for any amount in excess of the spenddown liability assigned to the bill.

(8) There are situations in which a provider must refund the full amount of a payment previously received from or on behalf of an individual and then bill the agency for the covered service that had been furnished. In these situations, the individual becomes eligible for a covered service that had already been furnished. Providers must then accept as payment in full the amount paid by the agency or its designee or managed care organization for medical assistance services furnished to clients. These situations are as follows:

(a) The individual was not receiving medical assistance on the day the service was furnished. The individual applies for medical assistance later in the same month in which the service was provided and the agency or its designee makes the individual eligible for medical assistance from the first day of that month;

(b) The client receives a delayed certification for medical assistance as defined in WAC 182-500-0025; or

(c) The client receives a certification for medical assistance for a retroactive period according to 42 C.F.R. § 435.914(a) and defined in WAC 182-500-0095.

(9) Regardless of any written, signed agreement to pay, a provider may not bill, demand, collect, or accept payment or a deposit from a client, anyone on the client's behalf, or the agency or its designee for:

(a) Copying, printing, or otherwise transferring health care information, as the term health care information is defined in chapter 70.02 RCW, to another health care provider. This includes, but is not limited to:

(i) Medical/dental charts;

(ii) Radiological or imaging films; and

(iii) Laboratory or other diagnostic test results.

(b) Missed, canceled, or late appointments;

(c) Shipping and/or postage charges;

(d) "Boutique," "concierge," or enhanced service packages (e.g., newsletters, 24/7 access to provider, health seminars) as a condition for access to care; or

(e) The price differential between an authorized service or item and an "upgraded" service or item (e.g., a wheelchair with more features; brand name versus generic drugs).

WSR 13-02-083
EMERGENCY RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Aging and Disability Services Administration)

[Filed December 31, 2012, 2:37 p.m., effective December 31, 2012, 2:37 p.m.]

Effective Date of Rule: Immediately.

Purpose: The terms of the settlement agreement between *Washington Autism Alliance and Advocacy, et al. v. Douglas Porter*, U.S. District Court, Western District of Washington, Case No. 2:12-cv-00742-RAJ, require the health care authority (HCA) to provide a coverage benefit under medicaid's early periodic screening, diagnosis, and treatment (EPSDT) requirement on January 2, 2013, to assist children with autism spectrum disorders and their families to improve the symptoms associated with autism spectrum disorders. These emergency rules provide minimum standards for agencies to obtain and maintain licensure from the department of social and health services (DSHS) so that licensed agencies may contract with HCA to deliver applied behavioral analysis (ABA) services to eligible individuals.

Citation of Existing Rules Affected by this Order: Amending WAC 388-865-0400, 388-865-0405, 388-865-0420, 388-865-0425, and 388-865-0460.

Statutory Authority for Adoption: RCW 34.05.350, 43.20A.550, 71.24.035, 74.04.050.

Other Authority: *Washington Autism Alliance and Advocacy, et al. v. Douglas Porter*, U.S. District Court, Western District of Washington, Case No. 2:12-cv-00742-RAJ, settlement agreement.

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

Reasons for this Finding: Emergency rule adoption is required in order to timely comply with the settlement agreement between *Washington Autism and Advocacy, et al. v. Douglas Porter*, which requires HCA to provide a coverage benefit by January 2, 2013, to assist children with autism spectrum disorders. DSHS must establish minimum licensing standards in rule in order for community mental health agencies to deliver ABA services.

The CR-101 for the permanent rule is being filed to begin the permanent rule process.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 5, Repealed 0.

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

Date Adopted: December 31, 2012.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 05-17-156, filed 8/22/05, effective 9/22/05)

WAC 388-865-0400 Community support service providers. The ((~~mental health division~~)) department licenses and certifies community support service providers. To gain and maintain licensure or certification, a provider must meet applicable local, state and federal statutes and regulations as well as the requirements of WAC ((~~388-865-400 [388-865-0400]~~)) 388-865-0400 through ((~~388-865-450 [388-865-0450]~~)) 388-865-0450 as applicable to services offered. The license or certificate lists service components the provider is authorized to provide to publicly funded consumers and must be prominently posted in the provider reception area. In addition, the ((~~provider~~)) agency must meet minimum standards of the specific service components for which licensure is being sought:

(1) Emergency crisis intervention services;

(2) Case management services;

(3) Psychiatric treatment, including medication supervision;

(4) Behavioral, counseling, and psychotherapy services;

(5) Day treatment services;

(6) Consumer employment services; ((~~and/or~~))

(7) Peer support services; and/or

(8) Applied behavioral analysis (ABA) services.

AMENDATORY SECTION (Amending WSR 09-19-012, filed 9/3/09, effective 10/4/09)

WAC 388-865-0405 Competency requirements for staff. ((~~The licensed service provider~~)) An agency must ensure that staff members, including contracted staff members, are qualified for the position they hold and have the education, experience, or skills to perform the job requirements. The ((~~provider~~)) agency must maintain documentation that:

(1) All staff members, including contracted staff members, have a current Washington state department of health license or certificate or registration as may be required for their position;

(2) Washington state patrol background checks are conducted for employees in contact with consumers consistent with RCW 43.43.830;

(3) Employed or contracted professional staff members required to serve children with autism spectrum disorders meet the professional staff requirements in WAC 388-865-0469(5);

(4) Mental health services are provided by a mental health professional, or under the clinical supervision of a mental health professional;

((~~(4)~~)) (5) Staff performing mental health services (not including crisis telephone) must have access to consultation with a psychiatrist or a physician with at least one year's experience in the direct treatment of persons who have a mental or emotional disorder;

((~~(5)~~)) (6) Mental health services to children, older adults, ethnic minorities or persons with disabilities must be provided by, under the supervision of, or with consultation from the appropriate mental health specialist(s) when the consumer:

(a) Is a child as defined in WAC 388-865-0150;

(b) Is or becomes an older person as defined in WAC 388-865-0150;

(c) Is a member of a racial/ethnic group as defined in WAC 388-865-0105 and as reported:

(i) In the consumer's demographic data; or

(ii) By the consumer or others who provide active support to the consumer; or

(iii) Through other means.

(d) Is disabled as defined in WAC 388-865-0150 and as reported:

(i) In the consumer's demographic data; or

(ii) By the consumer or others who provide active support to the consumer; or

(iii) Through other means.

((~~(6)~~)) (7) Staff receive regular supervision and an annual performance evaluation; and

((~~(7)~~)) (8) An individualized annual training plan must be implemented for each direct service staff person and supervisor, to include at a minimum:

(a) The skills he or she needs for his/her job description and the population served; and

(b) The requirements of RCW 71.05.720.

AMENDATORY SECTION (Amending WSR 10-09-061, filed 4/19/10, effective 5/20/10)

WAC 388-865-0420 Intake evaluation. (1) All individuals receiving community mental health outpatient services, with the exception of crisis, stabilization, and rehabilitation case management services, must have an intake evaluation. The purpose of an intake evaluation is to gather information to determine if a mental illness exists which is a covered diagnosis under Washington state's section 1915(b) capitated waiver program, and if there are medically necessary state plan services to address the individual's needs. (For a listing of the covered diagnoses and state plan services go to: http://www.dshs.wa.gov/pdf/hrsa/mh/Waiver_2008_2010_PIHP_NEW_%200408_with_final_revisions.pdf)

(2) The intake evaluation must:

(a) Be provided by a mental health professional.

(b) Be initiated within ten working days from the date on which the individual or their parent or other legal representative requests services and completed within thirty working days of the initiation of the intake.

(c) Be culturally and age relevant.

(d) Document sufficient information to demonstrate ((~~medical necessity as defined in the state plan, and must~~)) and/or include:

(i) Medical necessity, as defined in WAC 388-865-0150;

(ii) Presenting problem(s) as described by the individual, including a review of any documentation of a mental health condition provided by the individual. It must be inclusive of people who provide active support to the individual, if the individual so requests, or if the individual is under thirteen years of age;

((~~(ii)~~)) (iii) Current physical health status, including any medications the individual is taking;

((~~(iii)~~)) (iv) Current substance use and abuse and treatment status (GAIN-SS);

((~~(iv)~~)) (v) Sufficient clinical information to justify the provisional diagnosis using diagnostic and statistical manual (DSM IV TR) criteria, or its successor;

((~~(v)~~)) (vi) An identification of risk of harm to self and others, including suicide/homicide. Note: A referral for provision of emergency/crisis services, consistent with WAC 388-865-0452, must be made if indicated in the risk assessment;

((~~(vi)~~)) (vii) Whether they are under the supervision of the department of corrections; and

((~~(vii)~~)) (viii) A recommendation of a course of treatment.

AMENDATORY SECTION (Amending WSR 10-09-061, filed 4/19/10, effective 5/20/10)

WAC 388-865-0425 Individual service plans. ((~~The~~)) (1) A community mental health agency must:

(a) Develop a consumer-driven, strength-based individual service plan that meets the individual's unique mental health needs.

(b) Ensure an individualized applied behavioral analysis (ABA) treatment plan for a child receiving ABA services meets the requirements in subsection (3) of this section and WAC 388-865-0469.

(2) An ((~~The~~)) individual service plan must:

(a) Be developed in collaboration with the individual, or the individual's parent or other legal representative if applicable. ((~~The service plan must:~~

(~~1~~)) (b) Be initiated with at least one goal identified by the individual, or their parent or other legal representative if applicable, at the intake evaluation or the first session following the intake evaluation.

((~~(2)~~)) (c) Be developed within thirty days from the first session following the intake evaluation.

((~~(3)~~)) (d) Address age, cultural, or disability issues identified by the individual, or their parent or other legal representative if applicable, as relevant to treatment.

((~~(4)~~)) (e) Include treatment goals or objectives that are measurable and that allow the provider and individual to evaluate progress toward the individual's identified recovery goals.

((~~(5)~~)) (f) Be in language and terminology that is understandable to individuals and their family.

((~~(6)~~)) (g) Identify medically necessary service modalities, mutually agreed upon by the individual and provider, for this treatment episode.

((~~(7)~~)) (h) Demonstrate the individual's participation in the development of the individual service plan. Participation may be demonstrated by the individual's signature and/or quotes documented in the plan. Participation must include family or significant others as requested by the individual. If the provider developing the plan is not a mental health professional, the plan must also document approval by a mental health professional.

((~~(8)~~)) (i) Include documentation that the individual service plan was reviewed at least every one hundred eighty days. It should also be updated to reflect any changes in the individual's treatment needs or as requested by the individual, or their parent or other legal representative if applicable.

((~~(9)~~)) (j) With the individual's consent, or their parent or other legal representative if applicable, coordinate with any systems or organizations the individual identifies as being relevant to the individual's treatment. This includes coordination with any individualized family service plan (IFSP) when serving children ((~~under~~)) younger than age three ((~~years of age~~)).

((~~(10)~~)) (3) Beginning January 2, 2013, the health care authority will administer rules in Title 182 WAC for ABA services, including specific rules for an individualized ABA treatment plan. The individualized ABA treatment plan must, at a minimum:

(a) Be developed by a lead behavior analysis therapist (LBAT) who meets the LBAT requirements in WAC 388-865-0469(5);

(b) Identify the services to be delivered by a therapy assistant who meets the therapy assistant requirements in WAC 388-865-0469(5); and

(c) Meet the specific requirements of the health care authority in Title 182 WAC.

(4) If an individual disagrees with specific treatment recommendations or is denied a requested treatment service, they may pursue their rights under WAC 388-865-0255.

AMENDATORY SECTION (Amending WSR 01-12-047, filed 5/31/01, effective 7/1/01)

WAC 388-865-0460 Behavioral, counseling, and psychotherapy services—Additional standards. The licensed community support service provider for behavioral, counseling, and psychotherapy services must assure that all general minimum standards for community support are met.

NEW SECTION

WAC 388-865-0469 Applied behavior analysis (ABA) services. (1) Applied behavior analysis (ABA) services are intended to assist children with autism spectrum disorders and their families to improve the symptoms associated with autism spectrum disorders. This section contains the licensure, certification, and staffing requirements for agencies providing ABA services.

(2) Beginning January 2, 2013:

(a) An agency currently licensed by the department that meets the minimum standards in this section may deliver ABA services to eligible individuals.

(b) The health care authority will administer rules in Title 182 WAC for ABA services requirements, including:

(i) Program and clinical eligibility requirements;

(ii) Prior authorization requirements;

(iii) Specific ABA provider requirements;

(iv) Coverage requirements;

(v) Billing requirements; and

(vi) Requirements for:

(A) Referrals to Centers of Excellence (COE) for evaluations and orders;

(B) ABA assessments and ABA treatment plan development; and

(C) Delivery of ABA services.

(3) **Licensure requirements.**

(a) An agency not licensed by the department under this chapter must seek and obtain licensure from the department in order to provide ABA services. The agency must:

(i) Submit an application to the department (see WAC 388-865-0470).

(ii) Pay the licensing application fee (see WAC 388-865-0103).

(iii) Meet the applicable agency requirements in WAC 388-865-0400.

(iv) Qualify for a provisional and full license as described in WAC 388-865-0472 (1) and (2).

(v) Comply with the applicable rules regarding licensure in WAC 388-865-0472 through 388-865-0482.

(vi) Meet the additional requirements in this section.

(b) An agency must have written policies and procedures to support and implement the requirements in this section.

(4) **Certification requirements.** An agency must be a department-licensed community mental health agency that is certified by the department to provide ABA services.

(5) **Staff requirements.** An agency must meet the applicable competency and documentation requirements in WAC 388-865-0405 for ensuring staff members are qualified for the positions they hold. Contracted professional staff must meet the same requirements as the agency's noncontracted professional staff.

(a) An agency must employ or contract with a lead behavior analysis therapist (LBAT) who meets one of the following professional requirements. The LBAT must:

(i) Be licensed by department of health under chapter 18.19 RCW as a licensed health care professional or be an agency-affiliated counselor under RCW 18.19.210 who, in addition, meets the requirements of a mental health professional as defined in WAC 388-865-0150;

(ii) Hold national certification as a board certified behavior analyst (BCBA); or

(iii) Have two hundred forty hours of coursework related to behavior analysis and seven hundred fifty hours of supervised experience, or two years of practical experience in designing and implementing comprehensive ABA treatment plans.

(b) In addition to meeting one of the three professional requirements in (a)(i) through (a)(iii) of this subsection, an LBAT must have expertise in ABA principles;

(c) An LBAT is responsible for supervising therapy assistants in accordance with agency policies and procedures, if the agency employs or contracts with a therapy assistant(s);

(d) An agency that chooses to employ or contract with a therapy assistant must ensure the therapy assistant:

(i) Is licensed by the department of health under chapter 18.19 RCW as a licensed health care professional, or credentialed as an agency affiliated counselor under chapter 18.19 RCW;

(ii) Has sixty hours of training in ABA principles, techniques, and providing services to children with autism spectrum disorders, and has been approved by the supervising LBAT as having demonstrated competency in delivering ABA services before providing services to individuals;

(iii) Delivers services according to the individual's ABA treatment plan;

(iv) Obtains bi-monthly approval and completes a review of the ABA treatment plan and review of the individual's progress with the LBAT; and

(v) Is supervised by an LBAT who meets the requirements in (a) through (c) of this subsection.

(6) **Maintaining licensure.** To maintain department licensure to provide ABA services, an agency must:

(a) Continue to employ or contract with professional staff to meet the requirements in subsection (5) of this section. Contracted professional staff must meet the same requirements as the agency's noncontracted professional staff.

(b) Meet the following, as applicable to ABA services:

(i) Competency requirements for staff in WAC 388-865-0405, except that subsections (5) and (6) do not apply to ABA services.

(ii) Consumer rights requirements in WAC 388-865-0410, except that subsections (3)(m) and (3)(n) do not apply to ABA services.

(iii) Access to services requirements in WAC 388-865-0415.

(iv) Intake evaluation requirements in WAC 388-865-0420, except that subsections (1), (2)(d)(i), (2)(d)(iv), (2)(d)(v), and (2)(d)(vii) do not apply to ABA services.

(v) Individual service plan requirements in WAC 388-865-0425, except that subsections (1)(a), (2)(d), (2)(g), and (4) do not apply to ABA services.

(vi) Clinical records requirements in WAC 388-865-0430, except that subsections (7), (10), (11) and (12) do not apply to ABA services.

(vii) Clinical record access procedures and requirements in WAC 388-865-0435 and 388-865-0436.

(viii) Quality management process requirements in WAC 388-865-0450.

(ix) Provider requirements in WAC 388-865-0470, 388-865-0472, 388-865-0478, 388-865-0480, and 388-865-0482, if applicable to the ABA services provided.

(c) Meet one or more of the following:

(i) Case management services requirements in WAC 388-865-0456, except that:

(A) Subsection (6) does not apply to ABA services; and

(B) Subsection (7) does not apply to ABA services, except that the agency must maintain written procedures for home visits to be in compliance with RCW 71.05.710.

(ii) Psychiatric treatment, including the medication supervision—additional standards requirements in WAC 388-865-0458, if applicable to the ABA services provided.

(iii) Behavioral, counseling, and psychotherapy services—additional standards requirements in WAC 388-865-0460, if applicable to the ABA services provided.

(iv) Day treatment services—additional standards requirements in WAC 388-865-0462, if applicable to the ABA services provided.

WSR 13-02-085
EMERGENCY RULES
BUILDING CODE COUNCIL

[Filed December 31, 2012, 2:45 p.m., effective December 31, 2012, 2:45 p.m.]

Effective Date of Rule: Immediately.

Purpose: To renew the emergency rule filed under WSR 11-24-037 and since renewed under WSR 12-09-054 and subsequently under WSR 12-17-034; this was originally filed to correct certain errata contained in model code language; to provide an exception for certain markings for existing buildings.

Citation of Existing Rules Affected by this Order: Amending WAC 51-54-4600.

Statutory Authority for Adoption: Chapter 19.27 RCW.

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

Reasons for this Finding: An error in the model code (2009 International Fire Code) was inadvertently carried over into the state Fire Code in WAC 51-54-4600, and has resulted in unintended economic impacts on certain existing building owners. The council is currently engaged in the 2012 permanent rule-making process; the new rules will become effective July 1, 2013. The new rule will not require photoluminescent markings in certain existing buildings. This emergency rule needs to be continued to provide continuity for existing building owners; the language in this rule reflects the same intent as the language being adopted for the permanent rules, to be implemented on July 1, 2013.

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

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 1, Repealed 0.

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

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

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

Date Adopted: November 30, 2012 (third renewal).

C. Ray Allshouse
Chair

AMENDATORY SECTION (Amending WSR 12-01-099, filed 12/20/11, effective 4/1/12)

WAC 51-54-4600 Chapter 46—Existing buildings.

CHAPTER 46 CONSTRUCTION REQUIREMENTS FOR EXISTING BUILDINGS

SECTION 4601 GENERAL

4601.1 Scope. The provisions of this chapter shall apply to existing buildings constructed prior to the adoption of this Code.

4601.2 Intent. The intent of this chapter is to provide a minimum degree of fire and life safety to persons occupying buildings by providing for alterations to such existing buildings that do not comply with the minimum requirements of the International Building Code.

4601.3 Permits. Permits shall be required as set forth in Section 105.7 and the International Building Code and this Code.

4601.4 Owner notification. Where a building is found to be in noncompliance, the fire code official shall duly notify the owner of the building. Upon receipt of such notice, the owner shall, subject to the following time limits, take necessary actions to comply with the provisions of this chapter.

4601.4.1 Construction documents. Construction documents for the necessary alterations shall be completed within a time schedule approved by the fire code official.

4601.4.2 Completion of work. Work on the required alterations to the building shall be completed within a time schedule approved by the fire code official.

4601.4.3 Extension of time. The fire code official is authorized to grant necessary extensions of time when it can be shown that the specified time periods are not physically practical or pose an undue hardship. The granting of an extension of time for compliance shall be based on the showing of good cause and subject to the filing of an acceptable systematic plan of correction with the fire code official.

SECTION 4602 DEFINITIONS

4602.1 Definitions. The following word and term shall, for the purpose of this chapter and as used elsewhere in this Code, have the meaning shown herein.

EXISTING. Buildings, facilities or conditions that are already in existence, constructed or officially authorized prior to the adoption of this Code.

SECTION 4603 FIRE SAFETY REQUIREMENTS FOR EXISTING BUILDINGS

4603.1 Required construction. Existing buildings shall comply with not less than the minimum provisions specified

in Table 4603.1 and as further enumerated in Sections 4603.2 through 4603.7.3.

The provisions of this chapter shall not be construed to allow the elimination of fire protection systems or a reduction in the level of fire safety provided in buildings constructed in accordance with previously adopted codes.

EXCEPTION: Group U occupancies.

4603.2 Elevator operation. Existing elevators with a travel distance of 25 feet (7620 mm) or more above or below the main floor or other level of a building and intended to serve the needs of emergency personnel for firefighting or rescue purposes shall be provided with emergency operation in accordance with ASME A17.3.

4603.3 Vertical openings. Interior vertical shafts, including, but not limited to, stairways, elevator hoistways, service and utility shafts, that connect two or more stories of a building, shall be enclosed or protected as specified in Sections 4603.3.1 through 4603.3.7.

4603.3.1 Group I occupancies. In Group I occupancies, interior vertical openings connecting two or more stories shall be protected with 1-hour fire-resistance-rated construction.

4603.3.2 Three to five stories. In other than Group I occupancies, interior vertical openings connecting three to five stories shall be protected by either 1-hour fire-resistance-rated construction or an automatic sprinkler system shall be installed throughout the building in accordance with Section 903.3.1.1 or 903.3.1.2.

EXCEPTIONS:
1. Vertical opening protection is not required for Group R-3 occupancies.
2. Vertical opening protection is not required for open parking garages and ramps.
3. Vertical opening protection is not required for escalators.

4603.3.3 More than five stories. In other than Group I occupancies, interior vertical openings connecting more than five stories shall be protected by 1-hour fire-resistance-rated construction.

EXCEPTIONS:
1. Vertical opening protection is not required for Group R-3 occupancies.
2. Vertical opening protection is not required for open parking garages and ramps.
3. Vertical opening protection is not required for escalators.

TABLE 4603.1 OCCUPANCY AND USE REQUIREMENTS

	USE			OCCUPANCY CLASSIFICATION																		
SECTION	HIgh Rise	Atrium and covered mall	Underground building	A	B	E	F	H-1	H-2	H-3	H-4	H-5	I-1	I-2	I-3	I-4	M	R-1	R-2	R-3	R-4	S
4603.2	R		R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R
4603.3.1	R		R										R	R	R	R						
4603.3.2	R		R	R	R	R	R	R	R	R	R	R					R	R	R		R	R
4603.3.3	R		R	R	R	R	R	R	R	R	R	R					R	R	R		R	R
4603.3.4		R																				
4603.3.5					R												R					
4603.3.6				R		R	R	R	R	R	R	R	R	R	R	R		R	R	R	R	R
4603.3.7				R		R	R	R	R	R	R	R	R	R	R	R		R	R	R	R	R
4603.4				R			R		R	R							R					
4603.5	R		R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R		R	R
4603.6.1						R																
4603.6.2													R									
4603.6.3														R								
4603.6.4															R							
4603.6.5																		R				
4603.6.6																			R			
4603.6.7																					R	
4603.7																		R	R	R	R	
4604.4	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R

R= The building is required to comply.

4603.3.4 Atriums and covered malls. In other than Group I occupancies, interior vertical openings in a covered mall building or a building with an atrium shall be protected by either 1-hour fire-resistance-rated construction or an automatic sprinkler system shall be installed throughout the building in accordance with Section 903.3.1.1 or 903.3.1.2.

EXCEPTIONS:
1. Vertical opening protection is not required for Group R-3 occupancies.
2. Vertical opening protection is not required for open parking garages and ramps.

4603.3.5 Escalators in Group B and M occupancies. Escalators creating vertical openings connecting any number of stories shall be protected by either 1-hour fire-resistance-rated construction or an automatic fire sprinkler system in accordance with Section 903.3.1.1 installed throughout the building, with a draft curtain and closely spaced sprinklers around the escalator opening.

4603.3.6 Escalators connecting four or fewer stories. In other than Group B and M occupancies, escalators creating vertical openings connecting four or fewer stories shall be protected by either 1-hour fire-resistance-rated construction or an automatic sprinkler system in accordance with Section 903.3.1.1 or 903.3.1.2 shall be installed throughout the build-

ing, and a draft curtain with closely spaced sprinklers shall be installed around the escalator opening.

4603.3.7 Escalators connecting more than four stories. In other than Group B and M occupancies, escalators creating vertical openings connecting five or more stories shall be protected by 1-hour fire-resistance-rated construction.

4603.4 Sprinkler systems. An automatic sprinkler system shall be provided in all existing buildings in accordance with Sections 4603.4.1 and 4603.4.2.

4603.4.1 Pyroxylin plastics. An automatic sprinkler system shall be provided throughout existing buildings where cellulose nitrate film or pyroxylin plastics are manufactured, stored or handled in quantities exceeding 100 pounds (45 kg). Vaults located within buildings for the storage of raw pyroxylin shall be protected with an approved automatic sprinkler system capable of discharging 1.66 gallons per minute per square foot (68 L/min/m^2) over the area of the vault.

4603.4.2 Group I-2. An automatic sprinkler system shall be provided throughout existing Group I-2 fire areas. The sprinkler system shall be provided throughout the floor where the Group I-2 occupancy is located, and in all floors between the Group I-2 occupancy and the level of exit discharge.

4603.4.3 Nightclub. An automatic sprinkler system shall be provided throughout Group A-2 nightclubs as defined in this code. No building shall be constructed for, used for, or converted to occupancy as a nightclub except in accordance with this section.

4603.5 Standpipes. Existing structures with occupied floors located more than 50 feet (15,240 mm) above or below the lowest level of fire department vehicle access shall be equipped with standpipes installed in accordance with Section 905. The standpipes shall have an approved fire department connection with hose connections at each floor level above or below the lowest level of fire department access. The fire code official is authorized to approve the installation of manual standpipe systems to achieve compliance with this section where the responding fire department is capable of providing the required hose flow at the highest standpipe outlet.

4603.6 Fire alarm systems. An approved fire alarm system shall be installed in existing buildings and structures in accordance with Sections 4603.6.1 through 4603.6.7 and provide occupant notification in accordance with Section 907.6 unless other requirements are provided by other sections of this code.

EXCEPTION: Occupancies with an existing, previously approved fire alarm system.

4603.6.1 Group E. A fire alarm system shall be installed in existing Group E occupancies in accordance with Section 907.2.3.

EXCEPTIONS: 1. A manual fire alarm system is not required in a building with a maximum area of 1,000 square feet (93 m^2) that contains a single classroom and is located no closer than 50 feet (15,240 mm) from another building.

2. A manual fire alarm system is not required in Group E occupancies with an occupant load less than 50.

4603.6.2 Group I-1. An automatic fire alarm system shall be installed in existing Group I-1 residential care/assisted living facilities in accordance with Section 907.2.6.1.

EXCEPTIONS: 1. Manual fire alarm boxes in resident or patient sleeping areas shall not be required at exits if located at all nurses' control stations or other constantly attended staff locations, provided such stations are visible and continuously accessible and that travel distances required in Section 907.5.2 are not exceeded.

2. Where each sleeping room has a means of egress door opening directly to an exterior egress balcony that leads directly to the exits in accordance with WAC 51-50-1019, and the building is not more than three stories in height.

4603.6.3 Group I-2. An automatic fire alarm system shall be installed in existing Group I-2 occupancies in accordance with Section 907.2.6.2.

EXCEPTION: Manual fire alarm boxes in resident or patient sleeping areas shall not be required at exits if located at all nurses' control stations or other constantly attended staff locations, provided such stations are visible and continuously accessible and that travel distances required in Section 907.5.2.1 are not exceeded.

4603.6.4 Group I-3. An automatic and manual fire alarm system shall be installed in existing Group I-3 occupancies in accordance with Section 907.2.6.3.

4603.6.5 Group R-1. A fire alarm system and smoke alarms shall be installed in existing Group R-1 occupancies in accordance with Sections 4603.6.5.1 through 4603.6.5.2.1.

4603.6.5.1 Group R-1 hotel and motel manual fire alarm system. A manual fire alarm system that activates the occupant notification system in accordance with Section 907.6 shall be installed in existing Group R-1 hotels and motels more than three stories or with more than 20 sleeping units.

EXCEPTIONS: 1. Buildings less than two stories in height where all sleeping units, attics and crawl spaces are separated by 1-hour fire-resistance-rated construction and each sleeping unit has direct access to a public way, exit court or yard.

2. Manual fire alarm boxes are not required throughout the building when the following conditions are met:

2.1. The building is equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2;

2.2. The notification appliances will activate upon sprinkler water flow; and

2.3. At least one manual fire alarm box is installed at an approved location.

4603.6.5.1.1 Group R-1 hotel and motel automatic smoke detection system. An automatic smoke detection system that activates the occupant notification system in accordance with Section 907.6 shall be installed in existing Group R-1 hotels and motels throughout all interior corridors serving sleeping rooms not equipped with an approved, supervised sprinkler system installed in accordance with WAC 51-50-0903.

EXCEPTION: An automatic smoke detection system is not required in buildings that do not have interior corridors serving sleeping units and where each sleeping unit has a means of egress door opening directly to an exit or to an exterior exit access that leads directly to an exit.

4603.6.5.2 Group R-1 boarding and rooming houses manual fire alarm system. A manual fire alarm system that activates the occupant notification system in accordance with Section 907.6 shall be installed in existing Group R-1 boarding and rooming houses.

EXCEPTION: Buildings less than two stories in height where all sleeping units, attics and crawl spaces are separated by 1-hour fire-resistance-rated construction and each sleeping unit has direct access to a public way, exit court or yard.

4603.6.5.2.1 Group R-1 boarding and rooming houses automatic smoke detection system. An automatic smoke detection system that activates the occupant notification system in accordance with Section 907.6 shall be installed in existing Group R-1 boarding and rooming houses throughout all interior corridors serving sleeping units not equipped with an approved, supervised sprinkler system installed in accordance with WAC 51-50-0903.

EXCEPTION: Buildings equipped with single-station smoke alarms meeting or exceeding the requirements of Section 907.2.10.1 and where the fire alarm system includes at least one manual fire alarm box per floor arranged to initiate the alarm.

4603.6.6 Group R-2. An automatic or manual fire alarm system that activates the occupant notification system in accordance with Section 907.6 shall be installed in existing Group R-2 occupancies more than three stories in height or with more than 16 dwelling or sleeping units.

EXCEPTIONS: 1. Where each living unit is separated from other contiguous living units by fire barriers having a fire-resistance rating of not less than 0.75 hour, and where each living unit has either its own independent exit or its own independent stairway or ramp discharging at grade.
2. A separate fire alarm system is not required in buildings that are equipped throughout with an approved supervised automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2 and having a local alarm to notify all occupants.
3. A fire alarm system is not required in buildings that do not have interior corridors serving dwelling units and are protected by an approved automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2, provided that dwelling units either have a means of egress door opening directly to an exterior exit access that leads directly to the exits or are served by open-ended corridors designed in accordance with Section 1023.6, Exception 4.

4603.6.7 Group R-4. This section not adopted.

EXCEPTIONS: 1. Where there are interconnected smoke alarms meeting the requirements of Section 907.2.11 and there is at least one manual fire alarm box per floor arranged to continuously sound the smoke alarms.
2. Other manually activated, continuously sounding alarms approved by the fire code official.

4603.7 Single and multiple-station smoke alarms. Single and multiple-station smoke alarms shall be installed in existing Group R occupancies and in dwellings not classified as Group R occupancies in accordance with Sections 4603.7.1 through 4603.7.3.

4603.7.1 Where required. Existing Group R occupancies and dwellings not classified as Group R occupancies not already provided with single-station smoke alarms shall be provided with single-station smoke alarms. Installation shall be in accordance with Section 907.2.10, except as provided in Sections 4603.7.2 and 4603.7.3.

4603.7.2 Interconnection. Where more than one smoke alarm is required to be installed within an individual dwelling or sleeping unit, the smoke alarms shall be interconnected in such a manner that the activation of one alarm will activate all of the alarms in the individual unit. The alarm shall be clearly audible in all bedrooms over background noise levels with all intervening doors closed.

EXCEPTIONS: 1. Interconnection is not required in buildings that are not undergoing alterations, repairs or construction of any kind.
2. Smoke alarms in existing areas are not required to be interconnected where alterations or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available which could provide access for interconnection without the removal of interior finishes.

4603.7.3 Power source. Single-station smoke alarms shall receive their primary power from the building wiring provided that such wiring is served from a commercial source and shall be equipped with a battery backup. Smoke alarms with integral strobes that are not equipped with battery backup shall be connected to an emergency electrical system. Smoke alarms shall emit a signal when the batteries are low. Wiring shall be permanent and without a disconnecting switch other than as required for overcurrent protection.

EXCEPTIONS: 1. Smoke alarms are permitted to be solely battery operated in existing buildings where no construction is taking place.
2. Smoke alarms are permitted to be solely battery operated in buildings that are not served from a commercial power source.
3. Smoke alarms are permitted to be solely battery operated in existing areas of buildings undergoing alterations or repairs that do not result in the removal of interior walls or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available which could provide access for building wiring without the removal of interior finishes.

4603.8 Carbon monoxide alarms. Existing Group R occupancies shall be provided with carbon monoxide alarms. R-2 occupancies not already equipped with carbon monoxide alarms shall be provided with carbon monoxide alarms when alterations, repairs or additions requiring a permit occur, or when one or more sleeping rooms are added or created. The carbon monoxide alarms shall be listed as complying with UL 2034 and be installed and maintained in accordance with NFPA 720 and the manufacturer's instructions.

EXCEPTIONS: 1. Work involving the exterior surfaces of dwellings, such as the replacement of roofing or siding, or the addition or replacement of windows or doors, or the addition of a porch or deck, or electrical permits.
2. Installation, alteration or repairs of noncombustion plumbing or mechanical systems.
3. Sleeping units or dwelling units in R-1 occupancies and R-2 college dormitories, hotel, and DSHS licensed boarding home and residential treatment facility occupancies which do not themselves contain a fuel-burning appliance, a fuel-burning fireplace, or have an attached garage, but which are located in a

building with a fuel-burning appliance, a fuel-burning fireplace, or an attached garage, need not be provided with carbon monoxide alarms provided that:
a. The sleeping units or dwelling unit is not adjacent to any room which contains a fuel-burning appliance, a fuel-burning fireplace, or an attached garage; and
b. The sleeping units or dwelling unit is not connected by duct work or ventilation shafts with a supply or return register in the same room to any room containing a fuel-burning appliance, a fuel-burning fireplace, or to an attached garage; and
c. The building is provided with a common area carbon monoxide detection system.
d. An open parking garage, as defined in the International Building Code, or enclosed parking garage ventilated in accordance with Section 404 of the International Mechanical Code shall not be deemed to be an attached garage.

SECTION 4604 MEANS OF EGRESS FOR EXISTING BUILDINGS

4604.1 General. Means of egress in existing buildings shall comply with Section 1030 and 4604.2 through 4604.23.

EXCEPTION: Means of egress conforming to the requirements of the building code under which they were constructed and Section 1030 shall not be required to comply with 4604.2 through ((~~4604.21~~)) 4604.23.

4604.1.1 Evaluation. Existing buildings that were not required to comply with a building code at the time of construction, and that constitute a distinct hazard to life as determined by the fire official, shall comply with the minimum egress requirements when specified in Table 4603.1 as further enumerated in Sections 4604.2 through 4604.23. The fire official shall notify the building owner in writing of the distinct hazard and, in addition shall have the authority to require a life safety evaluation be prepared, consistent with the requirements of Section 104.7.2. The life safety evaluation shall identify any changes to the means of egress that are necessary to provide safe egress to occupants and shall be subject to review and approval by the fire and building code officials. The building shall be modified to comply with the recommendations set forth in the approved evaluation.

4604.2 Elevators, escalators and moving walks. Elevators, escalators and moving walks shall not be used as a component of a required means of egress.

EXCEPTIONS: 1. Elevators used as an accessible means of egress where allowed by Section 1007.4.
2. Previously approved escalators and moving walks in existing buildings.

4604.3 Exit sign illumination. Exit signs shall be internally or externally illuminated. The face of an exit sign illuminated from an external source shall have an intensity of not less than 5 foot-candles (54 lux). Internally illuminated signs shall provide equivalent luminance and be listed for the purpose.

EXCEPTION: Approved self-luminous signs that provide evenly illuminated letters shall have a minimum luminance of 0.06 foot-lamberts (0.21 cd/m^2).

4604.4 Power source. Where emergency illumination is required in Section 4604.5, exit signs shall be visible under emergency illumination conditions.

EXCEPTION: Approved signs that provide continuous illumination independent of external power sources are not required to be connected to an emergency electrical system.

4604.5 Illumination emergency power. The power supply for means of egress illumination shall normally be provided by the premises' electrical supply. In the event of power supply failure, illumination shall be automatically provided from an emergency system for the following occupancies where such occupancies require two or more means of egress:

1. Group A having 50 or more occupants.

EXCEPTION: Assembly occupancies used exclusively as a place of worship and having an occupant load of less than 300.

2. Group B buildings three or more stories in height, buildings with 100 or more occupants above or below a level of exit discharge serving the occupants or buildings with 1,000 or more total occupants.

3. Group E in interior stairs, corridors, windowless areas with student occupancy, shops and laboratories.

4. Group F having more than 100 occupants.

EXCEPTION: Buildings used only during daylight hours which are provided with windows for natural light in accordance with the International Building Code.

5. Group I.

6. Group M.

EXCEPTION: Buildings less than 3,000 square feet (279 m^2) in gross sales area on one story only, excluding mezzanines.

7. Group R-1.

EXCEPTION: Where each sleeping unit has direct access to the outside of the building at grade.

8. Group R-2.

EXCEPTION: Where each dwelling unit or sleeping unit has direct access to the outside of the building at grade.

9. Group R-4.

EXCEPTION: Where each sleeping unit has direct access to the outside of the building at ground level.

4604.5.1 Emergency power duration and installation. In other than Group I-2, the emergency power system shall provide power for not less than 60 minutes and consist of storage batteries, unit equipment or an on-site generator. In Group I-2, the emergency power system shall provide power for not less than 90 minutes and consist of storage batteries, unit equipment or an on-site generator. The installation of the emergency power system shall be in accordance with Section 4604.

4604.6 Guards. Guards complying with this section shall be provided at the open sides of means of egress that are more than 30 inches (762 mm) above the floor or grade below.

4604.6.1 Height of guards. Guards shall form a protective barrier not less than 42 inches (1067 mm) high.

EXCEPTIONS: 1. Existing guards on the open side of stairs shall be not less than 30 inches (760 mm) high.
2. Existing guards within dwelling units shall be not less than 36 inches (910 mm) high.
3. Existing guards in assembly seating areas.

4604.6.2 Opening limitations. Open guards shall have balusters or ornamental patterns such that a 6-inch-diameter (152 mm) sphere cannot pass through any opening up to a height of 34 inches (864 mm).

EXCEPTIONS:
1. At elevated walking surfaces for access to, and use of, electrical, mechanical or plumbing systems or equipment, guards shall have balusters or be of solid materials such that a sphere with a diameter of 21 inches (533 mm) cannot pass through any opening.
2. In occupancies in Group I-3, F, H or S, the clear distance between intermediate rails measured at right angles to the rails shall not exceed 21 inches (533 mm).
3. Approved existing open guards.

4604.7 Minimum required egress width. The means of egress width shall not be less than as required by the code under which constructed but not less than as required by this section. The total width of means of egress in inches (mm) shall not be less than the total occupant load served by the means of egress multiplied by the factors in Table 4604.7 and not less than specified elsewhere in this section. Multiple means of egress shall be sized such that the loss of any one means of egress shall not reduce the available capacity to less than 50 percent of the required capacity. The maximum capacity required from any story of a building shall be maintained to the termination of the means of egress.

TABLE 4604.7
EGRESS WIDTH PER OCCUPANT SERVED

	WITHOUT SPRINKLER SYSTEM		WITH SPRINKLER SYSTEM[a]	
OCCUPANCY	Stairways (inches per occupant)	Other egress components (inches per occupant)	Stairways (inches per occupant)	Other egress components (inches per occupant)
Occupancies other than those listed below	0.3	0.2	0.2	0.15
Hazardous: H-1, H-2, H-3 and H-4	Not permitted	Not permitted	0.3	0.2
Institutional: I-2	Not permitted	Not permitted	0.3	0.2

For SI: 1 inch = 25.4 mm.
a. Buildings equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1 or 903.3.1.2.

4604.8 Size of doors. The minimum width of each door opening shall be sufficient for the occupant load thereof and shall provide a clear width of not less than 28 inches (711 mm). Where this section requires a minimum clear width of 28 inches (711 mm) and a door opening includes two door leaves without a mullion, one leaf shall provide a clear opening width of 28 inches (711 mm). The maximum width of a swinging door leaf shall be 48 inches (1219 mm) nominal. Means of egress doors in an occupancy in Group I-2 used for the movement of beds shall provide a clear width not less than 41.5 inches (1054 mm). The height of doors shall not be less than 80 inches (2032 mm).

EXCEPTIONS:
1. The minimum and maximum width shall not apply to door openings that are not part of the required means of egress in occupancies in Groups R-2 and R-3.
2. Door openings to storage closets less than 10 square feet (0.93 m^2) in area shall not be limited by the minimum width.
3. Width of door leaves in revolving doors that comply with Section 1008.1.4.1 shall not be limited.
4. Door openings within a dwelling unit shall not be less than 78 inches (1981 mm) in height.
5. Exterior door openings in dwelling units, other than the required exit door, shall not be less than 76 inches (1930 mm) in height.
6. Exit access doors serving a room not larger than 70 square feet (6.5 m^2) shall be not less than 24 inches (610 mm) in door width.

4604.9 Opening force for doors. The opening force for interior side-swinging doors without closers shall not exceed a 5-pound (22 N) force. For other side-swinging, sliding and folding doors, the door latch shall release when subjected to a force of not more than 15 pounds (66 N). The door shall be set in motion when subjected to a force not exceeding 30 pounds (133 N). The door shall swing to a full open position when subjected to a force of not more than 50 pounds (222 N). Forces shall be applied to the latch side.

4604.10 Revolving doors. Revolving doors shall comply with the following:

1. A revolving door shall not be located within 10 feet (3048 mm) of the foot or top of stairs or escalators. A dispersal area shall be provided between the stairs or escalators and the revolving doors.

2. The revolutions per minute for a revolving door shall not exceed those shown in Table 4604.10.

3. Each revolving door shall have a conforming side-hinged swinging door in the same wall as the revolving door and within 10 feet (3048 mm).

EXCEPTIONS:
1. A revolving door is permitted to be used without an adjacent swinging door for street-floor elevator lobbies provided a stairway, escalator or door from other parts of the building does not discharge through the lobby and the lobby does not have any occupancy or use other than as a means of travel between elevators and a street.
2. Existing revolving doors where the number of revolving doors does not exceed the number of swinging doors within 20 feet (6096 mm).

4604.10.1 Egress component. A revolving door used as a component of a means of egress shall comply with Section 4604.10 and all of the following conditions:

1. Revolving doors shall not be given credit for more than 50 percent of the required egress capacity.

2. Each revolving door shall be credited with not more than a 50-person capacity.

3. Revolving doors shall be capable of being collapsed when a force of not more than 130 pounds (578 N) is applied within 3 inches (76 mm) of the outer edge of a wing.

4604.11 Stair dimensions for existing stairs. Existing stairs in buildings shall be permitted to remain if the rise does not exceed 8 1/4 inches (210 mm) and the run is not less than 9 inches (229 mm). Existing stairs can be rebuilt.

EXCEPTION: Other stairs approved by the fire code official.

TABLE 4604.10
REVOLVING DOOR SPEEDS

INSIDE DIAMETER	POWER-DRIVEN-TYPE SPEED CONTROL (RPM)	MANUAL-TYPE SPEED CONTROL (RPM)
6' 6"	11	12
7' 0"	10	11
7' 6"	9	11
8' 0"	9	10
8' 6"	8	9
9' 0"	8	9
9' 6"	7	8
10' 0"	7	8

For SI: 1 inch = 25.4 mm, 1 foot = 304.8 mm.

4604.11.1 Dimensions for replacement stairs. The replacement of an existing stairway in a structure shall not be required to comply with the new stairway requirements of WAC 51-11-1009 where the existing space and construction will not allow a reduction in pitch or slope.

4604.12 Winders. Existing winders shall be allowed to remain in use if they have a minimum tread depth of 6 inches (152 mm) and a minimum tread depth of 9 inches (229 mm) at a point 12 inches (305 mm) from the narrowest edge.

4604.13 Circular stairways. Existing circular stairs shall be allowed to continue in use provided the minimum depth of tread is 10 inches (254 mm) and the smallest radius shall not be less than twice the width of the stairway.

4604.14 Stairway handrails. Stairways shall have handrails on at least one side. Handrails shall be located so that all portions of the stairway width required for egress capacity are within 44 inches (1118 mm) of a handrail.

EXCEPTION: Aisle stairs provided with a center handrail are not required to have additional handrails.

4604.14.1 Height. Handrail height, measured above stair tread nosings, shall be uniform, not less than 30 inches (762 mm) and not more than 42 inches (1067 mm).

4604.15 Slope of ramps. Ramp runs utilized as part of a means of egress shall have a running slope not steeper than one unit vertical in 10 units horizontal (10 percent slope). The slope of other ramps shall not be steeper than one unit vertical in 8 units horizontal (12.5 percent slope).

4604.16 Width of ramps. Existing ramps are permitted to have a minimum width of 30 inches (762 mm) but not less than the width required for the number of occupants served as determined by Section 1005.1.

4604.17 Fire escape stairs. Fire escape stairs shall comply with Sections 4604.17.1 through 4604.17.7.

4604.17.1 Existing means of egress. Fire escape stairs shall be permitted in existing buildings but shall not constitute more than 50 percent of the required exit capacity.

4604.17.2 Protection of openings. Openings within 10 feet (3048 mm) of fire escape stairs shall be protected by fire door assemblies having a minimum 3/4-hour fire-resistance rating.

EXCEPTION: In buildings equipped throughout with an approved automatic sprinkler system, opening protection is not required.

4604.17.3 Dimensions. Fire escape stairs shall meet the minimum width, capacity, riser height and tread depth as specified in Section 4604.10.

4604.17.4 Access. Access to a fire escape from a corridor shall not be through an intervening room. Access to a fire escape stair shall be from a door or window meeting the criteria of Section 1005.1. Access to a fire escape stair shall be directly to a balcony, landing or platform. These shall be no higher than the floor or window sill level and no lower than 8 inches (203 mm) below the floor level or 18 inches (457 mm) below the window sill.

4604.17.5 Materials and strength. Components of fire escape stairs shall be constructed of noncombustible materials. Fire escape stairs and balconies shall support the dead load plus a live load of not less than 100 pounds per square foot (4.78 kN/m^2). Fire escape stairs and balconies shall be provided with a top and intermediate handrail on each side. The fire code official is authorized to require testing or other satisfactory evidence that an existing fire escape stair meets the requirements of this section.

4604.17.6 Termination. The lowest balcony shall not be more than 18 feet (5486 mm) from the ground. Fire escape stairs shall extend to the ground or be provided with counterbalanced stairs reaching the ground.

EXCEPTION: For fire escape stairs serving 10 or fewer occupants, an approved fire escape ladder is allowed to serve as the termination.

4604.17.7 Maintenance. Fire escapes shall be kept clear and unobstructed at all times and shall be maintained in good working order.

4604.18 Corridors. Corridors serving an occupant load greater than 30 and the openings therein shall provide an effective barrier to resist the movement of smoke. Transoms, louvers, doors and other openings shall be kept closed or self-closing.

EXCEPTIONS: 1. Corridors in occupancies other than in Group H, which are equipped throughout with an approved automatic sprinkler system.
2. Patient room doors in corridors in occupancies in Group I-2 where smoke barriers are provided in accordance with the International Building Code.
3. Corridors in occupancies in Group E where each room utilized for instruction or assembly has at least one-half of the required means of egress doors open-

ing directly to the exterior of the building at ground level.
4. Corridors that are in accordance with the International Building Code.

4604.18.1 Corridor openings. Openings in corridor walls shall comply with the requirements of the International Building Code.

EXCEPTIONS:
1. Where 20-minute fire door assemblies are required, solid wood doors at least 1.75 inches (44 mm) thick or insulated steel doors are allowed.
2. Openings protected with fixed wire glass set in steel frames.
3. Openings covered with 0.5-inch (12.7 mm) gypsum wallboard or 0.75-inch (19.1 mm) plywood on the room side.
4. Opening protection is not required when the building is equipped throughout with an approved automatic sprinkler system.

4604.18.2 Dead ends. Where more than one exit or exit access doorway is required, the exit access shall be arranged such that dead ends do not exceed the limits specified in Table 4604.17.2.

EXCEPTION: A dead-end passageway or corridor shall not be limited in length where the length of the dead-end passageway or corridor is less than 2.5 times the least width of the dead-end passageway or corridor.

4604.18.3 Exit access travel distance. Exits shall be located so that the maximum length of exit access travel, measured from the most remote point to an approved exit along the natural and unobstructed path of egress travel, does not exceed the distances given in Table 4604.17.2.

4604.18.4 Common path of egress travel. The common path of egress travel shall not exceed the distances given in Table 4604.18.2.

4604.19 Stairway discharge identification. A stairway in an exit enclosure which continues below its level of exit discharge shall be arranged and marked to make the direction of egress to a public way readily identifiable.

EXCEPTION: Stairs that continue one-half story beyond their levels of exit discharge need not be provided with barriers where the exit discharge is obvious.

4604.20 Exterior stairway protection. Exterior exit stairs shall be separated from the interior of the building as required in Section 1026.6. Openings shall be limited to those necessary for egress from normally occupied spaces.

EXCEPTIONS:
1. Separation from the interior of the building is not required for buildings that are two stories or less above grade where the level of exit discharge serving such occupancies is the first story above grade.
2. Separation from the interior of the building is not required where the exterior stairway is served by an exterior balcony that connects two remote exterior stairways or other approved exits, with a perimeter that is not less than 50 percent open. To be considered open, the opening shall be a minimum of 50 percent of the height of the enclosing wall, with the top of the opening not less than 7 feet (2134 mm) above the top of the balcony.
3. Separation from the interior of the building is not required for an exterior stairway located in a building or structure that is permitted to have unenclosed interior stairways in accordance with Section 1022.
4. Separation from the interior of the building is not required for exterior stairways connected to open-ended corridors, provided that:
4.1. The building, including corridors and stairs, is equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1 or 903.3.1.2.
4.2. The open-ended corridors comply with Section 1018.
4.3. The open-ended corridors are connected on each end to an exterior exit stairway complying with Section 1026.
4.4. At any location in an open-ended corridor where a change of direction exceeding 45 degrees occurs, a clear opening of not less than 35 square feet (3 m^2) or an exterior stairway shall be provided. Where clear openings are provided, they shall be located so as to minimize the accumulation of smoke or toxic gases.

TABLE 4604.18.2
COMMON PATH, DEAD-END AND TRAVEL DISTANCE LIMITS (by occupancy)

OCCUPANCY	COMMON PATH LIMIT		DEAD-END LIMIT		TRAVEL DISTANCE LIMIT	
	Unsprinklered (feet)	Sprinklered (feet)	Unsprinklered (feet)	Sprinklered (feet)	Unsprinklered (feet)	Sprinklered (feet)
Group A	20/75[a]	20/75[a]	20[b]	20[b]	200	250
Group B	75	100	50	50	200	250
Group E	75	75	20	50	200	250
Group F-1, S-1[d]	75	100	50	50	200	250
Group F-2, S-2[d]	75	100	50	50	300	400
Group H-1	25	25	0	0	75	75
Group H-2	50	100	0	0	75	100
Group H-3	50	100	20	20	100	150
Group H-4	75	75	20	20	150	175
Group H-5	75	75	20	20	150	200
Group I-1	75	75	20	50	200	250
Group I-2 (Health Care)	NR[e]	NR[e]	NR	NR	150	200[c]
Group I-3 (Detention and Correctional—Use Conditions II, III, IV, V)	100	100	NR	NR	150[c]	200[c]

OCCUPANCY	COMMON PATH LIMIT		DEAD-END LIMIT		TRAVEL DISTANCE LIMIT	
	Unsprinklered (feet)	Sprinklered (feet)	Unsprinklered (feet)	Sprinklered (feet)	Unsprinklered (feet)	Sprinklered (feet)
Group I-4 (Day Care Centers)	NR	NR	20	20	200	250
Group M (Covered Mall)	75	100	50	50	200	400
Group M (Mercantile)	75	100	50	50	200	250
Group R-1 (Hotels)	75	75	50	50	200	250
Group R-2 (Apartments)	75	75	50	50	200	250
Group R-3 (One- and Two-Family)	NR	NR	NR	NR	NR	NR
Group R-4 (Residential Care/Assisted Living)	NR	NR	NR	NR	NR	NR
Group U	75	75	20	50	200	250

For SI: 1 foot = 304.8 mm.

a. 20 feet for common path serving 50 or more persons; 75 feet for common path serving less than 50 persons.

b. See Section 1028.9.5 for dead-end aisles in Group A occupancies.

c. This dimension is for the total travel distance, assuming incremental portions have fully utilized their allowable maximums. For travel distance within the room, and from the room exit access door to the exit, see the appropriate occupancy chapter.

d. See the International Building Code for special requirements on spacing of doors in aircraft hangars.

e. Any patient sleeping room, or any suite that includes patient sleeping rooms, of more than 1,000 square feet (93 m^2) shall have at least two exit access doors placed a distance apart equal to not less than one-third of the length of the maximum overall diagonal dimension of the patient sleeping room or suite to be served, measured in a straight line between exit access doors.

NR = No requirements.

4604.21 Minimum aisle width. The minimum clear width of aisles shall be:

1. Forty-two inches (1067 mm) for aisle stairs having seating on each side.

EXCEPTION: Thirty-six inches (914 mm) where the aisle serves less than 50 seats.

2. Thirty-six inches (914 mm) for stepped aisles having seating on only one side.

EXCEPTION: Thirty inches (760 mm) for catchment areas serving not more than 60 seats.

3. Twenty inches (508 mm) between a stepped aisle handrail or guard and seating when the aisle is subdivided by the handrail.

4. Forty-two inches (1067 mm) for level or ramped aisles having seating on both sides.

EXCEPTION: Thirty-six inches (914 mm) where the aisle serves less than 50 seats.

5. Thirty-six inches (914 mm) for level or ramped aisles having seating on only one side.

EXCEPTION: Thirty inches (760 mm) for catchment areas serving not more than 60 seats.

6. Twenty-three inches (584 mm) between a stepped stair handrail and seating where an aisle does not serve more than five rows on one side.

4604.22 Stairway floor number signs. Existing stairs shall be marked in accordance with Section 1022.8.

4604.23 Egress path markings. Existing buildings of Group A, B, E, I, M and R-1 having occupied floors located more than 75 feet (22,860 mm) above the lowest level of fire department vehicle access shall be provided with luminous egress path markings in accordance with Section 1024.

EXCEPTION: Open, unenclosed stairwells in historic buildings designated as historic under a state or local historic preservation program.

SECTION 4605 REQUIREMENTS FOR OUTDOOR OPERATIONS

4605.1 Tire storage yards. Existing tire storage yards shall be provided with fire apparatus access roads in accordance with Sections 4605.1.1 and 4605.1.2.

4605.1.1 Access to piles. Access roadways shall be within 150 feet (45,720 mm) of any point in the storage yard where storage piles are located, at least 20 feet (6096 mm) from any storage pile.

4605.1.2 Location within piles. Fire apparatus access roads shall be located within all pile clearances identified in Section 2505.4 and within all fire breaks required in Section 2505.5.