

**WSR 14-02-096**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Economic Services Administration)

[Filed December 31, 2013, 9:38 a.m., effective January 1, 2014]

Effective Date of Rule: January 1, 2014.

Purpose: This emergency rule making supersedes the emergency rule making filed on September 30, 2013, as WSR 13-20-080. The department is amending rules in Title 388 WAC to remove medical references, support the creation of the housing and essential needs (HEN) referral program and remove references to the Alcohol and Drug Addiction Treatment and Support Act (ADATSA). 2E2SHB 1738, Laws of 2011, designated the health care authority (HCA) as the single state agency responsible for the administration and supervision of Washington's medical assistance programs. HCA recodified medical assistance program rules to Title 182 WAC. Accordingly, the department must eliminate corresponding rules and medical references under Title 388 WAC. New amendments have been made to WAC 388-406-0005, 388-406-0035, 388-406-0045, 388-406-0055, 388-418-0005, 388-424-0010 and 388-472-0005, that are currently in effect via emergency adoption (WSR 13-20-080). Amendments are made to support the creation of the new HEN referral program created under SHB 2069 and to remove references related to ADATSA. The legislature did not appropriate any funds for ADATSA in the new biennium budget. ADATSA-related medical care services recipients will be medicaid eligible under the Affordable Care Act starting January 1, 2014. Additional amendments spell out the acronym, ABD, identifying it as the aged, blind or disabled program. In addition, WAC 388-424-0015 is being amended to remove an ADATSA reference.

Citation of Existing Rules Affected by this Order: WAC 388-406-0005, 388-406-0035, 388-406-0045, 388-406-0055, 388-418-0005, 388-424-0010, 388-424-0015, 388-436-0030, 388-450-0015, 388-450-0025, 388-450-0040, 388-450-0156, 388-450-0162, 388-450-0170, 388-472-0005, and 388-473-0010.

Statutory Authority for Adoption: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.08.090, 74.08A.100, 74.04.770, 74.62.030, 41.05.021, 74.09.035, 74.09.530.

Other Authority: SHB 2069, Laws of 2013; 2E2SHB 1738, chapter 15, Laws of 2011; and the 2013 biennial budget.

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

Reasons for this Finding: Amendments remove medical references. More specifically, 2E2SHB 1738, Laws of 2011, designated HCA as the single state agency responsible for the administration and supervision of Washington's medical assistance programs. DSHS has been working with HCA to repeal medical assistance program rules under Title 388 WAC in support of HCA's efforts to recodify medical assistance program rules under Title 182 WAC. HCA recodified medical assistance program rules at Title 182 WAC, effective October 1, 2013. Accordingly, the department must eliminate

corresponding rules under Title 388 WAC. Amendments remove references to the ADATSA program. The legislature did not appropriate any funds for ADATSA in the new biennium budget. ADATSA-related medical care services recipient[s] will be medicaid eligible under the Affordable Care Act starting January 1, 2014. Amendments support the creation of the new HEN referral program created under SHB 2069, which was signed by the governor on June 30, 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 16, 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 16, Repealed 0.

Date Adopted: December 19, 2013.

Katherine I. Vasquez  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 12-10-042, filed 4/27/12, effective 6/1/12)

**WAC 388-406-0005 Can I apply for cash(~~(, medical~~) or Basic Food?** (1) You can apply for any benefit the department offers, including cash assistance(~~(, medical assistance,))~~) or Basic Food.

(2) You must meet certain eligibility requirements in order to receive a program benefit.

(3) You can apply for someone else if you are:

(a) A legal guardian, caretaker, or authorized representative applying for:

- (i) A dependent child;
- (ii) An incapacitated person; or
- (iii) Someone who is deceased.

(b) Applying for someone who cannot apply for some other reason. We may ask why the applicant is unable to apply on their own behalf.

(4) (~~(If you get supplemental security income (SSI), you do not need to apply for medical benefits. We automatically open medical benefits for you.~~))

~~(5))~~ A person or agency may apply for aged, blind, or disabled (ABD) cash ((or medical assistance)) for you if:

- (a) You temporarily live out-of-state; and
- (b) You are a Washington state resident.

~~((6))~~ (5) When you are confined or incarcerated in a Washington state public institution, you may apply for cash ~~((or medical assistance))~~ if you meet the following criteria:

(a) You are confined by or in the following public institutions:

- (i) Department of corrections;
- (ii) City or county jail; or

(iii) Institution for mental diseases (IMD).

(b) Staff at the public institution provide medical records including diagnosis by a mental health professional that you have a mental disorder (as defined in the Diagnostic and Statistical Manual of Psychiatric Disorders, most recent edition) that affects your thoughts, mood or behavior so severely that it prevents you from performing any kind of work.

~~((7) We will make an eligibility determination for medical assistance prior to your release from confinement and will authorize medical benefits upon your release from confinement when you:~~

~~(a) Meet the criteria of subsection (6) in this section; and~~

~~(b) Were receiving medicaid immediately before confinement or within the five years prior to confinement.~~

~~(8) If you meet the criteria in subsection (6) but did not receive medicaid within the five years prior to confinement, the department will process your request for medical assistance within the time frames in WAC 388-406-0035.~~

~~(9) If you are applying for assistance for a youth leaving incarceration in a juvenile rehabilitation administration or county juvenile detention facility, you may apply for assistance within forty five days prior to release. We will process your application for medical assistance when we receive it, and if eligible, we will authorize medical benefits upon the youth's release from confinement.)~~

AMENDATORY SECTION (Amending WSR 12-06-070, filed 3/6/12, effective 4/6/12)

**WAC 388-406-0035 How long does the department have to process my application?** (1) We must process your application as quickly as possible. We must respond promptly to your application and to any information you give us. We cannot delay processing your request by using the time limits stated in this section as a waiting period for determining eligibility.

(2) Unless your eligibility determination is delayed for good cause under WAC 388-406-0040, we process your application for benefits within thirty calendar days, except:

~~(a) ((If you are pregnant, we must process your application for medical within fifteen working days;~~

~~(b)) If you are applying for aged, blind, or disabled (ABD) cash assistance, ((alcohol or drug addiction treatment (ADATSA), or medical assistance)) or a referral to the housing and essential needs (HEN) program, we must process your application within forty-five calendar days unless there is good cause as described in WAC 388-406-0045((; and~~

~~(c) If you are applying for medical assistance that requires a disability decision, we must process your application within sixty calendar days)).~~

(3) For calculating time limits, "day one" is the date following the date:

(a) The department received your application for benefits under WAC 388-406-0010;

(b) Social Security gets a request for food benefits from a Basic Food assistance unit in which all members either get or are applying for supplemental security income (SSI);

(c) You are released from an institution if you get or are authorized to get SSI and request Basic Food through Social Security prior to your release.

AMENDATORY SECTION (Amending WSR 12-10-042, filed 4/27/12, effective 6/1/12)

**WAC 388-406-0045 Is there a good reason my application for cash ((or medical)) assistance has not been processed?** If your application for cash ((or medical)) assistance is not processed within the time limits under WAC 388-406-0035, the department must decide if there is a good reason for the delay. This good reason is also called "good cause."

(1) We do not have a good reason for not processing your application for TANF or SFA within thirty days if:

(a) We did not give or send you a notice of what information we needed to determine your eligibility within twenty days from the date of your application;

(b) We did not give or send you a notice that we needed additional information or action within five calendar days of the date we learned that more information was needed to determine eligibility;

(c) We did not process your application within five calendar days from getting the information needed to decide eligibility; and

(d) We decide good cause exists but do not document our decision in the case record on or before the time limit for processing the application ends.

(2) We do have a good reason for not processing your application timely if:

(a) You do not give us the information or take an action needed for us to determine eligibility;

(b) We have an emergency beyond our control; or

(c) There is no other available verification for us to determine eligibility and the eligibility decision depends on information that has been delayed such as:

(i) Medical documentation;

(ii) For cash assistance, extensive property appraisals; or

(iii) Out-of-state documents or correspondence.

~~(3) ((For medical assistance, good cause exists only when the department otherwise acted promptly at all stages of the application process.~~

~~(4)) For aged, blind, or disabled (ABD) cash assistance, or a referral to the housing and essential needs (HEN) program, good cause exists if you apply when you are confined in a Washington state public institution as defined in WAC 388-406-0005 (6)(a).~~

AMENDATORY SECTION (Amending WSR 12-10-042, filed 4/27/12, effective 6/1/12)

**WAC 388-406-0055 When do my benefits start?** The date we approve your application affects the amount of benefits you get. If you are eligible for:

(1) Cash assistance, your benefits start:

(a) The date we have enough information to make an eligibility decision; or

(b) No later than the thirtieth day for TANF, SFA, PWA, or RCA; or

(c) No later than the forty-fifth day for aged, blind, or disabled (ABD) cash assistance unless:

(i) You are confined in a Washington state public institution as defined in WAC 388-406-0005 (6)(a) on the forty-fifth day, in which case your benefits will start on the date you are released from confinement; or

(ii) You are approved for ABD cash assistance at the time of your ~~((medical care services (MCS)))~~ housing and essential needs (HEN) referral incapacity review as described in WAC ~~((182-508-0160))~~ 388-447-0110, in which case your benefits will start on the date you provided sufficient medical evidence to establish disability as defined in WAC 388-449-0001.

(2) Basic Food, your benefits start from the date you applied unless:

(a) You are recertified for Basic Food. If you are recertified for Basic Food, we determine the date your benefits start under WAC 388-434-0010;

(b) You applied for Basic Food while living in an institution. If you apply for Basic Food while living in an institution, the date you are released from the institution determines your start date as follows. If you are expected to leave the institution:

(i) Within thirty days of the date we receive your application, your benefits start on the date you leave the institution; or

(ii) More than thirty days from the date we receive your application, we deny your application for Basic Food. You may apply for Basic Food again when your date of release from the institution is closer.

(c) We were unable to process your application within thirty days because of a delay on your part. If you caused the delay, but submit required verification by the end of the second thirty-day period, we approve your benefits starting the date you provide the required verification. We start your benefits from this date even if we denied your application for Basic Food.

(d) We initially denied your application for Basic Food and your assistance unit (AU) becomes categorically eligible (CE) within sixty days from the date you applied. If your AU becoming CE under WAC 388-414-0001 makes you eligible for Basic Food, the date we approve Basic Food is the date your AU became CE.

(e) You are approved for transitional food assistance under chapter 388-489 WAC. We determine the date transitional benefits start as described under WAC 388-489-0015.

(f) You receive transitional food assistance with people you used to live with, and are now approved to receive Basic Food in a different assistance unit:

(i) We must give the other assistance unit ten days notice as described under WAC 388-458-0025 before we remove you from the transitional food assistance benefits.

(ii) Your Basic Food benefits start the first of the month after we remove you from the transitional benefits. For example, if we remove you from transitional benefits on November 30th, you are eligible for Basic Food on December 1st.

~~((3) Medical assistance, the date your benefits start is stated in chapter 388-416 WAC.~~

~~(4) For long-term care, the date your services start is stated in WAC 388-106-0045.)~~

AMENDATORY SECTION (Amending WSR 12-04-051, filed 1/30/12, effective 3/1/12)

**WAC 388-418-0005 How will I know what changes to report?** (1) You must report changes to the department based

on the kinds of assistance you receive. We inform you of your reporting requirements on letters we send you about your benefits. Follow the steps below to determine the types of changes you must report:

~~((H))~~ (a) If you receive ~~((assistance from any of the programs listed in subsection (1), you must report changes for people in your assistance unit under chapter 388-408 WAC, based on the first program you receive benefits from:~~

~~(a) If you receive long-term care benefits such as a home and community based waiver (Basic, Basic Plus, CORE, Community Protection, COPES, New Freedom, Medically Needy), care in a medical institution (nursing home, hospice care center, state veterans home, ICF/MR, RHC) or hospice, you must tell us if you have a change of:~~

~~(i) Residence;~~

~~(ii) Marital status;~~

~~(iii) Living arrangement;~~

~~(iv) Income;~~

~~(v) Resources;~~

~~(vi) Medical expenses; and~~

~~(vii) If we allow you expenses for your spouse or dependents, you must report changes in their income or shelter cost.~~

~~(b) If you receive medical benefits based on age, blindness, disability (SSI-related medical), or ADATSA benefits, you need to tell us if:))~~

~~((i) You move;~~

~~(ii) A family member moves into or out of your home;~~

~~(iii) Your resources change; or~~

~~(iv) Your income changes. This includes the income of you, your spouse or your child living with you.~~

~~(e) If you receive)) cash benefits, you need to tell us if:~~

~~(i) You move;~~

~~(ii) Someone moves out of your home;~~

~~(iii) Your total gross monthly income goes over the:~~

~~(A) Payment standard under WAC 388-478-0033 if you receive ABD cash; or~~

~~(B) Earned income limit under WAC 388-478-0035 and 388-450-0165 for all other programs;~~

~~(iv) You have liquid resources more than four thousand dollars; or~~

~~(v) You have a change in employment. Tell us if you:~~

~~(A) Get a job or change employers;~~

~~(B) Change from part-time to full-time or full-time to part-time;~~

~~(C) Have a change in your hourly wage rate or salary; or~~

~~(D) Stop working(;-or~~

~~(E) See WAC 182-504-0100 for medical care services reporting requirements)).~~

~~((H))~~ (b) If you are a relative or nonrelative caregiver and receive cash benefits on behalf of a child in your care but not for yourself or other adults in your household, you need to tell us if:

~~(i) You move;~~

~~(ii) The child you are caring for moves out of the home;~~

~~(iii) Anyone related to you or to the child you are caring for moves into or out of the home;~~

~~(iv) There is a change in the earned or unearned income of anyone in your child-only means-testing assistance unit, as defined in WAC 388-450-0162 (3)(b). You do not need to~~

report changes in earned income for your dependent children who are in school full-time (see WAC 388-450-0070).

(v) There is a change in the recipient child's earned or unearned income (see WAC 388-450-0070 for how we count the earned income of a child);

(vi) The recipient child has liquid resources more than four thousand dollars;

(vii) A recipient child in the home becomes a foster child; or

(viii) You legally adopt the recipient child.

~~((e) If you receive family medical benefits, you need to tell us if:~~

~~(i) You move;~~

~~(ii) A family member moves out of your home; or~~

~~(iii) If your income goes up or down by one hundred dollars or more a month and you expect this income change will continue for at least two months;))~~

(2) If you do not receive cash assistance (~~(from any of the programs listed in subsection (1))~~), but you do receive Basic Food benefits (~~(from any of the programs listed in subsection (2))~~), you must report changes for the people in your assistance unit under chapter 388-408 WAC (~~(based on all the benefits you receive.~~

~~(a) If you receive Basic Food benefits, you~~). You need to tell us if:

~~((i) If you)~~ (a) Your household is a categorically eligible household as defined under WAC 388-414-0001, tell us if your total gross monthly income is more than two hundred percent of the federal poverty level; or

~~((ii))~~ (b) For all other households tell us if your total monthly income is more than the maximum gross monthly income as described in WAC 388-478-0060; or

~~((iii))~~ (c) Anyone who receives food benefits in your assistance unit and who must meet work requirements under WAC 388-444-0030 has their hours at work go below twenty hours per week.

~~((b) If you receive children's medical benefits, you need to tell us if:~~

~~(i) You move; or~~

~~(ii) A family member moves out of the house.~~

~~(e) If you receive pregnancy medical benefits, you need to tell us if:~~

~~(i) You move; or~~

~~(ii) You are no longer pregnant.~~

~~(d) If you receive other medical benefits, you need to tell us if:~~

~~(i) You move; or~~

~~(ii) A family member moves out of the home.)~~

AMENDATORY SECTION (Amending WSR 12-10-042, filed 4/27/12, effective 6/1/12)

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

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

(b) A U.S. national;

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

(d) A "qualified alien";

(e) A victim of trafficking; or

(f) A Hmong or Highland Lao.

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

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

(4) ~~((A lawfully present "nonqualified alien" child or pregnant woman as defined in WAC 388-424-0001 who meet residency requirements as defined in WAC 388-468-0005 may receive Medicaid or CHIP.~~

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

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

(b) State-funded cash (~~(or chemical dependency benefits)~~) as described in WAC 388-424-0015 (state family assistance (SFA), and aged, blind, or disabled (ABD) cash(~~(, and the Alcohol and Drug Addiction Treatment and Support Act (ADATSA)~~), and medical benefits as described in WAC 182-503-0532; ~~or~~

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

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

AMENDATORY SECTION (Amending WSR 12-10-042, filed 4/27/12, effective 6/1/12)

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

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

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

(2) To receive aged, blind, or disabled (ABD) cash or pregnant women assistance (PWA) benefits, you must be:

(a) A U.S. citizen;

(b) A U.S. national;

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

(d) A "qualified alien" or similarly defined lawful immigrant such as victim of trafficking as defined in WAC 388-424-0001; or

(e) A nonqualified alien described in WAC 388-424-0001 who:

(i) Has verified their intent to stay in the United States indefinitely; and

(ii) The United States Immigration and Customs Enforcement is not taking steps to enforce their departure.

AMENDATORY SECTION (Amending WSR 12-10-042, filed 4/27/12, effective 6/1/12)

**WAC 388-436-0030 How does my eligibility for other possible cash benefits impact my eligibility for CEAP? (1)**

You are ineligible for CEAP if you, or a household member, are eligible for any of the following programs:

- (a) TANF or SFA, unless the family has had its case grant terminated due to WAC 388-310-1600;
- (b) Pregnant women assistance (PWA);
- (c) RCA;
- (d) Aged, blind, or disabled (ABD) cash;
- (e) Supplemental security income (SSI);
- ~~((f)) Medical assistance for those applicants requesting help for a medical need;~~
- ~~((g))~~ (f) Food assistance for those applicants requesting help for a food need;
- ~~((h))~~ (g) Housing assistance from any available source for those applicants requesting help for a housing need;
- ~~((i))~~ (h) Unemployment compensation, veteran's benefits, industrial insurance benefits, Social Security benefits, pension benefits, or any other source of financial benefits the applicant is potentially eligible to receive.

(2) The department may require the applicant, or anyone in the assistance unit, to apply for and take any required action to receive benefits from programs described in the above subsection (1)(a) through (h).

(3) The department may not authorize CEAP benefits to any household containing a member who is:

- (a) Receiving cash benefits from any of the following programs:
  - (i) TANF/SFA;
  - (ii) PWA;
  - (iii) RCA;
  - (iv) DCA; or
  - (v) ABD cash.
- (b) Receiving reduced cash benefits for failure to comply with program requirements of TANF/SFA, or RCA.

(4) The department may authorize CEAP to families reapplying for TANF/SFA who are not eligible for TANF cash benefits under WAC 388-310-1600 until they complete the four week participation requirement.

AMENDATORY SECTION (Amending WSR 12-08-002, filed 3/21/12, effective 4/21/12)

**WAC 388-450-0015 What types of income are not used by the department to figure out my benefits?** This section applies to cash assistance(~~(; children's, family, or pregnancy medical;))~~ and basic food benefits.

(1) There are some types of income we do not count to figure out if you can get benefits and the amount you can get. Some examples of income we do not count are:

- (a) Bona fide loans as defined in WAC 388-470-0045, except certain student loans as specified under WAC 388-450-0035;
- (b) Federal income tax refunds and earned income tax credit (EITC) payments in the month received;

(c) Federal economic stimulus payments that are excluded for federal and federally assisted state programs;

(d) Federal twenty-five dollar supplemental weekly unemployment compensation payment authorized by the American Recovery and Reinvestment Act of 2009;

(e) Title IV-E and state foster care maintenance payments if you choose not to include the foster child in your assistance unit;

(f) Energy assistance payments;

(g) Educational assistance we do not count under WAC 388-450-0035;

(h) Native American benefits and payments we do not count under WAC 388-450-0040;

(i) Income from employment and training programs we do not count under WAC 388-450-0045;

(j) Money withheld from a benefit to repay an overpayment from the same income source. For Basic Food, we **do not** exclude money that is withheld because you were overpaid for purposely not meeting requirements of a federal, state, or local means tested program such as TANF/SFA, aged, blind, or disabled (ABD) cash assistance, pregnant women assistance (PWA), and SSI;

(k) Legally obligated child support payments received by someone who gets TANF/SFA benefits;

(l) One-time payments issued under the Department of State or Department of Justice Reception and Replacement Programs, such as Voluntary Agency (VOLAG) payments; and

(m) Payments we are directly told to exclude as income under state or federal law.

(n) **For cash and Basic Food:** Payments made to someone outside of the household for the benefits of the assistance unit using funds that are not owed to the household;

(o) **For Basic Food only:** The total monthly amount of all legally obligated current or back child support payments paid by the assistance unit to someone outside of the assistance unit for:

(i) A person who is not in the assistance unit; or

(ii) A person who is in the assistance unit to cover a period of time when they were not living with the member of the assistance unit responsible for paying the child support on their behalf.

~~((p)) For medical assistance: Only the portion of income used to repay the cost of obtaining that income source.~~

~~(2) For children's, family, or pregnancy medical, we also do not count any insurance proceeds or other income you have recovered as a result of being a Holocaust survivor.)~~

AMENDATORY SECTION (Amending WSR 12-06-070, filed 3/6/12, effective 4/6/12)

**WAC 388-450-0025 What is unearned income?** This section applies to cash assistance(~~(;))~~ and food assistance(~~(; and medical programs for families, children, and pregnant women))~~).

(1) Unearned income is income you get from a source other than employment or self-employment. Some examples of unearned income are:

- (a) Railroad retirement;

- (b) Unemployment compensation;
  - (c) Social Security benefits (including retirement benefits, disability benefits, and benefits for survivors);
  - (d) Time loss benefits as described in WAC 388-450-0010, such as benefits from the department of labor and industries (L&I); or
  - (e) Veteran Administration benefits.
- (2) For food assistance we also count the total amount of cash benefits due to you before any reductions caused by your failure (or the failure of someone in your assistance unit) to perform an action required under a federal, state, or local means-tested public assistance program, such as TANF/SFA, ABD assistance, PWA, and SSI.
- (3) When we count your unearned income, we count the amount you get before any taxes are taken out.

**AMENDATORY SECTION** (Amending WSR 12-10-042, filed 4/27/12, effective 6/1/12)

**WAC 388-450-0040 Native American benefits and payments.** This section applies to TANF/SFA, RCA, PWA, ABD cash, ~~((medical,))~~ and food assistance programs.

(1) The following types of income are not counted when a client's benefits are computed:

(a) Up to two thousand dollars per individual per calendar year received under the Alaska Native Claims Settlement Act, P.L. 92-203 and 100-241;

(b) Income received from Indian trust funds or lands held in trust by the Secretary of the Interior for an Indian tribe or individual tribal member. Income includes:

- (i) Interest; and
- (ii) Investment income accrued while such funds are held in trust.

(c) Income received from Indian ~~((judgement))~~ **judgment** funds or funds held in trust by the Secretary of the Interior distributed per capita under P.L. 93-134 as amended by P.L. 97-458 and 98-64. Income includes:

- (i) Interest; and
- (ii) Investment income accrued while such funds are held in trust.

(d) Up to two thousand dollars per individual per calendar year received from leases or other uses of individually owned trust or restricted lands, P.L. 103-66;

(e) Payments from an annuity fund established by the Puyallup Tribe of Indians Settlement Act of 1989, P.L. 101-41, made to a Puyallup Tribe member upon reaching twenty-one years of age; and

(f) Payments from the trust fund established by the P.L. 101-41 made to a Puyallup Tribe member.

(2) Other Native American payments and benefits that are excluded by federal law are not counted when determining a client's benefits. Examples include but are not limited to:

(a) White Earth Reservation Land Settlement Act of 1985, P.L. 99-264, Section 16;

(b) Payments made from submarginal land held in trust for certain Indian tribes as designated by P.L. 94-114 and P.L. 94-540; and

(c) Payments under the Seneca Nation Settlement Act, P.L. 101-503(~~;- and~~

~~(d) For medical assistance, receipt of money by a member of a federally recognized tribe from exercising federally protected rights or extraction of protected resources, such as fishing, shell fishing, or selling timber, is considered conversion of an exempt resource during the month of receipt. Any amounts remaining from the conversion of this exempt resource on the first of the month after the month of receipt will remain exempt if the funds were used to purchase another exempt resource. Any amounts remaining in the form of countable resources (such as in checking or savings accounts) on the first of the month after receipt, will be added to other countable resources for eligibility determinations)).~~

**AMENDATORY SECTION** (Amending WSR 12-10-042, filed 4/27/12, effective 6/1/12)

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

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

- (i) Refugee;
- (ii) Parolee;
- (iii) Asylee;
- (iv) Cuban/Haitian entrant; or
- (v) Special immigrant from Iraq or Afghanistan.

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

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

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

- (i) Yourself;
- (ii) Each of your parents for the time they worked before you turned eighteen years old (including the time they worked before you were born); and
- (iii) Your spouse if you are still married or your spouse is deceased.

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

(f) Your sponsor is dead; or

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

- (i) You no longer live with your sponsor; and
- (ii) Leaving your sponsor caused your need for benefits.

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

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

~~((4))~~ (3) For Basic Food, you are exempt from deeming while you are under age eighteen.

~~((5))~~ (4) For state family assistance, aged, blind, or disabled (ABD) cash, pregnant women assistance (PWA)~~((7))~~ and state-funded Basic Food benefits, ~~((and state-funded medical assistance for legal immigrants))~~ you are exempt from the deeming process if:

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

(b) Your sponsor becomes permanently incapacitated; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) Your sponsor's name; and

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

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

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

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

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

AMENDATORY SECTION (Amending WSR 12-04-051, filed 1/30/12, effective 3/1/12)

**WAC 388-450-0162 How does the department count my income to determine if my assistance unit is eligible and how does the department calculate the amount of my cash and Basic Food benefits?** (1) Countable income is all income your assistance unit (AU) or your child-only means-testing AU has after we subtract the following:

(a) Excluded or disregarded income under WAC 388-450-0015;

(b) For **cash assistance**, earned income incentives and deductions allowed for specific programs under WAC 388-450-0170 and 388-450-0175;

(c) For **Basic Food**, deductions allowed under WAC 388-450-0185; and

(d) Income we allocate to someone outside of the assistance unit under WAC 388-450-0095 through 388-450-0160.

(2) Countable income includes all income that we must deem or allocate from financially responsible persons who are not members of your AU under WAC 388-450-0095 through 388-450-0160.

(3) Starting November 1, 2011, we may apply child-only means-testing to determine eligibility and your payment standard amount.

(a) Child-only means-testing applies when you are a nonparental relative or unrelated caregiver applying for or receiving a nonneedy TANF/SFA grant for a child or children only, unless at least one child was placed by a state or tribal child welfare agency and it is an open child welfare case.

(b) For the purposes of child-only means-testing only, we include yourself, your spouse, your dependents, and other persons who are financially responsible for yourself or the child as defined in WAC 388-450-0100 in your assistance unit (AU). We call this your child-only means-testing AU.

(c) As shown in the chart below, we compare your child-only means-testing AU's total countable income to the current federal poverty level (FPL) for your household size to determine your child-only means-testing payment standard. Your child-only means-tested payment standard is a percentage of the payment standards in WAC 388-478-0020.

If your countable child-only means-testing AU income is:	Your child-only means-tested payment standard is equal to the following percentage of the payment standards in WAC 388-478-0020:
200% FPL or less	100%
Between 201% and 225% of FPL	80%
Between 226% and 250% of FPL	60%
Between 251% and 275% of FPL	40%

If your countable child-only means-testing AU income is:	Your child-only means-tested payment standard is equal to the following percentage of the payment standards in WAC 388-478-0020:
Between 276% and 300% of FPL	20%
Over 300% of the FPL	The children in your care are not eligible for a TANF/SFA grant.

(d) If the children in your care qualify for a TANF/SFA grant once the child-only means-test is applied, the child's income is budgeted against the child-only means-tested payment standard amount.

~~((e) If the children in your care do not qualify for a TANF/SFA grant once the child-only means-test is applied, they may still qualify for medical assistance as described in WAC 388-408-0055 and WAC 388-505-0210.))~~

(4) For **cash assistance:**

(a) We compare your countable income to the payment standard in WAC 388-478-0020 and 388-478-0033 or, for child-only means-tested cases, to the payment standard amount in subsection (3) of this section.

(b) You are not eligible for benefits when your AU's countable income is equal to or greater than the payment standard plus any authorized additional requirements.

(c) Your benefit level is the payment standard and authorized additional requirements minus your AU's countable income.

(5) For **Basic Food**, if you meet all other eligibility requirements for the program under WAC 388-400-0040, we determine if you meet the income requirements for benefits and calculate your AU's monthly benefits as specified under Title 7 Part 273 of code of federal regulations for the supplemental nutrition assistance program (SNAP). The process is described in brief below:

(a) How we determine if your AU is income eligible for Basic Food:

(i) We compare your AU's total monthly income to the gross monthly income standard under WAC 388-478-0060. We don't use income that isn't counted under WAC 388-450-0015 as a part of your gross monthly income.

(ii) We then compare your AU's countable monthly income to the net income standard under WAC 388-478-0060.

(A) If your AU is categorically eligible for Basic Food under WAC 388-414-0001, your AU can have income over the gross or net income standard and still be eligible for benefits.

(B) If your AU includes a person who is sixty years of age or older or has a disability, your AU can have income over the gross income standard, but must have income under the net income standard to be eligible for benefits.

(C) **All other AUs** must have income at or below the gross and net income standards as required under WAC 388-478-0060 to be eligible for Basic Food.

(b) How we calculate your AU's monthly Basic Food benefits:

(i) We start with the maximum allotment for your AU under WAC 388-478-0060.

(ii) We then subtract thirty percent of your AU's countable income from the maximum allotment and round the benefit down to the next whole dollar to determine your monthly benefit.

(iii) If your AU is eligible for benefits and has one or two persons, your AU will receive at least the minimum allotment as described under WAC 388-412-0015, even if the monthly benefit we calculate is lower than the minimum allotment.

AMENDATORY SECTION (Amending WSR 12-10-042, filed 4/27/12, effective 6/1/12)

**WAC 388-450-0170 Does the department provide an earned income deduction as an incentive for persons who receive TANF/SFA to work?** This section applies to TANF/SFA, RCA((;)) and PWA((; and medical programs for children, pregnant women, and families except as specified under WAC 388-450-0210)).

(1) If a client works, the department only counts some of the income to determine eligibility and benefit level.

(2) We only count fifty percent of your monthly gross earned income. We do this to encourage you to work.

(3) If you pay for care before we approve your benefits, we subtract the amount you pay for those dependent children or incapacitated adults who get cash assistance with you.

(a) The amount we subtract is:

(i) Prorated according to the date you are eligible for benefits;

(ii) Cannot be more than your gross monthly income; and

(iii) Cannot exceed the following for each dependent child or incapacitated adult:

Dependent Care Maximum Deductions

Hours Worked Per Month	Child Two Years of Age & Under	Child Over Two Years of Age or Incapacitated Adult
0 - 40	\$ 50.00	\$ 43.75
41 - 80	\$ 100.00	\$ 87.50
81 - 120	\$ 150.00	\$ 131.25
121 or More	\$ 200.00	\$ 175.00

(b) In order to get this deduction:

(i) The person providing the care must be someone other than the parent or stepparent of the child or incapacitated adult; and

(ii) You must verify the expense.

AMENDATORY SECTION (Amending WSR 12-06-070, filed 3/6/12, effective 4/6/12)

**WAC 388-472-0005 What are my rights and responsibilities?** For the purposes of this chapter, "we" and "us" refer to the department and "you" refers to the applicant or recipient.

(1) If you apply for or get cash, a referral to the housing and essential needs(HEN) program, or food ~~((or medical))~~ assistance benefits you have the right to:

(a) Have your rights and responsibilities explained to you and given to you in writing;

(b) Have us explain the legal use of DSHS benefits to you;

(c) Be treated politely and fairly no matter what your race, color, political beliefs, national origin, religion, age, gender, disability or birthplace;

(d) Request benefits by giving us an application form using any method listed under WAC 388-406-0010. You can ask for and get a receipt when you give us an application or other documents;

(e) Have your application processed as soon as possible. Unless your application is delayed under WAC 388-406-0040, we process your application for benefits within thirty days, except:

(i) If you are eligible for expedited services under WAC 388-406-0015, you get food assistance within seven days. If we deny you expedited services, you have a right to ask that the decision be reviewed by the department within two working days from the date we denied your request for expedited services;

(ii) ~~((If you are pregnant and otherwise eligible, you get medical within fifteen working days;~~

~~((iii))) Aged, blind, or disabled (ABD) assistance, or ((alcohol or drug addiction treatment (ADATSA), or medical assistance)) referral to the housing and essential needs (HEN) program, may take up to forty-five days(~~;-and~~~~

~~(iv) ((iii) Medical assistance requiring a disability decision may take up to sixty days)).~~

(f) Be given at least ten days to give us information needed to determine your eligibility and be given more time if you ask for it. If we do not have the information needed to decide your eligibility, then we may deny your request for benefits;

(g) Have the information you give us kept private. We may share some facts with other agencies for efficient management of federal and state programs;

(h) Ask us not to collect child support ~~((€))~~ (which includes medical support, as defined in WAC 388-14A-1020) if you fear the noncustodial parent may harm you, your children, or the children in your care;

(i) Ask for extra money to help pay for temporary emergency shelter costs, such as an eviction or a utility shutoff, if you get TANF;

(j) Get a written notice, in most cases, at least ten days before we make changes to lower or stop your benefits;

(k) Ask for an administrative hearing if you disagree with a decision we make. You can also ask a supervisor or administrator to review our decision or action without affecting your right to a fair hearing;

(l) Have interpreter or translator services given to you at no cost and without delay;

(m) Refuse to speak to a fraud investigator. You do not have to let an investigator into your home. You may ask the investigator to come back at another time. Such a request will not affect your eligibility for benefits; and

(n) Get help from us to register to vote.

(2) If you get cash(~~(-)~~) or food(~~(-or medical))~~ assistance, you are responsible to:

(a) Tell us if you are ~~((pregnant, in need of immediate medical care,))~~ experiencing an emergency such as having no money for food, or facing an eviction so we can process your request for benefits as soon as possible;

(b) Report the following expenses so we can decide if you can get more food assistance:

(i) Shelter costs;

(ii) Child or dependent care costs;

(iii) Child support that is legally obligated;

(iv) Medical expenses; and

(v) Self-employment expenses.

(c) Report changes as required under WAC 388-418-0005 and 388-418-0007.

(d) Give us the information needed to determine eligibility;

(e) Give us proof of information when needed. If you have trouble getting proof, we help you get the proof or contact other persons or agencies for it;

(f) Cooperate in the collection of child support ~~((or medical support))~~ unless you fear the noncustodial parent may harm you, your children, or the children in your care;

(g) Apply for and get any benefits from other agencies or programs prior to getting cash assistance from us;

(h) Complete reports and reviews when asked;

(i) Look for, get, and keep a job or participate in other activities if required for cash or food assistance;

(j) ~~((Give your Provider One services card to your medical care provider;~~

~~((k)))~~ Cooperate with the quality control review process;

~~((H))~~ (k) Keep track of your EBT card for cash and food assistance and keep your personal identification number (PIN) secure. If you receive multiple replacement EBT cards, this may trigger an investigation to determine if you are trafficking benefits as described under WAC 388-412-0046 (2)(d); and

~~((m))~~ (l) Use your cash and food assistance benefits only as allowed under WAC 388-412-0046.

(3) If you are eligible for necessary supplemental accommodation (NSA) services under chapter 388-472 WAC, we help you comply with the requirements of this section.

**Reviser's note:** RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

**AMENDATORY SECTION** (Amending WSR 12-10-042, filed 4/27/12, effective 6/1/12)

**WAC 388-473-0010 What are ongoing additional requirements and how do I qualify?** "Ongoing additional requirement" means a need beyond essential food, clothing, and shelter needs and is necessary to help you continue living independently.

(1) We may authorize ongoing additional requirement benefits if you are active in one of the following programs:

(a) Temporary assistance for needy families (TANF), or tribal TANF;

(b) State family assistance (SFA);

- (c) Pregnant women assistance (PWA);
- (d) Refugee cash;
- (e) Aged, blind, or disabled (ABD) cash assistance; or
- (f) Supplemental security income (SSI).

(2) You apply for an ongoing additional requirement benefit by notifying staff who maintain your cash (~~or medical~~) assistance that you need additional help to live independently.

(3) We authorize ongoing additional requirement benefits only when we determine the item is essential to you. We make the decision based on proof you provide of:

- (a) The circumstances that create the need; and
- (b) How the need affects your health, safety and ability to continue to live independently.

(4) We authorize ongoing additional requirement benefits by increasing your monthly cash assistance benefit.

(5) We use the following review cycle table to decide when to review your need for the additional benefit(s).

REVIEW CYCLE	
Program	Frequency (Months)
TANF/RCA	6 Months
ABD	12 Months
SSI	24 Months
All	Any time need or circumstances are expected to change

(6) Monthly payment standards for ongoing additional requirements are described under WAC 388-478-0050.

**WSR 14-03-004**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 14-01—Filed January 3, 2014, 1:25 p.m., effective January 3, 2014, 1:25 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend recreational fishing rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-56-350 and 220-56-380.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, and 77.12.047.

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

Reasons for this Finding: Surveys at Belfair and Fort Flagler state parks indicate that the clam populations can support much longer seasons in 2014. At Point Whitney Lagoon, the clam population has decreased, requiring an earlier opening which will attract fewer harvesters. Oyster season should coincide with the clam season at Fort Flagler State Park. 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 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: January 3, 2014.

Philip Anderson  
 Director

NEW SECTION

**WAC 220-56-35000W Clams other than razor clams—Areas and seasons.** Notwithstanding the provisions of WAC 220-56-350, effective immediately until further notice, it is unlawful to take, dig for and possess clams, cockles, and mussels for personal use from the following public tidelands except during the open periods specified herein:

- (1) Belfair State Park: Open until further notice.
- (2) Fort Flagler State Park: Open through April 15, 2014.
- (3) Point Whitney Lagoon: Open through March 15, 2014.

NEW SECTION

**WAC 220-56-38000D Oysters—Areas and seasons.** Notwithstanding the provisions of WAC 220-56-380, effective immediately through April 15, 2014, it is permissible to take and possess oysters for personal use from Fort Flagler State Park.

**WSR 14-03-006**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 14-02—Filed January 3, 2014, 5:02 p.m., effective January 6, 2014]

Effective Date of Rule: January 6, 2014.

Purpose: Amend recreational fishing rules.

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

Statutory Authority for Adoption: RCW 77.04.020, 77.12.045, and 77.12.047.

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

notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The Marblemount and Whitehorse hatcheries have been unable to collect enough returning hatchery winter steelhead broodstock to meet egg take needs. Closure of the fisheries are needed to collect sufficient fish to meet egg take needs. 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: January 3, 2014.

Philip Anderson  
Director

#### NEW SECTION

**WAC 232-28-61900W Exceptions to statewide rules—Cascade and North Fork Stillaguamish rivers.** Notwithstanding the provisions of WAC 232-28-619, effective January 6 through January 31, 2014, it is unlawful to fish in the following waters:

(1) Cascade River - (Tributary of the Skagit River) from the Rockport-Cascade Road downstream to the mouth.

(2) North Fork Stillaguamish River - from the Swede Heaven Bridge downstream four river miles to the French Creek confluence.

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

#### REPEALER

The following section of the Washington Administrative Code is repealed effective February 1, 2014:

WAC 232-28-61900W Exceptions to statewide rules.

### WSR 14-03-012 EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 14-04—Filed January 7, 2014, 10:53 a.m., effective January 7, 2014, 10:53 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: To amend cougar hunting rules described in WAC 232-28-297.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-29700F; and amending WAC 232-28-297.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.04.055, 77.12.047, and 77.12.150.

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

Reasons for this Finding: This change closes specific cougar hunt areas that have met or exceeded the area harvest guideline. Immediate action is necessary to protect cougars from overharvest in hunt areas that have met or exceeded the area harvest guideline.

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: January 6, 2014.

Phil Anderson  
Director

#### NEW SECTION

**WAC 232-28-29700G 2012-2013, 2013-2014, and 2014-2015 Cougar hunting seasons and regulations.** Notwithstanding the provisions of WAC 232-28-297, effective immediately until further notice:

General cougar seasons in Game Management Units (GMUs) 105, 117, 149, 154, 157, 162, 163, 328, 329, 335, 336, 340, 342, 346, 382, 388, 560, 574 and 578 are closed.

Notwithstanding the provisions of WAC 232-28-297, effective January 8, 2014 until further notice:

General cougar seasons in Game Management Units (GMUs) 145, 166, 175, 178, 169, 172, 181, 186, 642, 648, 651, and 667 are closed.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232-28-29700F 2012-2013, 2013-2014, and 2014-2015 Cougar hunting seasons and regulations.

**WSR 14-03-014  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 14-03—Filed January 7, 2014, 11:23 a.m., effective January 9, 2014]

Effective Date of Rule: January 9, 2014.

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 77.04.012, 77.04.020, and 77.12.047.

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

Reasons for this Finding: The Kendall Hatchery has been unable to collect enough returning hatchery winter steelhead broodstock to meet egg take needs. Closure of the fishery is necessary to collect sufficient fish to meet egg take needs. 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: January 7, 2014.

Philip Anderson  
Director

NEW SECTION

**WAC 232-28-61900X Exceptions to statewide rules—Nooksack River.** Notwithstanding the provisions of WAC 232-28-619, effective January 9 through January 31, 2014, it is unlawful to fish in the following waters:

(1) The Nooksack River from the mouth to the confluence of the North and South Forks.

(2) The South Fork Nooksack from the mouth to Skookum Creek.

(3) The Middle Fork Nooksack from the mouth to city of Bellingham diversion dam.

(4) The North Fork from the mouth to Nooksack Falls.

REPEALER

The following section of the Washington Administrative Code is repealed effective February 1, 2014:

WAC 232-28-61900X Exceptions to statewide rules.

**WSR 14-03-024  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 14-05—Filed January 7, 2014, 4:59 p.m., effective January 7, 2014, 4:59 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-04000C and 220-52-04600S; and amending WAC 220-52-040 and 220-52-046.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, and 77.12.047.

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

Reasons for this Finding: Mandatory meat pick-out rate allowance for coastal crab will be achieved by the opening dates contained herein. The special management areas are listed in accordance with state/tribal management agreements. The stepped opening periods/areas will also provide for fair start provisions. 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: January 7, 2014.

Philip Anderson  
Director

#### NEW SECTION

**WAC 220-52-04000E Commercial crab fishery. Lawful and unlawful gear, methods and other unlawful acts.** (1) Notwithstanding the provisions of WAC 220-52-040, effective immediately until further notice, it is unlawful for any fisher or wholesale dealer or buyer to land or purchase Dungeness crab taken from Grays Harbor, Willapa Bay, the Columbia River, or Washington coastal or adjacent waters of the Pacific Ocean through February 19, 2014, from any vessel unless:

(a) A valid Washington crab vessel inspection certificate has been issued to the delivering vessel; and

(b) The vessel inspection certificate numbers are recorded on all shellfish tickets completed for coastal Dungeness crab landings through February 19, 2014.

(c) Vessel hold inspection certificates dated from December 15, 2013 to January 13, 2014 are only valid for the area south of 46°28.00.

(2) Notwithstanding the provisions of WAC 220-52-040, it is unlawful for a vessel not designated on a Dungeness crab coastal fishery license to transport or deploy more than 250 pots at any one time for deployment in the coastal crab fishery between Klipsan Beach (46°28.00) and the U.S./Canada Border.

(a) The primary or alternate operator of the crab pot gear named on the license associated with the gear must be on board the vessel when the gear is being deployed.

(b) Such a vessel may deploy crab pot gear only during the 64-hour period immediately preceding the season opening date and during the 48-hour period immediately following the season opening date.

(c) All other provisions of the permanent rule remain in effect.

#### NEW SECTION

**WAC 220-52-04600V Coastal crab seasons.** Notwithstanding the provisions of WAC 220-52-046, effective immediately until further notice, it is unlawful to fish for Dungeness crab in Washington coastal waters, the Pacific Ocean, Grays Harbor, Willapa Bay, or the Columbia River, except as provided for in this section.

(1) The area from Klipsan Beach (46°28.00) to the WA/OR border (46°15.00) and Willapa Bay is open.

(2) Temporary Pot limits in place in the area between Klipsan Beach (46°28.00) to the WA/OR border (46°15.00) and Willapa Bay are lifted and fishers may use their entire permanent pot limit starting at 8:00 am on January 12, 2014.

(3) For the purposes of this section, the waters of Willapa Bay are defined to include the marine waters east of a line connecting 46°44.76 N, 124°05.76 W and 46°38.93 N, 124°04.33 W.

(4) Licenses and vessels designated to those licenses that participate (as defined by WAC 220-52-036) in the coastal commercial Dungeness crab fishery in the waters from Point Arena, California, to Klipsan Beach, Washington,

(46°28.00), including Willapa Bay, before January 15, 2014, are prohibited from:

a. Fishing in the area between Klipsan Beach (46°28.00) and Oysterville (46°33.00) until 8:00 A.M., January 25, 2014.

b. Fishing in the area between Oysterville (46°33.00) and the U.S./Canada border until 8:00 A.M., February 19, 2014.

(5) Crab gear may be set in the area between Klipsan Beach (46°28.00) and the U.S./Canada Border, including Grays Harbor, beginning at 8:00 a.m. January 12, 2014.

(6) It is permissible to pull crab gear in the area between Klipsan Beach and the U.S./Canada Border, including Grays Harbor, beginning at 12:01 a.m. January 15, 2014.

(7) The Quinault primary special management area (PSMA) is closed to fishing for Dungeness crab until further notice. The PSMA includes the area shoreward of a line approximating the 27-fathom depth curve between Raft River (47°28.00) and Copalis River (47°08.00) according to the following coordinates:

(a) Northeast 47°28.00 N. Lat. 124°20.70 W. Lon.  
Corner (Raft River):

(b) Northwest 47°28.00 N. Lat. 124°34.00 W. Lon.  
Corner:

(c) Southwest 47°08.00 N. Lat. 124°25.50 W. Lon.  
Corner:

(d) Southeast 47°08.00 N. Lat. 124°11.20 W. Lon.  
Corner (Copalis River):

(8) The Quileute special management area (SMA) is closed to fishing for Dungeness crab until further notice. The SMA includes the area shoreward of a line approximating the 30-fathom depth curve between Destruction Island and Cape Johnson according to the following points:

(a) Northeast 47°58.00' N. Lat. 124°40.40' W. Lon.  
Corner (Cape Johnson):

(b) Northwest 47°58.00' N. Lat. 124°49.00' W. Lon.  
Corner:

(c) Southwest 47°40.50' N. Lat. 124°40.00' W. Lon.  
Corner:

(d) Southeast 47°40.50' N. Lat. 124°24.43' W. Lon.  
Corner  
(Destruction Island):

(9) The Makah special management area (SMA) is closed to fishing until further notice. The SMA includes the waters between 48°02.15 N. Lat. and 48°19.50 N. Lat. east of a line connecting those points and approximating the 25-fathom line according to the following coordinates:

- (a) Northeast Corner (Tatoosh Island)
- (b) Northwest Corner: 48°19.50 N. Lat. 124°50.45 W. Lon.
- (c) Southwest Corner: 48°02.15 N. Lat. 124°50.45 W. Lon.
- (d) Southeast Corner: 48°02.15 N. Lat. 124°41.00 W. Lon.

(10) All other provisions of the permanent rule remain in effect.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 220-52-04000C Commercial crab fishery. Lawful and unlawful gear, methods and other unlawful acts. (13-298)
- WAC 220-52-04600S Coastal crab seasons (13-298)

**WSR 14-03-042**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 14-06—Filed January 8, 2014, 4:50 p.m., effective January 9, 2014, 7:00 a.m.]

Effective Date of Rule: January 9, 2014, 7:00 a.m.

Purpose: Amend recreational fishing rules.

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

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, and 77.12.047.

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

Reasons for this Finding: This section of Tokul Creek is closed in the permanent regulations until January 15 to allow for winter steelhead broodstock collection at the Tokul Creek Hatchery. The Tokul Creek Hatchery facility has now met egg take goals for winter steelhead allowing for expanded fishing opportunity in Tokul Creek. 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: January 8, 2014.

Phillip Anderson  
Director

#### NEW SECTION

**WAC 232-28-61900Y Exceptions to statewide rules—Tokul Creek.** Notwithstanding the provisions of WAC 232-28-619, effective 7:00 a.m. January 9 through 5:00 p.m. January 14, 2014, it is permissible to fish in waters of Tokul Creek from the Fish Hatchery Road Bridge upstream to the posted cable boundary marker below the hatchery intake. Unless otherwise amended, all permanent rules remain in effect.

#### REPEALER

The following section of the Washington Administrative Code is repealed effective 7:00 a.m. January 15, 2014:

WAC 232-28-61900Y Exceptions to statewide rules—Tokul Creek.

**WSR 14-03-052**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 14-08—Filed January 10, 2014, 5:17 p.m., effective January 10, 2014, 5:17 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend commercial fishing rules.

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

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, and 77.12.047.

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

Reasons for this Finding: The period allowing vessels not designated on a Dungeness crab coastal fishery license to transport or deploy up to two hundred fifty pots is extended to provide for a safe and orderly fishery in light of extreme ocean conditions during the preseason gear setting period. 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: January 10, 2014.

Philip Anderson  
Director

#### NEW SECTION

**WAC 220-52-04000F Commercial crab fishery. Lawful and unlawful gear, methods and other unlawful acts.** (1) Notwithstanding the provisions of WAC 220-52-040, effective immediately until further notice, it is unlawful for any fisher or wholesale dealer or buyer to land or purchase Dungeness crab taken from Grays Harbor, Willapa Bay, the Columbia River, or Washington coastal or adjacent waters of the Pacific Ocean through February 19, 2014, from any vessel unless:

(a) A valid Washington crab vessel inspection certificate has been issued to the delivering vessel.

(b) Vessel hold inspection certificates dated from December 15, 2013 to January 13, 2014 are only valid for the area south of 46°28.00.

(c) The vessel inspection certificate numbers are recorded on all shellfish tickets completed for coastal Dungeness crab landings through February 19, 2014.

(2) Notwithstanding the provisions of WAC 220-52-040, it is permissible for a vessel not designated on a Dungeness crab coastal fishery license to transport or deploy up to 250 pots at any one time for deployment in the coastal crab fishery between Klipsan Beach (46°28.00) and the U.S./Canada Border. The primary or alternate operator of the crab pot gear named on the license associated with the gear must be on board the vessel when the gear is being deployed. All other provisions of the permanent rule remain in effect.

a. Such a vessel may deploy crab pot gear only during the 64-hour period immediately preceding the season opening date and until 11:59 p.m. January 20, 2014.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-52-04000E Commercial crab fishery. Lawful and unlawful gear, methods and other unlawful acts. (14-05)

**WSR 14-03-053**  
**EMERGENCY RULES**  
**HEALTH CARE AUTHORITY**  
(Medicaid Program)

[Filed January 10, 2014, 5:28 p.m., effective January 10, 2014, 5:28 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: **This proposal replaces the proposal filed on December 30, 2013, under WSR 14-02-078. Under proposed WAC 182-531-1400(6), the agency is adding psychologists to the exception of the minimum of two years' experience. No other changes have been made.**

These rule revisions are necessary to: (1) Add new section for coverage of alcohol and substance misuse counseling through screening, brief intervention, and referral to treatment (SBIRT); (2) new section for coverage for tobacco cessation counseling for pregnant clients; (3) add habilitative services under covered services; (4) remove oral health care services for emergency conditions for clients twenty-one and older from the covered section as a result of adult dental benefit restoration in chapter 182-535 WAC, effective January 1, 2014; (5) remove routine or nonemergency medical and surgical dental services for clients twenty-one years of age and older from the noncovered section; (6) updated who can bill for physician-related and health care professional services; (7) added naturopathic physicians to list of who can bill for osteopathic manipulative treatment; (8) revised WAC 182-531-1400 Psychiatric physician-related services and other professional mental health services, to remove mental health parity; and (9) add new section for coverage of telemedicine.

Citation of Existing Rules Affected by this Order: Repealing WAC 182-531-1025; and amending WAC 182-531-0100, 182-531-0150, 182-531-0250, 182-531-0800, 182-531-1050, and 182-531-1400.

Statutory Authority for Adoption: RCW 41.05.021; 3ESSB 5034 (section 213, chapter 4, Laws of 2013).

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 years 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: These emergency rules are necessary to meet the requirements in 3ESSB 5034, section 213, chapter 4, Laws of 2013, 63rd legislature, effective January 1, 2014.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 2, Amended 5, 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 1, Repealed 1.

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 3, Amended 6, Repealed 1.

Date Adopted: January 10, 2014.

Kevin M. Sullivan  
Rules Coordinator

**AMENDATORY SECTION** (Amending WSR 13-18-035, filed 8/28/13, effective 9/28/13)

**WAC 182-531-0100 Scope of coverage for physician-related and health care professional services—General and administrative.** (1) The medicaid agency covers health care services, equipment, and supplies listed in this chapter, according to agency rules and subject to the limitations and requirements in this chapter, when they are:

(a) Within the scope of an eligible client's ~~((medical assistance))~~ Washington apple health (WAH) program. Refer to WAC 182-501-0060 and 182-501-0065; and

(b) Medically necessary as defined in WAC 182-500-0070.

(2) The agency evaluates a request for a service that is in a covered category under the provisions of WAC ~~((182-501-0065))~~ 182-501-0165.

(3) The agency evaluates requests for covered services that are subject to limitations or other restrictions and approves such services beyond those limitations or restrictions as described in WAC 182-501-0169.

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

(a) Alcohol and substance misuse counseling (refer to WAC 182-531-1710);

~~((b))~~ (b) Allergen immunotherapy services;

~~((c))~~ (c) Anesthesia services;

~~((d))~~ (d) Dialysis and end stage renal disease services (refer to chapter 182-540 WAC);

~~((e))~~ (e) Emergency physician services;

~~((f))~~ (f) ENT (ear, nose, and throat) related services;

~~((g))~~ (g) Early and periodic screening, diagnosis, and treatment (EPSDT) services (refer to WAC 182-534-0100);

~~((h))~~ (h) Habilitative services (refer to WAC 182-545-400);

(i) Reproductive health services (refer to chapter 182-532 WAC);

~~((j))~~ (j) Hospital inpatient services (refer to chapter 182-550 WAC);

~~((k))~~ (k) Maternity care, delivery, and newborn care services (refer to chapter 182-533 WAC);

~~((l))~~ (l) Office visits;

~~((m))~~ (m) Vision-related services (refer to chapter 182-544 WAC for vision hardware for clients twenty years of age and younger);

~~((n))~~ (n) Osteopathic treatment services;

~~((o))~~ (o) Pathology and laboratory services;

~~((p))~~ (p) Physiatry and other rehabilitation services (refer to chapter 182-550 WAC);

~~((q))~~ (q) Foot care and podiatry services (refer to WAC 182-531-1300);

~~((r))~~ (r) Primary care services;

~~((s))~~ (s) Psychiatric services ~~(, provided by a psychiatrist)~~;

~~((t))~~ (t) Psychotherapy services ~~((for children as provided in), WAC 182-531-1400;~~

~~((u))~~ (u) Pulmonary and respiratory services;

~~((v))~~ (v) Radiology services;

~~((w))~~ (w) Surgical services;

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

~~((y))~~ (y) ~~Oral health care services for emergency conditions for clients twenty-one years of age and older, except for clients of the division of developmental disabilities (refer to WAC 182-531-1025); and~~

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

(y) Other outpatient physician services.

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

(a) A screening exam covered by the EPSDT program (see WAC 182-534-0100);

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

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

(6) By providing covered services to a client eligible for a medical assistance program, a provider who meets the requirements in WAC 182-502-0005(3) accepts the agency's rules and fees which includes federal and state law and regulations, billing instructions, and ~~((agency issuances))~~ provider notices.

**AMENDATORY SECTION** (Amending WSR 13-16-008, filed 7/25/13, effective 9/1/13)

**WAC 182-531-0150 Noncovered physician-related and health care professional services—General and administrative.** (1) Except as provided in WAC 182-531-0100 and subsection (2) of this section, the medicaid agency does not cover the following:

(a) Acupuncture, massage, or massage therapy;

(b) Any service specifically excluded by statute;

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

(d) Hysterectomy performed solely for the purpose of sterilization;

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

(f) Experimental or investigational services, procedures, treatments, devices, drugs, or application of associated services, except when the individual factors of an individual client's condition justify a determination of medical necessity under WAC 182-501-0165;

(g) Hair transplantation;

(h) Marital counseling or sex therapy;

(i) More costly services when the medicaid agency determines that less costly, equally effective services are available;

(j) Vision-related services as follows:

(i) Services for cosmetic purposes only;

(ii) Group vision screening for eyeglasses; and

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

(k) Payment for body parts, including organs, tissues, bones and blood, except as allowed in WAC 182-531-1750;

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

(m) Physical examinations or routine checkups, except as provided in WAC 182-531-0100;

(n) Foot care, unless the client meets criteria and conditions outlined in WAC 182-531-1300, as follows:

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

(A) Treatment of tinea pedis;

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

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

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

(A) Flat feet;

(B) High arches (cavus foot);

(C) Onychomycosis;

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

(E) Hallux malleus;

(F) Equinus deformity of foot, acquired;

(G) Cavovarus deformity, acquired;

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

(I) Hallux limitus.

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

(o) Except as provided in WAC 182-531-1600, weight reduction and control services, procedures, treatments, devices, drugs, products, gym memberships, equipment for the purpose of weight reduction, or the application of associated services(-);

(p) Nonmedical equipment;

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

(r) Bilateral cochlear implantation(~~=~~and

~~(s) Routine or nonemergency medical and surgical dental services provided by a doctor of dental medicine or dental surgery for clients twenty one years of age and older, except for clients of the developmental disabilities administration in the department of social and health services).~~

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

(a) The EPSDT program;

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

(c) A waiver program.

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

**WAC 182-531-0250 Who can provide and bill for physician-related and health care professional services.**

~~((1) The following enrolled providers are eligible to provide and bill for physician-related and health care professional services which they provide to eligible clients:~~

~~(a) Advanced registered nurse practitioners (ARNP);~~

~~(b) Federally qualified health centers (FQHCs);~~

~~(c) Health departments;~~

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

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

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

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

~~(h) Licensed radiology facilities;~~

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

~~(j) Medicare-certified ambulatory surgery centers;~~

~~(k) Medicare-certified rural health clinics;~~

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

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

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

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

~~(ii) Medicine and osteopathy;~~

~~(iii) Nursing;~~

~~(iv) Optometry; or~~

~~(v) Podiatry.)) (1) The health care professionals and health care entities listed in WAC 182-502-0002 and enrolled with the agency can bill for physician-related and health care professional services that are within their scope of practice.~~

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

~~(a) Acupuncturists;~~

~~(b) Christian Science practitioners or theological healers;~~

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

~~(d) Herbalists;~~

~~(e) Homeopaths;~~

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

~~(g) Naturopaths;~~

~~(h) Sanipractors;~~

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

~~(i) Are employed by an FQHC;~~

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

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

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

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

~~(i) Licensed to provide; and~~

~~(ii) Trained to provide)) health care professionals listed in WAC 182-502-0003.~~

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

(a) The EPSDT program;

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

(c) A waiver program.

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

**WAC 182-531-0800 Laboratory and pathology physician-related services.** (1) The ((department)) medicaid agency reimburses providers for laboratory services only when:

(a) The provider is certified according to Title XVII of the Social Security Act (medicare), if required; and

(b) The provider has a clinical laboratory improvement amendment (CLIA) certificate and identification number.

(2) The ((department)) agency includes a handling, packaging, and mailing fee in the reimbursement for lab tests and does not reimburse these separately.

(3) The ((department)) agency reimburses only one blood drawing fee per client, per day. The ((department)) agency allows additional reimbursement for an independent laboratory when it goes to a nursing facility or a private home to obtain a specimen.

(4) The ((department)) agency reimburses only one catheterization for collection of a urine specimen per client, per day.

(5) The ((department)) agency reimburses automated multichannel tests done alone or as a group, as follows:

(a) The provider must bill a panel if all individual tests are performed. If not all tests are performed, the provider must bill individual tests.

(b) If the provider bills one automated multichannel test, the ((department)) agency reimburses the test at the individual procedure code rate, or the internal code maximum allowable fee, whichever is lower.

(c) Tests may be performed in a facility that owns or leases automated multichannel testing equipment. The facility may be any of the following:

(i) A clinic;

(ii) A hospital laboratory;

(iii) An independent laboratory; or

(iv) A physician's office.

(6) The ((department)) agency allows a STAT fee in addition to the maximum allowable fee when a laboratory procedure is performed STAT.

(a) The ((department)) agency reimburses STAT charges for only those procedures identified by the clinical laboratory advisory council as appropriate to be performed STAT.

(b) Tests generated in the emergency room do not automatically justify a STAT order, the physician must specifically order the tests as STAT.

(c) Refer to the fee schedule for a list of STAT procedures.

(7) The ((department)) agency reimburses for drug screen charges only when medically necessary and when ordered by a physician as part of a total medical evaluation.

(8) The ((department)) agency does not reimburse for drug screens for clients in the division of alcohol and substance abuse (DASA)-contracted methadone treatment programs. These are reimbursed through a contract issued by DASA.

(9) The ((department)) agency does not cover for drug screens to monitor ((any of the following:

~~(a)) for program compliance in either a residential or outpatient drug or alcohol treatment program(;~~

~~(b) Drug or alcohol abuse by a client when the screen is performed by a provider in private practice setting; or~~

~~(c) Suspected drug use by clients in a residential setting, such as a group home)).~~

(10) The ((department)) agency may require a drug or alcohol screen in order to determine a client's suitability for a specific test.

(11) An independent laboratory must bill the ((department)) agency directly. The ((department)) agency does not reimburse a medical practitioner for services referred to or performed by an independent laboratory.

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

**WAC 182-531-1050 Osteopathic manipulative treatment.** (1) The ((department reimburses)) medicaid agency pays for osteopathic manipulative therapy (OMT) only when ((OMT is));

(a) Provided by an osteopathic physician licensed under chapter 18.71 RCW(;

~~(2) The department reimburses OMT only when the provider bills)) or naturopathic physicians licensed under chapter 246-836 WAC; and~~

(b) Billed using the appropriate CPT codes that involve the number of body regions involved.

~~((3)) (2) The ((department)) agency allows an osteopathic physician or naturopathic physician to bill the ((department)) agency for an evaluation and management~~

(E&M) service in addition to the OMT when one of the following apply:

(a) The physician diagnoses the condition requiring manipulative therapy and provides it during the same visit;

(b) The existing related diagnosis or condition fails to respond to manipulative therapy or the condition significantly changes or intensifies, requiring E&M services beyond those included in the manipulation codes; or

(c) The physician treats the client during the same encounter for an unrelated condition that does not require manipulative therapy.

~~((4))~~ (3) The ~~((department))~~ agency limits ~~((reimbursement))~~ payment for manipulations to ten per client, per calendar year. ~~((Reimbursement))~~ Payment for each manipulation includes a brief evaluation as well as the manipulation.

~~((5))~~ (4) The ~~((department))~~ agency does not ~~((reimburse))~~ pay for physical therapy services performed by osteopathic physicians or naturopathic physicians.

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

**WAC 182-531-1400 Psychiatric physician-related services and other professional mental health services.**

~~((1))~~ The mental health services covered in the medical benefits described in this section are separate from the mental health services covered by the mental health managed care system administered under the authority of the mental health division pursuant to chapter 388-865 WAC. The department covers outpatient mental health services with the following limitations:

(a) For clients eighteen years of age and younger:

(i) The department pays for only one hour per day, per client, up to a total of twenty hours per calendar year, including the psychiatric diagnostic evaluation and family therapy visits that are medically necessary to the client's treatment;

(ii) The department limits medication management services to one per day, but this service may be billed by psychiatrists and psychiatric advanced registered nurse practitioners (ARNP) in conjunction with the diagnostic interview examination, or when a psychiatrist or psychiatric ARNP performs medication management services on the same day as a different licensed mental health practitioner renders another billable mental health service; and

(iii) The mental health services must be provided in an outpatient setting by a psychiatrist, psychologist, psychiatric ARNP, social worker, marriage and family therapist, or mental health counselor who must:

(A) Be licensed, in good standing and without restriction, by the department of health under their appropriate licensure; and

(B) Have a minimum of two years experience in the diagnosis and treatment of clients eighteen years of age and younger and their families, including a minimum one year under the supervision of a mental health professional trained in child and family mental health. A licensed psychiatrist may provide these services and bill the department without meeting this requirement.

(b) For clients nineteen years of age and older:

(i) The department pays for only one hour per day, per client, up to a total of twelve hours per calendar year, including family or group therapy visits;

(ii) The department limits medication management services to one per day, but this service may be billed by psychiatrists and psychiatric ARNPs in conjunction with the diagnostic interview examination, or when a psychiatrist or psychiatric ARNP performs medication management services on the same day as a different licensed mental health practitioner renders another billable mental health service; and

(iii) The mental health services must be provided by a psychiatrist in an outpatient setting.

(2) The department covers inpatient mental health services with the following limitations:

(a) Must be provided by a psychiatrist;

(b) Only the total time spent on direct psychiatric client care during each visit; and

(c) One hospital call per day for direct psychiatric client care, including making rounds. Making rounds is considered direct client care and includes any one of the following:

(i) Individual psychotherapy up to one hour;

(ii) Family/group therapy; or

(iii) Electroconvulsive therapy.

(3) With the exception of medication management, the department covers other mental health services described in this section with the limitation of one per client, per day regardless of location or provider type.

(4) The department pays psychiatrists when the client receives a medical physical examination in the hospital in addition to a psychiatric diagnostic or evaluation interview examination.

(5) The department covers psychiatric diagnostic interview evaluations at the limit of one per provider, per calendar year unless a significant change in the client's circumstances renders an additional evaluation medically necessary and is authorized by the department.

(6) The department does not cover psychiatric sleep therapy.

(7) The department covers electroconvulsive therapy and narcoanalysis only when performed by a psychiatrist.

(8) The department pays psychiatric ARNPs only for mental health medication management and diagnostic interview evaluations provided to clients nineteen years of age and older.

(9) The department covers interactive, face-to-face visits at the limit of one per client, per day, in an outpatient setting. Interactive, face-to-face visits may be billed only for clients age twenty and younger.

(10) The client or licensed health care provider may request a limitation extension only when the client exceeds the total hour limit described in subsection (1) of this section, and for no other limitation of service in this section. The department will evaluate these requests in accordance with WAC 388-501-0169.

(11) DSHS providers must comply with chapter 388-865 WAC for hospital inpatient psychiatric admissions, and must follow rules adopted by the mental health division or the appropriate regional support network (RSN).

(12) Accepting payment under more than one contract or agreement with the department for the same service for the

same client constitutes duplication of payment. If a client is provided services under multiple contracts or agreements, each provider must maintain documentation identifying the type of service provided and the contract or agreement under which it is provided to ensure it is not a duplication of service.) (1) The mental health services covered in this section are different from the mental health services covered under chapter 388-865 WAC, community mental health and involuntary treatment programs administered by the department of social and health services' division of behavioral health and recovery.

(2) The medicaid agency covers professional inpatient and outpatient mental health services not covered under chapter 388-865 WAC according to this section.

### **Inpatient mental health services**

(3) For hospital inpatient psychiatric admissions, providers must comply with the department of social and health services (DSHS) rules in chapter 388-865 WAC, Community mental health and involuntary treatment programs.

(4) The agency covers professional inpatient mental health services as follows:

(a) When provided by a psychiatrist, psychiatric advanced registered nurse practitioner (ARNP), or psychiatric mental health nurse practitioner-board certified (PMHNP-BC);

(b) One hospital call per day for direct psychiatric client care. The agency pays only for the total time spent on direct psychiatric client care during each visit, including services rendered when making rounds. The agency considers services rendered during rounds to be direct client care services and may include, but are not limited to:

(i) Individual psychotherapy up to one hour;

(ii) Family/group therapy; or

(iii) Electroconvulsive therapy.

(c) One electroconvulsive therapy or narcosynthesis per client, per day when performed by a psychiatrist only.

### **Outpatient mental health services**

(5) The agency covers outpatient mental health services when provided by the following licensed health care professionals in good standing with the agency and who are without restriction by the department of health under their appropriate licensure:

(a) Psychiatrist;

(b) Psychologists;

(c) Psychiatric advanced registered nurse practitioner (ARNP) or psychiatric mental health nurse practitioner-board certified (PMHNP-BC);

(d) Mental health counselors;

(e) Independent clinical social workers;

(f) Advanced social workers; or

(g) Marriage and family therapists.

(6) With the exception of licensed psychiatrists and psychologists, qualified health care professionals who treat clients eighteen years of age and younger must have a minimum of two years' experience in the diagnosis and treatment of clients eighteen years of age and younger, including one year of supervision by a mental health professional trained in child and family mental health.

(7) The agency does not limit the total number of outpatient mental health visits the licensed health care professional can provide.

(8) The agency covers outpatient mental health services with the following limitations, subject to the provision of WAC 182-501-0169:

(a) One psychiatric diagnostic evaluation, per provider, per client, per calendar year, unless significant change in the client's circumstances renders an additional evaluation medically necessary and is authorized by the agency.

(b) One individual or family/group psychotherapy visit, with or without the client, per day, per client, per calendar year.

(c) One psychiatric medication management service, per client, per day, in an outpatient setting when performed by one of the following:

(i) Psychiatrist;

(ii) Psychiatric advanced registered nurse practitioner (ARNP); or

(iii) Psychiatric mental health nurse practitioner-board certified (PMHNP-BC).

(9) Clients enrolled in the alternative benefits plan (defined in WAC 182-500-0010) are eligible for outpatient mental health services when used as a habilitative service to treat a qualifying condition in accordance with WAC 182-545-400.

(10) The agency requires the appropriate place of service for mental health services. If the client meets the regional support network (RSN) access to care standards, or subsequent standards, the client must be referred to the RSN for an assessment and possible treatment.

(11) If during treatment there is an indication that the client meets the RSN access to care standards, an assessment must be conducted. This assessment may be completed by either a health care professional listed in subsection (5) of this section or a representative of the RSN.

(12) To support continuity of care, the client may continue under the care of the provider until an RSN can receive the client.

(13) After the client completes fifteen mental health visits under this benefit, the provider must submit to the agency a written attestation that the client has been assessed for meeting access to care standards.

(14) To be paid for providing mental health services, providers must bill the agency using the agency's current published billing instructions.

(15) The agency considers acceptance of multiple payments for the same client for the same service on the same date to be a duplication of payment. Duplicative payments may be recouped by the agency under WAC 182-502-0230. To prevent duplicative payments, providers must keep documentation identifying the type of service provided and the contract or agreement under which it is provided.

### **NEW SECTION**

**WAC 182-531-1710 Alcohol and substance misuse counseling.** (1) The medicaid agency covers alcohol and substance misuse counseling through screening, brief intervention, and referral to treatment (SBIRT) services when deliv-

ered by, or under the supervision of, a qualified licensed physician or other qualified licensed health care professional within the scope of their practice.

(2) SBIRT is a comprehensive, evidence-based public health practice designed to identify people who are at risk for or have some level of substance use disorder which can lead to illness, injury, or other long-term morbidity or mortality. SBIRT services are provided in a wide variety of medical and community health care settings: Primary care centers, hospital emergency rooms, and trauma centers.

(3) The following health care professionals are eligible to become qualified SBIRT providers to deliver SBIRT services or supervise qualified staff to deliver SBIRT services:

(a) Advanced registered nurse practitioners, in accordance with chapters 18.79 RCW and 246-840 WAC;

(b) Chemical dependency professionals, in accordance with chapters 18.205 RCW and 246-811 WAC;

(c) Licensed practical nurse, in accordance with chapters 18.79 RCW and 246-840 WAC;

(d) Mental health counselor, in accordance with chapters 18.225 RCW and 246-809 WAC;

(e) Marriage and family therapist, in accordance with chapters 18.225 RCW and 246-809 WAC;

(f) Independent and advanced social worker, in accordance with chapters 18.225 RCW and 246-809 WAC;

(g) Physician, in accordance with chapters 18.71 RCW and 246-919 WAC;

(h) Physician assistant, in accordance with chapters 18.71A RCW and 246-918 WAC;

(i) Psychologist, in accordance with chapters 18.83 RCW and 246-924 WAC;

(j) Registered nurse, in accordance with chapters 18.79 RCW and 246-840 WAC;

(k) Dentist, in accordance with chapters 18.260 and 246-817; and

(l) Dental hygienists, in accordance with chapters 18.29 and 246-815 WAC.

(4) To qualify as a qualified SBIRT provider, eligible licensed health care professionals must:

(a) Complete a minimum of four hours of SBIRT training; and

(b) Mail or fax the SBIRT training certificate or other proof of training completion to the agency.

(5) The agency pays for SBIRT as follows:

(a) Screenings, which are included in the reimbursement for the evaluation and management code billed;

(b) Brief interventions, limited to four sessions per client, per provider, per calendar year; and

(c) When billed by one of the following qualified SBIRT health care professionals:

(i) Advanced registered nurse practitioners;

(ii) Mental health counselors;

(iii) Marriage and family therapists;

(iv) Independent and advanced social workers;

(v) Physicians;

(vi) Psychologists;

(vii) Dentists; and

(viii) Dental hygienists.

(6) To be paid for providing alcohol and substance misuse counseling through SBIRT, providers must bill the

agency using the agency's current published billing instructions.

#### NEW SECTION

##### **WAC 182-531-1720 Tobacco cessation counseling.**

(1) The medicaid agency covers tobacco cessation services when delivered by qualified providers through the agency contracted quitline or face-to-face office visits for tobacco cessation for pregnant clients.

(2) The agency pays for face-to-face office visits for tobacco cessation counseling for pregnant clients with the following limits:

(a) When provided by physicians, advanced registered nurse practitioners (ARNPs), physician assistants-certified (PA-Cs), naturopathic physicians, and dentists;

(b) Two cessation counseling attempts (or up to eight sessions) are allowed every twelve months. An attempt is defined as up to four cessation counseling sessions.

(3) To be paid for tobacco cessation counseling through SBIRT, providers must bill the agency using the agency's current published billing instructions.

#### NEW SECTION

**WAC 182-531-1730 Telemedicine.** (1) Telemedicine is when a health care practitioner uses HIPAA-compliant, interactive, real-time audio and video telecommunications (including web-based applications) to deliver covered services that are within his or her scope of practice to a client at a site other than the site where the provider is located. Using telemedicine enables the health care practitioner and the client to interact in real-time communication as if they were having a face-to-face session. Telemedicine allows clients, particularly those in medically underserved areas of the state, improved access to essential health care services that may not otherwise be available without traveling long distances.

(2) The medicaid agency does not cover the following services as telemedicine:

(a) E-mail, telephone, and facsimile transmissions;

(b) Installation or maintenance of any telecommunication devices or systems; and

(c) Purchase, rental, or repair of telemedicine equipment.

(3) **Originating site.** An originating site is the physical location of the client at the time the health care service is provided. The agency pays the originating site a facility fee per completed transmission. Approved originating sites are:

(a) Clinics;

(b) Community settings;

(c) Homes;

(d) Hospitals – Inpatient and outpatient; and

(e) Offices.

(4) **Distance site.** A distant site is the physical location of the health care professional providing the health care service.

(5) Program-specific policies regarding the coverage of telemedicine can be found in the agency's billing instructions.

(6) To be paid for providing health care services via telemedicine, providers must bill the agency using the agency's current published billing instructions.

(7) If a health care professional performs a separately identifiable service for the client on the same day as the telemedicine service, documentation for both services must be clearly and separately identified in the client's medical record.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 182-531-1025 Oral health care services provided by dentists for clients age twenty-one and older—General.

**WSR 14-03-062**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 14-07—Filed January 13, 2014, 3:02 p.m., effective January 15, 2014, 12:01 p.m.]

Effective Date of Rule: January 15, 2014, 12:01 p.m.

Purpose: Amend recreational fishing rules.

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

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, and 77.12.047.

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

Reasons for this Finding: Survey results show that adequate razor clams are available for harvest in Razor Clam Areas 1, 3, and 5. Washington department of health has certified clams from these beaches are 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: January 13, 2014.

Joe Stohr  
for Philip Anderson  
Director

#### NEW SECTION

**WAC 220-56-36000G 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, 3, 4, or 5, except as provided in this section:

(1) Effective 12:01 p.m. January 17, 2014 through 11:59 p.m. January 18, 2014, 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. January 15, 2014 through 11:59 p.m. January 18, 2014, razor clam digging is allowed in Razor Clam Area 3. Digging is allowed from 12:01 p.m. to 11:59 p.m. each day only.

(3) Effective 12:01 p.m. January 17, 2014 through 11:59 p.m. January 18, 2014, razor clam digging is allowed in Razor Clam Area 5. Digging is allowed from 12:01 p.m. to 11:59 p.m. each day only.

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

#### REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. January 19, 2014:

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

**WSR 14-03-082**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 14-09—Filed January 16, 2014, 12:13 p.m., effective January 16, 2014, 12:13 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: To amend cougar hunting rules described in WAC 232-28-297.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-29700G; and amending WAC 232-28-297.

Repealing WAC 232-28-29700G; and amending WAC 232-28-297.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.04.055, 77.12.047, and 77.12.150.

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

Reasons for this Finding: This change closes specific cougar hunt areas that have met or exceeded the area harvest guideline. Immediate action is necessary to protect cougars from overharvest in hunt areas that have met or exceeded the area harvest guideline.

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: January 15, 2014.

Phil Anderson  
Director

#### NEW SECTION

**WAC 232-28-29700H 2012-2013, 2013-2014, and 2014-2015 Cougar hunting seasons and regulations.** Notwithstanding the provisions of WAC 232-28-297, effective immediately until further notice: General cougar seasons in Game Management Units (GMUs) 105, 117, 145, 149, 154, 157, 162, 163, 166, 175, 178, 169, 172, 181, 186, 328, 329, 335, 336, 340, 342, 346, 382, 388, 516, 560, 574, 578, 642, 648, 651, and 667 are closed.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232-28-29700G 2012-2013, 2013-2014, and 2014-2015 Cougar hunting seasons and regulations.

**WSR 14-03-095  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 14-10—Filed January 17, 2014, 9:21 a.m., effective January 17, 2014, 9:21 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-07300G; and amending WAC 220-52-073.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, and 77.12.047.

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

Reasons for this Finding: Quota shares of green sea urchins in Districts 1 and 2 have been fully utilized, and the districts must be closed to prevent overharvest. 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: January 17, 2014.

Philip Anderson  
Director

#### NEW SECTION

**WAC 220-52-07300H Sea urchins** Notwithstanding the provisions of WAC 220-52-073, effective January 19, 2014, until further notice, it is unlawful to take or possess sea urchins taken for commercial purposes except as provided for in this section:

(1) Red sea urchins: Sea Urchin District 4 is open seven days-per-week. It is unlawful to harvest red sea urchins smaller than 3.25 inches or larger than 5.0 inches (size is largest test diameter exclusive of spines).

(2) Green sea urchins: Sea Urchin Districts 3, 4, 6, and 7 are open seven days-per-week. It is unlawful to harvest green sea urchins smaller than 2.25 inches (size is largest test diameter exclusive of spines).

(3) It is unlawful to dive for any purpose from a commercially licensed sea urchin fishing vessel in Sea Urchin District 3 when the vessel has red sea urchins on-board.

#### REPEALER

The following section of the Washington Administrative Code is repealed effective January 19, 2014:

WAC 220-52-07300G Sea urchins. (13-234)