

**WSR 14-07-005**  
**PERMANENT RULES**  
**SUPERINTENDENT OF**  
**PUBLIC INSTRUCTION**

[Filed March 6, 2014, 11:49 a.m., effective April 6, 2014]

Effective Date of Rule: Thirty-one days after filing.

Purpose: These rule revisions clarify that credits and clock hours that satisfy the continuing education requirements for educational staff associates' state professional health license are not subject to the requirement of a minimum of three continuing education credit hours.

Citation of Existing Rules Affected by this Order: Amending WAC 392-121-257.

Statutory Authority for Adoption: RCW 28A.150.290(1) and 28A.415.023.

Adopted under notice filed as WSR 14-03-094 on January 16, 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Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: February 26, 2014.

Randy Dorn  
State Superintendent  
of Public Instruction

AMENDATORY SECTION (Amending WSR 06-19-045, filed 9/15/06, effective 10/16/06)

**WAC 392-121-257 Definition—In-service credits.** As used in this chapter, "in-service credits" means credits determined as follows:

- (1) Credits are earned:
  - (a) After August 31, 1987; and
  - (b) After the awarding or conferring of the employee's first bachelor's degree.
- (2) Credits are earned on or before October 1 of the year for which allocations are being calculated pursuant to this chapter.
- (3) Credits are earned in either:
  - (a) A locally approved in-service training program which means a program approved by a school district board of directors, and meeting standards adopted by the professional educator standards board pursuant to the standards in WAC 181-85-200 and the development of which has been participated in by an in-service training task force whose

membership is the same as provided under RCW 28A.415.-040; or

(b) A state approved continuing education program offered by an education agency approved to provide in-service for the purposes of continuing education as provided for under rules adopted by the professional educator standards board pursuant to chapter 181-85 WAC: Provided, That continuing education credit for educational staff associates pursuant to WAC 181-85-077 shall not be subject to the requirement in WAC 181-85-030(6) of a minimum of three continuing education credit hours.

(4) Credits are not earned for the purpose of satisfying the requirements of the employee's next highest degree.

(5) Credits earned after September 1, 1995, must satisfy the additional requirements of WAC 392-121-262.

(6) Credits are not counted as academic credits pursuant to WAC 392-121-255 or nondegree credits pursuant to WAC 392-121-259.

(7) Ten locally approved in-service or state approved continuing education credit hours defined in WAC 181-85-030 equal one in-service credit.

(8) Each forty hours of participation in an approved internship with a business, industry, or government agency pursuant to chapter 181-83 WAC equals one in-service credit.

(a) No more than two in-service credits may be earned as a result of an internship during any calendar-year period.

(b) Each individual is limited to a maximum of fifteen in-service credits earned from internships.

(9) Accumulate credits rounded to one decimal place.

**WSR 14-07-006**  
**PERMANENT RULES**  
**SUPERINTENDENT OF**  
**PUBLIC INSTRUCTION**

[Filed March 6, 2014, 11:51 a.m., effective April 6, 2014]

Effective Date of Rule: Thirty-one days after filing.

Purpose: These rule revisions expand the documentation allowed to demonstrate equivalency for college degrees and credits completed in a country other than the United States, to include documentation allowed by WAC 181-79A-260. These rule revisions also clarify that degrees and credits completed in a country other than the United States do not require documentation of equivalency if that institution of higher education is already accredited (either regionally accredited or accredited by the distance education and training council).

Citation of Existing Rules Affected by this Order: Amending 392-121-280.

Statutory Authority for Adoption: RCW 28A.150.290(1) and 28A.415.024.

Adopted under notice filed as WSR 14-03-093 on January 16, 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 0, Amended 0, Repealed 0.

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

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

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

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

Date Adopted: February 26, 2014.

Randy Dorn  
State Superintendent  
of Public Instruction

**AMENDATORY SECTION** (Amending WSR 11-21-065, filed 10/17/11, effective 11/17/11)

**WAC 392-121-280 Placement on LEAP salary allocation documents—Documentation required.** School districts shall have documentation on file and available for review which substantiates each certificated instructional employee's placement on LEAP salary allocation documents. The minimum requirements are as follows:

(1) Districts shall document the date of awarding or conferring of the highest degree including the date upon which the degree was awarded or conferred as recorded on the diploma or transcript from the registrar of the accredited institution of higher education.

(a) If the highest degree is a master's degree, the district shall also document the date of awarding or conferring of the first bachelor's degree.

(b) If the degree was awarded by an institution which does not confer degrees after each term, and all degree requirements were completed at a time other than the date recorded on the diploma or transcript, a written statement from the registrar of the institution verifying a prior completion date shall be adequate documentation.

(c) If the degree program was completed in a country other than the United States, documentation must include ~~((a written statement))~~ documentation in English of degree equivalency for the appropriate degree ~~((from a foreign credentials' evaluation agency approved by the office of superintendent of public instruction))~~ as allowed by WAC 181-79A-260: Provided, That documentation of degree equivalency is not required if that institution of higher education is already regionally accredited or accredited by the distance education and training council, pursuant to WAC 181-78A-010(7).

(2) Districts shall document academic credits by having on file a transcript from the registrar of the accredited institution of higher education granting the credits. For purposes of this subsection:

(a) An academic credit is deemed "earned" at the end of the term for which it appears on the transcript: Provided, That a written statement from the registrar of the institution verifying a prior earned date may establish the date a credit was earned;

(b) Washington state community college credits numbered one hundred and above are deemed transferable for

purposes of WAC 392-121-255(4) subject to the limitations of that same subsection;

(c) Credits are not deemed "earned" at an institution of higher education which transfers-in credits. Such credits must be documented using a transcript from the initial granting institution and are subject to all the limitations of WAC 392-121-255;

(d) If the credits were completed in a country other than the United States, documentation must include a written statement of credit equivalency for the appropriate credits from a foreign credentials' evaluation agency approved by the office of superintendent of public instruction: Provided, That documentation of degree equivalency is not required if that institution of higher education is already regionally accredited or accredited by the distance education and training council, pursuant to WAC 181-78A-010(7); and

(e) For credits earned after September 1, 1995, districts shall document that the course content meets one or more of the criteria of WAC 392-121-262(1). At a minimum, such documentation must include a dated signature of the immediate principal, supervisor, or other authorized school district representative and must be available to the employee's future employers.

(3) Districts shall document in-service credits~~((s))~~:

(a) By having on file a document meeting standards established in WAC 181-85-107; and

(b) For credits earned after September 1, 1995, districts shall document that the course content meets one or more of the criteria of WAC 392-121-262(1). At a minimum, such documentation must include a dated signature of the immediate principal, supervisor, or other authorized school district representative and must be available to the employee's future employers.

(4) Districts shall document nondegree credits.

(a) For vocational/career and technical education educator training credits pursuant to WAC 392-121-259(3) districts shall have on file a document meeting standards established in WAC 181-85-107 and evidence that the training was authorized pursuant to WAC 181-77-003 (2), (9), or (12).

(b) For credits calculated from converted occupational experience pursuant to WAC 392-121-259(3) districts shall have on file documents which provide:

(i) Evidence that the occupational experience meets the requirements of WAC 181-77-003(7);

(ii) Evidence of the individual's actual number of hours of employment for each year including dates of employment; and

(iii) The district calculation of converted credits pursuant to WAC 392-121-259(3).

(c) For credits earned after September 1, 1995, districts shall document that the course content meets one or more of the criteria of WAC 392-121-262(1). At a minimum, such documentation must include a dated signature of the immediate principal, supervisor, or other authorized school district representative and must be available to the employee's future employers.

(5) Districts shall document certificated years of experience as follows:

(a) For certificated years of experience obtained and reported on Report S-275 prior to the 1994-95 school year

districts shall have on file documents that provide evidence of employment including dates of employment.

(b) For certificated years of experience reported on Report S-275 for the first time after the 1993-94 school year districts shall have on file:

(i) The total number of hours, or other unit of measure, per year for an employee working full-time with each employer;

(ii) The number of hours, or other unit of measure (worked by the employee), per year and dates of employment with each employer, including paid leave and excluding unpaid leave: Provided, That documentation of hours in excess of one full-time certificated year of experience in any twelve-month period is not required;

(iii) The quotient of the hours, or other unit of measure, determined in (b)(ii) of this subsection divided by the hours, or other unit of measure, in (b)(i) of this subsection rounded to two decimal places for each year;

(iv) The name and address of the employer;

(v) For those counting out-of-district experience pursuant to WAC 392-121-264 (1)(a), evidence whether or not the position required professional education certification pursuant to WAC 392-121-264 (1)(a)(ii);

(vi) For those counting experience pursuant to WAC 392-121-264 (1)(b), a brief description of the previous employment which documents the school district's decision that the position was comparable to one requiring certification in the Washington school districts;

(vii) For those counting management experience pursuant to WAC 392-121-264 (1)(e), evidence that the experience meets the requirements of WAC 181-77-003(6);

(viii) For those counting experience (for educational staff associates) pursuant to WAC 392-121-264 (1)(f), evidence that the previous employment meets the requirements in the applicable subsections of WAC 392-121-264 (1)(f).

(6) Any documentation required by this section may be original or copies of the original: Provided, That each copy is subject to school district acceptance or rejection.

(7) The falsification or deliberate misrepresentation, including omission of a material fact concerning degrees, credits, or experience by an education practitioner as defined in WAC 181-87-035 shall be deemed an act of unprofessional conduct pursuant to WAC 181-87-050. In such an event the provisions of chapters 181-86 and 181-87 WAC shall apply.

#### **WSR 14-07-021**

#### **PERMANENT RULES DEPARTMENT OF**

#### **SOCIAL AND HEALTH SERVICES**

(Aging and Disability Services Administration)

[Filed March 7, 2014, 11:34 a.m., effective April 7, 2014]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The rule change is needed to amend chapter 388-110 WAC to change the term "boarding home" to "assisted living facility" throughout the chapter in compliance with SHB 2056 passed in the 2011-2012 legislative ses-

sion. The scope of this rule making is limited to the terminology change from "boarding home" to "assisted living facility."

Citation of Existing Rules Affected by this Order: Amending chapter 388-110 WAC.

Statutory Authority for Adoption: Chapter 18.20 RCW.

Adopted under notice filed as WSR 14-02-0005 [14-02-005] on December 19, 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 12, 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 12, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 12, 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 12, Repealed 0.

Date Adopted: March 4, 2014.

Katherine I. Vasquez  
Rules Manager

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

#### **WSR 14-07-028**

#### **PERMANENT RULES DEPARTMENT OF**

#### **SOCIAL AND HEALTH SERVICES**

(Developmental Disabilities Administration)

[Filed March 10, 2014, 9:32 a.m., effective April 10, 2014]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The purpose for these changes is to allow the developmental disabilities administration (DDA) to continue enrollment of individuals onto the individual and family services (IFS) program, who have been waiting for needed services and supports. These changes will enable families to continue caring for their family members in their own homes and help stabilize families and individuals who are experiencing increased caregiving stress and crisis by providing respite from their caregiving duties.

DDA used historical data about award amounts and utilization to determine new award amounts for each service priority level so that DDA can help more individuals and families with the funds allocated in the budget.

Citation of Existing Rules Affected by this Order: Amending WAC 388-827-0115, 388-827-0145, 388-823-1010, 388-832-0085, 388-832-0130, and 388-828-9140.

Statutory Authority for Adoption: RCW 71A.12.030, 71A.12.040, 74.08.090.

Adopted under notice filed as WSR 14-01-108 on December 18, 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 6 [0], Amended 0 [6], 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 6, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 6, 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: February 25, 2014.

Katherine I. Vasquez  
Rules Manager

AMENDATORY SECTION (Amending WSR 05-12-130, filed 6/1/05, effective 7/2/05)

**WAC 388-823-1010 When will DDD review my eligibility to determine if I continue to have a developmental disability?** (1) Your eligibility can be reviewed at any time if your eligibility effective date is prior to July 2005 and you are age ten or older and were eligible under a condition of developmental delay or Down syndrome.

(2) Your eligibility will be reviewed at age seventeen with termination occurring no sooner than your eighteenth birthday if your most current eligibility determination was at sixteen or younger under mental retardation, cerebral palsy, epilepsy, autism, another neurological condition, or other condition similar to mental retardation.

(3) DDD will review your eligibility prior to the initial authorization of any paid service from DDD when you are not currently receiving paid services and:

(a) You are age eighteen or older and your most current eligibility determination (~~(is more than twenty four months old)~~) was made prior to June 1, 2005; or

(b) You are age four but under age eighteen and your eligibility was established under the eligible conditions of developmental delay or Down syndrome and your eligibility effective date is prior to July 2005.

(4) DDD will review your eligibility if DDD discovers:

(a) The evidence used to make your most recent eligibility determination completed in 1992 or later appears to be insufficient, in error, or fraudulent; or

(b) New diagnostic information becomes available that does not support your current eligibility and you are under the age of eighteen.

AMENDATORY SECTION (Amending WSR 11-17-068, filed 8/16/11, effective 9/16/11)

**WAC 388-827-0115 What are the programmatic eligibility requirements for DDD/SSP?** Following are the programmatic eligibility requirements to receive DDD/SSP:

(1) You received one or more of the following services from DDD with state-only funding between March 1, 2001 and June 30, 2003 and continue to demonstrate a need for and meet the DDD program eligibility requirements for these services. Additionally, you must have been eligible for or received SSI prior to July 1, 2006; or you received Social Security Title II benefits as a disabled adult child prior to July 1, 2006 and would have been eligible for SSI if you did not receive these benefits.

(a) Certain voluntary placement program services, which include:

- (i) Foster care basic maintenance,
- (ii) Foster care specialized support,
- (iii) Agency specialized support,
- (iv) Staffed residential home,
- (v) Out-of-home respite care,
- (vi) Agency in-home specialized support,
- (vii) Group care basic maintenance,
- (viii) Group care specialized support,
- (ix) Transportation,

- (x) Agency attendant care,
- (xi) Child care,

- (xii) Professional services,
- (xiii) Nursing services,
- (xiv) Interpreter services,

(b) Family support;

(c) One or more of the following residential services:

- (i) Adult family home,
- (ii) Adult residential care facility,
- (iii) Alternative living,
- (iv) Group home,
- (v) Supported living,
- (vi) Agency attendant care,
- (vii) Supported living or other residential service allowance,
- (viii) Intensive individual supported living support (companion homes).

(2) For individuals with community protection issues as defined in WAC 388-820-020, the department will determine eligibility for SSP on a case-by-case basis.

(3) For new authorizations of family support opportunity:

(a) You were on the family support opportunity waiting list prior to January 1, 2003; and

(b) You are on the home and community based services (HCBS) waiver administered by DDD; and

(c) You continue to meet the eligibility requirements for the family support opportunity program contained in WAC 388-825-200 through 388-825-242; and

(d) You must have been eligible for or received SSI prior to July 1, 2003; or you received Social Security Title II benefits as a disabled adult child prior to July 1, 2003 and would have been eligible for SSI if you did not receive these benefits.

(4) For individuals on one of the HCBS waivers administered by DDD (Basic, Basic Plus, Core or community protection):

(a) You must have been eligible for or received SSI prior to April 1, 2004; and

(b) You were determined eligible for SSP prior to April 1, 2004.

(5) You received medicaid personal care (MPC) between September 2003 and August 2004; and

(a) You are under age eighteen at the time of your initial comprehensive assessment and reporting evaluation (CARE) assessment;

(b) You received or were eligible to receive SSI at the time of your initial CARE assessment;

(c) You are not on a home and community based services waiver administered by DDD; and

(d) You live with your family, as defined in WAC 388-825-020.

(6) If you meet all of the requirements listed in (5) above, your SSP will continue.

(7) You received one or more of the following state-only funded residential services between July 1, 2003 and June 30, 2006 and continue to demonstrate a need for and meet the DDD program eligibility requirements for these services:

(a) Adult residential care facility;

(b) Alternative living;

(c) Group home;

(d) Supported living;

(e) Agency attendant care;

(f) Supported living or other residential allowance.

(8) You received one or more of the following residential services between July 1, 2003 and June 30, 2013 and demonstrate an ongoing need for a residential allowance request on a periodic, or routine basis of at least once a quarter. You must also receive SSI or would receive SSI if it were not for the receipt of DAC as well as continue to meet the program eligibility requirements for these services:

(a) Alternative living;

(b) Supported living; or

(c) Companion homes.

(9) ~~((As of December 31, 2010, you met))~~ You meet the eligibility requirements listed in WAC 388-832-0015 for the individual and family services program (IFS)~~((-you had an IFS service level of three or four, and your individual service plan included IFS services. Additionally, you must have been eligible for or received SSI prior to January 1, 2011, or you received))~~ and you are currently receiving SSI payments or you would receive SSI payments if you did not receive Social Security Title II benefits as a disabled adult child ((prior to January 1, 2011 and would have been eligible for SSI if you did not receive these benefits)).

(10) As of March 31, 2011, you met the eligibility requirements listed in WAC 388-832-0015 for the individual and family services program (IFS), you had an IFS service level of one or two, and your individual service plan included IFS services. Additionally, you must have been eligible for or received SSI prior to April 1, 2011, or you received social security title II benefits as a disabled adult child prior to April 1, 2011 and would have been eligible for SSI if you did not receive these benefits.

AMENDATORY SECTION (Amending WSR 06-24-074, filed 12/4/06, effective 1/4/07)

**WAC 388-827-0145 How much money will I receive?**

The purpose of the SSP is to increase the amount of income to meet your needs. The department will determine your payment amount based on your living arrangement and your assessed needs.

(1) For residential and voluntary placement program services, the amount of your SSP will be based on the amount of state-only dollars spent on certain services at the time the funding source was converted to SSP. If the type of your residential living arrangement changes, your need will be reassessed and your payment adjusted based on your new living arrangement and assessed need.

(2) ~~((For family support services, refer to WAC 388-825-200 through 388-825-256-))~~ If you receive SSP in lieu of individual and family services you will receive the following amounts based on your DDA assessment:

<u>If your individual and family services score is:</u>	<u>The award level will be</u>	<u>The amount of your award will be</u>
<u>0 - 60</u>	<u>Not eligible</u>	<u>Not eligible</u>
<u>61-240</u>	<u>Level 1</u>	<u>\$1,200</u>
<u>241-336</u>	<u>Level 2</u>	<u>\$1,800</u>
<u>337-527</u>	<u>Level 3</u>	<u>\$2,400</u>
<u>528 or more</u>	<u>Level 4</u>	<u>\$3,600</u>

(a) If you are on the home and community based services (HCBS) waiver administered by DDD:

(i) You will receive nine hundred dollars DDD/SSP money per year to use as you determine.

(ii) The remainder up to the maximum yearly award for traditional family support or family support opportunities may be authorized by DDD to purchase HCBS waiver services and will be paid directly to the provider.

(b) If you are not on the HCBS waiver administered by DDD, and you received state-only funding for the traditional family support program between March 1, 2001 and June 30, 2003 the amount of your SSP will be based on the yearly maximum allowed at the time the funding source was converted to SSP unless your need changes.

(i) Need is based on your service need level and whether you receive medicaid personal care as specified in WAC 388-825-254.

(ii) If your need changes, the amount of your SSP will be adjusted accordingly.

(c) If you are not on the HCBS waiver administered by DDD, and you received state-only funding for the family support opportunity program between March 1, 2001 and June 30, 2003 the amount of your SSP will be fifteen hundred dollars per year.

(d) The yearly amount of DDD/SSP money will be prorated into monthly amounts. You will receive one twelfth of the yearly amount each month.

(3) If you are eligible for SSP because you meet the criteria in WAC 388-827-0115(5), you will receive one hundred dollars per month.

(4) DDD may authorize additional payments to certain individuals if the SSP budget has sufficient funds to allow this payment.

AMENDATORY SECTION (Amending WSR 08-16-121, filed 8/5/08, effective 9/5/08)

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

If your individual and family services score is:	<u>The award level will be</u>	<del>((Then))</del> The amount of your award is up to:
0 to 60	<u>Not eligible</u>	No Award
61 to 240	<u>Level 1</u>	<del>\$(2000)</del> <u>1,200</u>
241 to 336	<u>Level 2</u>	<del>\$(3000)</del> <u>1,800</u>
337 to 527	<u>Level 3</u>	<del>\$(4000)</del> <u>2,400</u>
528 or more	<u>Level 4</u>	<del>\$(6000)</del> <u>3,600</u>

AMENDATORY SECTION (Amending WSR 09-11-054, filed 5/13/09, effective 6/13/09)

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

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

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

~~(3) Clients who have been on the IFS program request list the longest))~~ priorities established by the legislature or from the date the client was placed on the IFS request list.

AMENDATORY SECTION (Amending WSR 08-16-121, filed 8/5/08, effective 9/5/08)

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

~~(1) Level 1 Up to \$2,000;~~

~~(2) Level 2 Up to \$3,000;~~

~~(3) Level 3 Up to \$4,000; and~~

~~(4) Level 4 Up to \$6,000))~~ identified in 388-828-9140.

Purpose: This rule-making order amends chapter 16-752 WAC, Noxious weed control by (1) adding three species (oriental clematis, French broom, and giant reed (except variegated cultivars)) to the prohibited plant list; (2) combining five quarantines into a single prohibited plant list; (3) repealing an obsolete quarantine (yellow nutsedge); and (4) adding language that will allow the issuance of compliance agreements for growing or transporting regulated articles.

The quarantine is being amended as a result of a petition submitted by the Washington state noxious weed control board.

Citation of Existing Rules Affected by this Order: Repealing WAC 16-752-001, 16-752-005, 16-752-010, 16-752-300, 16-752-305, 16-752-310, 16-752-315, 16-752-320, 16-752-330, 16-752-400, 16-752-405, 16-752-410, 16-752-415, 16-752-420, 16-752-500, 16-752-505, 16-752-507, 16-752-510, 16-752-515, 16-752-520, 16-752-525, 16-752-700, 16-752-705, 16-752-710 and 16-752-715; and amending WAC 16-752-600, 16-752-605, 16-752-610, 16-752-620, 16-752-630, 16-752-640, 16-752-650, and 16-752-660.

Statutory Authority for Adoption: RCW 17.10.074, 17.24.011, 17.24.041.

Other Authority: Chapter 34.05 RCW.

Adopted under notice filed as WSR 14-03-127 on January 22, 2014.

Changes Other than Editing from Proposed to Adopted Version: The scientific name "Glyceria maxima" was corrected to read "Glyceria maxima" in WAC 16-752-610.

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.

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Date Adopted: March 12, 2014.

Don R. Hover  
Director

**WSR 14-07-040**

**PERMANENT RULES**

**DEPARTMENT OF AGRICULTURE**

[Filed March 12, 2014, 9:37 a.m., effective April 12, 2014]

Effective Date of Rule: Thirty-one days after filing.

**Chapter 16-752 WAC**

**NOXIOUS WEED ~~((CONTROL))~~ SEED AND PLANT QUARANTINE**

~~((NOXIOUS WEED SEED AND PLANT QUARANTINE))~~

AMENDATORY SECTION (Amending WSR 00-24-021, filed 11/28/00, effective 12/29/00)

**WAC 16-752-600 Establishing the noxious weed seed and plant quarantine.** Washington agriculture, environmental quality and natural resources, including waters and wetlands, are threatened by nonnative, aggressive species of noxious weeds. A number of these noxious weeds are transported and sold within the state of Washington both as nursery plants and as seeds in packets of flower seeds or "wildflower mixes." Subsequent "escape" of these ornamentals has been a documented source of a number of infestations and has resulted in large public and private expenditures by landowners and land managers, weed boards, and weed districts and the department of agriculture to achieve the control mandated in chapter 17.10 RCW. The director of agriculture, pursuant to the powers provided in chapters 17.10 and 17.24 RCW, finds that regulation of the sale of these seed packets and plants is necessary to protect Washington agriculture and natural resources and to prevent public and private costs of control.

Note: For rules prescribing the limits of prohibited and restricted noxious weed seeds as contaminants in certified seed, see WAC 16-300-010 through 16-300-025.

AMENDATORY SECTION (Amending WSR 92-07-025, filed 3/10/92, effective 4/10/92)

**WAC 16-752-605 (~~Noxious weed seed and plant quarantine~~))** **Quarantine area.** The area under the noxious weed seed and plant quarantine for regulated articles includes all counties within the state of Washington and all states, territories, and districts of the United States.

AMENDATORY SECTION (Amending WSR 09-19-006, filed 9/3/09, effective 10/4/09)

**WAC 16-752-610 (~~Noxious weed seed and plant quarantine~~))** **Regulated articles.** All plants, plant parts, and seeds in packets, blends, and "wildflower mixes" of the following listed species are designated as regulated articles under the terms of this noxious weed seed and plant quarantine:

Scientific Name	Common Names
<i>Abutilon theophrasti</i>	velvetleaf
<i>Alliaria petiolata</i>	garlic mustard
<i>Amorpha fruticosa</i>	indigobush, lead plant
<i>Anchusa officinalis</i>	common bugloss, alkanet, anchusa
<i>Anthriscus sylvestris</i>	wild chervil
<i>Arundo donax</i> (except variegated cultivars)	<u>giant reed</u>
<i>Brachypodium sylvaticum</i>	false brome

Scientific Name	Common Names
<i>Butomus umbellatus</i>	<u>flowering rush</u>
<i>Cabomba caroliniana</i>	<u>fanwort</u>
<i>Carduus acanthoides</i>	plumeless thistle
<i>Carduus nutans</i>	musk thistle, nodding thistle
<i>Carduus pycnocephalus</i>	Italian thistle
<i>Carduus tenuiflorus</i>	slenderflower thistle
<i>Centaurea calcitrapa</i>	purple starthistle
<i>Centaurea diffusa</i>	diffuse knapweed
<i>Centaurea jacea</i>	brown knapweed, rayed knapweed, brown centaury horse-knobs, hardheads
<i>Centaurea jacea x nigra</i>	meadow knapweed
<i>Centaurea</i> ( <del>(biebersteini)</del> ) <u>stoebe</u>	spotted knapweed
<i>Centaurea macrocephala</i>	bighead knapweed
<i>Centaurea nigra</i>	black knapweed
<i>Centaurea nigrescens</i>	Vochin knapweed
<i>Chaenorrhinum minus</i>	dwarf snapdragon
<i>Clematis orientalis</i>	<u>oriental clematis</u>
<i>Crassula helmsii</i>	<u>Australian swamp stonecrop</u>
<i>Crupina vulgaris</i>	common crupina
<i>Cyperus rotundus</i>	<u>purple nutsedge</u>
<i>Cytisus scoparius</i>	Scotch broom
<i>Daucus carota</i>	wild carrot, Queen Anne's lace
<i>Echium vulgare</i>	blueweed, blue thistle, blue devil, viper's bugloss, snake flower
<i>Egeria densa</i>	<u>Brazilian elodea</u>
<i>Epilobium hirsutum</i>	<u>hairy willow herb</u>
<i>Euphorbia esula</i>	leafy spurge
<i>Euphorbia oblongata</i>	eggleaf spurge
<i>Galega officinalis</i>	goatsrue
<i>Genista monspessulana</i>	<u>French broom</u>
<i>Geranium lucidum</i>	shiny geranium
<i>Glossostigma diandrum</i>	<u>mud mat</u>
<i>Glyceria maxima</i>	<u>reed sweetgrass, tall manna grass</u>
<i>Helianthus ciliaris</i>	Texas blueweed
<i>Heracleum mantegazzianum</i>	giant hogweed, giant cow parsnip

Scientific Name	Common Names	Scientific Name	Common Names
<i>Hibiscus trionum</i>	Venice mallow, flower-of-an-hour, bladder ketmia, modesty, shoo-fly	<i>Polygonum polystachyum</i>	Himalayan knotweed
<i>Hieracium aurantiacum</i>	orange hawkweed, orange paintbrush, red daisy flameweed, devil's weed, grim-the-collier	<i>Polygonum sachalinense</i>	giant knotweed
<i>Hieracium caespitosum</i>	yellow hawkweed, yellow paintbrush, devil's paintbrush, yellow devil, field hawkweed, king devil	<i>Polygonum x bohemicum</i>	Bohemian knotweed, Japanese and giant knotweed hybrid
<i>Hieracium floribundum</i>	yellow devil hawkweed	<i>Proboscidea louisianica</i>	unicorn-plant
<i>Hieracium pilosella</i>	mouseear hawkweed	<i>Pueraria montana var. lobata</i>	kudzu
<i>Hieracium sabaudum</i>	European hawkweed	<u><i>Sagittaria graminea</i></u>	<u>grass-leaved arrowhead</u>
<u><i>Hydrilla verticillata</i></u>	<u>hydrilla</u>	<u><i>Sagittaria platyphylla</i></u>	<u>delta arrowhead</u>
<u><i>Hydrocharis morsus-ranae</i></u>	<u>European frog-bit</u>	<i>Salvia aethiopis</i>	Mediterranean sage
<i>Impatiens glandulifera</i>	policeman's helmet	<i>Salvia pratensis</i>	meadow clary
<i>Isatis tinctoria</i>	dyers' woad	<i>Salvia sclarea</i>	clary sage
<i>Kochia scoparia</i>	kochia, summer-cyprus, burning-bush, fireball, Mexican fireweed	<u><i>Schoenoplectus mucronatus</i></u>	<u>ricefield bulrush</u>
<u><i>Lagarosiphon major</i></u>	<u>African elodea</u>	<i>Senecio jacobaea</i>	tansy ragwort
<i>Lepidium latifolium</i>	perennial pepperweed	<i>Silybum marianum</i>	milk thistle
<i>Leucanthemum vulgare</i>	oxeye daisy, white daisy, white-weed, field daisy, marguerite, poorland flower	<i>Solanum elaeagnifolium</i>	silverleaf nightshade
<i>Linaria dalmatica</i> spp. <i>dalmatica</i>	Dalmatian toadflax	<i>Solanum rostratum</i>	buffaloburr
<u><i>Ludwigia hexapetala</i></u>	<u>water primrose</u>	<i>Soliva sessilis</i>	lawnweed
<u><i>Ludwigia peploides</i></u>	<u>floating primrose-willow</u>	<i>Sorghum halepense</i>	johnsongrass
<u><i>Lysimachia vulgaris</i></u>	<u>garden loosestrife</u>	<u><i>Spartina alterniflora</i></u>	<u>smooth cordgrass</u>
<u><i>Lythrum salicaria</i></u>	<u>purple loosestrife</u>	<u><i>Spartina anglica</i></u>	<u>common cordgrass</u>
<u><i>Lythrum virgatum</i></u>	<u>wand loosestrife</u>	<u><i>Spartina densiflora</i></u>	<u>dense-flowered cordgrass</u>
<i>Mirabilis nyctaginea</i>	wild four o'clock, umbrella-wort	<i>Spartina patens</i>	salt meadow cordgrass
<u><i>Murdannia keisak</i></u>	<u>marsh dew flower, Asian spider-wort</u>	<i>Spartium junceum</i>	Spanish broom
<u><i>Myriophyllum aquaticum</i></u>	<u>parrotfeather</u>	<u><i>Stratiotes aloides</i></u>	<u>water soldier</u>
<u><i>Myriophyllum heterophyllum</i></u>	<u>variable-leaf milfoil</u>	<i>Tamarix ramosissima</i>	saltcedar
<u><i>Myriophyllum spicatum</i></u>	<u>Eurasian watermilfoil</u>	<i>Thymelaea passerina</i>	spurge flax
<i>Najas minor</i>	<u>slender-leaved naiad, brittle naiad</u>	<i>Torilis arvensis</i>	hedgearsley
<u><i>Nymphoides peltata</i></u>	<u>yellow floating heart</u>	<u><i>Trapa natans</i></u>	<u>water chestnut, bull nut</u>
<i>Onopordum acanthium</i>	Scotch thistle	<u><i>Trapa bicornus</i></u>	<u>water caltrap, devil's pod, bat nut</u>
<i>Polygonum cuspidatum</i>	Japanese knotweed	<i>Ulex europaeus</i>	gorse, furze

This list is comprised of the most recent and accepted scientific and common names of the quarantine plant species. Regulated status also applies to all synonyms of these botanical names and interspecies hybrids if both parents are regulated species.



AMENDATORY SECTION (Amending WSR 92-07-025, filed 3/10/92, effective 4/10/92)

**WAC 16-752-620** (~~(Noxious weed seed and plant quarantine)~~) **Prohibited acts.** It is prohibited to transport, buy, sell, offer for sale, or to distribute plants or plant parts of the regulated species listed in WAC 16-752-610 into or within the state of Washington or to sell, offer for sale, or distribute seed packets of the seed, flower seed blends, or wild-flower mixes of these regulated species into or within the state of Washington.

AMENDATORY SECTION (Amending WSR 00-24-021, filed 11/28/00, effective 12/29/00)

**WAC 16-752-630** (~~(Noxious weed seed and plant quarantine)~~) **Quarantine exceptions.** The prohibition on transporting of plants and plant parts established in WAC 16-752-620 does not apply to plants or plant parts collected for herbariums, research in control methods, creation of pressed specimens, or for educational or identification purposes and other scientific activities, as long as all such activities are conducted in such a manner as to prevent infestation. In addition, plants or plant parts may be transported, as a part of a noxious weed control activity, to a sanitary landfill, to be burned, or otherwise for disposal under the ((supervision)) guidelines of a noxious weed control agency.

AMENDATORY SECTION (Amending WSR 92-07-025, filed 3/10/92, effective 4/10/92)

**WAC 16-752-640** (~~(Noxious weed seed and plant quarantine Permits)~~) **Compliance agreements.** The director may allow ((the movement of materials, otherwise prohibited,)) activities prohibited under this chapter by ((special permit)) compliance agreement. Such ((permit)) compliance agreement shall specify the terms and conditions under which ((movement is)) such activities are allowed. A fee may be charged for these services under chapter 16-470-WAC.

AMENDATORY SECTION (Amending WSR 00-24-021, filed 11/28/00, effective 12/29/00)

**WAC 16-752-650** (~~(Noxious weed seed and plant quarantine)~~) **Disposal of regulated articles.** Any plants, plant parts, or seed packets transported, bought, sold, or offered for sale in violation of ((WAC 16-752-600 through 16-752-650)) this chapter are subject to destruction or shipment out-of-state or other disposition in a manner prescribed by the director to prevent infestation. Any such action will be at the expense of the owner or the owner's agent and without compensation.

AMENDATORY SECTION (Amending WSR 92-07-025, filed 3/10/92, effective 4/10/92)

**WAC 16-752-660** (~~(Noxious weed seed and plant quarantine)~~) **Penalties.** Any person who violates the terms of ((the noxious weed quarantine, as provided in WAC 16-752-600 through 16-752-650,)) this chapter or who aids or

abets in such violation, shall be subject to the civil and/or criminal penalties provided in chapter 17.24 RCW.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 16-752-001	Definitions.
WAC 16-752-005	Noxious weed—Tansy ragwort in hay.
WAC 16-752-010	Tansy ragwort in hay—Penalties.
WAC 16-752-300	Yellow nutsedge—Establishing quarantine.
WAC 16-752-305	Yellow nutsedge—Quarantine area.
WAC 16-752-310	Yellow nutsedge—Articles whose movement is restricted.
WAC 16-752-315	Yellow nutsedge—Regulations.
WAC 16-752-320	Yellow nutsedge—Costs of quarantine.
WAC 16-752-330	Yellow nutsedge—Violation and penalty.
WAC 16-752-400	Establishing quarantine.
WAC 16-752-405	Lythrum quarantine—Regulated articles.
WAC 16-752-410	Lythrum quarantine—Prohibited acts.
WAC 16-752-415	Disposition of regulated articles.
WAC 16-752-420	Penalties.
WAC 16-752-500	Establishing wetland and aquatic weed quarantine.
WAC 16-752-505	Wetland and aquatic weed quarantine—Regulated articles.
WAC 16-752-507	Wetland and Aquatic weed quarantine—Quarantine area.
WAC 16-752-510	Wetland and aquatic weed quarantine—Prohibited acts.
WAC 16-752-515	Wetland and aquatic weed quarantine—Exemptions.
WAC 16-752-520	Wetland and aquatic weed quarantine—Disposition of regulated articles.
WAC 16-752-525	Wetland and aquatic weed quarantine—Penalties.
WAC 16-752-700	Establishing quarantine for purple nutsedge.
WAC 16-752-705	What articles are regulated under the quarantine of purple nutsedge and what do you need to ship regulated articles into Washington?
WAC 16-752-710	Acts prohibited by this purple nutsedge quarantine.

WAC 16-752-715 Disposal of articles regulated under this purple nutsedge quarantine.

**WSR 14-07-042**

**PERMANENT RULES**

**HEALTH CARE AUTHORITY**

(Washington Apple Health)

[Filed March 12, 2014, 3:57 p.m., effective April 12, 2014]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The health care authority is updating the client eligibility sections of the health care services chapters to align with the changes resulting from the implementation of Washington apple health and medicaid expansion.

Citation of Existing Rules Affected by this Order: Amending WAC 182-537-0300, 182-540-110, 182-544-0100, 182-545-200, 182-546-0150, 182-546-5300, 182-551-1200, 182-551-2020, 182-552-0100, 182-553-300, and 182-554-300.

Statutory Authority for Adoption: RCW 41.05.021.

Other Authority: Patient Protection and Affordable Care Act (Public Law 111-148).

Adopted under notice filed as WSR 14-04-114 on February 4, 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 0, Amended 0, Repealed 0.

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 11, 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 11, Repealed 0.

Date Adopted: March 12, 2014.

Kevin M. Sullivan  
Rules Coordinator

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

**WAC 182-537-0300 School-based health care services for children in special education—Client eligibility.** Children in special education must be receiving Title XIX Medicaid under a Washington apple health (WAH) categorically needy program (CNP) or WAH medically needy program (MNP) to be eligible for school-based health care services. Eligible children enrolled in a managed care organization (MCO) receive school-based health care services on a fee-for-service basis.

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

**WAC 182-540-110 Eligibility.** (1) To be eligible for the kidney center services described in this section, a ~~((client))~~ person must be diagnosed with end-stage renal disease (ESRD) or acute renal failure and be covered under ~~((one of the following programs))~~:

- ~~(a) Categorically needy program (CNP);~~
- ~~(b) Children's health insurance program (CHIP);~~
- ~~(c) General assistance unemployable (GAU);~~
- ~~(d) Limited casualty program—Medically needy program (MNP);~~
- ~~((e)) One of the Washington apple health programs listed in the table in WAC 182-501-0060;~~

~~(b) Alien emergency medical; or~~  
~~((f)) (c) Qualified medicare beneficiary (QMB)((—(MAA)) - (The agency pays only for medicare premium, coinsurance and deductible).~~

(2) Managed care enrollees must have dialysis services arranged directly through their designated plan.

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

**WAC 182-544-0100 Vision care—Eligible ~~((clients))~~ persons—Twenty years of age and younger.** This section applies to eligible ~~((clients))~~ persons who are twenty years of age and younger.

(1) Vision care is available to ~~((clients))~~ persons who are eligible for services under one of the ~~((following medical assistance))~~ Washington apple health programs (~~(=~~

- ~~(a) Categorically needy program (CN or CNP);~~
- ~~(b) Categorically needy program—State children's health insurance program (CNP-SCHIP);~~
- ~~(c) Children's health care programs as defined in WAC 388-505-0210;~~
- ~~(d) Limited casualty program—Medically needy program (LCP-MNP);~~
- ~~(e) Disability lifeline (formerly general assistance (GAU/ADATSA)) (within Washington state or designated border cities); and~~
- ~~(f)) listed in the table in WAC 182-501-0060 or are eligible for the alien emergency medical (AEM) program as described in WAC ((388-438-0115, when the medical services are necessary to treat a qualifying emergency medical condition only)) 182-507-0110.~~

~~(f)) listed in the table in WAC 182-501-0060 or are eligible for the alien emergency medical (AEM) program as described in WAC ((388-438-0115, when the medical services are necessary to treat a qualifying emergency medical condition only)) 182-507-0110.~~

(2) Eligible ~~((clients))~~ persons who are enrolled in ~~((a department contracted))~~ an agency-contracted managed care organization (MCO) are eligible under fee-for-service for covered vision care that ~~((are))~~ is not covered by their plan ~~((and)),~~ subject to the provisions of this chapter and other applicable WAC.

**AMENDATORY SECTION** (Amending WSR 11-21-066, filed 10/17/11, effective 11/17/11)

**WAC 182-545-200 Outpatient rehabilitation (occupational therapy, physical therapy, and speech therapy).**

(1) The following health professionals may enroll with the agency, as defined in WAC 182-500-0010, to provide outpa-

tient rehabilitation (which includes occupational therapy, physical therapy, and speech therapy) within their scope of practice to eligible ~~((clients))~~ persons:

- (a) A physiatrist;
- (b) A licensed occupational therapist;
- (c) A licensed occupational therapy assistant (OTA) supervised by a licensed occupational therapist;
- (d) A licensed physical therapist;
- (e) A physical therapist assistant supervised by a licensed physical therapist;
- (f) A speech-language pathologist who has been granted a certificate of clinical competence by the American Speech, Hearing and Language Association; and
- (g) A speech-language pathologist who has completed the equivalent educational and work experience necessary for such a certificate.

(2) ~~((Clients in the following agency))~~ Persons covered by one of the Washington apple health programs listed in the table in WAC 182-501-0060 or receiving home health care services as described in chapter 182-551 WAC (subchapter II) are eligible to receive outpatient rehabilitation as described in this chapter(=

- ~~(a) Categorically needy program (CNP);~~
- ~~(b) Categorically needy program state children's health insurance program (CNP-SCHIP);~~
- ~~(c) Children's health care programs as defined in WAC 388-505-0210;~~
- ~~(d) Medical care services as described in WAC 182-508-0005 (within Washington state or border areas only);~~
- ~~(e) Alcoholism and Drug Addiction Treatment and Support Act (ADATSA) (within Washington state or border areas only);~~
- ~~(f) Medically needy program (MNP) only when the client is either:~~
  - ~~(i) Twenty years of age or younger and referred by a screening provider under the early and periodic screening, diagnosis and treatment program (healthy kids program) as described in chapter 182-534 WAC; or~~
  - ~~(ii) Receiving home health care services as described in chapter 182-551 WAC, subchapter II).~~

(3) ~~((Clients))~~ Persons who are enrolled in an agency-contracted managed care organization (MCO) must arrange for outpatient rehabilitation directly through his or her agency-contracted MCO.

(4) The agency pays for outpatient rehabilitation when the services are:

- (a) Covered;
- (b) Medically necessary;
- (c) Within the scope of the eligible ~~((client's))~~ person's medical care program;
- (d) Ordered by a physician, physician's assistant (PA) or an advanced registered nurse practitioner (ARNP);
- (e) Within currently accepted standards of evidence-based medical practice;
- (f) Authorized, as required within this chapter, chapters 182-501 and 182-502 WAC, and the agency's published billing instructions and ~~((numbered memoranda))~~ provider notices;
- (g) Begun within thirty calendar days of the date ordered;

(h) Provided by one of the health professionals listed in subsection (1) of this section;

(i) Billed according to this chapter, chapters 182-501 and 182-502 WAC, and the agency's published billing instructions and ~~((numbered memoranda))~~ provider notices; and

- (j) Provided as part of an outpatient treatment program:
  - (i) In an office or outpatient hospital setting;
  - (ii) In the home, by a home health agency as described in chapter 182-551 WAC;
  - (iii) In a neurodevelopmental center, as described in WAC 182-545-900; or

(iv) For children with disabilities, age two or younger, in natural environments including the home and community setting in which children without disabilities participate, to the maximum extent appropriate to the needs of the child.

(5) For eligible ~~((clients))~~ persons, twenty years of age and younger, the agency covers unlimited outpatient rehabilitation.

(6) For ~~((clients))~~ persons twenty-one years of age and older, the agency covers a limited outpatient rehabilitation benefit.

(7) Outpatient rehabilitation services for ~~((clients))~~ persons twenty-one years of age and older must:

(a) Restore, improve, or maintain the ~~((client's))~~ person's level of function that has been lost due to medically documented injury or illness; and

(b) Include an on-going management plan for the ~~((client))~~ person and/or the ~~((client's))~~ person's caregiver to support timely discharge and continued progress.

(8) For eligible adults, twenty-one years of age and older, the agency limits coverage of outpatient rehabilitation as follows:

(a) Occupational therapy, per ~~((client))~~ person, per year:

- (i) Without authorization:
  - (A) One occupational therapy evaluation;
  - (B) One occupational therapy reevaluation at time of discharge; and
  - (C) Twenty-four units of occupational therapy (which equals approximately six hours).

(ii) With expedited prior authorization, up to twenty-four additional units of occupational therapy may be available to continue treatment initiated under the original twenty-four units when the criteria below is met:

(A) To continue treatment of the original qualifying condition; and

(B) The ~~((client's))~~ person's diagnosis is any of the following:

- (I) Acute, open, or chronic nonhealing wounds;
- (II) Brain injury, which occurred within the past twenty-four months, with residual cognitive and/or functional deficits;
- (III) Burns - Second or third degree only;
- (IV) Cerebral vascular accident, which occurred within the past twenty-four months, with residual cognitive and/or functional deficits;
- (V) Lymphedema;
- (VI) Major joint surgery - Partial or total replacement only;
- (VII) Muscular-skeletal disorders such as complex fractures which required surgical intervention or surgeries

involving spine or extremities (e.g., arm, hand, shoulder, leg, foot, knee, or hip);

(VIII) Neuromuscular disorders which are affecting function (e.g., amyotrophic lateral sclerosis (ALS), active infective polyneuritis (Guillain-Barre));

(IX) Reflex sympathetic dystrophy;

(X) Swallowing deficits due to injury or surgery to face, head, or neck;

(XI) Spinal cord injury which occurred within the past twenty-four months, resulting in paraplegia or quadriplegia; or

(XII) As part of a botulinum toxin injection protocol when botulinum toxin has been prior authorized by the agency.

(b) Physical therapy, per ~~((client))~~ person, per year:

(i) Without authorization:

(A) One physical therapy evaluation;

(B) One physical therapy reevaluation at time of discharge; and

(C) Twenty-four units of physical therapy (which equals approximately six hours).

(ii) With expedited prior authorization, up to twenty-four additional units of physical therapy may be available to continue treatment initiated under the original twenty-four units when the criteria below is met:

(A) To continue treatment of the original qualifying condition; and

(B) The ~~((client's))~~ person's diagnosis is any of the following:

(I) Acute, open, or chronic nonhealing wounds;

(II) Brain injury, which occurred within the past twenty-four months, with residual functional deficits;

(III) Burns - Second and/or third degree only;

(IV) Cerebral vascular accident, which occurred within the past twenty-four months, with residual functional deficits;

(V) Lymphedema;

(VI) Major joint surgery - Partial or total replacement only;

(VII) Muscular-skeletal disorders such as complex fractures which required surgical intervention or surgeries involving spine or extremities (e.g., arm, hand, shoulder, leg, foot, knee, or hip);

(VIII) Neuromuscular disorders which are affecting function (e.g., amyotrophic lateral sclerosis (ALS), active infective polyneuritis (Guillain-Barre));

(IX) Reflex sympathetic dystrophy;

(X) Spinal cord injury, which occurred within the past twenty-four months, resulting in paraplegia or quadriplegia; or

(XI) As part of a botulinum toxin injection protocol when botulinum toxin has been prior approved by the agency.

(c) Speech therapy, per ~~((client))~~ person, per year:

(i) Without authorization:

(A) One speech language pathology evaluation;

(B) One speech language pathology reevaluation at the time of discharge; and

(C) Six units of speech therapy (which equals approximately six hours).

(ii) With expedited prior authorization, up to six additional units of speech therapy may be available to continue treatment initiated under the original six units when the criteria below is met:

(A) To continue treatment of the original qualifying condition; and

(B) The ~~((client's))~~ person's diagnosis is any of the following:

(I) Brain injury, which occurred within the past twenty-four months, with residual cognitive and/or functional deficits;

(II) Burns of internal organs such as nasal oral mucosa or upper airway;

(III) Burns of the face, head, and neck - Second or third degree only;

(IV) Cerebral vascular accident, which occurred within the past twenty-four months, with residual functional deficits;

(V) Muscular-skeletal disorders such as complex fractures which require surgical intervention or surgery involving the vault, base of the skull, face, cervical column, larynx, or trachea;

(VI) Neuromuscular disorders which are affecting function (e.g., amyotrophic lateral sclerosis (ALS), active infective polyneuritis (Guillain-Barre));

(VII) Speech deficit due to injury or surgery to face, head, or neck;

(VIII) Speech deficit which requires a speech generating device;

(IX) Swallowing deficit due to injury or surgery to face, head, or neck; or

(X) As part of a botulinum toxin injection protocol when botulinum toxin has been prior approved by the agency.

(d) Durable medical equipment (DME) needs assessments, two per ~~((client))~~ person, per year.

(e) Orthotics management and training of upper and/or lower extremities, two program units, per ~~((client))~~ person, per day.

(f) Orthotic/prosthetic use, two program units, per ~~((client))~~ person, per year.

(g) Muscle testing, one procedure, per ~~((client))~~ person, per day. Muscle testing procedures cannot be billed in combination with each other. These procedures can be billed alone or with other physical and occupational therapy procedures.

(h) Wheelchair needs assessment, one per ~~((client))~~ person, per year.

(9) For the purposes of this chapter:

(a) Each fifteen minutes of timed procedure code equals one unit; and

(b) Each nontimed procedure code equals one unit, regardless of how long the procedure takes.

(10) For expedited prior authorization (EPA):

(a) A provider must establish that:

(i) The ~~((client's))~~ person's condition meets the clinically appropriate EPA criteria outlined in this section; and

(ii) The services are expected to result in a reasonable improvement in the ~~((client's))~~ person's condition and achieve the ~~((client's))~~ person's therapeutic individual goal within sixty calendar days of initial treatment;

(b) The appropriate EPA number must be used when the provider bills the agency;

(c) Upon request, a provider must provide documentation to the agency showing how the ~~((client's))~~ person's condition met the criteria for EPA; and

(d) A provider may request expedited prior authorization once per year, per ~~((client))~~ person, per each therapy type.

(11) The agency evaluates a request for outpatient rehabilitation that is in excess of the limitations or restrictions, according to WAC 182-501-0169. Prior authorization may be requested for additional units when:

(a) The criteria for an expedited prior authorization does not apply;

(b) The number of available units under the EPA have been used and services are requested beyond the limits;

(c) A new qualifying condition arises after the initial six visits are used.

(12) Duplicate services for outpatient rehabilitation are not allowed for the same ~~((client))~~ person when both providers are performing the same or similar procedure(s).

(13) The agency does not pay separately for outpatient rehabilitation that are included as part of the reimbursement for other treatment programs. This includes, but is not limited to, hospital inpatient and nursing facility services.

(14) The agency does not reimburse a health care professional for outpatient rehabilitation performed in an outpatient hospital setting when the health care professional is not employed by the hospital. The hospital must bill the agency for the services.

AMENDATORY SECTION (Amending WSR 13-16-006, filed 7/25/13, effective 8/25/13)

**WAC 182-546-0150 Client eligibility for ambulance transportation.** (1) Except for ~~((clients))~~ persons in the Family Planning Only and TAKE CHARGE programs, fee-for-service clients are eligible for ambulance transportation to covered services with the following limitations:

(a) ~~((Clients))~~ Persons in the following Washington apple health (WAH) programs are eligible for ambulance services within Washington state or bordering cities only, as designated in WAC 182-501-0175:

(i) Medical care services (MCS) as described in WAC 182-508-0005;

(ii) ~~((Alcoholism and Drug Addiction Treatment and Support Act (ADATSA) as described in WAC 182-508-0320;~~

~~((iii))~~ Alien emergency medical (AEM) services as described in chapter 182-507 WAC.

(b) ~~((Clients))~~ Persons in the WAH categorically needy/qualified medicare beneficiary (CN/QMB) and WAH medically needy/qualified medicare beneficiary (MN/QMB) programs are covered by medicare and medicaid, with the payment limitations described in WAC 182-546-0400(5).

(2) ~~((Clients))~~ Persons enrolled in an agency-contracted managed care organization (MCO) must coordinate:

(a) Ground ambulance services through their designated MCO, subject to the MCO coverage and limitations; and

(b) Air ambulance services through the agency under fee-for-service, subject to the coverage and limitations within this chapter.

(3) ~~((Clients))~~ Persons enrolled in the agency's primary care case management (PCCM) program are eligible for ambulance services that are emergency medical services or that are approved by the PCCM in accordance with the agency's requirements. The agency pays for covered services for these ~~((clients))~~ persons according to the agency's published medicaid provider guides and provider notices.

(4) ~~((Clients))~~ Persons under the Involuntary Treatment Act (ITA) are not eligible for ambulance transportation coverage outside the state of Washington. This exclusion from coverage applies to individuals who are being detained involuntarily for mental health treatment and being transported to or from bordering cities. See also WAC 182-546-4000.

(5) See WAC 182-546-0800 and 182-546-2500 for additional limitations on out-of-state coverage and coverage for ~~((clients))~~ persons with other insurance.

(6) The agency does not pay for ambulance services for jail inmates and persons living in a correctional facility, including persons in work-release status. See WAC 182-503-0505(5).

AMENDATORY SECTION (Amending WSR 11-17-032, filed 8/9/11, effective 8/9/11)

**WAC 182-546-5300 Nonemergency transportation—Client eligibility.** (1) The ~~((department))~~ agency pays for nonemergency transportation for ~~((medical assistance))~~ Washington apple health (WAH) clients, including ~~((clients))~~ persons enrolled in ~~((a department-contracted))~~ an agency-contracted managed care organization (MCO), to and from health care services when the health care service(s) meets the requirements in WAC ~~((388-546-5500))~~ 182-546-5500.

(2) ~~((Clients))~~ Persons assigned to the patient review and coordination (PRC) program according to WAC ~~((388-501-0135))~~ 182-501-0135 may be restricted to certain providers.

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

(b) If a ~~((client))~~ person assigned to PRC chooses to receive service from a provider, pharmacy, and/or hospital that is not in the ~~((clients))~~ person's local community, the ~~((clients))~~ person's transportation is limited per WAC ~~((388-546-5700))~~ 182-546-5700.

AMENDATORY SECTION (Amending WSR 13-04-094, filed 2/6/13, effective 3/9/13)

**WAC 182-551-1200 Client eligibility for hospice care.** (1) A ~~((client))~~ person who elects to receive hospice care must be eligible for one of the ~~((following medical assistance))~~ Washington apple health programs listed in the table in WAC 182-501-0060 or be eligible for the alien emergency medical (AEM) program (see WAC 182-507-0110), subject to the restrictions and limitations in this chapter and other WAC(~~:~~

~~(a) Categorically needy (CN);~~

~~(b) Children's health care as described in WAC 182-505-0210;~~

~~(c) Medically needy (MN); or~~

~~(d) Alien emergency medical (AEM) as described in WAC 182-507-0110, when the medical services are necessary to treat a qualifying emergency medical condition).~~

(2) A hospice agency is responsible to verify a ((client's)) person's eligibility with the ((client)) person or the ((client's)) person's department of social and health services (DSHS) home and community services (HCS) office or community services office (CSO).

(3) A ((client)) person enrolled in one of the medicaid agency's managed care organizations (MCO) must receive all hospice services, including facility room and board, directly through that MCO. The MCO is responsible for arranging and providing all hospice services for an MCO client.

(4) A ((client)) person who is also eligible for medicare hospice under part A is not eligible for hospice care through the medicaid agency's hospice program. The medicaid agency does pay hospice nursing facility room and board for these ((clients)) persons if the ((client)) person is admitted to a nursing facility or hospice care center (HCC) and is not receiving general inpatient care or inpatient respite care. See also WAC 182-551-1530.

(5) A ((client)) person who meets the requirements in this section is eligible to receive hospice care through the medicaid agency's hospice program when all of the following is met:

(a) The ((client's)) person's physician certifies the ((client)) person has a life expectancy of six months or less.

(b) The ((client)) person elects to receive hospice care and agrees to the conditions of the "election statement" as described in WAC 182-551-1310.

(c) The hospice agency serving the ((client)) person:

(i) Notifies the medicaid agency's hospice program within five working days of the admission of all ((clients)) persons, including:

(A) Medicaid-only ((clients)) persons;

(B) Medicaid-medicare dual eligible ((clients)) persons;

(C) Medicaid ((clients)) persons with third-party insurance; and

(D) Medicaid-medicare dual eligible ((clients)) persons with third-party insurance.

(ii) Meets the hospice agency requirements in WAC 182-551-1300 and 182-551-1305.

(d) The hospice agency provides additional information for a diagnosis when the medicaid agency requests and determines, on a case-by-case basis, the information that is needed for further review.

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

**WAC 182-551-2020 Home health services—Eligible ((clients)) persons.** (1) ((Clients)) Persons in the ((following)) Washington apple health (WAH) fee-for-service programs listed in the table in WAC 182-501-0060 are eligible to receive home health services subject to the limitations described in this chapter. ((Clients)) Persons enrolled in ((a department-contracted)) an agency-contracted managed care

organization (MCO) receive all home health services through their designated plan.

~~((a) Categorically needy program (CNP);~~

~~(b) Limited casualty program—Medically needy program (LCP-MNP); and~~

~~(c) Medical care services (MCS) under the following programs:~~

~~(i) General assistance—Unemployable (GA-U); and~~

~~(ii) Alcoholism and Drug Addiction Treatment and Support Act (ADATSA) (GA-W);)~~

(2) The ((department)) agency does not cover home health services under the home health program for ((clients)) persons in the CNP-emergency medical only and LCP-MNP-emergency medical only programs. The ((department)) agency or its designee evaluates a request for home health skilled nursing visits on a case-by-case basis under the provisions of WAC ~~((388-501-0165)) 182-501-0165~~, and may cover up to two skilled nursing visits within the eligibility enrollment period if the following criteria are met:

(a) The ((client)) person requires hospital care due to an ((emergent)) emergency medical condition as described in WAC ~~((388-500-0005)) 182-500-0030~~; and

(b) The ((department)) agency or its designee authorizes up to two skilled nursing visits for follow-up care related to the emergent medical condition.

**AMENDATORY SECTION** (Amending WSR 12-14-022, filed 6/25/12, effective 8/1/12)

**WAC 182-552-0100 Respiratory care—Client eligibility.** (1) ((Clients in)) To receive respiratory care, a person must be eligible for one of the ((following medical assistance)) Washington apple health programs ((are eligible for respiratory care:

~~(a) Categorically needy (CN);~~

~~(b) Children's health care as described in WAC 388-505-0210;~~

~~(c) Medically needy (MN);~~

~~(d) Medical care services as described in WAC 182-508-0005; and~~

~~(e)) listed in the table in WAC 182-501-0060 or be eligible for the alien emergency medical (AEM) program (as described in WAC ((388-438-0110, when the medical services are necessary to treat a qualifying emergency medical condition)) 182-507-0110).~~

(2) ((Clients)) Persons who are enrolled in an agency-contracted managed care organization (MCO) must arrange for all respiratory care directly through his or her MCO.

(3) For ((clients)) persons residing in skilled nursing facilities, boarding homes, and adult family homes, see WAC 182-552-0150.

(4) ((Clients)) Persons who are eligible for services under medicare and medicaid (medically needy program-qualified medicare beneficiaries) are eligible for respiratory care.

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

**WAC 182-553-300 Home infusion therapy/parenteral nutrition program—Client eligibility and assign-**

**ment.** (1) ~~((Clients in the following medical assistance programs are eligible))~~ To receive home infusion therapy and parenteral nutrition, subject to the limitations and restrictions in this section and other applicable WAC(~~(:~~

~~(a) Categorically needy program (CNP);~~  
~~(b) Categorically needy program—Children's health insurance program (CNP-CHIP);~~  
~~(c) General assistance—Unemployable (GA-U); and~~  
~~(d) Limited casualty program—Medically needy program (LCP-MNP)),~~ a person must be eligible for one of the Washington apple health programs listed in the table in WAC 182-501-0060.

(2) ~~((Clients))~~ Persons enrolled in ~~((a department contracted))~~ an agency-contracted managed care organization (MCO) are eligible for home infusion therapy and parenteral nutrition through that plan.

(3) ~~((Clients))~~ Persons eligible for home health program services may receive home infusion related services according to WAC ~~((388-551-2000 through 388-551-3000))~~ 182-551-2000 through 182-551-3000.

(4) To receive home infusion therapy, a ~~((client))~~ person must:

(a) Have a written physician order for all solutions and medications to be administered.

(b) Be able to manage their infusion in one of the following ways:

(i) Independently;  
(ii) With a volunteer caregiver who can manage the infusion; or  
(iii) By choosing to self-direct the infusion with a paid caregiver (see WAC 388-71-0580).

(c) Be clinically stable and have a condition that does not warrant hospitalization.

(d) Agree to comply with the protocol established by the infusion therapy provider for home infusions. If the ~~((client))~~ person is not able to comply, the ~~((client's))~~ person's caregiver may comply.

(e) Consent, if necessary, to receive solutions and medications administered in the home through intravenous, enteral, epidural, subcutaneous, or intrathecal routes. If the ~~((client))~~ person is not able to consent, the ~~((client's))~~ person's legal representative may consent.

(f) Reside in a residence that has adequate accommodations for administering infusion therapy including:

(i) Running water;  
(ii) Electricity;  
(iii) Telephone access; and  
(iv) Receptacles for proper storage and disposal of drugs and drug products.

(5) To receive parenteral nutrition, a ~~((client))~~ person must meet the conditions in subsection (4) of this section and:

(a) Have one of the following that prevents oral or enteral intake to meet the ~~((client's))~~ person's nutritional needs:

(i) Hyperemesis gravidarum; or  
(ii) An impairment involving the gastrointestinal tract that lasts three months or longer.

(b) Be unresponsive to medical interventions other than parenteral nutrition; and

(c) Be unable to maintain weight or strength.

(6) A ~~((client))~~ person who has a functioning gastrointestinal tract is not eligible for parenteral nutrition program services when the need for parenteral nutrition is only due to:

(a) A swallowing disorder;

(b) Gastrointestinal defect that is not permanent unless the ~~((client))~~ person meets the criteria in subsection (7) of this section;

(c) A psychological disorder (such as depression) that impairs food intake;

(d) A cognitive disorder (such as dementia) that impairs food intake;

(e) A physical disorder (such as cardiac or respiratory disease) that impairs food intake;

(f) A side effect of medication; or

(g) Renal failure or dialysis, or both.

(7) A ~~((client))~~ person with a gastrointestinal impairment that is expected to last less than three months is eligible for parenteral nutrition only if:

(a) The ~~((client's))~~ person's physician or appropriate ~~((medical [medical]))~~ medical provider has documented in the ~~((client's))~~ person's medical record the gastrointestinal impairment is expected to last less than three months;

(b) The ~~((client))~~ person meets all the criteria in subsection (4) of this section;

(c) The ~~((client))~~ person has a written physician order that documents the ~~((client))~~ person is unable to receive oral or tube feedings; and

(d) It is medically necessary for the gastrointestinal tract to be totally nonfunctional for a period of time.

(8) A ~~((client))~~ person is eligible to receive intradialytic parenteral nutrition (IDPN) solutions when:

(a) The parenteral nutrition is not solely supplemental to deficiencies caused by dialysis; and

(b) The ~~((client))~~ person meets the criteria in subsection (4) and (5) of this section and other applicable WAC.

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

**WAC 182-554-300 Enteral nutrition—Client eligibility.** (1) To receive oral or tube-delivered enteral nutrition products, equipment, and related supplies, ~~((clients))~~ a person must be eligible for one of the ~~((following medical assistance))~~ Washington apple health programs(~~(:~~

~~(a) Categorically needy program (CN or CNP);~~  
~~(b) Categorically needy program—State children's health insurance program (CNP-SCHIP);~~  
~~(c) Children's health care programs as defined in WAC 388-505-0210;~~

~~(d) Limited casualty program—Medically needy program (LCP-MNP);~~  
~~(e) General assistance (GAU/ADATSA); and~~  
~~(f) Emergency medical only programs when the services are necessary to treat the client's emergency medical condition.~~

~~(2) Clients who are enrolled in a department contracted managed care organization (MCO) must arrange for enteral nutrition products, equipment, and related supplies directly through his or her department contracted MCO.~~

~~(3) Clients who are enrolled in a department contracted managed care organization (MCO) must arrange for enteral nutrition products, equipment, and related supplies directly through his or her department contracted MCO.~~

~~(4) Clients who are enrolled in a department contracted managed care organization (MCO) must arrange for enteral nutrition products, equipment, and related supplies directly through his or her department contracted MCO.~~

~~(5) Clients who are enrolled in a department contracted managed care organization (MCO) must arrange for enteral nutrition products, equipment, and related supplies directly through his or her department contracted MCO.~~

~~(6) Clients who are enrolled in a department contracted managed care organization (MCO) must arrange for enteral nutrition products, equipment, and related supplies directly through his or her department contracted MCO.~~

~~(3))~~ listed in the table in WAC 182-501-0060 or be eligible for the alien emergency medical (AEM) program (see WAC 182-507-0110).

(2) For ~~(clients)~~ persons who reside in a nursing facility, adult family home, assisted living facility, boarding home, or any other residence where the provision of food is included in the daily rate, oral enteral nutrition products are the responsibility of the facility to provide in accordance with chapters 388-76, 388-97 and 388-78A WAC.

~~((4))~~ (3) For ~~(clients)~~ persons who reside in a state-owned facility (i.e., state school, developmental disabilities (DD) facility, mental health facility, Western State Hospital, and Eastern State Hospital) enteral nutrition products, equipment, and related supplies are the responsibility of the state-owned facility to provide.

~~((5) Clients)~~ (4) Persons who have elected and are eligible to receive the department's hospice benefit must arrange for enteral nutrition products, equipment and related supplies directly through the hospice benefit.

~~((6))~~ (5) Children who qualify for supplemental nutrition from the women, infants, and children (WIC) program must receive supplemental nutrition directly from that program unless the ~~(client)~~ person meets the limited circumstances in WAC ~~(388-554-500)~~ 182-554-500 (1)(d).

**WSR 14-07-047  
PERMANENT RULES  
OFFICE OF**

**INSURANCE COMMISSIONER**

[Insurance Commissioner Matter No. R 2013-27—Filed March 13, 2014, 1:36 p.m., effective April 13, 2014]

Effective Date of Rule: Thirty-one days after filing.

Purpose: This new rule allows the commissioner to set filing deadlines to file with the commissioner rate and form filings for all individual health plans, small group health plans, and stand-alone dental plans that provide pediatric dental benefits as one of the essential health benefits. This will ensure that these plans are filed timely for review.

Statutory Authority for Adoption: RCW 48.02.060, 48.18.100, 48.43.340, 48.43.715, 48.44.050, and 48.46.200.

Adopted under notice filed as WSR 14-04-117 on February 4, 2014.

A final cost-benefit analysis is available by contacting Jason Siems, P.O. Box 40258, Olympia, WA 98504-0258, phone (360) 725-7037, fax (360) 586-3109, e-mail rules coordinator@oic.wa.gov.

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

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

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

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

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

Date Adopted: March 13, 2014.

Mike Kreidler  
Insurance Commissioner

**NEW SECTION**

**WAC 284-170-870 Deadline for filing individual health plans, small group health plans, and stand-alone dental plans.** This section applies to all individual health plans, small group health plans, and stand-alone dental plans that provide pediatric dental benefits as one of the essential health benefits. Each year, issuers must file with the commissioner a complete rate and form filing for the next calendar year on or before the deadline set by the commissioner. The commissioner must announce and post the filing deadline no later than March 31st of each year. Issuers will be permitted to amend filings only at the direction of the commissioner. Filings not timely submitted will be rejected without review.

**WSR 14-07-057  
PERMANENT RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 14-61—Filed March 14, 2014, 4:30 p.m., effective April 14, 2014]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The purpose of this proposal is to change the state's recreational clam and oyster seasons on selected public beaches, based on abundance and usage surveys and agreements with comanagers and other state agencies.

Reasons Supporting Proposal: This rule change proposal was discussed during the fish and wildlife commission meeting and public hearing on February 7, 2014. The proposed changes were adopted by the commission at the March 14, 2014, commission conference call. The changes will allow recreational clam and oyster seasons to be opened or extended on some public beaches and closed on other beaches to achieve maximum recreational opportunity while conserving shellfish resources.

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, 77.12.045, and 77.12.047.

Adopted under notice filed as WSR 14-02-123 on January 2, 2014.

Changes Other than Editing from Proposed to Adopted Version: The clam and oyster season at Oyster Reserves of North Bay was changed from: Open June 1 through June 30 and August 1 through August 31 only, to: Open June 1 through July 31 only.

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



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

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

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 2, 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: March 14, 2014.

Miranda Wecker, Chair  
Fish and Wildlife Commission

AMENDATORY SECTION (Amending WSR 13-06-034, filed 3/1/13, effective 4/1/13)

**WAC 220-56-350 Clams other than razor clams, mussels—Areas and seasons.** ~~((A person can))~~ It is permissible to take, dig for, and possess clams and mussels for personal use on Puget Sound ((the entire year)) year-round, except ((from)) the following restrictions apply to the public tidelands at the beaches listed below((, which are closed unless otherwise provided:));

- (1) Ala Spit: Open May 1 through May 31 only.
- (2) Alki Park: Closed ~~((the entire year))~~ year-round.
- (3) Alki Point: Closed ~~((the entire year))~~ year-round.
- (4) Bay View State Park: Closed ~~((the entire year))~~ year-round.
- (5) Belfair State Park: Open ~~((April 1 through April 30))~~ January 1 through August 31 only.
- (6) Brown's Point Lighthouse: Closed ~~((the entire year))~~ year-round.
- (7) Cama Beach State Park: Closed ~~((the entire year))~~ year-round.
- (8) Camano Island State Park: Closed ~~((the entire year))~~ year-round.
- (9) Chuckanut Bay: Closed ~~((the entire year))~~ year-round.
- (10) Coupeville: Closed ~~((the entire year))~~ year-round.
- (11) ~~((Dash Point State Park: Closed the entire year-~~
- ~~(12))~~ Dave Mackie County Park: Closed ~~((the entire year))~~ year-round.
- ~~((13))~~ (12) Des Moines City Park: Closed ~~((the entire year))~~ year-round.
- ~~((14))~~ (13) Discovery Park: Closed ~~((the entire year))~~ year-round.
- ~~((15) DNR-79: Closed the entire year-~~
- ~~(16))~~ (14) DNR-142: Closed ~~((the entire year))~~ year-round.
- ~~((17))~~ (15) DNR-144 (Sleeper): Closed ~~((the entire year))~~ year-round.
- ~~((18))~~ (16) Dockton County Park: Closed ~~((the entire year))~~ year-round.
- ~~((19))~~ (17) Dosewallips State Park: Closed, except open ((April)) March 1 through ((August)) July 15 only in the

area defined by boundary markers and signs posted on the beach.

~~((20))~~ (18) Dungeness Spit and Dungeness National Wildlife Refuge Tidelands~~((--))~~; Open May 15 through September 30 only.

~~((21))~~ (19) Eagle Creek: Open July 1 through July 31 only.

~~((22))~~ (20) East San de Fuca: Closed ~~((the entire year))~~ year-round east of the Rolling Hills Glencairn Community dock.

~~((23))~~ (21) Fay Bainbridge Park: Closed year-round.

(22) Fort Flagler State Park including that portion of the spit west of the park boundary (Rat Island): Open ~~((May 15 through October 31))~~ January 1 through April 15 and May 15 through December 31 only.

~~((24) Fort Ward State Park: Closed the entire year-~~

~~(25))~~ (23) Freeland County Park: Closed ~~((the entire year))~~ year-round.

~~((26))~~ (24) Frye Cove County Park: Open January 1 through May 15 only.

~~((27))~~ (25) Garrison Bay: The tidelands at Guss Island and those tidelands at British camp between the National Park Service dinghy dock at the north end and the park boundary at the south end are closed ((the entire year)) year-round.

~~((28))~~ (26) Gertrude Island~~((--))~~; All tidelands at Gertrude Island are closed ((the entire year)) year-round.

~~((29))~~ (27) Golden Gardens: Closed ~~((the entire year))~~ year-round.

~~((30))~~ (28) Graveyard Spit: Closed ~~((the entire year))~~ year-round.

~~((31))~~ (29) Harrington Beach: Closed ~~((the entire year))~~ year-round.

~~((32))~~ (30) Hoodsport: Tidelands at Hoodsport Salmon Hatchery are closed ~~((the entire year))~~ year-round.

~~((33))~~ (31) Hope Island State Park (South Puget Sound): Open May 1 through May 31 only.

~~((34))~~ (32) Howarth Park: Closed ~~((the entire year))~~ year-round.

~~((35))~~ (33) Illahee State Park: Open April 1 through July 31 only.

~~((36))~~ (34) Kayak Point County Park: Closed ~~((the entire year))~~ year-round.

~~((37))~~ (35) Kitsap Memorial State Park: Closed ~~((the entire year))~~ year-round.

~~((38))~~ (36) Kopachuck State Park: Open June 1 through July 31 only.

~~((39))~~ (37) Liberty Bay~~((--))~~; All state-owned tidelands in Liberty Bay north and west of the Keyport Naval Supply Center are closed ~~((to the harvest of clams the entire year))~~ year-round.

~~((40))~~ (38) Lincoln Park: Closed ~~((the entire year))~~ year-round.

~~((41))~~ (39) Lions Park (Bremerton): Closed ~~((the entire year))~~ year-round.

~~((42))~~ (40) Little Clam Bay: Closed ~~((the entire year))~~ year-round.

~~((43))~~ (41) Lower Roto Vista Park: Closed ~~((the entire year))~~ year-round.

~~((44))~~ (42) Manchester State Park: Closed ~~((the entire year))~~ year-round.

~~((45))~~ (43) McNeil Island~~((—))~~: All tidelands on McNeil Island are closed ~~((the entire year))~~ year-round.

~~((46))~~ (44) Meadowdale County Park: Closed ~~((the entire year))~~ year-round.

~~((47))~~ (45) Mee-Kwa-Mooks Park: Closed ~~((the entire year))~~ year-round.

~~((48))~~ (46) Monroe Landing: Closed ~~((the entire year))~~ year-round.

~~((49))~~ (47) Mukilteo State Park~~((—))~~: Closed ~~((the entire year))~~ year-round.

~~((50))~~ (48) Mystery Bay State Park: Open October 1 through April 30 only.

~~((51))~~ (49) Nisqually National Wildlife Refuge: Closed ~~((the entire year))~~ year-round.

~~((52))~~ (50) North Beach County Park: Closed ~~((the entire year))~~ year-round.

~~((53))~~ (51) North Fort Lewis: Closed ~~((the entire year))~~ year-round.

~~((54))~~ (52) North Point Hudson: Closed ~~((the entire year))~~ year-round.

~~((55))~~ (53) Northeast Cultus Bay: Closed ~~((the entire year))~~ year-round.

~~((56))~~ (54) Oak Bay County Park: Open April 1 through ~~((July 31))~~ June 30 only.

~~((57))~~ (55) Oak Harbor City Park: Closed ~~((the entire year))~~ year-round.

~~((58))~~ (56) Old Man House State Park: Closed ~~((the entire year))~~ year-round.

~~((59))~~ (57) Olympia Shoal: Closed ~~((the entire year))~~ year-round.

~~((60))~~ (58) Oyster Reserves: Puget Sound and Willapa Bay state oyster reserves are closed ~~((the entire year))~~ year-round except as follows:

(a) North Bay: State-owned oyster reserves are open ~~((April))~~ June 1 through ((September 15)) July 31 only.

(b) Oakland Bay: State-owned oyster reserves open ~~((the entire year))~~ year-round except in areas defined by boundary markers and signs posted on the beach.

(c) Willapa Bay - Long Island oyster reserve: Northwest side of Long Island between reserve monuments 39 and 41 and southwest side of Long Island between reserve monuments 58 and 59 are open year-round.

~~((61))~~ (59) Penrose Point State Park: Open March 1 through May 15 only.

~~((62))~~ (60) Picnic Point County Park: Closed ~~((the entire year))~~ year-round.

~~((63))~~ (61) Pitship Point: Closed ~~((the entire year))~~ year-round.

~~((64))~~ (62) Pitt Island~~((—))~~: All tidelands on Pitt Island are closed ~~((the entire year))~~ year-round.

~~((65))~~ (63) Pleasant Harbor State Park: Closed ~~((the entire year))~~ year-round.

~~((66))~~ (64) Point Defiance: Closed ~~((the entire year))~~ year-round.

~~((67))~~ (65) Point Whitney (excluding Point Whitney Lagoon): ~~((Open March 15 through March 31))~~ Closed year-round.

~~((68))~~ (66) Point Whitney Lagoon: Open ~~((April))~~ January 1 through ((April 30)) March 15 only.

~~((69))~~ (67) Port Angeles Coast Guard: Closed ~~((the entire year))~~ year-round.

~~((70))~~ (68) Port Angeles Harbor: Closed ~~((the entire year))~~ year-round.

~~((71))~~ (69) Port Gardner: Closed ~~((the entire year))~~ year-round.

~~((72))~~ (70) Port Townsend Ship Canal/Portage Canal: Open January 1 through ~~((June 30))~~ July 31 only.

~~((73))~~ (71) Post Point: Closed ~~((the entire year))~~ year-round.

~~((74))~~ (72) Potlatch DNR tidelands: Open ~~((April))~~ July 1 through ((June 30)) August 31 only.

~~((75))~~ (73) Potlatch State Park: Open ~~((April))~~ July 1 through ((June 30)) August 31 only.

~~((76))~~ (74) Priest Point County Park: Closed ~~((the entire year))~~ year-round.

~~((77))~~ (75) Purdy Spit County Park: The southern shore of the spit from the boat ramp ~~((to the bridge is closed the entire year))~~ east to the southern utility tower near Purdy Bridge is open August 1 through August 31 only.

~~((78))~~ (76) Quilcene Bay Tidelands~~((—))~~: All state-owned tidelands in Quilcene Bay north of a line drawn from the Quilcene Boat Haven to Fisherman's Point are closed to the harvest of clams ~~((the entire year))~~ year-round, except those state-owned tidelands on the west side of the bay north of the Quilcene Boat Haven are open April 1 through December 31, daily from official sunrise to official sunset only.

~~((79))~~ (77) Reid Harbor - South Beach: Closed ~~((the entire year))~~ year-round.

~~((80))~~ (78) Retsil: Closed ~~((the entire year))~~ year-round.

~~((81))~~ (79) Richmond Beach Saltwater Park: Closed ~~((the entire year))~~ year-round.

~~((82))~~ (80) Saltwater State Park: Closed ~~((the entire year))~~ year-round.

~~((83))~~ (81) Samish Beach: Closed ~~((the entire year))~~ year-round.

~~((84))~~ (82) Scenic Beach State Park: Closed ~~((the entire year))~~ year-round.

~~((85))~~ (83) Seahurst County Park: Closed ~~((the entire year))~~ year-round.

~~((86))~~ (84) Semiahmoo: Closed ~~((the entire year))~~ year-round.

~~((87))~~ (85) Semiahmoo County Park: Closed ~~((the entire year))~~ year-round.

~~((88))~~ (86) Sequim Bay State Park~~((—))~~: Open ~~((May))~~ April 1 through June 30 only.

~~((89))~~ (87) Shine Tidelands State Park: Open January 1 through May 15 only.

~~((90))~~ (88) Silverdale Waterfront Park: Closed ~~((the entire year))~~ year-round.

~~((91))~~ (89) Sinclair Inlet: Closed ~~((the entire year))~~ year-round.

~~((92))~~ (90) Skagit Wildlife Area: Closed ~~((the entire year))~~ year-round.

~~((93))~~ (91) South Carkeek Park: Closed ~~((the entire year))~~ year-round.

~~((94))~~ (92) South Gordon Point: Closed ~~((the entire year))~~ year-round.

~~((95))~~ (93) South Indian Island County Park: Open ~~(April)~~ July 1 through ((June)) September 15 only.

~~((96))~~ (94) South Mukilteo Park: Closed ~~((the entire year))~~ year-round.

~~((97))~~ (95) South Oro Bay: Closed ~~((the entire year))~~ year-round.

~~((98))~~ (96) South Point Wilson (Port Townsend): Closed ~~((the entire year))~~ year-round.

~~((99))~~ (97) Southworth Ferry Dock: Closed ~~((the entire year))~~ year-round.

~~((100))~~ (98) Spencer Spit State Park: Open March 1 through July 31 only.

~~((101))~~ (99) Taylor Bay: Closed ~~((the entire year))~~ year-round.

~~((102))~~ (99) Taylor Bay: Closed ~~((the entire year))~~ year-round.

~~((103))~~ (100) Triton Cove Tidelands: Open July ~~(1)~~ 15 through August 31 only.

~~((104))~~ (101) Twanoh State Park: Open ~~(August)~~ May 1 through May 15 and September 1 through September 30 only.

~~((105))~~ (102) Walker County Park: Closed ~~((the entire year))~~ year-round.

~~((106))~~ (103) West Dewatto: DNR Beach 44A open July 1 through September 30 only.

~~((107))~~ (104) West Pass Access: Closed ~~((the entire year))~~ year-round.

~~((108))~~ (105) Willapa Bay: State-owned tidelands east of the department Willapa Bay Field Station and Nahcotta Tidelands Interpretive Site are closed year-round.

~~((109))~~ (106) Wolfe Property State Park: Open January 1 through May 15 only.

~~((110))~~ (107) Woodard Bay: Closed ~~((the entire year))~~ year-round.

~~(A person can)~~ It is permissible to take, dig for, and possess clams, cockles, borers, and mussels, not including razor clams, for personal use in Grays Harbor and Willapa Harbor ~~((the entire year))~~ year-round, except from state oyster reserves, which are closed to clam digging ~~((the entire year))~~ year-round.

~~(A person can)~~ It is permissible to take, dig for, and possess clams, cockles, borers, and mussels, not including razor clams, for personal use from the Pacific Ocean beaches from November 1 through March 31 only.

**AMENDATORY SECTION** (Amending WSR 13-06-034, filed 3/1/13, effective 4/1/13)

**WAC 220-56-380 Oysters—Areas and seasons.** ~~(A person can)~~ It is permissible to take and possess oysters for personal use from public tidelands ~~((the entire year))~~ year-round except ~~(from)~~ the following restrictions apply to the public tidelands at the beaches listed below ~~(, which are closed unless otherwise provided.))~~:

- (1) Ala Spit: Open May 1 through May 31 only.
- (2) Alki Park: Closed ~~((the entire year))~~ year-round.
- (3) Alki Point: Closed ~~((the entire year))~~ year-round.
- (4) Bangor: Closed ~~((the entire year))~~ year-round.

(5) Bay View State Park: Closed ~~((the entire year))~~ year-round.

(6) Brown's Point Lighthouse: Closed ~~((the entire year))~~ year-round.

(7) Cama Beach State Park: Closed ~~((the entire year))~~ year-round.

(8) Camano Island State Park: Closed ~~((the entire year))~~ year-round.

(9) Chuckanut: Closed ~~((the entire year))~~ year-round.

(10) Coupeville: Closed ~~((the entire year))~~ year-round.

~~(11)~~ ~~(Dash Point State Park: Closed the entire year.~~

~~(12))~~ Dave Mackie County Park: Closed ~~((the entire year))~~ year-round.

~~((13))~~ (12) Des Moines City Park: Closed ~~((the entire year))~~ year-round.

~~((14))~~ (13) Discovery Park: Closed ~~((the entire year))~~ year-round.

~~((15))~~ ~~DNR-79: Closed the entire year.~~

~~(16))~~ (14) DNR-142: Closed ~~((the entire year))~~ year-round.

~~((17))~~ (15) DNR 144 (Sleeper): Closed ~~((the entire year))~~ year-round.

~~((18))~~ (16) Dockton County Park: Closed ~~((the entire year))~~ year-round.

~~((19))~~ (17) Dungeness Spit/National Wildlife Refuge: Open May 15 ~~(--)~~ through September 30 only.

~~((20))~~ (18) East San de Fuca: Closed ~~((the entire year))~~ year-round east of the Rolling Hills Glencairn Community dock.

~~((21))~~ (19) Fay Bainbridge Park: Closed year-round.

(20) Fort Flagler State Park including that portion of the spit west of the park boundary (Rat Island): Open ~~((May))~~ January 1 through April 15 and May 15 through ((October)) December 31 only.

~~((22))~~ ~~Fort Ward State Park: Closed the entire year.~~

~~(23))~~ (21) Freeland County Park: Closed ~~((the entire year))~~ year-round.

~~((24))~~ (22) Frye Cove County Park: Open January 1 through May 15 only.

~~((25))~~ (23) Golden Gardens: Closed ~~((the entire year))~~ year-round.

~~((26))~~ (24) Graveyard Spit: Closed ~~((the entire year))~~ year-round.

~~((27))~~ (25) Harrington Beach: Closed ~~((the entire year))~~ year-round.

~~((28))~~ (26) Hoodspout: Tidelands at the Hoodspout Salmon Hatchery are closed ~~((the entire year))~~ year-round.

~~((29))~~ (27) Hope Island State Park (South Puget Sound): Open May 1 through May 31 only.

~~((30))~~ (28) Howarth Park: Closed ~~((the entire year))~~ year-round.

~~((31))~~ (29) Illahee State Park: Open April 1 through July 31 only.

~~((32))~~ (30) Kayak Point County Park: Closed ~~((the entire year))~~ year-round.

~~((33))~~ (31) Kitsap Memorial State Park: Closed ~~((the entire year))~~ year-round.

~~((34))~~ (32) Kopachuck State Park: Open March 1 through July 31 only.

~~((35))~~ (33) Liberty Bay~~((--))~~: All state-owned tidelands in Liberty Bay north and west of the Keyport Naval Supply Center are closed ~~((to the harvest of oysters the entire year))~~ year-round.

~~((36))~~ (34) Lincoln Park: Closed ~~((the entire year))~~ year-round.

~~((37))~~ (35) Lions Park (Bremerton): Closed ~~((the entire year))~~ year-round.

~~((38))~~ (36) Little Clam Bay: Closed ~~((the entire year))~~ year-round.

~~((39))~~ (37) Lower Roto Vista Park: Closed ~~((the entire year))~~ year-round.

~~((40))~~ (38) Manchester State Park: Closed ~~((the entire year))~~ year-round.

~~((41))~~ (39) Meadowdale County Park: Closed ~~((the entire year))~~ year-round.

~~((42))~~ (40) Mee-Kwa-Mooks Park: Closed ~~((the entire year))~~ year-round.

~~((43))~~ (41) Monroe Landing: Closed ~~((the entire year))~~ year-round.

~~((44))~~ (42) Mukilteo State Park: Closed ~~((the entire year))~~ year-round.

~~((45))~~ (43) Mystery Bay State Park: Open October 1 through April 30 only.

~~((46))~~ (44) Nisqually National Wildlife Refuge: Closed ~~((the entire year))~~ year-round.

~~((47))~~ (45) North Beach County Park: Closed ~~((the entire year))~~ year-round.

~~((48))~~ (46) North Fort Lewis: Closed ~~((the entire year))~~ year-round.

~~((49))~~ (47) North Point Hudson: Closed ~~((the entire year))~~ year-round.

~~((50))~~ (48) Northeast Cultus Bay: Closed ~~((the entire year))~~ year-round.

~~((51))~~ (49) Oak Bay County Park: Open April 1 through ~~((July 31))~~ June 30 only.

~~((52))~~ (50) Oak Harbor Beach Park: Closed ~~((the entire year))~~ year-round.

~~((53))~~ (51) Oak Harbor City Park: Closed ~~((the entire year))~~ year-round.

~~((54))~~ (52) Old Man House State Park: Closed ~~((the entire year))~~ year-round.

~~((55))~~ (53) Olympia Shoal: Closed ~~((the entire year))~~ year-round.

~~((56))~~ (54) Oyster Reserves: Puget Sound and Willapa Bay oyster reserves are closed ~~((the entire year))~~ year-round except the following are open ~~((the entire year))~~ during the dates specified:

(a) Oakland Bay~~((--))~~: State-owned oyster reserves are open ~~((the entire year))~~ year-round except in areas defined by boundary markers and signs posted on the beach.

(b) North Bay~~((--))~~: State-owned reserves are open ~~((April))~~ June 1 through ((September 15)) July 31 only.

(c) Willapa Bay - Long Island oyster reserve: Northwest side of Long Island between reserve monuments 39 and 41 and southwest side of Long Island between reserve monuments 58 and 59 are open year-round.

~~((57))~~ (55) Penrose Point State Park: Open March 1 through May 15 only.

~~((58))~~ (56) Picnic Point: Closed ~~((the entire year))~~ year-round.

~~((59))~~ (57) Pitt Island: Closed ~~((the entire year))~~ year-round.

~~((60))~~ (58) Pleasant Harbor State Park: Closed ~~((the entire year))~~ year-round.

~~((61))~~ (59) Point Defiance: Closed ~~((the entire year))~~ year-round.

~~((62))~~ (60) Point Whitney tidelands (excluding Point Whitney Lagoon): Open January 1 through June 30 only.

~~((63))~~ (61) Port Angeles Coast Guard: Closed ~~((the entire year))~~ year-round.

~~((64))~~ (62) Port Angeles Harbor: Closed ~~((the entire year))~~ year-round.

~~((65))~~ (63) Port Gardner: Closed ~~((the entire year))~~ year-round.

~~((66))~~ (64) Port Townsend Ship Canal/Portage Canal: Open January 1 through ~~((June 30))~~ July 31 only.

~~((67))~~ (65) Post Point: Closed ~~((the entire year))~~ year-round.

~~((68))~~ (66) Potlatch DNR Tidelands: Open ~~((April))~~ July 1 through ((June 30)) August 31 only.

~~((69))~~ (67) Potlatch State Park: Open ~~((April))~~ July 1 through ((June 30)) August 31 only.

~~((70))~~ (68) Priest Point County Park: Closed ~~((the entire year))~~ year-round.

~~((71))~~ (69) Purdy Spit County Park: The southern shore of the spit from the boat ramp ~~((to the bridge is closed the entire year))~~ east to the southern utility tower near Purdy Bridge is open August 1 through August 31 only.

~~((72))~~ (70) Quilcene Bay Tidelands~~((--))~~: All state-owned tidelands in Quilcene Bay north of a line drawn from the Quilcene Boat Haven to Fisherman's Point are closed year-round except those state-owned tidelands on the west side of the bay north of the Quilcene Boat Haven are open April 1 through December 31, daily from official sunrise to official sunset, only.

~~((73))~~ (71) Reid Harbor - South Beach: Closed ~~((the entire year))~~ year-round.

~~((74))~~ (72) Retsil: Closed ~~((the entire year))~~ year-round.

~~((75))~~ (73) Richmond Beach Saltwater Park: Closed ~~((the entire year))~~ year-round.

~~((76))~~ (74) Saltwater State Park: Closed ~~((the entire year))~~ year-round.

~~((77))~~ (75) Samish Beach: Closed ~~((the entire year))~~ year-round.

~~((78))~~ (76) Seahurst County Park: Closed ~~((the entire year))~~ year-round.

~~((79))~~ (77) Scenic Beach State Park: Closed ~~((the entire year))~~ year-round.

~~((80))~~ (78) Semiahmoo: Closed ~~((the entire year))~~ year-round.

~~((81))~~ (79) Semiahmoo County Park: Closed ~~((the entire year))~~ year-round.

~~((82))~~ (80) Shine Tidelands State Park: Open January 1 through May 15 only.

~~((83))~~ (81) Silverdale Waterfront Park: Closed ~~((the entire year))~~ year-round.

~~((84))~~ (82) Sinclair Inlet: Closed ~~((the entire year))~~ year-round.

~~((85))~~ (83) Skagit Wildlife Area: Closed ~~((the entire year))~~ year-round.

~~((86))~~ (84) South Carkeek Park: Closed ~~((the entire year))~~ year-round.

~~((87))~~ (85) South Gordon Point: Closed ~~((the entire year))~~ year-round.

~~((88))~~ (86) South Indian Island County Park: Open ~~((April))~~ July 1 through ~~((June))~~ September 15 only.

~~((89))~~ (87) South Mukilteo Park: Closed ~~((the entire year))~~ year-round.

~~((90))~~ (88) South Oro Bay: Closed ~~((the entire year))~~ year-round.

~~((91))~~ (89) South Point Wilson (Port Townsend): Closed ~~((the entire year))~~ year-round.

~~((92))~~ (90) Southworth Ferry Dock: Closed ~~((the entire year))~~ year-round.

~~((93))~~ (91) Spencer Spit State Park: Open March 1 through July 31 only.

~~((94))~~ ~~Suquamish (Old Man House): Closed the entire year.~~

~~((95))~~ (92) Taylor Bay: Closed ~~((the entire year))~~ year-round.

~~((96))~~ (93) Walker County Park: Closed ~~((the entire year))~~ year-round.

~~((97))~~ (94) West Pass Access: Closed ~~((the entire year))~~ year-round.

~~((98))~~ (95) Willapa Bay: State-owned tidelands east of the department Willapa Bay Field Station and the Nahcotta Tidelands Interpretive Site are open only between boundary markers and posted signs.

~~((99))~~ (96) Woodard Bay: Closed ~~((the entire year))~~ year-round.

~~((100))~~ (97) Wolfe Property State Park: Open January 1 through May 15 only.

182-512-0820, 182-512-0840, 182-512-0860, 182-512-0880, 182-512-0900, 182-512-0920, 182-512-0940, and 182-512-0960; and new section WAC 182-512-0260.

Statutory Authority for Adoption: RCW 41.05.021.

Other Authority: Patient Protection and Affordable Care Act (Public Law 111-148); 42 C.F.R. § 431, 435, and 457; and 45 C.F.R. § 155.

Adopted under notice filed as WSR 13-18-087 on September 4, 2013.

Changes Other than Editing from Proposed to Adopted Version: The following changes were made from the version filed as WSR 13-18-087 on September 4, 2013:

WAC 182-503-0050(1), changed wording to improve clarity.

WAC 182-503-0050 (2)(a), changed wording to improve clarity.

WAC 182-503-0050 (2)(b), deleted (vii) because third-party contacts are not equivalent data sources of verification to the other sources in subsection (2)(b).

WAC 182-503-0050 (2)(c), changed wording to improve clarity.

WAC 182-503-0050 (2)(d), changed wording to improve clarity; added "citizenship" to list of eligibility factors.

WAC 182-503-0050(3), added clarifying language to (c); added new part (d) explaining that further documentation may be requested to verify self-attested information.

WAC 182-503-0050(5), replaced "determined" with "deemed."

WAC 182-512-0050(7), changed "medicare cost savings program" to "medicare savings program."

WAC 182-512-0100(3), clarified that spouses who are determined to be ineligible for SSI-related programs may be eligible for MN or MAGI-based programs.

WAC 182-512-0150(5), changed wording from "up to" to "any or all of the" in reference to the three months prior to application.

WAC 182-512-0250, removed language "their spouse or other financially responsible person" from subsection (1); struck subsections (3) and (4).

WAC 182-512-0350, added clarifying language to subsection (1)(b)(iv).

WAC 182-512-0550, revised section to conform to the changes made to WAC 182-512-0770.

WAC 182-512-0600, deleted the word "clothing" from definition of SSI income; added clarifying information to subsections (2) and (4)(k).

WAC 182-512-0650, deleted the word "clothing" from definition of SSI income.

WAC 182-512-0770, section was revised to conform to federal law (American Recovery and Reinvestment Act of 2009) requirements.

WAC 182-512-0860, revised section to conform to the changes made to WAC 182-512-0770.

WAC 182-512-0920, added clarifying language to subsections (7), (8), (9), and (12).

WAC 182-512-0960, added clarifying language to section title and subsection (1).

Number of Sections Adopted in Order to Comply with Federal Statute: New 7, Amended 23, Repealed 0; Federal

## WSR 14-07-059

### PERMANENT RULES

### HEALTH CARE AUTHORITY

(Washington Apple Health)

[Filed March 14, 2014, 5:19 p.m., effective April 14, 2014]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Medicaid Expansion WACs - Phase 4.5, the health care authority (HCA) is implementing new regulations under the federal Patient Protection and Affordable Care Act in preparation for healthcare reform in Washington state. This includes the establishment of standalone rules for medical assistance programs, which are required under 2E2SHB 1738, Laws of 2011, which creates HCA as the single state agency responsible for the administrations and supervision of Washington's medicaid program (Washington apple health).

Citation of Existing Rules Affected by this Order: Amending WAC 182-512-0050, 182-512-0100, 182-512-0150, 182-512-0250, 182-512-0350, 182-512-0400, 182-512-0450, 182-512-0500, 182-512-0550, 182-512-0600, 182-512-0650, 182-512-0700, 182-512-0750, 182-512-0800,

Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

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

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 7, Amended 23, Repealed 0.

Date Adopted: March 14, 2014.

Kevin M. Sullivan  
Rules Coordinator

#### NEW SECTION

**WAC 182-503-0050 Washington apple health—Verification requirements.** For the purposes of this section, "we" refers to the agency or its designee and "you" refers to the applicant for, or recipient of, health care coverage. We have different eligibility verification processes and standards depending on whether the Washington apple health (WAH) program is a modified adjusted gross income (MAGI)-based WAH program, a non-MAGI-based WAH program, or a deemed eligible program as described in WAC 182-503-0510.

(1) We may ask for verification of information that you give us when you apply, renew, or report a change in your household circumstances.

(2) The following provisions apply to all WAH programs.

(a) We will only require information from you that is both needed to determine eligibility and readily available, which means information that you can get within three business days. If the verification we require costs money, we will pay for it or get the information in another way. After we approve your WAH coverage based on information that is readily available, we may ask for verification information that is more determinative of your eligibility but that may require more than three working days to obtain.

(b) We may consider information from various data sources before asking you to provide verification information. These various data sources include, but are not limited to, those listed below:

- (i) Washington state employment security department;
- (ii) The Internal Revenue Service;
- (iii) United States Department of Homeland Security;
- (iv) The Social Security Administration;
- (v) Other state and federal data bases; and
- (vi) Other commercially available electronic data bases.

(c) After we attempt to verify your information with information from various data sources listed in (b) of this subsection, we may ask you for more information or consider information from third-party contacts, such as employers, landlords, and insurance companies if:

(i) The information you provided cannot be verified through our data sources;

(ii) The data-match is not reasonably compatible (as defined in WAC 182-500-0095) with the information you self-attested to or other sources; or

(iii) The information you self-attested to is contradictory, confusing, or outdated.

(d) When we need more information from you to determine your eligibility for WAH coverage, we send all notices according to the requirements of WAC 182-518-0015 and follow the rules below:

(i) If you are eligible for equal access services as described in WAC 182-503-0120 or limited-English proficiency services as described in WAC 182-503-0110, we help you comply with the requirements of this section.

(ii) We will not deny or delay your application because you fail to provide the information in a particular type or form. We must accept and consider alternative verification.

(iii) If you request more time to provide information, we allow you the time requested.

(iv) We will not deny you eligibility during any time period we have given you to provide more information unless we have conclusive evidence of your ineligibility.

(v) If we do not timely receive your information, we determine your eligibility based on all the information we have received on or before the date of the decision, including information we obtained from the various data sources listed in (b) of this subsection. If we cannot determine your eligibility, we deny or terminate your WAH coverage and send you a notice that states when we will reconsider the application as described in WAC 182-503-0080.

(vi) Once we verify an eligibility factor that is not subject to change, we will not require ongoing or additional verification of that factor. This includes, but is not limited to, citizenship, family relationships; Social Security numbers; and dates of birth, death, marriage, dissolution of marriage, or legal separation.

(3) If you are applying for MAGI-based programs:

(a) Except as described in (b) of this subsection, we must accept your self-attestation (defined in WAC 182-500-0100) of eligibility factors (including your income and tax deductions). If your self-attestation indicates eligibility, we find you eligible for MAGI-based WAH.

(b) We follow the procedures in subsection (1) of this section and use data-matching to verify your citizenship or immigration status, and Social Security number. If we are unable to verify a required eligibility factor through data-matching, we ask you to provide the verification we need.

(c) After we have determined your eligibility, we may conduct a post-eligibility review to verify your self-attestation. We use various means to verify your circumstances including, but not limited to, information that is available from the sources listed in subsection (2)(b) and (c) of this section and from the following sources:

(i) The supplemental nutrition assistance program (SNAP).

(ii) Department of social and health services cash programs, including temporary assistance for needy families (TANF), diversion cash assistance (DCA), refugee cash

assistance (RCA), aged, blind, and disabled cash assistance (ABD), and pregnant women's cash assistance (PWA).

(d) If we are unable to verify your self-attested information using the procedures in subsection (1) of this section, we will contact you and may request documentation. If you give us a reasonable explanation that confirms your eligibility, we may not require additional documentation.

(4) If you are applying for non-MAGI-based programs:

(a) We must first verify your eligibility factors according to MAGI-based standards described in subsection (2) of this section. If you are eligible for a MAGI-based WAH program, we must find you eligible for that program.

(b) Even if you are eligible for MAGI-based coverage, we will still consider you for non-MAGI-based programs if the programs offer you services or coverage options that are not available in MAGI-based programs.

(c) We may need additional verification to determine eligibility for non-MAGI-based programs including, but not limited to:

(i) Income and income deductions;

(ii) Medical expenses required to meet a spenddown liability (see WAC 182-519-0110);

(iii) Medical expenses and other post-eligibility deductions used to determine eligibility for long-term care programs (see WAC 182-513-1380);

(iv) Resources; and

(v) Any other questionable information.

(d) Additional eligibility factors and verification standards are described in:

(i) Chapter 182-507 WAC, refugee medical and alien medical programs;

(ii) Chapter 182-508 WAC, medical care services;

(iii) Chapter 182-511 WAC, WAH for workers with disabilities;

(iv) Chapter 182-512 WAC, SSI-related medical programs;

(v) Chapters 182-513 and 182-515 WAC, SSI-related long-term care programs;

(vi) Chapter 182-517 WAC, medicare savings programs; and

(vii) Chapter 182-519 WAC, medically needy and spenddown programs.

(5) If you are deemed eligible for one of the programs described in WAC 182-503-0510(4), we do not require additional verification of information from you.

**AMENDATORY SECTION** (Amending WSR 11-24-018, filed 11/29/11, effective 12/1/11)

**WAC 182-512-0050 SSI-related medical—General information.** (1) The ~~((department))~~ agency (which includes its designee for purposes of this chapter) provides ~~((medical benefits))~~ health care coverage under the Washington apple health (WAH) categorically needy (CN) and medically needy (MN) SSI-related programs for SSI-related people, meaning those who meet at least one of the federal SSI program criteria as being:

(a) Age sixty-five or older;

(b) Blind with:

(i) Central visual acuity of 20/200 or less in the better eye with the use of a correcting lens; or

(ii) A field of vision limitation so the widest diameter of the visual field subtends an angle no greater than twenty degrees.

(c) Disabled:

(i) "Disabled" means unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment, which:

(A) Can be expected to result in death; or

(B) Has lasted or can be expected to last for a continuous period of not less than twelve months; or

(C) In the case of a child seventeen years of age or younger, if the child suffers from any medically determinable physical or mental impairment of comparable severity.

(ii) Decisions on SSI-related disability are subject to the authority of:

(A) Federal statutes and regulations codified at 42 U.S.C. ~~((See))~~ Section 1382c and 20 C.F.R., parts 404 and 416, as amended; and

(B) Controlling federal court decisions, which define the OASDI and SSI disability standard and determination process.

(2) A denial of Title II or Title XVI federal benefits by SSA solely due to failure to meet the blindness or disability criteria is binding on the ~~((department))~~ agency unless the applicant's:

(a) Denial is under appeal in the reconsideration stage in SSA's administrative hearing process, or SSA's appeals council; or

(b) Medical condition has changed since the SSA denial was issued.

(3) The ~~((department))~~ agency considers a ~~((client))~~ person who meets the special requirements for SSI status under Sections 1619(a) or 1619(b) of the Social Security Act as an SSI recipient. Such a ~~((client))~~ person is eligible for WAH CN ~~((medical))~~ health care coverage under WAC ~~((388-474-0005))~~ 182-510-0001.

(4) ~~((Individuals))~~ Persons referred to in subsection (1) must also meet appropriate eligibility criteria found in the following WAC and EA-Z Manual sections:

(a) For all programs:

(i) WAC ~~((388-408-0055))~~ 182-506-0015, Medical assistance units;

(ii) WAC ~~((388-416-0015))~~ 182-504-0015, Categorically needy and WAC ~~((388-416-0020))~~ 182-504-0020, Medically needy certification periods;

(iii) Program specific requirements in chapter ~~((388-475))~~ 182-512 WAC;

(iv) WAC ~~((388-490-0005))~~ 182-503-0050, Verification;

(v) WAC ~~((388-503-0505))~~ 182-503-0505, General eligibility requirements for medical programs;

(vi) WAC ~~((388-505-0540))~~ 182-503-0540, Assignment of rights and cooperation;

(vii) Chapter ~~((388-564))~~ 182-516 WAC, Trusts, annuities and life estates.

(b) For LTC programs:

(i) Chapter ~~((388-513))~~ 182-513 WAC, Long-term care services;

(ii) Chapter ~~((388-515))~~ 182-515 WAC, Waiver services.

(c) For WAH MN, chapter ~~((388-519))~~ 182-519 WAC, Spenddown;

(d) For WAH HWD, program specific requirements in chapter ~~((388-475))~~ 182-511 WAC.

(5) Aliens who qualify for medicaid ~~((benefits))~~ coverage, but are determined ineligible because of alien status may be eligible for programs as specified in WAC ~~((388-438-0110))~~ 182-507-0110.

(6) The ~~((department))~~ agency pays for a ~~((client's))~~ person's medical care outside of Washington according to WAC ~~((388-501-0180))~~ 182-501-0180.

(7) The ~~((department))~~ agency follows income and resource methodologies of the supplemental security income (SSI) program defined in federal law when determining eligibility for SSI-related medical or medicare ~~((cost))~~ savings programs unless the ~~((department))~~ agency adopts rules that are less restrictive than those of the SSI program.

(8) Refer to WAC ~~((388-418-0025))~~ 182-504-0125 for effects of changes on medical assistance for redetermination of eligibility.

AMENDATORY SECTION (Amending WSR 11-24-018, filed 11/29/11, effective 12/1/11)

**WAC 182-512-0100 SSI-related medical—Categorically needy (CN) medical eligibility.** (1) Washington apple health (WAH) categorically needy (CN) coverage is available for an SSI-related ~~((client))~~ person who ~~((= (a)))~~ meets the criteria in WAC ~~((388-475-0050))~~ 182-512-0050, SSI-related medical—General information ~~((= or~~

~~((b) Meets the criteria for the state-funded general assistance—Expedited medicaid disability (GA-X) program by meeting the:~~

~~((i) Requirements of the cash program in WAC 388-400-0025 and 388-478-0030; or~~

~~((ii) SSI-related disability standards but who cannot get the SSI cash grant due solely to immigration status or sponsor deeming issues)).~~

(2) To be eligible for SSI-related WAH CN medical programs, a person must also have:

(a) Countable income and resources at or below the SSI-related WAH CN medical monthly standard (refer to WAC ~~((388-478-0080))~~ 182-512-0010) or be eligible for an SSI cash grant but choose not to receive it; or

(b) Countable resources at or below the SSI resource standard and income above the SSI-related WAH CN medical monthly standard, but the countable income falls below that standard after applying special income disregards as described in WAC ~~((388-475-880))~~ 182-512-0880; or

(c) Met requirements for long-term care (LTC) WAH CN income and resource requirements that are found in chapters ~~((388-513))~~ 182-513 and ~~((388-515))~~ 182-515 WAC if wanting LTC or waiver services.

(3) An ineligible spouse of an SSI recipient is not eligible for noninstitutional SSI-related WAH CN ~~((medical benefits))~~ health care coverage. If an ineligible spouse of an SSI recipient has dependent children in the home, eligibility may be determined for ~~((family medical programs))~~ health care

coverage under the WAH medically needy program or for a modified adjusted gross income-based program.

AMENDATORY SECTION (Amending WSR 12-20-001, filed 9/19/12, effective 10/20/12)

**WAC 182-512-0150 SSI-related medical—Medically needy (MN) medical eligibility.** (1) Washington apple health (WAH) medically needy (MN) ((medical)) health care coverage is available for any of the following:

(a) ~~((An individual))~~ A person who is SSI-related and not eligible for WAH categorically needy (CN) medical coverage because the ~~((individual))~~ person has countable income that is above the WAH CN income ~~((standard))~~ level (CNIL) (or for long-term care (LTC) ~~((clients))~~ recipients, above the special income limit (SIL):

(i) The ~~((individual's))~~ person's countable income is at or below WAH MN standards, leaving no spenddown requirement; or

(ii) The ~~((individual's))~~ person's countable income is above WAH MN standards requiring the ~~((individual))~~ person to spenddown their excess income (see subsection (4) of this section). See WAC 182-512-0500 through 182-512-0800 for rules on determining countable income, and WAC 182-519-0050 for program standards or chapter ~~((388-513))~~ 182-513 WAC for institutional standards.

(b) An SSI-related ineligible spouse of an SSI recipient;

(c) ~~((An individual))~~ A person who meets SSI program criteria but is not eligible for the SSI cash grant due to immigration status or sponsor deeming. See WAC ~~((388-424-0010))~~ 182-503-0535 for limits on eligibility for aliens;

(d) ~~((An individual))~~ A person who meets the WAH MN LTC services requirements of chapter ~~((388-513))~~ 182-513 WAC;

(e) ~~((An individual))~~ A person who lives in an alternate living facility and meets the requirements of WAC ~~((388-513-1305))~~ 182-513-1305; or

(f) ~~((An individual))~~ A person who meets resource requirements as described in chapter 182-512 WAC, elects and is certified for hospice services per chapter 182-551 WAC.

(2) ~~((Individuals))~~ A person whose countable resources are above the SSI resource standards ~~((are))~~ is not eligible for WAH MN noninstitutional ~~((medical benefits))~~ health care coverage. See WAC 182-512-0200 through 182-512-0550 to determine countable resources.

(3) ~~((Individuals))~~ A person who ~~((qualify))~~ qualifies for services under WAH long-term care ~~((have))~~ programs has different criteria and may spend down excess resources to become eligible for WAH LTC institutional or waiver ~~((medical benefits))~~ health care coverage. Refer to WAC ~~((388-513-1315))~~ 182-513-1315 and ~~((388-513-1395))~~ 182-513-1395.

(4) ~~((An individual))~~ A person with income over the effective ~~((medically needy))~~ WAH MN income limit (MNIL) described in WAC 182-519-0050 may become eligible for WAH MN coverage when the ~~((individual))~~ person has incurred medical expenses that are equal to the excess income. This is the process of meeting spenddown. Refer to chapter 182-519 WAC for spenddown information.



(5) ~~((An individual))~~ A person may be eligible for ~~((med-icall))~~ health care coverage for ~~((up to))~~ any or all of the three months immediately prior to the month of application, if the ~~((individual))~~ person has:

(a) Met all eligibility requirements for the months being considered; and

(b) Received medical services covered by medicaid during that time.

(6) ~~((An individual))~~ A person who is eligible for WAH MN without a spenddown is certified for up to twelve months. For ~~((an individual))~~ a person who must meet a spenddown, refer to WAC 182-519-0110. For a person who is eligible for a WAH long-term care MN ~~((individual))~~ program, refer to WAC ~~((388-513-1305))~~ 182-513-1305 and ~~((388-513-1315))~~ 182-513-1315.

(7) ~~((An individual))~~ A person must reapply for each certification period. There is no continuous eligibility for WAH MN. ~~((Although each additional certification period requires a new application, if the medical benefits have been closed less than thirty days, an eligibility review form may be used to reapply.))~~

AMENDATORY SECTION (Amending WSR 11-24-018, filed 11/29/11, effective 12/1/11)

**WAC 182-512-0250 SSI-related medical—Ownership and availability of resources.** (1) The agency considers personal or real property ~~((is))~~ to be available to ~~((the client if the client, client's spouse or other financially responsible person))~~ a Washington apple health (WAH) applicant or recipient if the applicant or recipient:

(a) Owns the property;

(b) Has the authority to convert the property into cash;

(c) Can expect to convert the property to cash within twenty working days; and

(d) May legally use the property for his/her support.

(2) The agency counts the resources of financially responsible persons (as defined in WAC 182-506-0010) who live in the home even if those persons do not receive WAH coverage.

(3) A resource is considered available on the first day of the month following the month of receipt unless a rule about a specific type of resource provides for a different time period.

~~((3))~~ (4) A resource, which ordinarily cannot be converted to cash within twenty working days, is considered unavailable as long as a reasonable effort is being made to convert the resource to cash.

~~((4))~~ (5) A ~~((client))~~ person may provide evidence showing that a resource is unavailable. A resource is not counted if ~~((a client))~~ the person shows sufficient evidence that the resource is unavailable.

~~((5))~~ (6) We do not count the resources of victims of family violence, as defined in WAC 388-452-0010, when:

(a) The resource is owned jointly with members of the former household;

(b) Availability of the resource depends on an agreement of the joint owner; or

(c) Making the resource available would place the ~~((client))~~ person at risk of harm.

~~((6))~~ (7) The value of a resource is its fair market value minus encumbrances.

~~((7))~~ (8) Refer to WAC ~~((388-470-0060))~~ 182-512-0260 to consider additional resources when an alien has a sponsor.

#### NEW SECTION

**WAC 182-512-0260 SSI-related medical—How to count a sponsor's resources.** (1) The agency counts part of a sponsor's resources as available to an applicant or recipient of Washington apple health (WAH) SSI-related health care coverage if:

(a) The person is a sponsored immigrant as defined in WAC 182-512-0785; and

(b) The person is not exempt from deeming under WAC 182-512-0790.

(2) The agency determines the amount of the sponsor's resources to count by:

(a) Totaling the countable resources of the sponsor and the sponsor's spouse (if the spouse signed the affidavit of support);

(b) Subtracting fifteen hundred dollars; and

(c) Counting the remaining amount as a resource that is available to the person.

(3) When a sponsor has sponsored other people as well, the agency divides the result by the total number of people sponsored.

(4) A sponsor's resources are counted when determining eligibility for WAH coverage until the person becomes exempt from deeming under WAC 182-512-0790.

AMENDATORY SECTION (Amending WSR 11-24-018, filed 11/29/11, effective 12/1/11)

**WAC 182-512-0350 SSI-related medical—Property and contracts excluded as resources.** (1) The ~~((department))~~ agency does not count the following resources when determining eligibility for SSI-related medical assistance:

(a) A ~~((client's))~~ person's household goods and personal effects;

(b) One home (which can be any shelter), including the land on which the dwelling is located and all contiguous property and related out-buildings in which the ~~((client))~~ person has ownership interest (for WAH long-term care programs, see WAC 182-513-1350 for home equity limits), when:

(i) The ~~((client))~~ person uses the home as his or her primary residence; or

(ii) The ~~((client's))~~ person's spouse lives in the home; or

(iii) The ~~((client))~~ person does not currently live in the home but the ~~((client))~~ person or his/her representative has stated ~~((the client))~~ he or she intends to return to the home; or

(iv) A relative, who is financially or medically dependent on the ~~((client))~~ person, lives in the home and ~~((the client, client's))~~ either the dependency is documented or a written statement of dependency is provided by the person, or his or her authorized representative(-s) or by the dependent relative ~~((has provided a written statement to that effect))~~.

(c) The value of ownership interest in jointly owned real property is an excluded resource for as long as sale of the

property would cause undue hardship to a co-owner due to loss of housing. Undue hardship would result if the co-owner:

- (i) Uses the property as his or her principal place of residence;
- (ii) Would have to move if the property were sold; and
- (iii) Has no other readily available housing.

(2) Cash proceeds from the sale of the home described in subsection (1)(b) ~~((above))~~ of this section are not considered if the ~~((client))~~ person uses them to purchase another home by the end of the third month after receiving the proceeds from the sale.

(3) An installment contract from the sale of the home described in subsection (1)(b) above is not a resource as long as the person plans to use the entire down payment and the entire principal portion of a given installment payment to buy another excluded home, and does so within three full calendar months after the month of receiving such down payment or installment payment.

(4) The value of sales contracts is excluded when the:

- (a) Current market value of the contract is zero,
- (b) Contract cannot be sold~~((;))~~; or
- (c) Current market value of the sales contract combined with other resources does not exceed the resource limits.

(5) Sales contracts executed before December 1, 1993, are exempt resources as long as they are not transferred to someone other than a spouse.

(6) A sales contract for the sale of the ~~((client's))~~ person's principal place of residence executed between December 1, 1993 and May 31, 2004 is considered an exempt resource unless it has been transferred to someone other than a spouse and it:

(a) Provides interest income within the prevailing interest rate at the time of the sale;

(b) Requires the repayment of a principal amount equal to the fair market value of the property; and

(c) The term of the contract does not exceed thirty years.

(7) A sales contract executed on or after June 1, 2004 on a home that was the principal place of residence for the ~~((client))~~ person at the time of institutionalization is considered exempt as long as it is not transferred to someone other than a spouse and it:

(a) Provides interest income within the prevailing interest rate at the time of the sale;

(b) Requires the repayment of a principal amount equal to the fair market value of the property within the anticipated life expectancy of the ~~((client))~~ person; and

(c) The term of the contract does not exceed thirty years.

(8) Payments received on sales contracts of the home described in subsection (1)(b) ~~((above))~~ of this section are treated as follows:

(a) The interest portion of the payment is treated as unearned income in the month of receipt of the payment;

(b) The principal portion of the payment is treated as an excluded resource if reinvested in the purchase of a new home within three months after the month of receipt;

(c) If the principal portion of the payment is not reinvested in the purchase of a new home within three months after the month of receipt, that portion of the payment is considered a liquid resource as of the date of receipt.

(9) Payments received on sales contracts described in subsection (4) of this section are treated as follows:

(a) The principal portion of the payment on the contract is treated as a resource and counted toward the resource limit to the extent retained at the first moment of the month following the month of receipt of the payment; and

(b) The interest portion is treated as unearned income the month of receipt of the payment.

(10) For sales contracts that meet the criteria in subsections (5), (6), or (7) of this section but do not meet the criteria in subsections (3) or (4) of this section, both the principal and interest portions of the payment are treated as unearned income in the month of receipt.

(11) Property essential to self-support is not considered a resource within certain limits. The ~~((department))~~ agency places property essential to self-support in several categories:

(a) Real and personal property used in a trade or business (income-producing property), such as:

- (i) Land~~((;))~~;
- (ii) Buildings~~((;))~~;
- (iii) Equipment~~((;))~~;
- (iv) Supplies~~((;))~~;
- (v) Motor vehicles~~((;))~~; and
- (vi) Tools.

(b) Nonbusiness income-producing property, such as:

- (i) Houses or apartments for rent~~((; or))~~; and
- (ii) Land, other than home property.

(c) Property used to produce goods or services essential to ~~((an individual's))~~ a person's daily activities, such as land used to produce vegetables or livestock, which is only used for personal consumption in the ~~((individual's))~~ person's household. This includes personal property necessary to perform daily functions including vehicles such as boats for subsistence fishing and garden tractors for subsistence farming, but does not include other vehicles such as those that qualify as automobiles (cars, trucks).

(12) The ~~((department will))~~ agency excludes ~~((an individual's))~~ a person's equity in real and personal property used in a trade or business (income producing property listed in subsection (11)(a) ~~((above))~~ of this section) regardless of value as long as it is currently in use in the trade or business and remains used in the trade or business.

(13) The ~~((department))~~ agency excludes up to six thousand dollars of ~~((an individual's))~~ a person's equity in non-business income-producing property listed in subsection (11)(b) ~~((above))~~ of this section, if it produces a net annual income to the ~~((individual))~~ person of at least six percent of the excluded equity.

(a) If a person's equity in the property is over six thousand dollars, only the amount over six thousand dollars is counted toward the resource limit, as long as the net annual income requirement of six percent is met on the excluded equity.

(b) If the six percent requirement is not met due to circumstances beyond the person's control, and there is a reasonable expectation that the activities will again meet the six percent rule, the same exclusions as in subsection (13)(a) ~~((above))~~ of this section apply.

(c) If a person has more than one piece of property in this category, each is looked at to see if it meets the six percent

return and the total equities of all those properties are added to see if the total is over six thousand dollars. If the total is over the six thousand dollars limit, the amount exceeding the limit is counted toward the resource limit.

(d) The equity in each property that does not meet the six percent annual net income limit is counted toward the resource limit, with the exception of property that represents the authority granted by a governmental agency to engage in an income-producing activity if it is:

(i) Used in a trade or business or nonbusiness income-producing activity; or

(ii) Not used due to circumstances beyond the ~~((individual's))~~ person's control, e.g., illness, and there is a reasonable expectation that the use will resume.

(14) Property used to produce goods or services essential to ~~((an individual's))~~ a person's daily activities is excluded if the ~~((individual's))~~ person's equity in the property does not exceed six thousand dollars.

(15) Personal property used by ~~((an individual))~~ a person for work is not counted, regardless of value, while in current use, or if the required use for work is reasonably expected to resume.

(16) Interests in trust or in restricted Indian land owned by ~~((an individual))~~ a person who is of Indian descent from a federally recognized Indian tribe or held by the spouse or widow/er of that ~~((individual))~~ person, is not counted if permission of the other ~~((individuals))~~ persons, the tribe, or an agency of the federal government must be received in order to dispose of the land.

(17) Receipt of money by a member of a federally recognized tribe from exercising federally protected rights or extraction of exempt resources, such as fishing, shell-fishing, or selling timber from protected land, is considered conversion of an exempt resource during the month of receipt. Any amount remaining from the conversion of this exempt resource on the first of the month after the month of receipt will remain exempt if it is used to purchase another exempt resource. Any amount remaining in the form of a countable resource (such as in a checking or savings account) on the first of the month after receipt, will be added to other countable resources for eligibility determinations.

AMENDATORY SECTION (Amending WSR 11-24-018, filed 11/29/11, effective 12/1/11)

**WAC 182-512-0400 SSI-related medical—Vehicles excluded as resources.** (1) For SSI-related medical programs, a vehicle is defined as anything used for transportation. In addition to cars and trucks, a vehicle can include boats, snowmobiles, and animal-drawn vehicles.

(2) One vehicle is excluded regardless of its value, if it is used to provide transportation for the disabled ~~((individual))~~ person or a member of the ~~((individual's))~~ person's household.

(3) For ~~((an))~~ a person receiving SSI-related institutional ~~((client with))~~ coverage who has a community spouse, one vehicle is excluded regardless of its value or its use. See WAC ~~((388-513-1350))~~ 182-513-1350 (7)(b).

(4) A vehicle used as the ~~((client's))~~ person's primary residence is excluded as the home, and does not count as the one excluded vehicle under subsection (2) or (3) of this section.

(5) All other vehicles, except those excluded under WAC ~~((388-475-0350))~~ 182-512-0350 (11) through (14), are treated as nonliquid resources and the equity value is counted toward the resource limit.

AMENDATORY SECTION (Amending WSR 11-24-018, filed 11/29/11, effective 12/1/11)

**WAC 182-512-0450 SSI-related medical—Life insurance excluded as a resource.** (1) The ~~((department))~~ agency excludes life insurance policies that do not have or cannot accrue a cash surrender value (CSV) in determining whether owned policies exceed the life insurance exclusion limits for resources and in determining burial fund exclusion limits.

(2) Policies owned by each spouse are evaluated and counted separately.

(3) If the total face value of all policies with a CSV potential that a person owns on the same insured is equal to or less than fifteen hundred dollars, the resource is excluded.

(4) If the total face value of all policies with a CSV potential that a person owns on the same insured is more than fifteen hundred dollars, the total CSV of the policies is counted toward the resource limit, unless the ~~((client))~~ person designates such policies as burial funds. If they are designated as burial funds, they must be evaluated under the burial fund exclusion described in WAC ~~((388-475-0500))~~ 182-512-0500.

AMENDATORY SECTION (Amending WSR 11-24-018, filed 11/29/11, effective 12/1/11)

**WAC 182-512-0500 SSI-related medical—Burial funds, contracts and spaces excluded as resources.** (1) For the purposes of this section, burial funds are funds set aside and clearly designated solely for burial and related expenses and kept separate from all other resources not intended for burial. These include:

(a) Revocable burial contracts;

(b) Revocable burial trusts;

(c) Installment contracts for purchase of a burial space on which payments are still owing;

(d) Other revocable burial arrangements. The designation is effective the first day of the month in which the person intended the funds to be set aside for burial.

(2) The following burial funds are excluded as resources for the ~~((client))~~ person and his or her spouse up to fifteen hundred dollars each when set aside solely for the expenses of burial or cremation and expenses related to the burial or cremation, and the funds are either:

(a) An installment contract for purchase of a burial space that is not yet paid in full; or

(b) In a revocable burial contract, burial trust, cash accounts, or other financial instrument with a definite cash value.

(3) Interest earned in burial funds and appreciation in the value of excluded burial arrangements in subsection (2)(a) and (b) ~~((above))~~ of this section are excluded from resources

and are not counted as income if left to accumulate and become part of the separate burial fund.

(4) The fifteen hundred dollar exclusion for burial funds described in subsection (2) (~~(above)~~) of this section is reduced by:

(a) The face value of life insurance with CSV excluded in WAC (~~(388-475-0450)~~) 182-512-0450; and

(b) Amounts in an irrevocable burial trust, or other irrevocable arrangement available to meet burial expenses, or burial space purchase agreement installment contracts on which money is still owing. If these reductions bring the balance of the available exclusion to zero, no additional funds can be excluded as burial funds.

(5) An irrevocable burial account, burial trust, or other irrevocable burial arrangement, set aside solely for burial and related expenses is not considered a resource. The amount set aside must be reasonably related to the anticipated death-related expenses in order to be excluded.

(6) A ~~((client's))~~ person's burial funds are no longer excluded when they are mixed with other resources that are not related to burial.

(7) When excluded burial funds are spent for other purposes, the spent amount is added to other countable resources and any amount exceeding the resource limit is considered available income on the first of the month it is used. The amount remaining in the burial fund remains excluded.

(8) Burial space and accessories for the ~~((client))~~ person and any member of the ~~((client's))~~ person's immediate family described in subsection (9) of this section are excluded. Burial space and accessories include:

- (a) Conventional gravesites;
  - (b) Crypts, niches, and mausoleums;
  - (c) Urns, caskets and other repositories customarily used for the remains of deceased persons;
  - (d) Necessary and reasonable improvements to the burial space including, but not limited to:
    - (i) Vaults and burial containers;
    - (ii) Headstones, markers and plaques;
    - (iii) Arrangements for the opening and closing of the gravesite; and
    - (iv) Contracts for care and maintenance of the gravesite.
  - (e) A burial space purchase agreement that is currently paid for and owned by the ~~((client))~~ person is also defined as a burial space. The entire value of the purchase agreement is excluded; as well as any interest accrued, which is left to accumulate as part of the value of the agreement. The value of this agreement does not reduce the amount of burial fund exclusion available to the ~~((client))~~ person.
- (9) Immediate family, for the purposes of subsection (8) of this section includes the ~~((client's))~~ person's:
- (a) Spouse;
  - (b) Parents and adoptive parents;
  - (c) Minor and adult children, including adoptive and stepchildren;
  - (d) Siblings (brothers and sisters), including adoptive and stepsiblings;
  - (e) Spouses of any of the above.

None of the family members listed above, need to be dependent on or living with the ~~((client))~~ person, to be considered immediate family members.

AMENDATORY SECTION (Amending WSR 11-24-018, filed 11/29/11, effective 12/1/11)

**WAC 182-512-0550 SSI-related medical—All other excluded resources.** All resources described in this section are excluded resources for SSI-related medical programs. Unless otherwise stated, interest earned on the resource amount is counted as unearned income.

(1) Resources necessary for a ~~((client))~~ person who is blind or disabled to fulfill a ~~((department approved))~~ self-sufficiency plan approved by the agency.

(2) Retroactive payments from SSI or RSDI, including benefits a ~~((client))~~ person receives under the interim assistance reimbursement agreement with the Social Security Administration, are excluded for nine months following the month of receipt. This exclusion applies to:

(a) Payments received by the ~~((client,))~~ person, the person's spouse, or any other person financially responsible for the ~~((client))~~ person;

(b) SSI payments for benefits due for the month(s) before the month of continuing payment;

(c) RSDI payments for benefits due for a month that is two or more months before the month of continuing payment; and

(d) Proceeds from these payments as long as they are held as cash, or in a checking or savings account. The funds may be commingled with other funds, but must remain identifiable from the other funds for this exclusion to apply. This exclusion does not apply once the payments have been converted to any other type of resource.

(3) All resources specifically excluded by federal law, such as those described in subsections (4) through ~~((12))~~ (11) of this section as long as such funds are identifiable.

(4) Payments made under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

(5) ~~((Payments made to Native Americans as listed in 20 C.F.R. 416.1182, Appendix to subpart K, section IV, paragraphs (b) and (c), and in 20 C.F.R. 416.1236.~~

~~The following Native American/Alaska Native funds are excluded resources:~~

~~(a) Resources received from a native corporation under the Alaska Native Claims Settlement Act, including:~~

~~(i) Shares of stock held in a regional or village corporation;~~

~~(ii) Cash or dividends on stock received from the native corporation up to two thousand dollars per person per year;~~

~~(iii) Stock issued by a native corporation as a dividend or distribution on stock;~~

~~(iv) A partnership interest;~~

~~(v) Land or an interest in land; and~~

~~(vi) An interest in a settlement trust.~~

~~(b) All funds contained in a restricted individual Indian money (IIM) account.~~

~~(7) Exercise of federally protected rights, including extraction of exempt resources by a member of a federally recognized tribe during the month of receipt. Any funds from the conversion of the exempt resource which are retained on the first of the month after the month of receipt will be considered exempt if they are in the form of an exempt resource;~~

and will be countable if retained in the form of a countable resource.

~~((8))~~ The excluded resources described in WAC 182-512-0770 and other resources of American Indians/Alaska Natives that are excluded by federal law.

~~(6)~~ Restitution payment and any interest earned from this payment to persons of Japanese or Aleut ancestry who were relocated and interned during war time under the Civil Liberties Act of 1988 and the Aleutian and Pribilof Islands Restitution Act.

~~((9))~~ (7) Funds received from the Agent Orange Settlement Fund or any other funds established to settle Agent Orange liability claims.

~~((10))~~ (8) Payments or interest accrued on payments received under the Radiation Exposure Compensation Act received by the injured person, the surviving spouse, children, grandchildren, or grandparents.

~~((11))~~ (9) Payments or interest accrued on payments received under the Energy Employees Occupational Illness Compensation Act of 2000 (EEOICA) received by the injured person, the surviving spouse, children, grandchildren, or grandparents.

~~((12))~~ (10) Payments from:

(a) The Dutch government under the Netherlands' Act on Benefits for Victims of Persecution (WUV).

(b) The Victims of Nazi Persecution Act of 1994 to survivors of the Holocaust.

(c) Susan Walker vs. Bayer Corporation, et al., 96-C-5024 (N.D. Ill.) (May 8, 1997) settlement funds.

(d) Ricky Ray Hemophilia Relief Fund Act of 1998 P.L. 105-369.

~~((13))~~ (11) The unspent social insurance payments received due to wage credits granted under sections 500 through 506 of the Austrian General Social Insurance Act.

~~((14))~~ (12) Tax refunds and earned income tax credit refunds and payments are excluded as resources for twelve months after the month of receipt.

~~((15))~~ (13) Payments from a state administered victim's compensation program for a period of nine calendar months after the month of receipt.

~~((16))~~ (14) Cash or in-kind items received as a settlement for the purpose of repairing or replacing a specific excluded resource are excluded:

(a) For nine months. This includes relocation assistance provided by state or local government.

(b) Up to a maximum of thirty months, when:

(i) The ~~(client)~~ person intends to repair or replace the excluded resource; and

(ii) Circumstances beyond the control of the settlement recipient prevented the repair or replacement of the excluded resource within the first or second nine months of receipt of the settlement.

(c) For an indefinite period, if the settlement is from federal relocation assistance.

(d) Permanently, if the settlement is assistance received under the Disaster Relief and Emergency Assistance Act or other assistance provided under a federal statute because of a catastrophe which is declared to be a major disaster by the President of the United States, or is comparable assistance received from a state or local government or from a disaster

assistance organization. Interest earned on this assistance is also excluded from resources. Any cash or in-kind items received as a settlement and excluded under this subsection are considered as available resources when not used within the allowable time periods.

~~((17))~~ (15) Insurance proceeds or other assets recovered by a Holocaust survivor ((as defined in WAC 388-470-0026(4))).

~~((18))~~ (16) Pension funds owned by an ineligible spouse. Pension funds are defined as funds held in a(n):

(a) Individual retirement account (IRA) as described by the IRS code; or

(b) Work-related pension plan (including plans for self-employed ~~(individuals)~~ persons, known as Keogh plans).

~~((19))~~ (17) Cash payments received from a medical or social service agency to pay for medical or social services are excluded for one calendar month following the month of receipt.

~~((20))~~ (18) SSA- or DVR-approved plans for achieving self-support (PASS) accounts, allowing blind or disabled ~~(individuals)~~ persons to set aside resources necessary for the achievement of the plan's goals, are excluded.

~~((21))~~ (19) Food and nutrition programs with federal involvement. This includes Washington Basic Food, school reduced and free meals and milk programs and WIC.

~~((22))~~ (20) Gifts to, or for the benefit of, a person under eighteen years old who has a life-threatening condition, from an organization described in section 501 (c)(3) of the Internal Revenue Code of 1986 which is exempt from taxation under section 501(a) of that code, as follows:

(a) In-kind gifts that are not converted to cash; or

(b) Cash gifts up to a total of two thousand dollars in a calendar year.

~~((23))~~ (21) Veteran's payments made to, or on behalf of, natural children of Vietnam veterans regardless of their age or marital status, for any disability resulting from spina bifida suffered by these children.

~~((24))~~ (22) The following are among assets that are not considered resources and as such are neither excluded nor counted:

(a) Home energy assistance/support and maintenance assistance;

(b) Retroactive in-home supportive services payments to ineligible spouses and parents; and

(c) Gifts of domestic travel tickets. For a more complete list please see POMS @ <http://policy.ssa.gov/poms.nsf/lnx/0501130050>.

AMENDATORY SECTION (Amending WSR 11-24-018, filed 11/29/11, effective 12/1/11)

**WAC 182-512-0600 SSI-related medical—Definition of income.** (1) Income is anything ~~((an individual))~~ a person receives in cash or in-kind that can be used to meet his/her needs for food~~((,-clothing,-))~~ or shelter. Income can be earned or unearned.

(2) Some receipts are not income because they do not meet the definition of income above~~((,-including))~~. Some types of receipts that are not income are:

(a) Cash or in-kind assistance from federal, state, or local government programs whose purpose is to provide medical care or services;

(b) Some in-kind payments that are not food(~~(-clothing)~~) or shelter coming from nongovernmental programs whose purposes are to provide medical care or medical services;

(c) Payments for repair or replacement of an exempt resource;

(d) Refunds or rebates for money already paid;

(e) Receipts from sale of a resource;

(f) Replacement of income already received(~~(-)~~) (see 20 C.F.R. 416.1103 for a more complete list of receipts that are not income); and

(g) Receipts from extraction of exempt resources for a member of a federally recognized tribe.

(3) Earned income includes the following types of payments:

(a) Gross wages and salaries, including garnished amounts;

(b) Commissions and bonuses;

(c) Severance pay;

(d) Other special payments received because of employment;

(e) Net earnings from self-employment (WAC (~~(388-475-0840)~~) 182-512-0840 describes (~~(net)~~) earnings exclusions);

(f) Self-employment income of tribal members unless the income is specifically exempted by treaty;

(g) Payments for services performed in a sheltered workshop or work activities center;

(h) Royalties earned by (~~(an individual)~~) a person in connection with any publication of his/her work and any honoraria received for services rendered; (~~(or)~~) and

(i) In-kind payments made in lieu of cash wages, including the value of food(~~(-clothing)~~) or shelter.

(4) Unearned income is all income that is not earned income. Some types of unearned income are:

(a) Annuities, pensions, and other periodic payments;

(b) Alimony and support payments;

(c) Dividends and interest;

(d) Royalties (except for royalties earned by (~~(an individual)~~) a person in connection with any publication of his/her work and any honoraria received for services rendered which would be earned income);

(e) Capital gains;

(f) Rents;

(g) Benefits received as the result of another's death to the extent that the total amount exceeds the expenses of the deceased person's last illness and burial paid by the recipient;

(h) Gifts;

(i) Inheritances;

(j) Prizes and awards; (~~(or)~~) and

(k) Amounts received by tribal members from gaming revenues with the exceptions cited in WAC 182-512-0770 (3).

(5) Some items which may be withheld from income, but which the (~~(department)~~) agency considers as received income are:

(a) Federal, state, or local income taxes;

(b) Health or life insurance premiums;

(c) SMI premiums;

(d) Union dues;

(e) Penalty deductions for failure to report changes;

(f) Loan payments;

(g) Garnishments;

(h) Child support payments, court ordered or voluntary (WAC (~~(388-475-0900)~~) 182-512-0900 has an exception for deors);

(i) Service fees charged on interest-bearing checking accounts;

(j) Inheritance taxes; and

(k) Guardianship fees if presence of a guardian is not a requirement for receiving the income.

(6) Countable income, for the purposes of this chapter, means all income that is available to the (~~(individual)~~) person:

(a) If it cannot be excluded(~~(-)~~); and

(b) After deducting all allowable disregards and deductions.

AMENDATORY SECTION (Amending WSR 11-24-018, filed 11/29/11, effective 12/1/11)

**WAC 182-512-0650 SSI-related medical—Available income.** (1) Income is considered available to a (~~(client)~~) person at the earliest of when it is:

(a) Received(~~(-)~~); or

(b) Credited to (~~(an individual's)~~) a person's account(~~(-)~~); or

(c) Set aside for his or her use(~~(-)~~); or

(d) Can be used to meet the (~~(client's)~~) person's needs for food(~~(-clothing)~~) or shelter.

(2) Anticipated nonrecurring lump sum payments are treated as income in the month received, with the exception of those listed in WAC (~~(388-475-0700)~~) 182-512-0700(5), and any remainder is considered a resource in the following month.

(3) Reoccurring income is considered available in the month of normal receipt, even if the financial institution posts it before or after the month of normal receipt.

(4) In-kind income received from anyone other than a legally responsible relative is considered available income only if it is earned income.

AMENDATORY SECTION (Amending WSR 12-20-001, filed 9/19/12, effective 10/20/12)

**WAC 182-512-0700 SSI-related medical—Income eligibility.** (1) In order to be eligible, (~~(an individual)~~) a person is required to do everything necessary to obtain any income to which he or she is entitled including (but not limited to):

(a) Annuities(~~(-)~~);

(b) Pensions(~~(-)~~);

(c) Unemployment compensation(~~(-)~~);

(d) Retirement(~~(-)~~); and

(e) Disability benefits; even if their receipt makes the (~~(individual)~~) person ineligible for agency services, unless the (~~(individual)~~) person can provide evidence showing good reason for not obtaining the benefits.

(2) The agency (~~(or its authorized representative)~~) does not count this income until the ~~((individual))~~ person begins to receive it. Income is budgeted prospectively for all ~~((medical))~~ Washington apple health (WAH) health care programs.

(3) Anticipated nonrecurring lump sum payments other than retroactive SSI/SSDI payments are considered income in the month received, subject to reporting requirements in WAC ~~((388-418-0007(4)))~~ 182-504-0110. Any unspent portion is considered a resource the first of the following month.

(4) The agency (~~(or its authorized representative)~~) follows income and resource methodologies of the supplemental security income (SSI) program defined in federal law when determining eligibility for WAH SSI-related medical or medicare savings programs unless the agency adopts rules that are less restrictive than those of the SSI program.

(5) Exceptions to the SSI income methodology:

(a) Lump sum payments from a retroactive SSDI benefit, when reduced by the amount of SSI received during the period covered by the payment, are not counted as income;

(b) Unspent retroactive lump sum money from SSI or SSDI is excluded as a resource for nine months following receipt of the lump sum; and

(c) Both the principal and interest portions of payments from a sales contract, that meet the definition in WAC 182-512-0350(10), are unearned income.

(6) To be eligible for WAH categorically needy (CN) SSI-related ~~((medical))~~ health care coverage, ~~((an individual's))~~ a person's countable income cannot exceed the WAH CN program standard described in:

(a) WAC 182-512-0010 for noninstitutional ~~((medical))~~ WAH coverage unless living in an alternate living facility; or

(b) WAC ~~((388-513-1305))~~ 182-513-1305(2) for noninstitutional WAH CN ~~((benefits))~~ coverage while living in an alternate living facility; or

(c) WAC ~~((388-513-1315))~~ 182-513-1315 for institutional and waiver services ~~((medical benefits))~~ coverage.

(7) To be eligible for SSI-related ~~((medical))~~ health care coverage provided under the WAH medically needy (MN) program, ~~((an individual))~~ a person must:

(a) Have countable income at or below the effective WAH MN program standard as described in WAC 182-519-0050; ~~((or))~~

(b) Satisfy spenddown requirements described in WAC 182-519-0110;

(c) Meet the requirements for noninstitutional WAH MN ~~((benefits))~~ coverage while living in an alternate living facility (ALF). See WAC ~~((388-513-1305))~~ 182-513-1305(3); or

(d) Meet eligibility for institutional WAH MN ~~((benefits))~~ coverage described in WAC ~~((388-513-1315))~~ 182-513-1315.

AMENDATORY SECTION (Amending WSR 11-24-018, filed 11/29/11, effective 12/1/11)

**WAC 182-512-0750 SSI-related medical—Countable unearned income.** The ~~((department))~~ agency counts unearned income for Washington apple health (WAH) SSI-related medical programs as follows:

(1) The total amount of income benefits to which a ~~((client))~~ person is entitled is treated as available unearned income even when the benefits are:

(a) Reduced through the withholding of a portion of the benefit amount to repay a legal obligation;

(b) Garnished to repay a debt, other legal obligation, or make any other payment such as payment of medicare premiums.

(2) Payments received on a loan:

(a) Interest paid on the loan amount is considered unearned income; and

(b) Payments on the loan principal are not considered income. However, any amounts retained on the first of the following month are considered a resource.

(3) Money borrowed by a person, which must be repaid, is not considered income. It is considered a loan. If the money received does not need to be repaid, it is considered a gift.

(4) Rental income received for the use of real or personal property, such as land, housing or machinery is considered unearned income. The countable portion of rental income received is the amount left after deducting necessary expenses of managing and maintaining the property paid in that month or carried over from a previous month. Necessary expenses are those such as:

(a) Advertising for tenants;

(b) Property taxes;

(c) Property insurance;

(d) Repairs and maintenance on the property; and

(e) Interest and escrow portions of a mortgage.

NOTE: When a ~~((client))~~ person is in the business of renting properties and actively works the business (over twenty hours per week), the income is counted as earned income.

#### NEW SECTION

**WAC 182-512-0760 SSI-related medical—Education assistance.** (1) The agency does not count:

(a) Educational assistance in the form of grants, loans or work study, issued from Title IV of the Higher Education Amendments (Title IV – HEA) and Bureau of Indian Affairs (BIA) education assistance programs. Examples of Title IV – HEA and BIA educational assistance include, but are not limited to:

(i) College work study (federal and state);

(ii) Pell grants; and

(iii) BIA higher education grants.

(b) Educational assistance in the form of grants, loans or work study made available under any program administered by the department of education (DOE) to an undergraduate student. Examples of programs administered by DOE include, but are not limited to:

(i) Christa McAuliffe Fellowship Program;

(ii) Jacob K. Javits Fellowship Program; and

(iii) Library Career Training Program.

(2) For assistance in the form of grants, loans or work study under the Carl D. Perkins Vocational and Applied Technology Education Act, P.L. 101-391:

(a) If the person attends school half-time or more, the agency subtracts the following expenses:

(i) Tuition;

- (ii) Fees;
  - (iii) Costs for purchase or rental of equipment, materials, or supplies required of all students in the same course of study;
  - (iv) Books;
  - (v) Supplies;
  - (vi) Transportation;
  - (vii) Dependent care; and
  - (viii) Miscellaneous personal expenses.
- (b) If the person attends school less than half-time, the agency subtracts the following expenses:
- (i) Tuition;
  - (ii) Fees; and
  - (iii) Costs for purchase or rental of equipment, materials, or supplies required of all students in the same course of study.
- (3) WorkFirst work-study income is not counted.
- (4) Income received from work study program that is not excluded under subsection (1) of this section is counted as earned income and is subject to earned income disregards as described in WAC 182-512-0840(2).
- (5) If the person receives Veteran's Administration Educational Assistance:
- (a) All applicable attendance costs are subtracted; and
  - (b) The remaining income is budgeted as unearned income.

#### NEW SECTION

**WAC 182-512-0780 SSI-related medical—Employment and training programs.** (1) The agency excludes income received from the following programs:

- (a) Payments issued under the Workforce Investment Act (WIA);
  - (b) Payments issued under the National and Community Service Trust Act of 1993. This includes payments made through the AmeriCorps program;
  - (c) Payments issued under Title I of the Domestic Volunteer Act of 1973, such as VISTA, AmeriCorps VISTA, University Year for Action, and Urban Crime Prevention Program; and
  - (d) All payments issued under Title II of the Domestic Volunteer Act of 1973. These include:
    - (i) Retired Senior Volunteer Program (RSVP);
    - (ii) Foster Grandparents Program; and
    - (iii) Senior Companion Program.
- (2) The agency counts training allowances from vocational and rehabilitative programs as earned income when:
- (a) The program is recognized by federal, state, or local governments; and
  - (b) The allowance is not a reimbursement.
- (3) The agency excludes support service payments received by or made on behalf of WorkFirst recipients.

#### NEW SECTION

**WAC 182-512-0785 SSI-related medical—Effect of a sponsor's income.** (1) The following definitions apply to this section:

- (a) **"Sponsor"** means a person who agreed to meet the needs of a sponsored immigrant by signing a United States

Citizenship and Immigration Services Affidavit of Support form I-864 or I-864A. This includes a sponsor's spouse if the spouse signed the affidavit of support.

(b) **"Sponsored immigrant"** means a person who must have a sponsor under the Immigration and Nationality Act (INA) to be admitted into the United States for residence.

(c) **"Deeming"** means the agency counts a part of the sponsor's income and resources as available to the sponsored immigrant.

(d) **"Exempt"** means the person meets one of the conditions of WAC 182-512-0190.

(2) If the person is a sponsored immigrant and is not exempt from deeming, the person must provide the following information to be eligible for Washington apple health (WAH) SSI-related coverage even if the person is not receiving support from their sponsor:

- (a) The name and address of the sponsor;
- (b) The income and resources of the sponsor; and
- (c) Any additional information needed for the agency to determine if:

(i) Income must be deemed to the person's medical assistance unit (MAU); and

(ii) The amount of income that must be deemed to the MAU.

(3) If the person is not eligible for coverage because the agency does not have the information needed regarding the sponsor, eligibility for other unsponsored household members applying for coverage is not delayed. Although the sponsored immigrant may not be eligible for coverage, the following is counted when determining the eligibility of other household members:

(a) All earned or unearned income of the sponsored immigrant that is not excluded under chapter 182-512 WAC; and

(b) All deductions the sponsored immigrant would be eligible for under chapter 182-512 WAC.

(4) If the person refuses to provide the agency with the information needed regarding the sponsor, the other adult members in the MAU must provide the information. If the same person sponsored everyone in the MAU, the entire MAU is not eligible for WAH coverage until someone provides the information that is needed.

#### NEW SECTION

**WAC 182-512-0790 SSI-related medical—Exemption from sponsor deeming.** (1) A person who meets any of the following conditions is permanently exempt from deeming and the agency does not count the sponsor's income or resources when determining eligibility for Washington apple health (WAH) SSI-related coverage:

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

- (i) Refugee;
- (ii) Parolee admitted under Section 212(d)(5) of the Immigration and Nationality Act (INA);
- (iii) Asylee;



(iv) Cuban/Haitian entrant under Section 202 of the Immigration Reform and Control Act of 1986 (IRCA);

(v) Amerasians admitted with an I-551 admission code of AM1, AM2, AM3, AM6, AM7, or AM8; and

(vi) Special immigrant from Iraq or Afghanistan.

(b) The person meets the blindness or disability requirements described in WAC 182-512-0050(1);

(c) The person was sponsored by an organization or group as opposed to another person;

(d) The person is a nonqualified or undocumented alien as defined in WAC 182-503-0530 (3) and (4);

(e) The person has worked or can get credit for forty qualifying quarters of work under Title II of the Social Security Act. The agency does not count a quarter of work toward this requirement if the person working received TANF, Basic Food, SSI, CHIP, or nonemergency medicaid coverage. A quarter of work earned by the following people is counted toward the forty qualifying quarters:

(i) The person;

(ii) The person's parents for the time they worked before the person turned eighteen years old (including the time they worked before the person's birth); and

(iii) The person's spouse if still married or if the spouse is deceased.

(f) The person has become a United States (U.S.) citizen;

(g) The sponsor is dead; or

(h) If USCIS or a court decides that the person, their child, or their parent was a victim of domestic violence from the person's sponsor and:

(i) The person no longer lives with the sponsor; and

(ii) Leaving the sponsor caused the need for coverage.

(2) A person is exempt from the deeming process while in the same assistance unit (AU) as the sponsor.

(3) If the person, their child, or their parent was a victim of domestic violence, the person is exempt from the deeming process for twelve months if:

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

(b) Leaving this person caused the need for health coverage.

(4) If the person's medical assistance unit (MAU) has income at or below one hundred thirty percent of the federal poverty level (FPL), the person is exempt from the deeming process for twelve months. This is called the "indigence exemption." A person may choose to use this exemption or not to use this exemption in full knowledge of the possible risks involved. See risks in subsection (5) of this section. For this rule, the agency counts the following as income:

(a) Earned and unearned income received by any member of the MAU from any source; and

(b) The value of any noncash items of value such as free rent, commodities, goods, or services received from another person or organization.

(5) A person who chooses not to use the indigence exemption must provide verification of the sponsor's income and resources and will be subject to the deeming rules described in WAC 182-512-0795.

(6) For federally funded programs, if the person uses the indigence exemption, the agency is required by law to give the U.S. Attorney General the following information:

(a) The names of the sponsored people in the person's AU;

(b) That the person is exempt from deeming due to income;

(c) The sponsor's name; and

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

#### NEW SECTION

**WAC 182-512-0795 SSI-related medical—Budgeting a sponsor's income.** (1) The agency counts some of the income of a person's sponsor as unearned income to the medical assistance unit (MAU) if:

(a) The sponsor signed the U.S. Citizenship and Immigration Services (USCIS) Affidavit of Support form I-864 or I-864A; and

(b) The person is not exempt from the deeming process in WAC 182-512-0190.

(2) The agency determines the amount of income that must be deemed from the sponsor by taking the following steps:

(a) Add together all of the sponsor's earned and unearned income that is not excluded under WAC 182-512-0860;

(b) Add all of the spouse's earned and unearned income that is not excluded under WAC 182-512-0860;

(c) Subtract an allocation for the sponsor equal to the one-person federal benefit rate (FBR);

(d) Subtract an allocation for the sponsor's spouse as follows:

(i) If the spouse is also a cosponsor of the noncitizen, allow an allocation equal to the one-person FBR; or

(ii) If the spouse is not a cosponsor but lived in the same household as the sponsor, allow an allocation equal to one-half of the FBR.

(e) Subtract an allocation equal to one-half FBR for each dependent of the sponsor. The dependent's income is not subtracted from the sponsor's dependent's allocation; and

(f) The income remaining is deemed as unearned income to the noncitizen and is added to the noncitizen's own income.

(3) If the sponsor has sponsored other noncitizens, all of the sponsor's income is deemed to each person that they sponsored and is not divided between them.

AMENDATORY SECTION (Amending WSR 11-24-018, filed 11/29/11, effective 12/1/11)

**WAC 182-512-0800 SSI-related medical—General income exclusions.** The ~~((department))~~ agency excludes, or does not consider, the following when determining a ~~((client's))~~ person's eligibility for Washington apple health (WAH) SSI-related medical programs:

(1) The first twenty dollars per month of unearned income. If there is less than twenty dollars of unearned income in a month, the remainder is excluded from earned income in that month.

(a) The twenty-dollar limit is the same, whether applying it for a couple or for a single person.

(b) The disregard does not apply to income paid totally or partially by the federal government or a nongovernmental agency on the basis of an eligible person's needs.

(c) The twenty dollars disregard is applied after all exclusions have been taken from income.

(2) Income that is not reasonably anticipated or is received infrequently or irregularly, whether for a single person or each person in a couple when it is:

(a) Earned and does not exceed a total of thirty dollars per calendar quarter; or

(b) Unearned and does not exceed a total of sixty dollars per calendar quarter;

(c) An increase(€) in a ((client's)) person's burial funds that were established on or after November 1, 1982, if the increase((s-are)) is the result of:

(i) Interest earned on excluded burial funds; or

(ii) Appreciation in the value of an excluded burial arrangement that was left to accumulate and become part of separately identified burial funds.

(3) Essential expenses necessary for a ((client)) person to receive compensation (e.g., necessary legal fees in order to get a settlement)(€).

(4) Receipts, which are not considered income, when they are for:

(a) Replacement or repair of an exempt resource;

(b) Prepayment or repayment of medical care paid by a health insurance policy or medical service program; or

(c) Payments made under a credit life or credit disability policy.

(5) The fee a guardian or representative payee charges as reimbursement for providing services, when such services are a requirement for the ((client)) person to receive payment of the income.

(6) Funds representing shared household costs.

(7) Crime victim's compensation.

(8) The value of a common transportation ticket, given as a gift, that is used for transportation and not converted to cash.

(9) Gifts that are not for food, clothing or shelter, and gifts of home produce used for personal consumption.

(10) The ((department)) agency does not consider in-kind income received from someone other than a person legally responsible for the ((individual)) person unless it is earned. Therefore, the following in-kind payments are not counted when determining eligibility for WAH SSI-related medical programs(€):

(a) In-kind payments for services paid by a ((client's)) person's employer if:

(i) The service is not provided in the course of an employer's trade or business; or

(ii) ~~((H))~~ The service is in the form of food ~~((and/or shelter))~~ that is(€

~~((A))~~ on the employer's business premises(€;

~~((B))~~ For the employer's convenience; and

~~((C))~~ If shelter, acceptance by the employee is a condition of employment)) and for the employer's convenience; or

(iii) The service is in the form of shelter that is on the employer's business premises, for the employer's convenience, and required to be accepted by the employee as a condition of employment.

(b) In-kind payments made to people in the following categories:

(i) Agricultural employees;

(ii) Domestic employees;

(iii) Members of the uniformed services; and

(iv) Persons who work from home to produce specific products for the employer from materials supplied by the employer.

AMENDATORY SECTION (Amending WSR 11-24-018, filed 11/29/11, effective 12/1/11)

**WAC 182-512-0820 SSI-related medical—Child-related income exclusions and allocations.** (1) For the purposes of Washington apple health (WAH) SSI-related medical eligibility determinations under chapter ~~((388-475))~~ 182-512 WAC, a child is defined as ~~((an individual))~~ a person who is:

(a) Unmarried;

(b) Living in the household of the SSI-related applicant;

(c) The natural, adopted or stepchild of the SSI-related applicant or the applicant's spouse;

(d) Not receiving a needs-based cash payment such as TANF or SSI; and

(e) ~~((H))~~ Either:

(i) Age seventeen or younger; or

(ii) Age twenty-one or younger and meets the SSI-related definition of a student described in subsection (6) of this section.

(2) The ((department)) agency allows an allocation for the support of a child when determining the countable income of an SSI-related applicant. The allocation is calculated as follows:

(a) For WAH categorically needy (CN) ~~((medical))~~ health care coverage, the allocation is deducted from the countable income of a nonapplying spouse before determining the amount of the nonapplying spouse's income to be deemed to the SSI-related applicant. Allocations to children are not deducted from the income of an unmarried SSI-related applicant.

(b) For WAH medically needy (MN) medical coverage, the allocation is first deducted from the income of the nonapplying spouse as described in subsection (2)(a) of this section when the SSI-related applicant is married, and from the income of the applicant when the applicant is not married.

(3) The child's countable income, if any, is subtracted from the maximum child's allowance before determining the amount of allocation.

(4) Foster care payments received for a child who is not SSI-eligible and who is living in the household, placed there by a licensed, nonprofit or public child placement or child-care agency are excluded from income regardless of whether the person requesting or receiving SSI-related medical is the adult foster parent or the child who was placed.

(5) Adoption support payments, received by an adult for a child in the household that are designated for the child's needs, are excluded as income. Adoption support payments that are not specifically designated for the child's needs are not excluded and are considered unearned income to the adult.

(6) The ((department)) agency excludes the earned income of a person age twenty-one or younger if that person is a student. ~~((A student must meet one of the following crite-~~

~~iii~~) In order to allow the student earned income exclusion, a student must:

(a) Attend a school, college, or university a minimum of eight hours a week; or

(b) Pursue a vocational or technical training program designed to prepare the student for gainful employment a minimum of twelve hours per week; or

(c) Attend school or be home schooled in grades seven through twelve at least twelve hours per week.

(7) Any portion of a grant, scholarship, fellowship, or gift used for tuition, fees and/or other necessary educational expenses at any educational institution is excluded from income and not counted as a resource for nine months after the month of receipt.

(8) One-third of child support payments received for a child who is an applicant for WAH SSI-related medical is excluded from the child's income. Child support payments that are subject to the one-third deduction may be voluntary or court-ordered payments for current support or arrears.

(9) The one-third deduction described in subsection (8) of this section does not apply to child support payments received from an absent parent for a child living in the home when the parent(s) or their spouse is the applicant for SSI-related medical. Voluntary or court-ordered payments for current support or arrears are always considered the income of the child for whom they are intended and not income to the parent(s).

(10) The following gifts to, or for the benefit of, a person under eighteen years old who has a life-threatening condition, from an organization described in section 501 (c)(3) of the Internal Revenue Code of 1986 which is exempt from taxation under section 501(a) of that code, ~~(is)~~ are excluded ~~(as follows)~~:

(a) In-kind gifts that are not converted to cash; ~~(or)~~ and

(b) Cash gifts up to a total of two thousand dollars in a calendar year.

(11) Veteran's payments made to, or on behalf of, natural children of Vietnam veterans regardless of their age or marital status, for any disability resulting from spina bifida suffered by these children are excluded from income. Any portion of a veteran's payment that is designed as the dependent's income is countable income to the dependent and not the applicant (assuming the applicant is not the dependent).

AMENDATORY SECTION (Amending WSR 11-24-018, filed 11/29/11, effective 12/1/11)

**WAC 182-512-0840 SSI-related medical—Work and agency-related income exclusions.** The ~~(department)~~ agency excludes the following when determining eligibility for Washington apple health (WAH) SSI-related medical programs:

(1) Work related expenses:

(a) That enable an SSI-related ~~(client)~~ person to work;

or

(b) That allows a blind or disabled ~~(client)~~ person to work and that are directly related to the person's impairment.

(2) First sixty-five dollars plus one-half of the remainder of earned income. This is considered a work allowance/

incentive. This deduction does not apply to income already excluded.

(3) Any portion of self-employment income normally allowed as an income deduction by the Internal Revenue Service (IRS).

(4) Earned income of a person age twenty-one or younger if that person meets the definition of a student as defined in WAC ~~((388-475-0820))~~ 182-512-0820.

(5) Veteran's aid and attendance, housebound allowance, unusual/unreimbursed medical expenses (UME) paid by the VA to some disabled veterans, their spouses, widows or parents. For people receiving WAH long-term care services, see chapter ~~((388-513))~~ 182-513 WAC.

(6) Department of veterans affairs benefits designated for the veteran's dependent as long as the SSI-related applicant is not the dependent receiving the income. If an SSI-related applicant receives a dependent allowance based on the veteran's or veteran's survivor claim, the income is countable as long as it is not paid due to unusual medical expenses (UME).

(7) Payments provided in cash or in-kind, to an ineligible or nonapplying spouse, under any government program that provides social services provided to the ~~(client)~~ person, such as chore services or attendant care.

(8) SSA refunds for medicare buy-in premiums paid by the ~~(client)~~ person when the state also paid the premiums.

(9) Income that causes a ~~(client)~~ person to lose SSI eligibility, due solely to reduction in the SSP.

(10) Tax rebates or special payments excluded under other statutes.

(11) Any public agency refund of taxes paid on real property or on food.

AMENDATORY SECTION (Amending WSR 11-24-018, filed 11/29/11, effective 12/1/11)

**WAC 182-512-0860 SSI-related medical—Income exclusions under federal statute or other state laws.** The Social Security Act and other federal statutes or state laws list income that the ~~(department)~~ agency excludes when determining eligibility for Washington apple health (WAH) SSI-related medical programs. These exclusions include, but are not limited to:

(1) Income tax refunds;

(2) Federal earned income tax credit (EITC) payments for twelve months after the month of receipt;

(3) Compensation provided to volunteers in the Corporation for National and Community Service (CNCS), formerly known as ACTION programs established by the Domestic Volunteer Service Act of 1973. P.L. 93-113;

(4) Assistance to a person (other than wages or salaries) under the Older Americans Act of 1965, as amended by section 102 (h)(1) of Pub. L. 95-478 (92 Stat. 1515, 42 U.S.C. 3020a);

(5) Federal, state and local government payments including assistance provided in cash or in-kind under any government program that provides medical or social services;

(6) Certain cash or in-kind payments a ~~(client)~~ person receives from a governmental or nongovernmental medical or social service agency to pay for medical or social services;

(7) Value of food provided through a federal or nonprofit food program such as WIC, donated food program, school lunch program;

(8) Assistance based on need, including:

(a) Any federal SSI income or state supplement payment (SSP) based on financial need;

(b) Basic Food (~~(stamps)~~);

(c) ~~((GA-U))~~ State-funded cash assistance;

(d) CEAP;

(e) TANF; and

(f) Bureau of Indian Affairs (BIA) general assistance.

(9) Housing assistance from a federal program such as HUD if paid under:

(a) United States Housing Act of 1937 (section 1437 et seq. of 42 U.S.C.);

(b) National Housing Act (section 1701 et seq. of 12 U.S.C.);

(c) Section 101 of the Housing and Urban Development Act of 1965 (section 1701s of 12 U.S.C., section 1451 of 42 U.S.C.);

(d) Title V of the Housing Act of 1949 (section 1471 et seq. of 42 U.S.C.); ~~((or))~~

(e) Section 202(h) of the Housing Act of 1959; or

(f) Weatherization provided to low-income homeowners by programs that consider income in the eligibility determinations~~(s)~~.

(10) Energy assistance payments including:

(a) Those to prevent fuel cutoffs~~(s)~~; and

(b) Those to promote energy efficiency.

(11) Income from employment and training programs as specified in WAC ~~((388-450-0045))~~ 182-512-0780.

(12) Foster grandparents program;

(13) Title IV-E and state foster care maintenance payments if the foster child is not included in the assistance unit;

(14) The value of any childcare provided or arranged (or any payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act, as amended by section 8(b) of P.L. 102-586 (106 Stat. 5035)~~(s)~~;

(15) Educational assistance as specified in WAC ~~((388-450-0035-))~~ 182-512-0760;

(16) ~~((Up to two thousand dollars per year derived from an individual's interest in Indian trust or restricted land.~~

~~(17) Native American benefits and payments as specified))~~ The excluded income described in WAC ((388-450-0040)) 182-512-0770 and other ((Native American payments)) income received by American Indians/Alaska Natives that is excluded by federal ((statute. For a complete list of these payments, see 20 C.F.R. 416, Subpart K, Appendix, IV-)) law;

~~((18))~~ (17) Payments from Susan Walker v. Bayer Corporation, et al., 96-c-5024 (N.D. Ill) (May 8, 1997) settlement funds;

~~((19))~~ (18) Payments from Ricky Ray Hemophilia Relief Fund Act of 1998, P.L. 105-369;

~~((20))~~ (19) Disaster assistance paid under Federal Disaster Relief P.L. 100-387 and Emergency Assistance Act, P.L. 93-288 amended by P.L. 100-707 and for farmers P.L. 100-387;

~~((21))~~ (20) Payments to certain survivors of the Holocaust as victims of Nazi persecution; payments excluded pursuant to section 1(a) of the Victims of Nazi Persecution Act of 1994, P.L. 103-286 (108 Stat. 1450);

~~((22))~~ (21) Payments made under section 500 through 506 of the Austrian General Social Insurance Act;

~~((23))~~ (22) Payments made under the Netherlands' Act on Benefits for Victims of Persecution (WUV);

~~((24))~~ (23) Restitution payments and interest earned to Japanese Americans or their survivors, and Aleuts interned during World War II, established by P.L. 100-383;

~~((25))~~ (24) Payments made from the Agent Orange Settlement Funds or any other funds to settle Agent Orange liability claims established by P.L. 101-201;

~~((26))~~ (25) Payments made under section six of the Radiation Exposure Compensation Act established by P.L. 101-426; and

~~((27))~~ (26) Any interest or dividend is excluded as income, except for the community spouse of an institutionalized ~~((individual))~~ person.

AMENDATORY SECTION (Amending WSR 11-24-018, filed 11/29/11, effective 12/1/11)

**WAC 182-512-0880 SSI-related medical—Special income disregards.** Portions of ~~((your))~~ a person's income the ~~((department))~~ agency otherwise counts are disregarded when determining eligibility for Washington apple health (WAH) SSI-related medical programs.

(1) The ~~((department))~~ agency disregards ~~((the following for SSI-related medical programs))~~ cost of living adjustments (COLAs) to Social Security benefits and provides categorically needy (CN) SSI-related medicaid benefits under the Pickle Amendment criteria of 42 C.F.R. 435.135(1)(a) to a person who:

(a) ~~((The cost of living adjustment(s) (COLA) for a client who:~~

~~((i))~~ (i) Is currently receiving ~~((a))~~ Title II Social Security ((payment)) benefits;

~~((ii))~~ (ii) Was eligible for and received ~~((both SSA and SSI/State))~~ SSI or State Supplement payments (SSP) ((in the same month for at least one month since)) but became ineligible for those payments after April, 1977; and

~~((iii))~~ (iii) ~~((c))~~ Would ~~((continue to receive SSI/SSP))~~ still be eligible for SSI or SSP payments ((but for the COLA increase(s) to their SSA)) if the amount of Social Security COLA increases paid under section 215(i) of the Social Security Act were deducted from his or her current Title II Social Security benefits. ((This is commonly known as the adjustment for "Pickle people."

~~((b))~~ (d) To satisfy this provision, a person must have been eligible for and received SSI or SSP payments and in the same month was entitled to, but did not necessarily receive, a Title II Social Security benefit for at least one month since April 1977. This includes a person who receives a Title II Social Security benefit payment the month after the last SSI or SSP payment is made due to the fact that Social Security is paid the month after entitlement begins.

(e) For purposes of this section, the agency also disregards COLAs received by a person, his or her financially

responsible spouse, and other financially responsible family members, such as a parent.

(2) In determining SSI-related CN-WAH coverage, the agency disregards:

(a) Widow(er)'s benefits for a ~~((client))~~ person who:

(i) Was entitled to SSA title II (widow/widower's) benefits in December 1983;

(ii) Was at least fifty years old, but not yet sixty at that time;

(iii) Received title II benefits and SSI in January 1984;

(iv) Would continue to be eligible for SSI/SSP payments if the title II benefits were disregarded; and

(v) Filed an application for medicaid with the state by July 1, 1988.

~~((e))~~ (b) Widow, Widower or Surviving Divorced Spouse (title II) benefits for a ~~((client))~~ person who:

(i) Received SSI/SSP benefits the month prior to receipt of title II benefits;

(ii) Would continue to be eligible for SSI/SSP benefits if the title II benefits or the COLA(s) to those benefits were disregarded; and

(iii) Is not eligible for medicare Part A. This ~~((client))~~ person is considered an SSI recipient until becoming entitled to medicare Part A.

~~((2))~~ (3) A disabled adult child (DAC) who is ineligible for SSI/SSP solely due to receipt of either Social Security benefits as a disabled adult child of a person with a Social Security account or due to receipt of a COLA to the DAC benefits, may be income eligible for WAH categorically needy (CN ~~((medical))~~) health care coverage if disregarding the SSA DAC benefits and COLA brings countable income below the CN standards, and the ~~((client))~~ person:

(a) Is eighteen years of age or older;

(b) Remains related to the SSI program through disability or blindness;

(c) Lost SSI eligibility on or after July 1, 1988, due solely to the receipt of DAC benefits from SSA or a COLA to those benefits; and

(d) Meets the other WAH SSI-related CN medical requirements.

~~((3) Clients)~~ (4) A person is eligible for WAH CN coverage if:

(a) In August 1972, the person received:

(i) Old age assistance (OAA);

(ii) Aid to blind (AB);

(iii) Aid to families with dependent children (AFDC); or

(iv) Aid to the permanently and totally disabled (APTD).

(b) The person was entitled to or received retirement, survivors, and disability insurance (RSDI) benefits; or

(c) The person was ineligible for OAA, AB, AFDC, SSI, or APTD solely because of the twenty percent increase in Social Security benefits under P.L. 92-336.

(5) Persons who stop receiving an SSI cash payment due to earnings, but still meet all of the other SSI eligibility rules and have income below the higher limit established by the Social Security Act's Section 1619(b) are eligible for continued WAH CN medicaid.

~~((4))~~ (6) TANF income methodology is used to determine countable income for children and pregnant women applying for WAH medically needy (MN) coverage unless

the SSI methodology would be more beneficial to the ~~((client- For cases using))~~ person. When using the TANF ~~((methodology, follow the family medical rules and allow the))~~ income methodologies, deduct:

(a) A fifty percent earned income disregard described in WAC 388-450-0170;

(b) Actual child care and dependent care expenses related to employment; and

(c) Child support actually paid.

AMENDATORY SECTION (Amending WSR 12-20-001, filed 9/19/12, effective 10/20/12)

**WAC 182-512-0900 SSI-related medical—Deeming and allocation of income.** The agency ~~((or its authorized representative))~~ considers income of financially responsible persons to determine if a portion of that income must be regarded as available to other household members.

(1) Deeming is the process of determining how much of another person's income is counted when determining Washington apple health (WAH) eligibility of an SSI-related applicant. When income is deemed to the SSI-related applicant from other household members, that income is considered the applicant's income. Income is deemed only:

(a) From a nonapplying spouse who lives with the SSI-related applicant; or

(b) From a parent(s) residing with an SSI-related applicant child.

(2) An allocation is an amount deducted from income counted in the eligibility determination and considered to be set aside for the support of a person other than the SSI-related applicant. When income is allocated to other household members from the SSI-related applicant(s) or from the applicant's spouse, that income is not counted as income of the SSI-related applicant.

(3) An SSI-related ~~((individual))~~ person applying for WAH categorically needy (CN) ~~((medical))~~ health care coverage must have countable income at or below the SSI categorically needy income level (CNIL) described in WAC 182-512-0010 unless the ~~((individual))~~ person is working and meets all requirements for the health care for workers with disabilities (HWD) program described in WAC 182-511-1000 through 182-511-1250.

(4) For WAH institutional or home and community based waiver programs, use rules described in WAC ~~((388-513-1315))~~ 182-513-1315.

(5) The agency ~~((or its authorized representative))~~ follows rules described in WAC 182-512-0600 through 182-512-0880 to determine the countable income of an SSI-related applicant or SSI-related couple.

(6) If countable income of the applicant exceeds the one-person SSI CNIL prior to considering the income of a nonapplying spouse or children, the applicant is not eligible for WAH CN ~~((medical))~~ health care coverage and the agency ~~((or its authorized representative))~~ determines eligibility for the WAH medically needy (MN) program. If the countable income does not exceed the SSI CNIL, see WAC 182-512-0920 to determine if income is to be deemed to the applicant from the nonapplying spouse.

(7) If countable income (after allowable deductions) of an SSI-related couple both applying for medical coverage exceeds the two-person SSI CNIL, the couple is not eligible for WAH CN (~~(medical)~~) health care coverage and the agency (~~(or its authorized representative)~~) determines eligibility for the WAH medically needy (MN) program.

(8) For WAH CN (~~(medical)~~) health care coverage, allocations to children are deducted from the nonapplying spouse's unearned income, then from their earned income before income is deemed to the SSI-related applicant. See WAC 182-512-0820.

(9) For MN medical coverage, allocations to children are deducted from the income of the SSI-related applicant or SSI-related applicant couple. See subsection (10) of this section to determine the amount of the allocation.

(10) An SSI-related (~~(individual)~~) person or couple applying for WAH MN (~~(medical)~~) health care coverage is allowed an allocation to a nonapplying spouse, their SSI recipient spouse or their dependent child(ren) to reduce countable income before comparing income to the effective medically needy income level (MNIL) described in WAC 182-519-0050. The agency (~~(or its authorized representative)~~) allocates income:

(a) Up to the effective one-person MNIL to a nonapplying spouse or SSI recipient spouse minus the spouse's countable income; and

(b) Up to one-half of the federal benefit rate (FBR) to each dependent minus each dependent's countable income. See WAC 182-512-0820 for child exclusions.

(11) A portion of a nonapplying spouse's income may be deemed to the SSI-related applicant:

(a) See WAC 182-512-0920(5) to determine how much income is deemed from a nonapplying spouse to the SSI-related applicant when determining WAH CN eligibility; and

(b) See WAC 182-512-0920(10) to determine how much income is deemed from a nonapplying spouse to the SSI-related applicant when determining WAH MN eligibility.

(12) A portion of the income of an ineligible parent or parents is allocated to the needs of an SSI-related applicant child. See WAC 182-512-0940 (4) through (7) to determine how much income is allocated from ineligible parent(s).

(13) (~~(Only)~~) When income (~~(and resources actually contributed to an alien applicant)~~) must be deemed from (~~(their)~~) the sponsor (~~(are)~~) or sponsors of a noncitizen applicant or recipient, see WAC 182-512-0795 to determine the amount that must be counted as income (~~(For allocation of income from an alien sponsor, refer to WAC 388-450-0155)~~) of the noncitizen applicant or recipient.

**AMENDATORY SECTION** (Amending WSR 12-20-001, filed 9/19/12, effective 10/20/12)

**WAC 182-512-0920 SSI-related medical—Deeming/ allocation of income from nonapplying spouse.** The agency (~~(or its authorized representative)~~) considers the income of financially responsible persons to determine if a portion of that income is available to other household members.

(1) A portion of the income of a nonapplying spouse is considered available to meet the needs of (~~(an)~~) a Washington

apple health (WAH) SSI-related applicant. A nonapplying spouse is defined as someone who is:

(a) Financially responsible for the SSI-related applicant as described in WAC 182-506-0010 and 182-512-0960. For WAH institutional and home and community based waiver programs, see WAC (~~(388-513-1315)~~) 182-513-1315;

(b) Living in the same household with the SSI-related applicant;

(c) Not receiving a needs based payment such as temporary assistance to needy families (TANF)(~~(s)~~) or state-funded cash assistance (SFA); or

(d) Not related to SSI, or is not applying for (~~(medical assistance)~~) WAH coverage including spouses receiving SSI.

(2) An ineligible spouse is the spouse of an SSI cash recipient and is either not eligible for SSI for themselves or who has elected to not receive SSI cash so that their spouse may be eligible. An SSI-related applicant who is the ineligible spouse of an SSI cash recipient is not eligible for WAH categorically needy (CN) (~~(medical)~~) health care coverage and must be considered for (~~(medical)~~) health care coverage under the WAH medically needy (MN) program or for a modified adjusted gross income-based program if the person does not receive medicare.

(3) When determining whether a nonapplying spouse's income is countable, the agency (~~(or its authorized representative)~~):

(a) Follows the income rules described in WAC 182-512-0600 through (~~(182-512-0750)~~) 182-512-0780;

(b) Excludes income described in WAC 182-512-0800 (2) through (10), and all income excluded under federal statute or state law as described in WAC 182-512-0860(~~(-)~~);

(c) Excludes work-related expenses described in WAC 182-512-0840, with the exception that the sixty-five dollars plus one half earned income deduction described in WAC 182-512-0840(2) does not apply;

(d) Deducts any court ordered child support which the nonapplying spouse pays for a child outside of the home (current support or arrears); and

(e) Deducts any applicable child-related income exclusions described in WAC 182-512-0820.

(4) The agency (~~(or its authorized representative)~~) allocates income of the nonapplying spouse to nonapplying children who reside in the home as described in WAC (~~(388-475-0820)~~) 182-512-0820. Allocations to children are deducted first from the nonapplying spouse's unearned income, then from their earned income.

(a) For WAH CN medical determinations, allocations to children are not allowed out of the income of the SSI-related applicant, only from the income of the nonapplying spouse.

(b) For WAH MN medical determinations, allocations to children are allowed from the income of the SSI-related applicant if the applicant is unmarried.

(5) For WAH SSI-related CN medical determinations, a portion of the countable income of a nonapplying spouse remaining after the deductions and allocations described in subsections (3) and (4) of this section may be deemed to the SSI-related applicant. If the nonapplying spouse's countable income is:

(a) Less than or equal to one-half of the federal benefit rate (FBR), no income is deemed to the applicant. Compare

the applicant's countable income to the one-person SSI categorically needy income level (CNIL) described in WAC 182-512-0010. For health care for workers with disabilities (HWD) applicants, compare to the one-person HWD standard described in WAC 182-505-0100 (1)(c).

(b) Greater than one-half of the FBR, then the entire non-applying spouse's countable income is deemed to the applicant. Compare the applicant's income to the two-person SSI CNIL. For HWD applicants, compare to the two-person HWD standard described in WAC 182-505-0100 (1)(c).

(6) When income is not deemed to the SSI-related applicant from the nonapplying spouse per subsection (5)(a):

(a) Allow all allowable income deductions and exclusions as described in chapter 182-512 WAC to the SSI-related applicant's income; and

(b) Compare the net remaining income to the one-person SSI CNIL or the one-person HWD standard.

(7) When income is deemed to the SSI-related applicant from the nonapplying spouse per subsection (5)(b) of this section:

(a) Combine the applicant's unearned income with any unearned income deemed from the nonapplying spouse and allow one twenty dollar general income exclusion to the combined amount. If there is less than twenty dollars of unearned income, the remainder of the twenty dollar general income exclusion is deducted from earned income.

(b) Combine the applicant's earned income with any earned income deemed from the nonapplying spouse and allow the sixty-five dollar plus one half of the remainder earned income deduction (described in WAC 182-512-0840(2)) to the combined amount.

(c) Add together the net unearned and net earned income amounts and compare the total to the two-person SSI CNIL described in WAC 182-512-0010 or the two-person HWD standard described in WAC 182-505-0100 (1)(c). If the income is equal to or below the applicable two-person standard, the applicant is eligible for WAH CN ((medical)) health care coverage.

(8) An SSI-related applicant under the age of sixty-five who is working (~~(at or below the substantial gainful activity (SGA) level)~~), whose level of work activity and earnings is determined not to be "substantial gainful activity" in accordance with all applicable Social Security disability determination rules and standards, but who is not eligible for WAH CN coverage under the regular WAH SSI-related program, may be considered for eligibility ((under the MN program or)) under the HWD program. ((The SGA level is determined annually by the Social Security Administration and is posted at: <https://secure.ssa.gov/apps10/poms.nsf/lnx/0410501015>)) For HWD program rules, see chapter 182-511 WAC.

(9) If the SSI-related applicant's countable income is above the applicable SSI CNIL standard, the agency or its authorized representative considers eligibility under the WAH MN program or under the HWD program if the ((individual)) person is under the age of sixty-five and working. An SSI-related applicant who meets the following criteria is not eligible for WAH MN coverage and eligibility must be determined under HWD or under a MAGI-based WAH program:

(a) ~~((A))~~ The applicant is blind or disabled ((individual who is)) and under the age of sixty-five;

~~(b) ((Who has earned income over the SGA level))~~ The applicant's level of work activity and earnings is determined to be "substantial gainful activity" in accordance with all applicable Social Security disability determination rules and standards; and

(c) The applicant is not receiving a title II Social Security cash benefit based on blindness or disability.

(10) For SSI-related WAH MN medical determinations, a portion of the countable income of a nonapplying spouse remaining after the deductions and allocations described in subsections (3) and (4) of this section may be deemed to the SSI-related applicant. If the nonapplying spouse's countable income is:

(a) Less than or equal to the effective one-person MNIL described in WAC 182-519-0050, no income is deemed to the applicant and a portion of the applicant's countable income is allocated to the nonapplying spouse's income to raise it to the effective MNIL standard.

(b) Greater than the effective MNIL, then the amount in excess of the effective one-person MNIL is deemed to the applicant. Compare the applicant's income to the effective one-person MNIL.

(11) When income is not deemed to the SSI-related applicant from the nonapplying spouse per subsection (10)(a) of this section:

(a) Allocate income from the applicant to bring the income of the nonapplying spouse up to the effective one-person MNIL standard;

(b) Allow all allowable income deductions and exclusions as described in chapter 182-512 WAC to the SSI-related applicant's remaining income;

(c) Allow a deduction for medical insurance premium expenses (if applicable); and

(d) Compare the net countable income to the effective one-person MNIL.

(12) When income is deemed to the SSI-related applicant from the nonapplying spouse per subsection (10)(b) of this section:

(a) Combine the applicant's unearned income with any unearned income deemed from the nonapplying spouse and allow one twenty dollar general income exclusion to the combined amount (if there is less than twenty dollars of unearned income, the remainder of the twenty dollar general income exclusion is deducted from earned income);

(b) Combine the applicant's earned income with any earned income deemed from the nonapplying spouse and allow the sixty-five dollar plus one half of the remainder earned income deduction (described in WAC 182-512-0840(2)) to the combined amount;

(c) Add together the net unearned and net earned income amounts;

(d) Allow a deduction for medical insurance premium expenses (if applicable) per WAC 182-519-0100(5); and

(e) Compare the net countable income to the effective one-person MNIL described in WAC 182-519-0050. If the income is:

(i) Equal to or below the effective one-person MNIL, the applicant is eligible for WAH MN ((medical)) health care coverage with no spenddown.

(ii) Greater than the effective MNIL, the applicant is only eligible for WAH MN (~~((medical))~~) health care coverage after meeting a spenddown liability as described in WAC 182-519-0110.

(13) The ineligible spouse of an SSI-cash recipient applying for WAH MN coverage is eligible to receive the deductions and allocations described in subsection (10)(a) of this section.

**AMENDATORY SECTION** (Amending WSR 12-20-001, filed 9/19/12, effective 10/20/12)

**WAC 182-512-0940 SSI-related medical—Deeming income from an ineligible parent(s) to a child applying for SSI-related medical.** The agency (~~((or its authorized representative))~~) considers income of financially responsible persons to determine if a portion of that income must be regarded as available to other household members.

(1) A portion of the income of a parent(s) is considered available to the SSI-related applicant child when the child is age seventeen or younger and the parent(s) is:

(a) Financially responsible for the SSI-related child as described in WAC (~~((182-506-0010(2)))~~) 182-506-0015;

(b) The natural, adoptive, or step-parent of the child;

(c) Living in the same household with the child;

(d) Not receiving a needs-based payment such as TANF, SFA or SSI; and

(e) Not related to SSI or not applying for medical assistance.

(2) If an SSI-related applicant between the ages of eighteen to twenty-one lives with their parents, only consider the parent's income available to the applicant if it is actually contributed to the applicant. If income is not contributed, count only the applicant's own separate income.

(3) Income that is deemed to the child is considered as that child's income.

(4) When determining whether a parent's income is countable, the agency (~~((or its authorized representative follows))~~):

(a) ~~Follows~~ the income rules described in WAC 182-512-0600 through (~~((182-512-0750))~~) 182-512-0780; and

(b) Excludes income described in WAC 182-512-0800 and 182-512-0840, and all income excluded under a federal statute or state law as described in WAC 182-512-0860.

(5) When determining the amount of income to be deemed from a parent(s) to an SSI-related minor child for Washington apple health (WAH) categorically needy (CN) and medically needy (MN) coverage, the agency (~~((or its authorized representative))~~) reduces the parent(s) countable income in the following order:

(a) Court ordered child support paid out for a child not in the home;

(b) An amount equal to one half of the federal benefit rate (FBR) for each SSI-eligible sibling living in the household, minus any countable income of that child. See WAC (~~((388-478-0055))~~) 182-512-0010 for FBR amount;

(c) A twenty dollar general income exclusion;

(d) A deduction equal to sixty-five dollars plus one-half of the remainder from any remaining earned income of the parent(s);

(e) An amount equal to the one-person SSI CNIL for a single parent or the two-person SSI CNIL for a two parent household;

(f) Any income remaining after these deductions is considered countable income to the SSI-related child and is added to the child's own income. If there is more than one child applying for SSI-related (~~((medical))~~) health care coverage, the deemed parental income is divided equally between the applicant children; and

(g) The deductions described in this section are deducted first from unearned income then from earned income unless they are specific to earned income.

(6) The SSI-related applicant child is also allowed all applicable income exclusions and disregards described in chapter (~~((182-475))~~) 182-512 WAC from their own income. After determining the child's nonexcluded income, the agency (~~((or its authorized representative))~~):

(a) Allows the twenty dollar general income exclusion from any unearned income;

(b) Deducts sixty-five dollars plus one half of the remainder from any earned income which has not already been excluded under the student earned income exclusion (see WAC 182-512-0820)(~~((-))~~); and

(c) Adds the child's countable income to the amount deemed from their parent(s). If the combination of the child's countable income plus deemed parental income is equal to or less than the SSI CNIL, the child is eligible for SSI-related WAH CN (~~((medical))~~) health care coverage.

(7) If the combination of the child's countable income plus deemed parental income is greater than the SSI CNIL, the agency (~~((or its authorized representative))~~) considers the child for SSI-related WAH medically needy (MN) coverage. Any amount exceeding the effective medically needy income level (MNIL) is used to calculate the amount of the child's spenddown liability as described in WAC 182-519-0110. See WAC 182-519-0050 for the current MNIL standards.

**AMENDATORY SECTION** (Amending WSR 11-24-018, filed 11/29/11, effective 12/1/11)

**WAC 182-512-0960 SSI-related medical—Allocating income—How the (~~((department))~~) agency considers income and resources when determining eligibility for (~~((an individual))~~) a person applying for noninstitutional (~~((medicaid))~~) Washington apple health (WAH) when another household member is receiving institutional (~~((medicaid))~~) WAH.** (1) The (~~((department))~~) agency follows rules described in WAC (~~((388-513-1315))~~) 182-513-1315 for (~~((an individual))~~) a person considered to be in institutional WAH, which means a person who is either residing in a medical institution, or approved for a home and community based waiver, or approved for the WAH institutional hospice program. The rules in this section describe how the (~~((department))~~) agency considers household income and resources when the household contains both institutional and noninstitutionalized household members.

(2) An institutionalized (~~((individual))~~) person (adult or child) who is not SSI-related may be considered under the long-term care for families and children programs described



in WAC (~~(388-505-0230)~~) 182-514-0230 through (~~(388-505-0265)~~) 182-514-0265.

(3) The (~~(department)~~) agency considers the income and resources of spouses as available to each other through the end of the month in which the spouses stopped living together. See WAC (~~(388-513-1330)~~) 182-513-1330 and (~~(388-513-1350)~~) 182-513-1350 when a spouse is institutionalized.

(4) The (~~(department)~~) agency considers income and resources separately as of the first day of the month following the month of separation when spouses stop living together because of placement into a boarding home (assisted living, enhanced adult residential center, adult residential center), adult family home (AFH), adult residential rehabilitation center/adult residential treatment facility (ARRC/ARTF), or division of developmental disabilities-group home (DDD-GH) facility when:

- (a) Only one spouse enters the facility;
- (b) Both spouses enter the same facility but have separate rooms; or
- (c) Both spouses enter separate facilities.

(5) The (~~(department)~~) agency considers income and resources jointly when both spouses are placed in a boarding home, AFH, ARRC/ARTF, or DDD-GH facility and share a room.

(6) When determining SSI-related WAH categorically needy (CN) or medically needy (MN) eligibility for a community spouse applying for (~~(medical)~~) health care coverage, the (~~(department)~~) agency counts:

- (a) The separate income of the community spouse; plus
- (b) One half of any community income received by the community spouse and the institutionalized spouse; plus
- (c) Any amount allocated to the community spouse from the institutionalized spouse. The terms "community spouse" and "institutionalized spouse" are defined in WAC (~~(388-513-1301)~~) 182-513-1301.

(7) For the purposes of determining the countable income of a community spouse applying for (~~(medical)~~) health care coverage as described in subsection (6) (~~(above)~~) of this section, it does not matter whether the spouses reside together or not. Income that is allocated and actually available to a community spouse is considered that person's income.

(8) For the purposes of determining the countable income of a community spouse or children applying for (~~(medical)~~) health care coverage under modified adjusted gross income (MAGI)-based family, pregnancy or children's (~~(medical)~~) WAH programs, the (~~(department)~~) agency uses the following rules to determine if the income of the institutionalized person is considered in the eligibility calculation:

- (a) When the institutionalized spouse or parent lives in the same home with the community spouse and/or children, their income is counted in the determination of household income following the rules for the medical program that is being considered.
- (b) When the institutionalized spouse or parent does not live in the same home as the spouse and/or children, only income that is allocated and available to the household is counted.

(9) When determining the countable income of a community spouse applying for (~~(medical)~~) health care coverage under the WAH MN program, the (~~(department)~~) agency allocates income from the community spouse to the institutionalized spouse in an amount up to the one-person effective medically needy income level (MNIL) less the institutionalized spouse's income, when:

- (a) The community spouse is living in the same household as the institutionalized spouse; (~~and~~)
- (b) The institutionalized spouse is receiving home and community-based waiver or institutional hospice services described in WAC (~~(388-515-1505)~~) 182-515-1505; and
- (c) The institutionalized spouse has gross income of less than the MNIL.

(10) See WAC (~~(388-408-0055)~~) 182-506-0015 for rules on how to determine medical assistance units for households that include SSI-related persons. A separate medical assistance unit is always established for (~~(individuals)~~) persons who meet institutional status described in WAC (~~(388-513-1320)~~) 182-513-1320.

#### NEW SECTION

**WAC 182-512-0770 SSI-related medical—American Indian/Alaska Native excluded income and resources.** (1) The agency excludes the following types of income from being considered when determining eligibility for Washington apple health (WAH) categorically needy (CN) and medically needy (MN) SSI-related programs for American Indians/Alaska Natives:

- (a) Distributions received by an individual Alaska Native or descendant of an Alaska Native from an Alaska Native Regional and Village Corporation pursuant to the Alaska Native Claims Settlement Act, P.L. 92-203 and 100-241, as follows:
  - (i) Cash, including cash dividends on stock received from a Native Corporation, to the extent that it does not, in the aggregate, exceed two thousand dollars per person each calendar year;
  - (ii) Stock, including stock issued or distributed by a Native Corporation as a dividend or distribution on stock;
  - (iii) A partnership interest;
  - (iv) Land or an interest in land, including land or an interest in land received from a Native Corporation as a dividend or distribution on stock; and
  - (v) An interest in a settlement trust.
- (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, P.L. 98-64, including any interest and investment income accrued while such funds are held in trust;
- (c) Income received from Indian judgment funds held in trust by the Secretary of the Interior or distributed per capita under P.L. 93-134 as amended by P.L. 97-458, including any interest and investment income accrued while such funds are held in trust;
- (d) Up to two thousand dollars per person per calendar year received from individual interests in trust or restricted lands under section 13736 of P.L. 103-66; and

(e) Income received by members of specific Indian tribes and groups that is excluded by federal law (as more fully listed in Appendix to Subpart K of Title 20, Part 416 of the Code of Federal Regulations) including, but not limited to, the following:

(i) 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;

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

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

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

(v) Payments under the Senecal Nation Settlement Act, P.L. 101-503.

(2) The agency excludes the following types of resources from being considered when determining eligibility for WAH-CN and WAH-MN SSI-related programs for American Indians/Alaska Natives:

(a) Property, including real property and improvements, that is held in trust, subject to federal restrictions, or otherwise under the supervision of the Secretary of the Interior; located on a reservation, including any federally recognized Indian tribe's reservation, pueblo, or colony, including former reservations in Oklahoma, Alaska Native regions established by the Alaska Native Claims Settlement Act and Indian allotments on or near a reservation as designated and approved by the Bureau of Indian Affairs of the Department of the Interior;

(b) For any federally recognized tribe not described in (a) of this subsection, property located within the most recent boundaries of a prior federal reservation;

(c) Ownership interests in rents, leases, royalties, or usage rights related to natural resources (including extraction of natural resources or harvesting of timber, other plants and plant products, animals, fish and shellfish) resulting from the exercise of federally protected rights; and

(d) Ownership interests in or usage rights to items not covered in (a), (b), or (c) of this subsection that have unique religious, spiritual, traditional, or cultural significance or rights that support subsistence or a traditional lifestyle according to applicable tribal law or custom.

(3) When determining eligibility for WAH-CN and WAH-MN SSI-related programs for American Indians/Alaska Natives, the agency counts of excluded amounts received by tribal members from exercise of gaming revenues (per capita distributions) that are retained after the month of receipt based on the type of resource in which the money is retained. If the amounts are retained in a countable resource (for example, cash, checking account, or savings account), the agency treats the amounts as a countable resource. If the amounts are converted to an excluded resource (for example, personal property like a refrigerator), the agency treats the amounts as excluded resources.

**WSR 14-07-063**  
**PERMANENT RULES**  
**PROFESSIONAL EDUCATOR**  
**STANDARDS BOARD**

[Filed March 17, 2014, 10:28 a.m., effective April 17, 2014]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Amends WAC 181-78A-535 on the requirements for completion of a professional certification program. Removes panel requirements.

Citation of Existing Rules Affected by this Order: Amending WAC 181-78A-535.

Statutory Authority for Adoption: RCW 28A.410.210.

Adopted under notice filed as WSR 14-04-062 on January 28, 2014.

A final cost-benefit analysis is available by contacting David Brenna, 600 Washington Street South, Room 400, Olympia, WA 98504-7236, phone (360) 725-6238, fax (360) 586-4548, e-mail david.brenna@k12.wa.us.

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

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

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

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

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

Date Adopted: March 14, 2014.

David Brenna  
Senior Policy Analyst

AMENDATORY SECTION (Amending WSR 12-18-003, filed 8/23/12, effective 9/23/12)

**WAC 181-78A-535 Approval standard—Program design.** The following requirements shall govern the professional certificate program:

(1) Recruitment and admission.

(a) Programs will, at a minimum, recruit and admit any candidates in their service region who hold a residency certificate and at least two years of experience in the role.

(b) Learner expectations for program requirements, progression, and completion are identified, published, and accessible.

(2) Program design.

(a) Entry seminar.

(i) The program provides an orientation to the process and to the benchmarks/strands.

(ii) The program includes formalized learning opportunities and other activities directed at developing and verifying that the candidate has achieved acceptable knowledge, skill, and performance at the professional certificate benchmark

level, or above, on all standards as defined in WAC 181-78A-270.

(iii) Administrator candidates will complete a 360-type assessment aligned to the interstate school leaders licensure consortium standards.

(b) Professional growth plan implementation. The program includes the development of a draft professional growth plan focused on the career level standards.

(c) ~~(Panel presentation.~~

~~(i)) Culminating project. The program includes a (final presentation to a panel that includes experienced P-12 educators in the role, during which the candidate provides evidence of professional certificate level knowledge, skill, and performance.~~

~~(ii) Candidates who do not successfully complete a final presentation receive an individualized analysis of strengths and weaknesses and a plan for assistance, and shall be allowed additional opportunities to present evidence pertaining to strands/benchmarks not previously met)) job-embedded culminating project designed to improve student achievement or school climate, during which the candidate provides evidence of professional certificate level knowledge, skill, and performance.~~

(3) School-based experiences.

(a) Candidate work produced in the program is responsive to, and integrated with, the job responsibilities of candidates.

(b) Entry and exit criteria and a process for mitigating concerns are provided for candidates.

(4) Collaboration. Program personnel collaborate for continuous program improvement with P-12 partners, PEAB members, and candidates.

(5) Diversity in learning experiences.

(a) Candidates reflect on interactions with diverse populations in order to integrate professional growth in cultural competency as a habit of practice.

(b) Program personnel model equity pedagogy through:

(i) Interactions with diverse populations;

(ii) Reflective practice on their own professional growth in cultural competency;

(iii) Culturally relevant communication and problem solving; and

(iv) Personalized instruction that addresses cultural and linguistic backgrounds.

### WSR 14-07-064

#### PERMANENT RULES

#### PROFESSIONAL EDUCATOR

#### STANDARDS BOARD

[Filed March 17, 2014, 10:36 a.m., effective April 17, 2014]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Amends WAC 181-78A-255 to clarify the program requirements for data collection.

Citation of Existing Rules Affected by this Order: Amending WAC 181-78A-255.

Statutory Authority for Adoption: RCW 28A.410.210.

Adopted under notice filed as WSR 14-04-069 on January 30, 2014.

A final cost-benefit analysis is available by contacting David Brenna, 600 Washington Street South, Room 400, Olympia, WA 98504-7236, phone (360) 725-6238, fax (360) 586-4548, e-mail david.brenna@k12.wa.us.

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

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

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

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

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

Date Adopted: March 13, 2014.

David Brenna

Senior Policy Analyst

AMENDATORY SECTION (Amending WSR 10-17-029, filed 8/9/10, effective 9/9/10)

**WAC 181-78A-255 Approval standard—Accountability.** Building on the mission to prepare educators who demonstrate a positive impact on student learning, the following evidence shall be evaluated to determine whether each preparation program is in compliance with the program approval standards of WAC 181-78A-220(2).

(1) Each approved educator preparation program shall maintain an assessment system that:

(a) Assesses outcomes in alignment with the conceptual framework and state standards.

(b) Systematically and comprehensively gathers evidence on:

(i) Candidate learning;

(ii) Program operations, including placement rates, clinical experiences, and candidate characteristics.

(c) Collects candidate work samples that document positive impact on student learning.

(d) Aggregates key data over time.

(e) Incorporates perspectives of faculty, candidates, and P-12 partners.

(f) Includes processes and safeguards that ensure fair and unbiased assessment of candidates.

(g) Provides for regular analysis of assessment results.

(h) Is systematically linked to program decision-making processes.

(2) Each approved program shall ~~((reach agreement with the professional educator standards board on the delivery of data as described in a memorandum of understanding. The memorandum will detail the minimum data requirements for approved programs))~~ maintain a data system that exhibits:

(a) Data structure, including a table structure, the ability to utilize university data systems, data entry protocols and codes, unique record identifiers, the ability to provide repeatable reports with efficiency, and strategies to ensure data quality.

(b) Standards for security and access, including guidelines for data access by users and system back-up protocols.

(c) Guidelines for data governance, system documentation, and the processing of assessment scores from external sources.

(3) Each approved education preparation program shall collect and report data in accordance with the data manuals adopted by the professional educator standards board.

### WSR 14-07-067

#### PERMANENT RULES

#### PROFESSIONAL EDUCATOR

#### STANDARDS BOARD

[Filed March 17, 2014, 11:11 a.m., effective April 17, 2014]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Amends WAC 181-78A-264 and 181-78A-270 transitioning from the current pedagogy assessment requirements to the new education teacher performance assessment. Permitting pilot participants to be recommended for certification by programs. Teachers enrolled after January 1, 2014, are required to pass the assessment.

Citation of Existing Rules Affected by this Order: Amending WAC 181-78A-264 and 181-78A-270.

Statutory Authority for Adoption: RCW 28A.410.210.

Adopted under notice filed as WSR 13-23-079 on November 19, 2013.

A final cost-benefit analysis is available by contacting David Brenna, 600 Washington Street South, Room 400, Olympia, WA 98504-7236, phone (360) 725-6238, fax (360) 586-4548, e-mail david.brenna@k12.wa.us.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 2, 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 2, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: March 14, 2014.

David Brenna  
Senior Policy Analyst

AMENDATORY SECTION (Amending WSR 12-02-028, filed 12/28/11, effective 1/28/12)

**WAC 181-78A-264 Approval standard—Program design.** Building on the mission to prepare educators who demonstrate a positive impact on student learning, evidence shall be evaluated to determine whether each preparation program is in compliance with the program design standard of WAC 181-78A-220(4):

(1) The conceptual framework establishes the shared vision for the unit's efforts in preparing educators to work effectively in P-12 schools. The conceptual framework:

(a) Provides coherence among curriculum, instruction, field experiences, clinical practice, candidate assessment, and program evaluation;

(b) Establishes the philosophy, purpose, goals, and standards of the program or unit;

(c) Reflects renewing commitment to current research and best practices; and

(d) Supports the state's goals for P-12 student learning and program approval Standard V.

(2) Recruitment, admission, retention, and transition to the field.

(a) Programs recruit, admit, retain, and transition candidates to the field who:

(i) Demonstrate the content and pedagogical knowledge and skills for success as educators in schools;

(ii) Demonstrate the dispositions of a professional educator;

(iii) Address the program, state and partner districts' goals for increasing underrepresented populations in the workplace;

(iv) Address the content areas identified by work force data of the state and region.

(b) Learner expectations for program requirements, progression, and completion are identified, published, and accessible.

(c) Faculty regularly review recruitment and retention data for effectiveness of program.

Programs create, implement and communicate a recruitment and retention plan in response to data.

(3) Field experiences and clinical practice.

(a) The program(s) and its school partners design, implement, and evaluate field experiences and clinical practices.

(b) Field experiences are integrated throughout the preparation program.

(i) Field experiences provide opportunity to plan, practice and reflect on methods of instruction and differentiation;

(ii) Field experiences provide opportunity to work in communities with populations dissimilar to the background of the candidate;

(iii) Faculty supervision, including on-site visits, will be provided on an on-going basis.

(c) Mentors are instructional leaders identified collaboratively with the partner school of district.

(i) Mentors and principals are provided with a set of internship expectations;

(ii) Mentors receive or provide evidence of training on mentoring of adult learners;

(iii) Mentors must be fully certificated school personnel and have a minimum of three years of professional experience in the role they are supervising;

(iv) Effectiveness of mentor preparation and communication are reviewed annually by faculty.

(d) All Washington educator preparation programs operating field experiences in Washington state shall establish and maintain field placement agreements with all Washington school districts in which candidates are placed for field experiences leading to certification or endorsement under WAC 181-78A-125.

(e) Entry and exit criteria and a process for mitigating concerns during clinical practice are provided for candidates and the mentor.

(f) Requirements for specific educator preparation programs.

(i) Teacher programs.

(A) Programs shall administer the ((pedagogy)) teacher performance assessment adopted by the professional educator standards board to all candidates in a residency certificate program.

(B) Clinical practice (defined as supervised planning, instruction, and reflection) for teacher candidates should consist of no less than four hundred fifty hours in classroom settings.

(ii) School counselor programs.

(A) Candidates complete a supervised internship in the schools that includes a minimum of four hundred hours of on the job professional service and one hour per week of individual supervision provided by the mentor.

(B) Prior to the internship, the candidate will complete a faculty supervised practicum (a distinctly defined clinical experience intended to enable the candidate to develop basic counseling skills and integrate professional knowledge).

(iii) School psychology programs.

(A) Candidates complete a supervised internship in the schools that includes a minimum of one thousand two hundred hours of on the job professional service and one hour per week of individual supervision provided by the mentor.

(B) Prior to the internship, the candidate will complete a faculty supervised practicum (a distinctly defined clinical experience intended to enable the candidate to develop basic school psychology skills and integrate professional knowledge).

(iv) Administrator programs.

(A) The internship for administrators shall take place in an education setting serving under the general supervision of a certificated practitioner who is performing in the role for which certification is sought.

(B) Components of the required internship shall include demonstration by the candidate that he or she has the appropriate, specific relevant skills pursuant to WAC 181-78A-270.

(C) An approved preparation program for superintendents shall require an internship of at least three hundred sixty hours.

(D) An approved preparation program for principals shall require for those persons beginning their internship August 1, 2009, and after, an internship which requires practice as an intern during the full school year. A "full school

year" shall mean five hundred forty hours of which at least one-half shall be during school hours, when students and/or staff are present: Provided further, That an approved preparation program for principals shall require an internship that shall include demonstration by the candidate that she or he has the appropriate, specific skills pursuant to the standards identified in WAC 181-78A-270(2) and meets, at minimum, the standards-based benchmarks approved and published by the professional educator standards board. The benchmarks may not be changed without prior professional educator standards board approval.

(4) Program and faculty collaboration.

(a) Faculty within the program and unit collaborate for continuous program improvement.

(b) Faculty collaborate with content area specialists.

(c) Programs collaborate with P-12 schools to assess and respond to work force, student learning, and professional development needs.

(d) Faculty collaborate with members of the broader professional community.

(e) Faculty collaborate with members of under-represented populations for program improvement.

(5) Diversity in learning experiences.

(a) Candidates have significant interaction with diverse populations including colleagues, faculty, P-12 practitioners, and P-12 students and families.

(i) Candidates reflect on interactions with diverse populations in order to integrate professional growth in cultural competency as a habit of practice.

(ii) Candidates integrate their cultural and linguistic backgrounds into classroom activities in order to build the multicultural capacity of the preparation program cohort.

(b) Faculty model equity pedagogy through:

(i) Interaction with diverse populations;

(ii) Reflective practice on their own professional growth in cultural competency;

(iii) Culturally relevant communication and problem solving; and

(iv) Personalized instruction that addresses cultural and linguistic backgrounds.

AMENDATORY SECTION (Amending WSR 13-16-076, filed 8/6/13, effective 9/6/13)

**WAC 181-78A-270 Approval standard—Knowledge and skills.** Each preparation program must be in compliance with the program approval standards of WAC 181-78A-220(5):

(1) **TEACHER RESIDENCY CERTIFICATION.**

(a) **EFFECTIVE TEACHING.**

(i) Using multiple instructional strategies, including the principles of second language acquisition, to address student academic language ability levels and cultural and linguistic backgrounds;

(ii) Applying principles of differentiated instruction, including theories of language acquisition, stages of language, and academic language development, in the integration of subject matter across the content areas of reading, mathematical, scientific, and aesthetic reasoning;

(iii) Using standards-based assessment that is systematically analyzed using multiple formative, summative, and self-assessment strategies to monitor and improve instruction;

(iv) Implementing classroom/school centered instruction, including sheltered instruction that is connected to communities within the classroom and the school, and includes knowledge and skills for working with other;

(v) Planning and/or adapting standards-based curricula that are personalized to the diverse needs of each student;

(vi) Aligning instruction to the learning standards and outcomes so all students know the learning targets and their progress toward meeting them;

(vii) Planning and/or adapting curricula that are standards driven so students develop understanding and problem-solving expertise in the content area(s) using reading, written and oral communication, and technology;

(viii) Preparing students to be responsible citizens for an environmentally sustainable, globally interconnected, and diverse society;

(ix) Planning and/or adapting learner centered curricula that engage students in a variety of culturally responsive, developmentally, and age appropriate strategies;

(x) Using technology that is effectively integrated to create technologically proficient learners; and

(xi) Informing, involving, and collaborating with families/neighborhoods, and communities in each student's educational process, including using information about student cultural identity, achievement and performance.

(b) **PROFESSIONAL DEVELOPMENT.** Developing reflective, collaborative, professional growth-centered practices through regularly evaluating the effects of his/her teaching through feedback and reflection.

Teacher evaluation. After August 31, 2013, an approved preparation program for teachers shall require candidates for a residency certificate to demonstrate knowledge of teacher evaluation research and Washington's evaluation requirements. At a minimum, teacher preparation programs must address the following knowledge and skills related to evaluations:

(i) Examination of Washington's evaluation requirements, criteria, four-tiered performance rating system, and the preferred instructional frameworks used to describe the evaluation criteria;

(ii) Self-assessment, goal setting, and reflective practices;

(iii) Evidence gathering over time;

(iv) Use of student growth data and multiple measures of performance;

(v) Evaluation conferencing; and

(vi) Use of an online tool to review observation notes and submit materials to be included in evaluation.

(c) **TEACHING AS A PROFESSION.**

(i) Participating collaboratively and professionally in school activities and using appropriate and respectful verbal and written communication.

(ii) Demonstrating knowledge of professional, legal, and ethical responsibilities and policies.

(d) **PERFORMANCE ASSESSMENT.** An approved preparation program for teachers shall require that each candidate

engage in an assessment process approved by the professional educator standards board. The assessment will verify that the candidate for a residency teacher certificate can meet the teacher standards in (a), (b) and (c) of this subsection and understands teacher impact on student learning. Beginning January 1, 2014, all candidates will complete and pass the teacher performance assessment per WAC 181-78A-264 as authorized by the professional educator standards board: Provided, that candidates who participated in the teacher performance assessment field trials or took the pedagogy assessment prior to January 1, 2014, may be recommended for certification by the preparation program. All candidates shall exit the residency certificate program with a draft professional growth plan oriented toward the expectations for the professional certificate.

(2) **PRINCIPAL AND PROGRAM ADMINISTRATOR.**

(a) Principal and program administrator candidates, in order to support student achievement of the state learning goals and essential academic learning requirements, will complete formalized learning opportunities, including an internship, in an approved program that includes:

Successful demonstration of standards.

(i) A school or program administrator is an educational leader who has the knowledge, skills, and cultural competence to improve learning and achievement to ensure the success of each student by leading the development, articulation, implementation, and stewardship of a vision of learning that is shared and supported by school/program and community stakeholders;

(ii) A school or program administrator is an educational leader who has the knowledge, skills, and cultural competence to improve learning and achievement to ensure the success of each student by leading through advocating, nurturing, and sustaining district/school/program cultures and coherent instructional programs that are conducive to student learning and staff professional growth;

(iii) A school or program administrator is an educational leader who has the knowledge, skills, and cultural competence to improve learning and achievement to ensure the success of each student by ensuring management of the organization, operations, and resources for a safe, efficient, and effective learning environment;

(iv) A school or program administrator is an educational leader who has the knowledge, skills, and cultural competence to improve learning and achievement to ensure the success of each student by collaborating with families and community members, responding to diverse community interests and needs, and mobilizing community resources;

(v) A school or program administrator is an educational leader who has the knowledge, skills, and cultural competence to improve learning and achievement to ensure the success of each student by acting with integrity, fairness, and in an ethical manner; and

(vi) A school or program administrator is an educational leader who has the knowledge, skills, and cultural competence to improve learning and achievement to ensure the success of each student by understanding, responding to, and influencing the larger political, social, economic, legal and cultural context.

(b) Performance assessment. An approved preparation program for principals shall require that each candidate engage in an assessment process using the standards-based benchmarks approved by the professional educator standards board. The benchmarks may not be changed without prior professional educator standards board approval. All candidates shall exit the residency certificate program with a draft professional growth plan oriented toward the expectations for the professional certificate.

(c) Teacher and principal evaluation. After August 31, 2013, an approved preparation program for principals shall require candidates for a residency principal certificate to demonstrate knowledge of teacher evaluation research, Washington's evaluation requirements, and successfully complete opportunities to practice teacher evaluation skills. At a minimum, principal preparation programs must address the following knowledge and skills related to evaluations:

(i) Examination of Washington teacher and principal evaluation criteria, four-tiered performance rating system, and the preferred instructional and leadership frameworks used to describe the evaluation criteria;

(ii) Self-assessment, goal setting, and reflective practices;

(iii) Evidence gathering over time;

(iv) Classroom observation skills;

(v) Bias training;

(vi) Rater agreement on the four-tiered system;

(vii) Use of student growth data and multiple measures of performance;

(viii) Evaluation conferencing;

(ix) Development of classroom teacher and principal support plans resulting from an evaluation; and

(x) Use of an online tool to manage the collection of observation notes, teacher- and principal-submitted materials, and other information related to the conduct of the evaluation.

(3) **SUPERINTENDENT.** An approved preparation program for superintendents shall require the candidate to demonstrate in course work and the internship the following standards:

(a) A superintendent is the community's educational leader who has the knowledge, skills, and cultural competence to improve learning and achievement to ensure the success of each student by leading the development, articulation, implementation, and stewardship of a vision of learning that is shared and supported by district and community stakeholders;

(b) A superintendent is the community's educational leader who has the knowledge, skills, and cultural competence to improve learning and achievement to ensure the success of each student by leading through advocating, nurturing, and sustaining district culture and coherent instructional programs that are conducive to student learning and staff professional growth;

(c) A superintendent is the community's educational leader who has the knowledge, skills, and cultural competence to improve learning and achievement to ensure the success of each student by ensuring management of the organization, operations, and resources for a safe, efficient, and effective learning environment;

(d) A superintendent is the community's educational leader who has the knowledge, skills, and cultural competence to improve learning and achievement to ensure the success of each student by collaborating with families and community members, responding to diverse community interests and needs, and mobilizing community resources;

(e) A superintendent is the community's educational leader who has the knowledge, skills, and cultural competence to improve learning and achievement to ensure the success of each student by acting with integrity, fairness, and in an ethical manner;

(f) A superintendent is the community's educational leader who has the knowledge, skills, and cultural competence to improve learning and achievement to ensure the success of each student by understanding, responding to, and influencing the larger political, social, economic, legal, and cultural context; and

(g) Principal evaluation. After August 31, 2013, an approved preparation program for superintendents shall require candidates for an initial superintendent certificate to demonstrate knowledge of principal evaluation research, Washington's evaluation requirements, and successfully complete opportunities to practice principal evaluation skills. At a minimum, superintendent preparation programs must address the following knowledge and skills related to evaluations:

(i) Examination of Washington principal evaluation criteria, four-tiered performance rating system, and the preferred leadership frameworks used to describe the evaluation criteria;

(ii) Self-assessment, goal setting, and reflective practices;

(iii) Evidence gathering over time;

(iv) Observation skills;

(v) Bias training;

(vi) Rater agreement on the four-tiered system;

(vii) Use of student growth data and multiple measures of performance;

(viii) Evaluation conferencing;

(ix) Development of principal support plans resulting from an evaluation; and

(x) Use of an online tool to manage the collection of observation notes, superintendent- and principal-submitted materials, and other information related to the conduct of the evaluation.

(4) **SCHOOL COUNSELOR.** School counselor candidates, in order to support student achievement of the state learning goals and essential academic learning requirements, will complete formalized learning opportunities, including an internship, in an approved program that includes:

(a) **Successful demonstration of standards:**

(i) **School counseling program:** Certified school counselors develop, lead, and evaluate a data-driven school counseling program that is comprehensive, utilizes best practices, and advances the mission of the school.

(ii) **Student learning and assessments:** Certified school counselors use their knowledge of pedagogy, child development, individual differences, learning barriers, and Washington state learning requirements to support student learning.

They work effectively with other educators to monitor and improve student success.

(iii) **Counseling theories and technique:** Certified school counselors use a variety of research-based counseling approaches to provide prevention, intervention, and responsive services to meet the academic, personal/social and career needs of all students.

(iv) **Equity, fairness, and diversity:** Certified school counselors understand cultural contexts in a multicultural society, demonstrate fairness, equity, and sensitivity to every student, and advocate for equitable access to instructional programs and activities.

(v) **School climate and collaboration:** Certified school counselors collaborate with colleagues, families, and community members to establish and foster a safe, inclusive, and nurturing learning environment for students, staff, and families.

(vi) **Professional identity and ethical practice:** Certified school counselors engage in continuous professional growth and development and advocate for appropriate school counselor identity and roles. They adhere to ethical practices and to the Washington state and federal policies, laws, and legislation relevant to school counseling.

(b) **Performance assessment.** An approved preparation program for school counselors shall require that each candidate engage in an assessment process using the standards-based benchmarks approved by the professional educator standards board. The benchmarks may not be changed without prior professional educator standards board approval. All candidates shall exit the residency certificate program with a draft professional growth plan oriented to the expectations for the professional certificate.

(5) **SCHOOL PSYCHOLOGIST.** School psychologist candidates will complete formalized learning opportunities, including an internship, in an approved program that includes:

(a) **Successful demonstration of standards:**

(i) **Data-based decision making and accountability:** Certified school psychologists have knowledge of varied models and methods of assessment as part of a systematic process of data-based decision making that permeates every aspect of professional practice.

(ii) **Consultation and collaboration:** Certified school psychologists have knowledge of behavioral, mental health, collaborative, and other consultation models and methods and of their application to individual and contextual situations; collaborate effectively with others in planning and decision-making processes at the individual, group, and system levels.

(iii) **Interventions and instructional support to develop academic skills:** Certified school psychologists have knowledge of the influence of biological, cultural, linguistic, and early life experiences on academic development and collaborate with others to access, implement, and evaluate services at universal, targeted, and intensive levels using a variety of culturally and developmentally appropriate assessments.

(iv) **Interventions and mental health services to develop social and life skills:** Certified school psychologists have knowledge of biological, cultural, developmental, and

social influences on behavior and mental health; collaborate with others, to develop, implement, and evaluate services that support socialization, cultural competence, learning, and mental health for positive impact on student learning.

(v) **Schoolwide practices to promote learning:** Certified school psychologists have knowledge of general and special education, evidence-based practices, and equity pedagogy that responds to the needs of the learners; demonstrate skills to manage time effectively, respond to the learning needs of the individual students, and plan and measure positive impact on student learning.

(vi) **Prevention and responsive services:** Certified school psychologists have knowledge of principles of resilience and risk factors and demonstrate skills in multitiered delivery of services that respond to crisis and promote learning and mental health across cultures.

(vii) **School collaboration services:** Certified school psychologists have knowledge of family systems, including family strengths and influences on student development, learning, and behavior, and of methods to involve families in education and service delivery; facilitate family and school partnerships and interactions with community agencies for enhancement of academic and social-behavior outcomes for children.

(viii) **Diversity in development and learning:** Certified school psychologists have knowledge of the principles and research related to culture, linguistic development, context, individual and role differences; work collaboratively to provide professional services that respond to the diverse needs of individuals and families; advocate for social justice and equity pedagogy.

(ix) **Research and program evaluation:** Certified school psychologists have knowledge of research, statistics, and evaluation methods; evaluate research, translate research into practice, and understand research design and statistics in sufficient depth to plan and conduct investigations and program evaluations for improvement of services at individual, group, and systems levels.

(x) **Legal, ethical, and professional practice:** Certified school psychologists have knowledge of the history and foundations of their profession; of multiple service models and methods; of ethical, professional, and legal standards, including the Washington Administrative Code and federal and state accountability legislation; practice in ways that are consistent with applicable standards; engage in responsive ethical and professional decision-making; and apply professional work characteristics.

(xi) **Emerging and assistive technologies:** Certified school psychologists have knowledge of and access, implement, and evaluate technology relevant to their work and to the instructional needs of individuals with disabilities.

(b) **Performance assessment.** An approved preparation program for school psychologists shall require that each candidate engage in an assessment process using the standards-based benchmarks approved by the professional educator standards board. The benchmarks may not be changed without prior professional educator standards board approval. All candidates shall exit the residency certificate program with a draft professional growth plan oriented to the expectations for the professional certificate.



**WSR 14-07-072**  
**PERMANENT RULES**  
**EMPLOYMENT SECURITY DEPARTMENT**

[Filed March 17, 2014, 2:03 p.m., effective April 17, 2014]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The amendment corrects an error in the percentage of hours a claimant must work to be eligible for participation in the shared work program.

Citation of Existing Rules Affected by this Order: Amending WAC 192-250-035.

Statutory Authority for Adoption: RCW 50.12.010 and 50.12.040.

Adopted under notice filed as WSR 14-02-111 on December 31, 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 1, Repealed 0.

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

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, 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: March 6, 2014.

Nan Thomas  
Deputy Commissioner

AMENDATORY SECTION (Amending WSR 13-24-016, filed 11/21/13, effective 12/22/13)

**WAC 192-250-035 Information for employees participating in an approved shared work plan. (1) When do I apply for benefits?** Your employer representative will tell you if you need to apply for benefits and how to do so. If you have a current valid claim, you do not need to apply again.

**(2) How do I file my weekly claim for benefits?** See WAC 192-140-005 for instructions on filing weekly claims. You must also report the number of hours you were paid for holidays, vacations, or sick leave. You must report hours and gross earnings for part-time and second jobs, plus your hours and net earnings from any self-employment. You can file weekly claims by telephone or over the internet.

**(3) What happens if the total number of hours worked is not a whole number?** If the total number of hours you worked in a week includes a fraction of an hour, the department will round the total down to the next whole number. This rounded number will be compared to your usual hours of work to calculate your shared work benefit payment for the week. For example: You work 28.5 hours of a usual 40-hour work week. The 28.5 hours is rounded down to 28 hours and then divided by 40, meaning you worked 70 percent of the available hours. Your shared work payment would be 30 percent of your regular weekly benefit amount.

**(4) What happens if I don't work all scheduled hours for my shared work employer?**

(a) You are not eligible for shared work benefits for any week that you do not work all hours you have been scheduled by your shared work employer.

(b) You must be available for additional hours of work, up to your usual weekly hours of work, with the shared work employer. If your employer gives you at least twenty-four hours' notice that additional work is available and you do not work those additional hours, you are not eligible for shared work benefits for that week.

(c) When you are not eligible for shared work benefits in any week claimed, your claim will be processed as a regular unemployment claim.

**(5) Do I have to look for work while participating in the shared work program?** No. You are not required to look for work while participating in the shared work program.

**(6) Is there a minimum or maximum number of hours I can work in a week and still receive shared work benefits?** You must work between ~~((ten))~~ fifty percent and ~~((fifty))~~ ninety percent of your usual weekly hours to receive shared work benefits. In any week you work less than or more than that amount, your claim will be processed as a regular unemployment claim.

**(7) How long can I receive shared work benefits?** You can receive shared work payments up to the maximum benefit entitlement established under Title 50 RCW, plus state or federal benefit extensions under chapter 50.22 RCW.

**WSR 14-07-086**  
**PERMANENT RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**

[Filed March 18, 2014, 10:25 a.m., effective May 1, 2014]

Effective Date of Rule: May 1, 2014.

Purpose: In 2012, the Occupational Safety and Health Administration (OSHA) adopted the final rules updating its hazard communication standard into alignment with the globally harmonized system of classification and labeling of chemicals (GHS). OSHA's rule also modified other existing OSHA standards that contain hazard classification and communication provisions to be internally consistent and aligned with the GHS modifications to the hazard communication standard. The department's rules are required to be at-least-as-effective-as OSHA. Under Phase I hazard communication rule making in 2013, the department created a new rule, WAC 296-901-140, incorporating all the elements of the existing department hazard communication rules into one rule to be consistent with OSHA's hazard communication standard employers, chemical manufacturers, importers, and distributors. This rule making, Phase II, modified other existing department rules to align with the GHS changes as required by OSHA's rule. In addition, this rule making made changes to WAC 296-901-140 to reflect minor corrections made to OSHA's rule in February 2013 and other necessary technical corrections. See Reviser's note below.

Citation of Existing Rules Affected by this Order: See Reviser's note below.

Statutory Authority for Adoption: RCW 49.17.010, 49.17.040, 49.17.050, and 49.17.060.

Other Authority: 29 C.F.R. 1910 Subpart Z.

Adopted under notice filed as WSR 13-22-063 on November 4, 2013.

Changes Other than Editing from Proposed to Adopted Version: See Reviser's note below.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 4, Amended 133, 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 4, Amended 133, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 4, Amended 133, 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: March 18, 2014.

Joel Sacks  
Director

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

### WSR 14-07-091

#### PERMANENT RULES

#### SEATTLE COMMUNITY COLLEGES

[Filed March 18, 2014, 1:25 p.m., effective April 18, 2014]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Update the access to public records WAC to reflect the requirements of the Public Records Act and to streamline the process for making public records requests.

Citation of Existing Rules Affected by this Order: Amending chapter 132F-168 WAC.

Statutory Authority for Adoption: RCW 28B.50.140 (13).

Other Authority: RCW 42.56.040.

Adopted under notice filed as WSR 14-01-080 on December 16, 2013.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 6, Repealed 5.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 6, Repealed 5.

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: March 13, 2014.

Jill Wakefield  
Chancellor

AMENDATORY SECTION (Amending Order 16, filed 10/4/73)

**WAC 132F-168-010 Access to public records.** ~~((This chapter shall be known as Seattle Community College District rules on public records.))~~ (1) The Seattle Community College District VI is a community college district organized under RCW 28B.50.040. The Seattle Community College District VI's central office is located at 1500 Harvard Ave., Seattle, WA 98122. The Seattle Community College District VI has field offices at:

- 9600 College Way North, Seattle, WA 98103
- 6000 16th Ave. S.W., Seattle, WA 98103
- 1701 Broadway, Seattle, WA 98122
- 2120 South Jackson St., Seattle, WA 98144

(2) Any person wishing to request access to public records of Seattle Community College District VI, or seeking assistance in making such a request should contact the public records officer of the Seattle Community College District VI at:

Public Records Officer  
Seattle Community College District VI  
1500 Harvard Ave.  
Seattle, WA 98122  
206-934-3873  
SCCDPublicRecordsRequest@seattlecolleges.edu

(3) The public records officer will oversee compliance with the act but another Seattle Community College District VI staff member may process the request. Therefore, these rules will refer to the public records officer "or designee." The public records officer or designee and the Seattle Community College District VI will provide the "fullest assistance" to requestors; create and maintain for use by the public and Seattle Community College District VI officials an index to public records of the Seattle Community College District VI; ensure that public records are protected from damage or disorganization; and prevent fulfilling public records requests from causing excessive interference with essential functions of the Seattle Community College District VI.

AMENDATORY SECTION (Amending Order 36, filed 11/21/77)

**WAC 132F-168-020 Purpose.** ~~((Seattle Community College District shall comply with the provisions of chapter 42.17 RCW, Disclosure Campaign finances Lobbying Records, while at the same time preserving the orderly oper-~~

ation of the Seattle Community College District and the privacy of the students and employees of the school.)) (1) RCW 42.56.070(1) requires each agency to make available for inspection and copying nonexempt "public records" in accordance with published rules. The act defines "public record" to include any "writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained" by the agency. RCW 42.56.070(2) requires each agency to set forth "for informational purposes" every law, in addition to the Public Records Act, that exempts or prohibits the disclosure of public records held by that agency.

(2) The purpose of these rules is to establish the procedures Seattle Community College District VI will follow in order to provide full access to public records. These rules provide information to persons wishing to request access to public records of the Seattle Community College District VI and establish processes for both requestors and Seattle Community College District VI staff that are designed to best assist members of the public in obtaining such access.

(3) The purpose of the act is to provide the public full access to information concerning the conduct of government, mindful of individuals' privacy rights and the desirability of the efficient administration of government. The act and these rules will be interpreted in favor of disclosure. In carrying out its responsibilities under the act, the Seattle Community College District VI will be guided by the provisions of the act describing its purposes and interpretation.

AMENDATORY SECTION (Amending Order 36, filed 11/21/77)

**WAC 132F-168-030 Request for document inspection.** ((1) As defined by RCW 42.17.020(26), a public record "includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used or retained by any state or local agency regardless of physical form or characteristics." Public records are presumptively available for public access, except as restricted by WAC 132F-168-050. Any person wishing to inspect a public record shall submit Form 1, "request for inspection of public records" WAC 132F-168-100. Each request must be presented to a dean of instruction, dean of students, registrars, district director of employee relations and personnel, business managers, or to their secretaries during regular office hours of the school, as defined in WAC 132F-168-080.

(2) The officer to whom the request is presented shall, by the close of the following business day: (a) Make the requested document available, or (b) state that such a document does not exist, or (c) ask for clarification of the document requested, or (d) deny access because the document is exempt from public inspection under WAC 132F-168-050. The action taken shall be marked on Form 1 and returned to the person submitting the form.)) (1) **Hours for inspection of records.** Public records are available for inspection and copying during normal business hours of the Seattle Community Colleges, Monday through Friday, 8:00 a.m. to 5:00 p.m., excluding legal holidays. Records must be inspected at either the district office or at a field office when those records

are stored or maintained at that location. To make arrangements to inspect records at a Seattle Community College District field office, contact the public records officer to schedule the inspection.

(2) **Records index.** An index of public records is available for use by members of the public, including nonexempt final orders, declaratory orders, interpretive statements, and policy statements, as defined by RCW 42.56.070(5), issued after June 30, 1990, by the board of trustees of the district, the presidents of the colleges, or their designees.

**Form.** The index shall reference final orders, declaratory orders, interpretive statements, or policy statements by one or more of the following classifications: Date of implementation, organizational unit, or subject matter.

**Requests for access to indexes.** Information regarding public inspection of indexes, their location, and a schedule for revising and updating these indexes can be obtained by contacting the public records officer.

(3) **Organization of records.** The Seattle Community College District VI will maintain its records in a reasonably organized manner. Seattle Community College District VI will take reasonable actions to protect records from damage and disorganization. A requestor shall not take Seattle Community College District VI records from Seattle Community College District VI offices without the permission of the public records officer or designee. A variety of records are available on the Seattle Community College District VI web site at [www.seattlecolleges.edu](http://www.seattlecolleges.edu). Requestors are encouraged to view the documents available on the web site prior to submitting a records request.

(4) **Making a request for public records.**

(a) Any person wishing to inspect or copy public records of the Seattle Community College District VI should make the request in writing on the Seattle Community College District VI request form, or by letter, fax, or e-mail addressed to the public records officer ([SCCDPublicRecordsRequest@seattlecolleges.edu](mailto:SCCDPublicRecordsRequest@seattlecolleges.edu)) and including the following information:

- Name of requestor;
- Address of requestor;
- Other contact information, including telephone number and any e-mail address;
- Identification of the public records adequate for the public records officer or designee to locate the records; and
- The date and time of day of the request.

(b) If the requestor wishes to have copies of the records made instead of simply inspecting them, he or she should so indicate and make arrangements to pay for copies of the records or a deposit. Pursuant to WAC 132F-168-060, standard photocopies will be provided at fifteen cents per page.

(c) The public records officer or designee may accept requests for public records that contain the above information by telephone or in person. If the public records officer or designee accepts such a request, he or she will confirm receipt of the information and the substance of the request in writing.

AMENDATORY SECTION (Amending Order 36, filed 11/21/77)

**WAC 132F-168-040 ((Appeal)) Review of denials of public records.** ~~((1) If request is denied by the officer pursuant to WAC 132F-168-030, the person requesting the document may appeal to the appropriate campus president or to the district president. The appellant shall file Form 2, together with Form 1 as returned, with the secretary to the campus president or district president, during the day the appeal is returned, if returned prior to 3 p.m., or by 11 a.m. the following business day if returned after 3 p.m. A campus president or the district president shall answer the appeal by returning Form 2 to the person requesting the record before the end of the second business day following the original denial of inspection on Form 1, unless a later time is indicated in the form. In all cases, the person requesting the record shall be notified by the end of the second business day of the disposition of the request.~~

~~(2) If an appeal is filed after the time required in WAC 132F-168-040(1), then the return date shall be the end of the second business day following the filing of the appeal.~~

~~(3) The filing of a request and the return of Form 1 and Form 2 indicating disposition, is made by leaving the form with the secretary of the officer. The secretary of the officer shall mark the time and date of: (a) The receipt of the form, (b) the return of the form with disposition, and (c) the demand made for return by the person submitting the form. A request shall be deemed denied or an appeal denied only after the person filing the form has been notified by the secretary of the dean, personnel officer, president or district president. In all cases, the person shall be notified by the end of the second business day.~~

~~(4) Administrative remedies shall not be considered exhausted until the campus president or the district president has returned the appeal form by the close of the second business day. An appeal may then be made to the board at the next scheduled board meeting.)~~ **(1) Petition for internal administrative review of denial of access.** Any person who objects to the initial denial or partial denial of a records request may petition in writing (including e-mail) to the public records officer for a review of that decision. The petition shall include a copy of or reasonably identify the written statement by the public records officer or designee denying the request.

**(2) Consideration of petition for review.** The public records officer shall promptly provide the petition and any other relevant information to the appropriate vice-chancellor. That person will immediately consider the petition and either affirm or reverse the denial within two business days following the Seattle Community College District VI's receipt of the petition, or within such other time as mutually agreed upon by the Seattle Community College District VI and the requestor.

**(3) Review by the attorney general's office.** Pursuant to RCW 42.56.530, if the Seattle Community College District VI denies a requestor access to public records because it claims the record is exempt in whole or in part from disclosure, the requestor may request the attorney general's office to review the matter. The attorney general has adopted rules on such requests in WAC 44-06-160.

**(4) Judicial review.** Any person may obtain court review of denials of public records requests pursuant to RCW 42.56.550 at the conclusion of two business days after the initial denial regardless of any internal administrative appeal.

AMENDATORY SECTION (Amending Order 36, filed 11/21/77)

**WAC 132F-168-050 Exemptions.** ~~((1) Public access shall not be granted to documents exempt under RCW 42.17.310, "certain personal and other records exempt," unless the officer determines that disclosure would not affect any vital governmental interest. If the interest can be protected by deletion of personal references, access shall be granted following deletion of such material, and a reasonable time shall be allowed for deleting the material.~~

~~(2) Examination of individual files of Seattle Community College District students shall be in accordance with the provisions of district policy 310, student records and federal register, Part 99 – Privacy rights of parents and students.~~

~~(3) Individual files of applicants, employees, and officers of Seattle Community College District are available only to members of the faculty and staff of Seattle Community College District who are entrusted with the care and custody of the files, to supervisory personnel, and to the business staff for purposes necessary to carrying out their functions. The only information contained in the individual file of an employee which shall be available for public inspection shall be the name, status, salary and teaching duties of the employee. The employee, however, shall have full access to his personnel file as agreed upon in the employee organization contract.)~~ **The Public Records Act provides that a number of types of documents are exempt from public inspection and copying. In addition, documents are exempt from disclosure if any "other statute" exempts or prohibits disclosure. Requestors should be aware of the following exemptions, outside the Public Records Act, that restrict the availability of some documents held by Seattle Community College District VI for inspection and copying:**

**(1) The Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g; the Uniform Trade Secrets Act, chapter 19.108 RCW; attorney-client privileged communications, RCW 5.60.060(2).**

**(2) Examination of individual files of Seattle Community College District students shall be in accordance with the provisions of district policy and procedure 380, student records.**

**(3) The Seattle Community College District VI is prohibited by statute from disclosing lists of individuals for commercial purposes.**

**(4) Pursuant to RCW 42.56.540, the Seattle Community College District VI reserves the right to seek to enjoin the examination of any specific record, the examination of which the district determines would clearly not be in the public interest and would substantially and irreparably damage any person or would substantially and irreparably damage vital governmental functions.**

AMENDATORY SECTION (Amending Order 36, filed 11/21/77)

**WAC 132F-168-060 Copying.** ~~((Persons granted access to public records pursuant to Form 1 shall be allowed to obtain copies of such documents as they desire upon the payment of twenty-five cents per copy page. Copies of documents will be made by an authorized staff member of the Seattle Community College District on any available copier. Payment for copies shall be made to a cashier of the college who will issue a receipt which must be presented to the person in charge of the copying machine. The charge of twenty-five cents per copy page is the reasonable cost of paper and copying charges for Seattle Community College District.))~~

**(1) Costs for paper copies.** There is no fee for inspecting public records. A requestor may obtain photocopies for fifteen cents per page. The district reserves the right to use outside vendors for large projects when an outside vendor can provide copies quicker or for less cost. The requestor will be required to pay the cost charged by the vendor.

Before beginning to make the copies, the public records officer or designee may require a deposit of up to ten percent of the estimated costs of copying all the records selected by the requestor. The public records officer or designee may also require the payment of the remainder of the copying costs before providing all the records, or the payment of the costs of copying an installment before providing that installment. The Seattle Community College District VI will not charge sales tax when it makes copies of public records.

**(2) Costs for electronic records.** The cost of scanning existing Seattle Community College District VI paper or other nonelectronic records is four cents per page. There will be no charge for e-mailing electronic records to a requestor, unless another cost applies such as a scanning fee. A statement of the factors and the manner used to determine this charge is available from the public records officer.

If the requestor asks that the electronic records be provided on CD or DVD, the requestor will be charged the cost of the CD or DVD. If the electronic records are too large to be e-mailed through the Seattle Community College District e-mail system, they will be provided on CD or DVD, and the requestor will be charged accordingly.

**(3) Costs of mailing.** The Seattle Community College District VI may also charge actual costs of mailing, including the cost of the shipping container.

**(4) Payment.** Payment may be made by cash, check, or money order to the Seattle Community College District VI.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 132F-168-075 Judicial review of agency action.

WAC 132F-168-080 Office hours.

WAC 132F-168-090 Sanctions.

WAC 132F-168-100 Request for inspection of public records—Form 1.

WAC 132F-168-110 Request for inspection of public records—Form 2.

#### **WSR 14-07-092 PERMANENT RULES DEPARTMENT OF FISH AND WILDLIFE**

[Order 14-63—Filed March 18, 2014, 1:38 p.m., effective April 18, 2014]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The purpose of this proposal is to amend the state's rules designating tideland areas infested with Japanese oyster drills to protect uninfested tidelands from the transfer of shellfish harboring oyster drills or oyster drill eggs. Technical changes are also made to ensure rule accuracy.

Reasons Supporting Proposal: This rule change proposal was discussed during the fish and wildlife commission meeting and public hearing on February 7, 2014. The proposed changes were adopted by the commission during the commission conference call on March 14, 2014. The changes will help perpetuate shellfish resources by minimizing the chances of Japanese oyster drills spreading to uninfested areas through shellfish transfers. Additionally, WAC language must be clear and accurate. The technical changes made in this rule making accomplish these goals.

Citation of Existing Rules Affected by this Order: Amending WAC 220-72-011.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.013, 77.04.055, and 77.12.047.

Adopted under notice filed as WSR 13-20-133 on October 2, 2013.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, 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: March 14, 2014.

Miranda Wecker, Chair  
Fish and Wildlife Commission

AMENDATORY SECTION (Amending WSR 05-01-113, filed 12/15/04, effective 1/15/05)

**WAC 220-72-011 Oyster drill restricted shellfish areas—Puget Sound.** All waters, tidelands, shellfish handling facilities and equipment (including aquaculture vehicles and vessels) operated in conjunction with said waters

and tidelands of Puget Sound within the following areas are designated as oyster drill restricted shellfish areas:

(1) Dungeness Bay—inside and bounded westerly of a line projected from the most easterly tip of Dungeness Spit true-south to the mainland.

(2) Drayton Harbor—inside and southerly of a line projected from the north most tip of Semiahmoo Spit to where the International Boundary line intersects the mainland.

(3) Lummi Bay—inside the Lummi Dike and inside and bounded by a line projected from:

48°46'32" N. Lat.

122°40'00" W. Long.; thence to

48°45'55" N. Lat.

122°40'00" W. Long.; thence to

48°45'55" N. Lat.

122°39'12" W. Long.; then northerly along the beach to the point of origin.

(4) Samish Bay—inside and easterly of a line starting at the most westerly tip of Governor's Point and projected in a southerly direction to the most westerly tip of William Point on Samish Island.

(5) Padilla Bay—easterly (including the Swinomish channel) of a line starting at the most westerly tip of William Point on Samish Island and projected southerly to the most northerly tip of March Point on Fidalgo Island.

(6) Similk and Skagit Bays—northerly of a line projected across Skagit Bay following latitude 48°20' N. and easterly of the Deception Pass bridge.

(7) Liberty Bay—inside and westerly of a line projected true south from the most southerly point at Tower Point.

(8) Dyes Inlet—inside and northerly of a line projected true east from the most northerly tip of Rocky Point to the mainland.

(9) Carr Inlet—

(a) Burley Lagoon—inside and northerly of the Purdy bridge.

(b) Minter Creek—inside and westerly of a line projected from the east shore at 122°41'00" W. Long. true south to 47°21'00" N. Lat., then true west to shore.

(10) Case Inlet—

(a) Rocky Bay and North Bay—northerly of a line projected across Case Inlet following latitude 47°20'44" N.

(b) Vaughn Bay—easterly of a line projected true north from the most northerly point of the southern spit at the mouth of Vaughn Bay to the mainland on the north shore.

(11) Hammersley Inlet and Oakland Bay—inside, westerly and northerly of a line starting at the most southeasterly point of Munson Point and projected in a southeasterly direction to Eagle Point.

(12) Totten Inlet, Oyster Bay and Little Skookum Inlet—inside and southerly of a line starting at the most southeasterly point on Windy Point and projected northeasterly to the most northerly tip of Sandy Point (i.e., the southern base of the Steamboat Island Bridge).

(13) Eld Inlet—

(a) Mud Bay—inside and westerly of a line projected from the most easterly point of Flapjack Point and projected true south to the mainland.

(b) Sanderson Harbor—lying inside and westerly of a line starting at the most northern point on Sanderson Spit and projected northeasterly to the mainland.

(14) Nisqually Flats—inside and southerly of a line starting near the DuPont Dock on the east shore at 47°07'00" N. Lat. and projected true west to the mainland.

(15) Hood Canal—

(a) Quilcene Bay—inside, northerly and easterly of a line starting at the Port of Port Townsend boat ramp north of Coast Seafoods company shellfish hatchery projected easterly to a point at 48°48'10" N. Lat., 122°51'30" W. Long. and then projected southeasterly to the most westerly tip of Fisherman's Point.

(b) Tarboo Bay—inside, northerly and easterly of a line starting at the most northerly tip of Long Spit and then projected true west to the mainland.

(c) The Great Bend to Lynch Cove—inside and bounded easterly by a line projected from the western most point at Musqueti Point true west to the mainland.

(d) Hamma Hamma Flats and Jorsted Creek—inside and westerly of a line projected from:

47°33'15" N. Lat.

123°01'42" W. Long.; thence to

47°32'54" N. Lat.

123°01'06" W. Long.; thence to

47°32'54" N. Lat.

123°01'48" W. Long.; thence to

47°31'00" N. Lat.

((~~47°31'00"~~)) 123°01'48" W. Long.; then true west to shore.

(e) Dosewallips Delta—inside and westerly of lines projected from:

47°41'03" N. Lat.

((~~47°41'03"~~)) 122°53'57.5" W. Long.; thence to

47°41'03" N. Lat.

122°52'24" W. Long.; thence to

((~~47°42'20.6"~~)) 47°42'43.5" N. Lat.

122°52'24" W. Long.; thence to

((~~47°42'20.6"~~)) 47°42'43.5" N. Lat.

((~~47°42'20.6"~~)) 122°53'10" W. Long.

(f) Point Whitney (including all portions of seawater ponds, lagoon, and shellfish cultivation facilities)—inside and (~~westerly~~) southerly of lines projected from:

((~~47°45'43.7"~~)) 47°45'43" N. Lat.

((~~47°45'43.7"~~)) 122°51'4.7" W. Long.; thence to

((~~45°45'56"~~)) 47°45'52" N. Lat.

((~~47°45'56"~~)) 122°51'4.7" W. Long.; thence to

((~~45°45'56"~~)) 47°45'52" N. Lat.

((~~47°45'56"~~)) 122°51'18" W. Long.; thence to

47°45'45" N. Lat.

((~~47°45'56"~~)) 122°51'18" W. Long.

(g) Duckabush River Mouth—inside and westerly of a line projected from:

47°38'46" N. Lat.

122°54'08" W. Long.; thence to

47°37'55" N. Lat.

122°56'25" W. Long.

(16) Henderson Inlet—South Bay—inside and southerly of a line commencing at a point on the west shore of Henderson Inlet where the south line of Section 17, Twp 19 N R 1 WWM intersects the shoreline, thence projected true east across Henderson Inlet to the east shoreline.

(17) Birch Bay—inside and bounded by a line projected from:

- 48°53'59" N. Lat.
- 122°46'33.9" W. Long.; thence northeasterly along the shoreline to
- 48°54'37.7" N. Lat.
- 122°45'7.65" W. Long.; thence to
- 48°54'56" N. Lat.
- 122°45'31" W. Long.; thence to
- 48°54'10" N. Lat.
- 122°46'53.54" W. Long.

Jessica Todorovich  
Deputy Secretary  
for John Wiesman, DrPH, MPH  
Secretary

AMENDATORY SECTION (Amending WSR 11-20-092, filed 10/4/11, effective 12/1/11)

**WAC 246-810-990 Counselors fees and renewal cycle.** (1) Under chapter 246-12 WAC, Part 2, a counselor must renew his or her credential every year on the practitioner's birthday.

(2) Any separate examination fees are the responsibility of the applicant.

<b>Title</b>	<b>Fee</b>
(3) The following nonrefundable fees will be charged for registered hypnotherapist:	
Application and registration	155.00
Renewal	80.00
Late renewal penalty	75.00
Expired registration reissuance	75.00
Duplicate registration	30.00
Certification of registration	30.00
(4) The following nonrefundable fees will be charged for certified counselor:	
Application and certification	<del>((110.00))</del> <u>160.00</u>
Examination or reexamination	85.00
Renewal	<del>((90.00))</del> <u>140.00</u>
Late renewal penalty	50.00
Expired credential reissuance	<del>((50.00))</del> <u>100.00</u>
Duplicate credential	15.00
Certification of credential	15.00
(5) The following nonrefundable fees will be charged for certified adviser:	
Application and certification	<del>((80.00))</del> <u>130.00</u>
Examination or reexamination	85.00
Renewal	<del>((65.00))</del> <u>115.00</u>
Late renewal penalty	50.00
Expired credential reissuance	<del>((50.00))</del> <u>100.00</u>
Duplicate credential	15.00
Certification of credential	15.00

**WSR 14-07-095**  
**PERMANENT RULES**  
**DEPARTMENT OF HEALTH**

[Filed March 18, 2014, 3:24 p.m., effective July 1, 2014]

Effective Date of Rule: July 1, 2014.

Purpose: WAC 246-810-990 Counselor fees and renewal cycle, the adopted rules increase credentialing fees for agency affiliated counselor, certified counselor, and certified adviser to reduce large deficits in these programs' budgets. The fees were authorized by the legislature in the budget (3ESSB 5034, chapter 4, Laws of 2013). Under RCW 43.70.110(2), fees must be based on the cost to the department to license these professions.

Citation of Existing Rules Affected by this Order: Amending WAC 246-810-990.

Statutory Authority for Adoption: RCW 43.70.250, 18.19.050, 43.70.110.

Other Authority: 3ESSB 5034, chapter 4, Laws of 2013.

Adopted under notice filed as WSR 14-02-029 on December 20, 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 1, Repealed 0.

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

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

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

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

Date Adopted: March 17, 2014.

Title	Fee
(6) The following nonrefundable fees will be charged for registered agency affiliated counselor:	
Application and registration	((50.00)) 60.00
Renewal	((40.00)) 50.00
Late renewal penalty	40.00
Expired registration reissuance	((40.00)) 50.00
Duplicate registration	15.00
Certification of registration	15.00

**WSR 14-07-099****PERMANENT RULES****DEPARTMENT OF HEALTH**

[Filed March 18, 2014, 3:33 p.m., effective April 18, 2014]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Chapter 246-470 WAC, Prescription monitoring program, adopting amendments to (a) rename the board of pharmacy to pharmacy quality assurance commission and (b) make a correction to WAC 246-470-035 (2)(d) to clarify requirements for veterinarians reporting the dispensing of controlled substances to the department of health's prescription monitoring program.

Citation of Existing Rules Affected by this Order: Amending WAC 246-470-010, 246-470-020, 246-470-030, and 246-470-035.

Statutory Authority for Adoption: RCW 70.225.020 and 70.225.025.

Adopted under notice filed as WSR 14-02-058 on December 26, 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 4, 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 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 4, Repealed 0.

Date Adopted: March 17, 2014.

Jessica Todorovich  
Deputy Secretary  
for John Wiesman, DrPH, MPH  
Secretary

AMENDATORY SECTION (Amending WSR 13-12-025, filed 5/28/13, effective 6/28/13)

**WAC 246-470-010 Definitions.** The definitions in this section apply throughout this chapter unless the context clearly indicates otherwise:

(1) "Authentication" means information, electronic device, or certificate provided by the department or their designee to a data requestor to electronically access prescription monitoring information. The authentication may include, but is not limited to, a user name, password, or an identification electronic device or certificate.

(2) "Controlled substance" has the same meaning provided in RCW 69.50.101.

(3) "Department" means the department of health.

(4) "Dispenser" means a practitioner or pharmacy that delivers to the ultimate user a schedule II, III, IV, or V controlled substance or other drugs identified by the ((board of)) pharmacy quality assurance commission in WAC 246-470-020, but does not include:

(a) A practitioner or other authorized person who only administers, as defined in RCW 69.41.010, a controlled substance or other drugs identified by the ((board of)) pharmacy quality assurance commission in WAC 246-470-020;

(b) A licensed wholesale distributor or manufacturer, as defined in chapter 18.64 RCW, of a controlled substance or other drugs identified by the ((board of)) pharmacy quality assurance commission in WAC 246-470-020; or

(c) A veterinarian licensed under chapter 18.92 RCW. Data submission requirements for veterinarians are included in WAC 246-470-035.

(5) "Patient" means the person or animal who is the ultimate user of a drug for whom a prescription is issued or for whom a drug is dispensed.

(6) "Patient address" means the current geographic location of the patient's residence. If the patient address is in care of another person or entity, the address of that person or entity is the "patient address" of record. When alternate addresses are possible, they must be recorded in the following order of preference:

(a) The geographical location of the residence, as would be identified when a telephone is used to place a 9-1-1 call; or

(b) An address as listed by the United States Postal Service; or

(c) The common name of the residence and town.

(7) "Pharmacist" means a person licensed to engage in the practice of pharmacy.

(8) "Prescriber" means a licensed health care professional with authority to prescribe controlled substances.

(9) "Prescription monitoring information" means information submitted to and maintained by the prescription monitoring program.

(10) "Program" means the prescription monitoring program established under chapter 70.225 RCW.

(11) "Valid photographic identification" means:

(a) A driver's license or instruction permit issued by any United States state or province of Canada. If the patient's driver's license has expired, the patient must also show a valid temporary driver's license with the expired card.

(b) A state identification card issued by any United States state or province of Canada.



(c) An official passport issued by any nation.

(d) A United States armed forces identification card issued to active duty, reserve, and retired personnel and the personnel's dependents.

(e) A merchant marine identification card issued by the United States Coast Guard.

(f) A state liquor control identification card. An official age identification card issued by the liquor control authority of any United States state or Canadian province.

(g) An enrollment card issued by the governing authority of a federally recognized Indian tribe located in Washington, if the enrollment card incorporates security features comparable to those implemented by the department of licensing for Washington drivers' licenses and are recognized by the liquor control board.

**AMENDATORY SECTION** (Amending WSR 11-16-041, filed 7/27/11, effective 8/27/11)

**WAC 246-470-020 Adding additional drugs to the program.** Pursuant to RCW 70.225.020, the ((board of)) pharmacy quality assurance commission may add additional drugs to the list of drugs being monitored by the program by requesting the department amend these rules.

**AMENDATORY SECTION** (Amending WSR 13-12-025, filed 5/28/13, effective 6/28/13)

**WAC 246-470-030 Data submission requirements for dispensers.** (1) A dispenser shall provide to the department the dispensing information required by RCW 70.225.020 and this section for all scheduled II, III, IV, and V controlled substances and for drugs identified by the ((board of)) pharmacy quality assurance commission under WAC 246-470-020. Only drugs dispensed for more than one day use must be reported.

(2) Dispenser identification number. A dispenser shall acquire and maintain an identification number issued to dispensing pharmacies by the National Council for Prescription Drug Programs or a prescriber identifier issued to authorized prescribers of controlled substances by the Drug Enforcement Administration, United States Department of Justice.

(3) Submitting data. A dispenser shall submit data to the department electronically, not later than one week from the date of dispensing, and in the format required by the department.

(a) A dispenser shall submit for each dispensing the following information and any additional information required by the department:

(i) Patient identifier. A patient identifier is the unique identifier assigned to a particular patient by the dispenser;

(ii) Name of the patient for whom the prescription is ordered including first name, middle initial, last name, and generational suffixes, if any;

(iii) Patient date of birth;

(iv) Patient address;

(v) Patient gender;

(vi) Drug dispensed;

(vii) Date of dispensing;

(viii) Quantity and days supply dispensed;

(ix) Refill information;

(x) Prescriber identifier;

(xi) Prescription issued date;

(xii) Dispenser identifier;

(xiii) Prescription fill date and number;

(xiv) Source of payment indicated by one of the following:

(A) Private pay (cash, change, credit card, check);

(B) Medicaid;

(C) Medicare;

(D) Commercial insurance;

(E) Military installations and veterans affairs;

(F) Workers compensation;

(G) Indian nations;

(H) Other; and

(xv) When practicable, the name of person picking up or dropping off the prescription, as verified by valid photographic identification.

(b) A nonresident, licensed pharmacy that delivers controlled substances, as defined in RCW 18.64.360, is required to submit only the transactions for patients with a Washington state zip code.

(c) Data submission requirements do not apply to:

(i) The department of corrections or pharmacies operated by a county for the purpose of providing medications to offenders in state or county correctional institutions who are receiving pharmaceutical services from a state or county correctional institution's pharmacy. A state or county correctional institution's pharmacy must submit data to the program related to each offender's current prescriptions for controlled substances upon the offender's release from a state or county correctional institution.

(ii) Medications provided to patients receiving inpatient services provided at hospitals licensed under chapter 70.41 RCW or patients of such hospitals receiving services at the clinics, day surgery areas, or other settings within the hospital's license where the medications are administered in single doses; or medications provided to patients receiving outpatient services provided at ambulatory surgical facilities licensed under chapter 70.230 RCW.

**AMENDATORY SECTION** (Amending WSR 13-12-025, filed 5/28/13, effective 6/28/13)

**WAC 246-470-035 Dispensing and data submission requirements for veterinarians.** A veterinarian licensed under chapter 18.92 RCW shall provide to the department the dispensing information required by RCW 70.225.020 and as provided in this section for all schedule II, III, IV and V controlled substances and for drugs identified by the ((board of)) pharmacy quality assurance commission under WAC 246-470-020.

(1) Dispenser identification number. A veterinarian shall acquire and maintain a prescriber identifier issued to authorized prescribers of controlled substances by the Drug Enforcement Administration, United States Department of Justice.

(2) Submitting data. A veterinarian shall:

(a) Report data for schedule II, III, IV, and V controlled substances, and other required drugs identified by the ((board

øf) pharmacy quality assurance commission under WAC 246-470-020, dispensed for more than a fourteen-day supply;

(b) Report data using either electronic or nonelectronic methods provided by the department;

(c) Submit data quarterly. Data must be reported on the following schedule:

Reporting Period	Report Due Date
January - March	April 10
April - June	July 10
July - September	October 10
October - December	January 10

(d) Report the following data elements to the department for each schedule II, III, IV, and V controlled substance and other required drugs dispensed for more than a fourteen-day supply (~~or more~~):

(i) Name of the animal for whom the drug is dispensed including name of the animal or the animal's species (example: Feline) and the owner's last name;

(ii) Animal's date of birth, or if date of birth is unknown, enter January 1st of the estimated birth year;

(iii) Owner's name including first name, middle initial, last name, and generational suffixes, if any;

(iv) Owner's address;

(v) Drug dispensed;

(vi) Date the drug was dispensed;

(vii) Quantity and days supply dispensed;

(viii) Prescriber identifier;

(ix) Dispenser identifier; and

(x) When practicable, the identification number from a valid photo identification card of the owner.

**WSR 14-07-106**

**PERMANENT RULES**

**DEPARTMENT OF LICENSING**

[Filed March 19, 2014, 7:25 a.m., effective April 19, 2014]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The proposed rule changes are needed in response to the national examination vendor modifying how they administer examinations. The national examination vendor has moved to computer-based testing only for the engineer-in-training and land surveyor-in-training exams. Amendments are also necessary to provide guidance to applicants with regard to the experience, education, and application requirements to qualify for the engineer-in-training and land surveyor-in-training exams.

Amendments to these rules are also necessary to reorganize the rules to make them easier to follow and comply with and eliminate old language that no longer applies due to procedural changes.

Citation of Existing Rules Affected by this Order: Repealing WAC 196-12-100, 196-12-103, 196-12-105, 196-12-107, 196-20-035 and 196-21-035; and amending WAC 196-12-010, 196-12-021, 196-12-030, 196-20-010, 196-20-020, 196-20-030, 196-21-010, 196-21-020, and 196-21-030.

Statutory Authority for Adoption: RCW 18.43.035.

Adopted under notice filed as WSR 14-03-114 on January 21, 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 0, Amended 0, Repealed 0.

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 3, Amended 9, Repealed 6.

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 9, Repealed 6.

Date Adopted: March 19, 2014.

George A Twiss  
Executive Director

AMENDATORY SECTION (Amending WSR 08-11-100, filed 5/20/08, effective 7/1/08)

**WAC 196-12-010 Registration requirements.** The requirements to become licensed as a professional engineer are:

(1) Eight years of experience in engineering work of a character satisfactory to the board((;)).

(a) These eight years must be of broad based, progressive experience to include gaining knowledge and comprehension of engineering subjects and applying engineering principles.

(b) The eight years of experience may be a combination of education and practical work experience. Under selected circumstances a maximum of five years of education (baccalaureate and masters degrees) can be granted toward the eight-year requirement.

(2) Obtaining a passing score on the fundamentals-of-engineering (FE) examination or be granted a waiver of the examination;

~~((The FE examination can be taken only after gaining an equivalent of four years of qualifying experience of a character satisfactory to the board or be certified by the university that the applicant has achieved senior standing in an approved engineering program;))~~

(3) Obtaining a passing score on the principles and practice of engineering examination;

(4) Obtaining a passing score on the board's law and ethics examination;

(5) Be of good character and reputation; and

(6) Payment of applicable fees.

AMENDATORY SECTION (Amending WSR 08-11-100, filed 5/20/08, effective 7/1/08)

**WAC 196-12-021 Education experience records.** Official transcripts must be sent to the board's office for full education experience credit.

(1) A baccalaureate degree in engineering in a program ~~((approved))~~ accredited by the engineering accreditation

commission (EAC) of the accreditation board for engineering and technology (ABET(~~(-Inc-)~~)) is equivalent to four years of required experience. Satisfactory completion of each year of such an approved program is equivalent to one year of experience.

(2) A baccalaureate degree in an engineering technology program (~~(approved)~~) accredited by the technology accreditation commission (TAC) of (~~(the)~~) ABET, (~~(Inc-)~~) is equivalent to three years of required experience. Satisfactory completion of each year of such an approved program is equivalent to three-fourths of one year of experience.

(3) An approved four years in (~~(an ABET, Inc-)~~) a non-ABET accredited engineering program will be given a maximum of three years of experience.

(4) No more than one year may be granted for postgraduate engineering courses for those applicants having earned degrees in accordance with subsections (1), (2), or (3) of this section.

(5) A baccalaureate degree in a nonengineering program will be given a maximum of two years of experience.

If the degree is followed by a graduate degree in engineering from a school that has an ABET(~~(-Inc-)~~) accredited undergraduate program in the same discipline as the graduate degree, a maximum of four years of experience may be granted for this combination of education.

(6) An associate degree in engineering from an approved program may be equivalent for up to two years of experience.

(7) Education gained over time where no degree is conferred will be granted no more than two years of experience. For the purpose of this subsection, education over time means: One or two classes taken at a time, often at different schools; seminars; workshops; and classes taken through industry and the military. In order to determine the appropriate amount of experience, this type of education will be compared to college coursework in a baccalaureate of engineering technology degree program.

(8) The board may approve engineering degree programs from other countries.

(a) A number of foreign degree programs are included in mutual recognition agreements entered into by ABET(~~(-Inc-)~~) with other accrediting authorities. Applicants with a degree from one of these programs will be evaluated in accordance with subsections (1) and (2) of this section. (~~(A list of those approved mutual recognition degree programs is maintained in the board office.)~~)

(b) Applicants having engineering degrees from programs in countries that are not (~~(on the mutual recognition list)~~) ABET accredited will be required to have their transcripts evaluated by a transcript evaluation service approved by the board. This evaluation will be performed at the applicant's expense, and the applicant will be responsible for submitting all necessary information to the evaluation service. The board will use the evaluation to determine if the foreign degree is equivalent to an ABET(~~(-Inc-)~~) accredited degree. If the board determines that the degree is equivalent, experience will be granted in accordance with subsection (1) or (2) of this section. If the board determines that the foreign degree is not equivalent to an ABET(~~(-Inc-)~~) accredited degree, then a maximum of three years of experience will be granted in accordance with subsection (3) of this section.

(c) An applicant with an undergraduate degree from a foreign program that is not (~~(on the mutual recognition list)~~) ABET accredited, can waive the requirement for a degree evaluation if they have a graduate degree in engineering from a school that has an ABET(~~(-Inc-)~~) accredited undergraduate engineering degree program in the same discipline as the graduate degree. No more than four years of experience will be granted for this combination of education.

(9) Any other education will be taken into account and evaluated on its merits.

(10) Work experience gained between semesters or quarters or during summers while enrolled in an approved curriculum will be considered part of the educational process. No more than one year of experience will be granted for one calendar year.

AMENDATORY SECTION (Amending WSR 08-11-100, filed 5/20/08, effective 7/1/08)

**WAC 196-12-030 Principles and practice of engineering examination(s).** (~~(Examinations administered by the board, or on their behalf, will be written or oral or both to enable the board to evaluate an applicant's knowledge in the fundamentals of engineering, principles and practice of engineering, and law and ethics.~~)

~~(f) The principles and practice of engineering examination is given at times and places as approved by the board. A professional engineer (~~(holding)~~) with a current registration in the state of Washington (~~(wants)~~) that is seeking to become licensed in an additional branch of engineering(~~(-they)~~) must pass the principles and practice examination for (~~(each)~~) that additional branch.~~

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 196-12-100	Limited waiver of the requirement for licensure in structural engineering to design "significant structures."
WAC 196-12-103	Application requirements for waiver of structural license for designing "significant structures."
WAC 196-12-105	Ineligibility for licensing waiver.
WAC 196-12-107	Board review of applications for structural licensing waiver.

AMENDATORY SECTION (Amending WSR 04-10-067, filed 5/3/04, effective 6/3/04)

**WAC 196-20-010 (~~(Eligibility and applications.)~~)**  
**How do I become eligible and register to take the fundamentals-of-engineering exam?** (~~(The law requires the completion of four years of experience or having achieved senior standing in a school or college approved by the board prior to taking the fundamentals-of-engineering examination. If the applicant has achieved senior standing, that standing must be certified by said school or college. The four years may be~~)

gained as: Four years of approved education; four years of experience approved by the board; four years of combined education and experience. The experience to qualify for the fundamentals of engineering examination must be completed sixty days prior to the date of the examination. All applications must be completed on forms provided by the board and filed with the executive director at the board's address. The deadline for properly completed applications accompanied by the appropriate fee as listed in WAC 196-26A-025 is four months prior to the date of the examination. Late applications will be considered for a later examination.

All applicants should submit transcripts of degrees attained or college courses taken in order to obtain maximum experience credit except, applicants enrolled in a school or college having achieved senior standing in a baccalaureate curriculum in engineering approved by the board will be eligible to take the fundamentals of engineering examination without submitting college transcripts.

Once an application has been approved, no further application is required. An applicant who has taken an examination and failed or who qualified for an examination but did not take it shall submit a request in writing, accompanied by the applicable fee as listed in WAC 196-26A-025, to take or retake the examination, at least three months prior to the examination date.)) (1) In order to be eligible to take the fundamentals-of-engineering exam, you must complete four years of education and/or experience as delineated in WAC 196-20-020.

(2) If you have completed a baccalaureate degree program which is accredited by the engineering accreditation commission (EAC) of the accreditation board for engineering and technology (ABET) or have achieved senior standing within that program, you may use the expedited process for FE exam registration as approved by the board.

(3) Applicants that do not meet the EAC educational credit described above must submit the full application to the board describing the education and/or experience that would meet the requirements in WAC 196-20-020 and then obtain written approval from the board prior to registering for the FE exam.

AMENDATORY SECTION (Amending WSR 04-10-067, filed 5/3/04, effective 6/3/04)

**WAC 196-20-020 ((Experience-)) How is experience and education applied toward FE exam eligibility?** ((The board shall evaluate all experience on a case by case basis and approve such experience as appropriate. Partial credit may be granted for experience and/or education that does not fully meet the requirements. The board will use the following criteria in evaluating an applicant's education and experience:

(1) Graduation in an approved engineering curriculum of four years or more from a school or college recognized by the board, is equivalent to the four-year experience requirement.

(2) Four years or more of broad based progressive experience in the fundamental knowledge of engineering theory and practice, of a character acceptable to the board, under the direct supervision of a person authorized by chapter 18.43 RCW or other applicable statute to practice engineering is equivalent to the four-year experience requirement.

The)) Approval to sit for the fundamentals-of-engineering examination (FE) is based upon satisfactory evidence that the applicant has completed a minimum of four years of practical engineering experience or four years of engineering education or a combination of both, as approved by the board.

(1) Experience:

Qualifying practical experience shall not be limited to, but ~~((must))~~ should include, the following:

(a) Preparation of technical reports and specifications, including graphics;

(b) Application of mathematical techniques to problem solving;

(c) Application of the basic physical sciences (chemistry, dynamics, statics, physics, etc.) in tasks;

(d) Performing assignments, experiments and tests to general specifications;

(e) Compilation and interpretation of data (statistical analysis, etc.);

(f) Executing complex engineering tasks according to instructions;

(g) Effective communication with associates and presenting recommendations and conclusions to supervisor;

(h) Knowledge of the impacts of the products of technology on society (i.e., energy/environmental considerations).

~~((3) In evaluating the four years of combined education and experience, the board will be looking at transcripts and work experience to determine knowledge in subsection (2)(a) through (h) of this section.~~

~~((4) In the judgment of the board, the applicant must have demonstrated increased levels of responsibility and a continuous gain in experience and knowledge such that at the time of being approved for the fundamentals of engineering examination, the applicant is capable of making independent judgments and decisions under the general guidance and direct supervision of an authorized professional.))~~

(2) Education:

Any qualifying practical engineering experience may be supplemented or substituted by education as:

(a) FOUR YEARS: A baccalaureate degree in engineering accredited by the engineering accreditation commission (EAC) of the accreditation board for engineering and technology (ABET); or

(b) FOUR YEARS: A baccalaureate degree in a nonengineering program if the degree is followed by a graduate degree in engineering from a school that has an ABET accredited undergraduate program in the same engineering discipline as the graduate degree; or

(c) THREE YEARS: A baccalaureate degree in engineering technology accredited by the engineering technology commission (ETAC) of the accreditation board for engineering and technology (ABET); or

(d) THREE YEARS: A baccalaureate degree in engineering in a non-ABET accredited program; or

(e) TWO YEARS: A baccalaureate degree in a nonengineering program.

(3) Foreign education:

Unless exempted by the board all applicants with foreign degrees must have a transcript evaluation by a transcript evaluation service as approved by the board. The cost of the eval-

uation and the information needed to be evaluated is the responsibility of the applicant.

(a) FOUR YEARS: A baccalaureate degree from a foreign engineering program which is not EAC ABET accredited but is equivalent to an EAC ABET degree.

(b) THREE YEARS: A baccalaureate degree from a foreign engineering program, which is not EAC ABET accredited and is not equivalent to an EAC ABET degree.

(c) FOUR YEARS: A baccalaureate degree from a foreign engineering program that is not EAC ABET accredited, can waive the requirement for a transcript evaluation if they have a graduate degree in engineering from a program that has an ABET accredited baccalaureate engineering program in the same engineering discipline as the graduate degree.

AMENDATORY SECTION (Amending WSR 04-10-067, filed 5/3/04, effective 6/3/04)

**WAC 196-20-030 Fundamentals of engineering examination((s)).** ((~~(+)~~) The content of the fundamentals-of-engineering examination ((is given at)) and the times and places ((designated)) where the examination is available, is as approved by the board. ((The schedule of future examinations and an examination syllabus may be obtained at the internet web site of the National Council of Examiners for Engineering and Surveying (NCEES).

(2) An applicant passing the fundamentals of engineering examination will be enrolled as an engineer-in-training pursuant to RCW 18.43.020(3).)

#### NEW SECTION

**WAC 196-20-045 How do I obtain certification as an engineer-in-training in Washington?** Certification as an engineer-in-training in Washington is only available to those applicants who designate Washington as their practice state when registering to take the FE exam and who also pass the FE exam. Those that meet the above conditions must submit an application for certification as an engineer-in-training to the board.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 196-20-035 Examination review.

AMENDATORY SECTION (Amending WSR 04-04-001, filed 1/21/04, effective 2/21/04)

**WAC 196-21-010 Eligibility and applications.** ((The law requires completing four years of experience or having achieved senior standing in a school or college approved by the board prior to taking the fundamentals of land surveying examination. If the applicant has achieved senior standing, that status must be certified by said school or college. The four years may be gained as: Four years of approved education; four years of experience approved by the board; four years of combined education and experience. The experience to qualify for the fundamentals of land surveying examina-

tion must be completed sixty days prior to the date of the examination.

All applications must be completed on forms provided by the board and filed with the executive director at the board's address. The deadline for properly completed applications accompanied by the appropriate fee as listed in WAC 196-26A-025 is four months prior to the date of examination. Late applications will be considered for a later examination.

All applicants should submit transcripts of degrees attained or college courses taken in order to obtain maximum experience credit except, applicants enrolled in a school or college that have achieved senior standing in a baccalaureate curriculum in land surveying approved by the board will be eligible to take the fundamentals of land surveying examination without submitting college transcripts.

Once an application has been approved, no further application is required. An applicant who has taken an examination and failed or who qualified for an examination but did not take it shall submit a request in writing, accompanied by the applicable fee as listed in WAC 196-26A-025, to take or retake the examination, at least three months prior to the examination date.)) Eligibility for taking the fundamentals of land surveying exam requires completion and verification of four years of experience. These four years can be achieved through board approved education, board approved practical experience or a combination of both. All applications must be completed in accordance with instructions provided by the board. Once an applicant is notified of board approval to sit for the fundamentals of surveying examination he or she will be instructed to register directly with the National Council of Examiners for Engineering and Surveying (NCEES) for admittance to the examination.

AMENDATORY SECTION (Amending WSR 04-04-001, filed 1/21/04, effective 2/21/04)

**WAC 196-21-020 Practical experience.** ((The board shall evaluate all experience, which includes education, on a case-by-case basis and approve such experience as appropriate. The board will use the following criteria in evaluating an applicant's experience record:

(1) Education may be approved as experience based on the following:

(a) Graduation with a baccalaureate degree in land surveying from an approved curriculum shall be equivalent to four years of required experience.

(b) Graduation with an associate degree in land surveying from an approved curriculum shall be equivalent to two years of required experience.

(c) Each year completed of an approved curriculum without graduation shall be granted up to a year of required experience.

(d) A maximum of one year may be granted for post-graduate college courses approved by the board.

(e) Any other education will be taken into account and evaluated on its merits.

(f) Experience gained between semesters or quarters or during summers while enrolled in an approved curriculum will be considered as part of the educational process. The board grants one year of experience for a year of approved

education including any associated work experience within that year.

(2) In evaluating four years of work experience, the board will be looking for broad based, progressive experience in the fundamental knowledge of surveying theory and practice under the direct supervision of a person authorized by chapter 18.43 RCW or other applicable statute to practice land surveying. This experience shall not be limited to, but must include the following:

~~(a))~~ Qualifying practical experience must be in the form of broad based, progressive learning in the fundamental knowledge of land surveying theory and practice. Practical experience must be under the direct supervision of a person authorized to practice land surveying by a board recognized authority. The breadth of experience, while not limited to, shall include:

- (1) Performing complex survey calculations;
- ~~((b))~~ (2) Conducting boundary and corner research;
- ~~((c))~~ (3) Preparing and using property descriptions;
- ~~((d))~~ (4) Understanding and applying fundamental boundary and topographic principles;
- ~~((e))~~ (5) Making and/or analyzing horizontal and vertical control measurements; and
- ~~((f))~~ (6) Being skilled in survey equipment care and usage.

~~((The board may grant partial credit for experience that does not fully meet the requirements in (a) through (f) of this subsection.~~

~~(3) In evaluating the four years of combined education and experience the board will be looking at transcripts and work experience to determine knowledge in subsection (2)(a) through (f) of this section.~~

~~(4) In the judgment of the board, the applicant must have demonstrated increased levels of responsibility and a continuous gain in experience and knowledge such that at the time of being approved for the fundamentals of land surveying examination, the applicant is capable of making independent judgments and decisions under the general guidance and direct supervision of an authorized professional.)~~ Practical experience gained while enrolled in a board approved curriculum will be considered as part of the educational process and not be recognized as separate experience. No more than one year of experience will be granted for one calendar year.

#### NEW SECTION

**WAC 196-21-025 Educational experience.** All applicants are required to have original transcripts submitted to the board by the school registrar in order to obtain maximum educational experience credit. Applicants enrolled in a school or college that have achieved senior standing in a baccalaureate curriculum in land surveying approved by the board are eligible to take the fundamentals-of-land surveying examination without having college transcripts submitted.

Qualifying educational experience may be:

- (1) A baccalaureate degree in land surveying from a board approved curriculum for up to four years; or
- (2) An associate degree in land surveying from a board approved curriculum for up to two years; or

(3) Each year of qualifying board approved coursework in land surveying, without a degree, that will be evaluated for relevancy and equivalency to a structured curriculum for up to one year;

(4) A postgraduate degree approved by the board for up to one year.

AMENDATORY SECTION (Amending WSR 04-04-001, filed 1/21/04, effective 2/21/04)

**WAC 196-21-030 Fundamentals-of-land surveying examination((s)).** ~~((1))~~ The content of the fundamentals-of-land surveying examination ((is given at)) and the times and places ((designated)) where the examination is available, is as approved by the board. ((The schedule of future examinations and an examination syllabus may be obtained at the internet web site of the National Council of Examiners for Engineering and Surveying (NCEES).

~~(2) An applicant passing the fundamentals of land surveying examination will be enrolled as a land surveyor in training pursuant to RCW 18.43.020(8-).)~~

#### NEW SECTION

**WAC 196-21-040 How do I obtain certification as a land surveyor-in-training in Washington?** Certification as a land surveyor-in-training in Washington is only available to those applicants who designate Washington as their practice state when registering to take the fundamentals of surveying exam and who also pass the fundamentals of surveying exam. Those that meet the above conditions must submit an application for certification as a land surveyor-in-training to the board.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 196-21-035 Examination review.

#### **WSR 14-07-116**

#### **PERMANENT RULES**

#### **LIQUOR CONTROL BOARD**

[Filed March 19, 2014, 10:45 a.m., effective April 19, 2014]

Effective Date of Rule: Thirty-one days after filing.

Purpose: This is a new industry in the state of Washington. Additional rules are needed to clarify the new laws created by Initiative 502 so the public is aware of the qualifications and requirements for marijuana licenses in the state of Washington. These rules are to implement I-502 and to further clarify other permanent rules for implementation of I-502.

Citation of Existing Rules Affected by this Order: New sections WAC 314-55-200, 314-55-210, 314-55-220 and 314-55-230; and amending WAC 314-55-083 and 314-55-102.

Statutory Authority for Adoption: RCW 69.50.342, 69.50.345.

Adopted under notice filed as WSR 14-04-063 on January 29, 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 4, Amended 2, Repealed 0.

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

Number of Sections Adopted on the Agency's Own Initiative: New 4, Amended 2, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 4, Amended 2, 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: March 19, 2014.

Sharon Foster  
Chairman

**AMENDATORY SECTION** (Amending WSR 13-21-104, filed 10/21/13, effective 11/21/13)

**WAC 314-55-083 What are the security requirements for a marijuana licensee?** The security requirements for a marijuana licensee are as follows:

(1) **Display of identification badge.** All employees on the licensed premises shall be required to hold and properly display an identification badge issued by the licensed employer at all times while on the licensed premises.

(2) **Alarm systems.** At a minimum, each licensed premises must have a security alarm system on all perimeter entry points and perimeter windows. Motion detectors, pressure switches, duress, panic, and hold-up alarms may also be utilized.

(3) **Surveillance system.** At a minimum, a complete video surveillance with minimum camera resolution of 640x470 pixel and must be internet protocol (IP) compatible and recording system for controlled areas within the licensed premises and entire perimeter fencing and gates enclosing an outdoor grow operation, to ensure control of the area. The requirements include image acquisition, video recording, management and monitoring hardware and support systems. All recorded images must clearly and accurately display the time and date. Time is to be measured in accordance with the U.S. National Institute Standards and Technology standards.

(a) All controlled access areas, security rooms/areas and all points of ingress/egress to limited access areas, all points of ingress/egress to the exterior of the licensed premises, and all point-of-sale (POS) areas must have fixed camera coverage capable of identifying activity occurring within a minimum of twenty feet of all entry and exit points.

(b) Camera placement shall allow for the clear and certain identification of any individual on the licensed premises.

(c) All entrances and exits to the facility shall be recorded from both indoor and outdoor vantage points, and

capable of clearly identifying any activities occurring within the facility or within the grow rooms in low light conditions. The surveillance system storage device must be secured on-site in a lock box, cabinet, closet, or secured in another manner to protect from employee tampering or criminal theft.

(d) All perimeter fencing and gates enclosing an outdoor grow operation must have full video surveillance capable of clearly identifying any activities occurring within twenty feet of the exterior of the perimeter. Any gate or other entry point that is part of the enclosure for an outdoor growing operation must have fixed camera coverage capable of identifying activity occurring within a minimum of twenty feet of the exterior, twenty-four hours a day. A motion detection lighting system may be employed to illuminate the gate area in low light conditions.

(e) Areas where marijuana is grown, cured or manufactured including destroying waste, shall have a camera placement in the room facing the primary entry door, and in adequate fixed positions, at a height which will provide a clear, unobstructed view of the regular activity without a sight blockage from lighting hoods, fixtures, or other equipment, allowing for the clear and certain identification of persons and activities at all times.

(f) All marijuana or marijuana-infused products that are intended to be removed or transported from marijuana producer to marijuana processor and/or marijuana processor to marijuana retailer shall be staged in an area known as the "quarantine" location for a minimum of twenty-four hours. Transport manifest with product information and weights must be affixed to the product. At no time during the quarantine period can the product be handled or moved under any circumstances and is subject to auditing by the liquor control board or designees.

(g) All camera recordings must be continuously recorded twenty-four hours a day. All surveillance recordings must be kept for a minimum of forty-five days on the licensee's recording device. All videos are subject to inspection by any liquor control board employee or law enforcement officer, and must be copied and provided to the board or law enforcement officer upon request.

(4) **Traceability:** To prevent diversion and to promote public safety, marijuana licensees must track marijuana from seed to sale. Licensees must provide the required information on a system specified by the board. All costs related to the reporting requirements are borne by the licensee. Marijuana seedlings, clones, plants, lots of usable marijuana or trim, leaves, and other plant matter, batches of extracts (~~and~~) marijuana-infused products, samples, and marijuana waste must be traceable from production through processing, and finally into the retail environment including being able to identify which lot was used as base material to create each batch of extracts or infused products. The following information is required and must be kept completely up-to-date in a system specified by the board:

(a) Key notification of "events," such as when a plant enters the system (moved from the seedling or clone area to the vegetation production area at a young age);

(b) When plants are to be partially or fully harvested or destroyed;

(c) When a lot or batch of marijuana, marijuana extract, marijuana-infused product, or marijuana waste is to be destroyed;

(d) When usable marijuana or marijuana-infused products are transported;

(e) Any theft of usable marijuana, marijuana seedlings, clones, plants, trim or other plant material, extract, infused product, seed, plant tissue or other item containing marijuana;

(f) There is a seventy-two hour mandatory waiting period after the notification described in this subsection is given before any plant may be destroyed (~~((or))~~), a lot or batch of marijuana (~~((or))~~), marijuana extract, marijuana-infused product, or marijuana waste may be destroyed;

(g) There is a twenty-four hour mandatory waiting period after the notification described in this subsection to allow for inspection before a lot of marijuana is transported from a producer to a processor;

(h) There is a twenty-four hour mandatory waiting period after the notification described in this subsection to allow for inspection before (~~((useable))~~) usable marijuana, or marijuana-infused products are transported from a processor to a retailer(~~(-)~~);

(i) Prior to reaching eight inches in height or width, each marijuana plant must be tagged and tracked individually, which typically should happen when a plant is moved from the seed germination or clone area to the vegetation production area;

(j) A complete inventory of all marijuana, seeds, plant tissue, seedlings, clones, all plants, lots of usable marijuana or trim, leaves, and other plant matter, batches of extract (~~((and))~~), marijuana-infused products, and marijuana waste;

(k) All point of sale records;

(l) Marijuana excise tax records;

(m) All samples sent to an independent testing lab, any sample of unused portion of a sample returned to a licensee, and the quality assurance test results;

(n) All free samples provided to another licensee for purposes of negotiating a sale;

(o) All samples used for testing for quality by the producer or processor;

(p) Samples containing usable marijuana provided to retailers;

(q) Samples provided to the board or their designee for quality assurance compliance checks; and

(r) Other information specified by the board.

**(5) Start-up inventory for marijuana producers.**

Within fifteen days of starting production operations a producer must have all nonflowering marijuana plants physically on the licensed premises. The producer must (~~((immediately))~~), within twenty-four hours, record each marijuana plant that enters the facility in the traceability system during this fifteen day time frame. No flowering marijuana plants may be brought into the facility during this fifteen day time frame. After this fifteen day time frame expires, a producer may only start plants from seed or create clones from a marijuana plant located physically on their licensed premises, or purchase marijuana seeds, clones, or plants from another licensed producer.

(6) **Samples.** Free samples of usable marijuana may be provided by producers or processors, or used for product quality testing, as set forth in this section.

(a) Samples are limited to two grams and a producer may not provide any one licensed processor more than four grams of usable marijuana per month free of charge for the purpose of negotiating a sale. The producer must record the amount of each sample and the processor receiving the sample in the traceability system.

(b) Samples are limited to two grams and a processor may not provide any one licensed retailer more than four grams of usable marijuana per month free of charge for the purpose of negotiating a sale. The processor must record the amount of each sample and the retailer receiving the sample in the traceability system.

(c) Samples are limited to two units and a processor may not provide any one licensed retailer more than six ounces of marijuana infused in solid form per month free of charge for the purpose of negotiating a sale. The processor must record the amount of each sample and the retailer receiving the sample in the traceability system.

(d) Samples are limited to two units and a processor may not provide any one licensed retailer more than twenty-four ounces of marijuana-infused liquid per month free of charge for the purpose of negotiating a sale. The processor must record the amount of each sample and the retailer receiving the sample in the traceability system.

(e) Samples are limited to one-half gram and a processor may not provide any one licensed retailer more than one gram of marijuana-infused extract meant for inhalation per month free of charge for the purpose of negotiating a sale. The processor must record the amount of each sample and the retailer receiving the sample in the traceability system.

(f) Producers may sample one gram of (~~((useable))~~) usable marijuana per strain, per month for quality sampling. Sampling for quality may not take place at a licensed premises. Only the producer or employees of the licensee may sample the (~~((useable))~~) usable marijuana for quality. The producer must record the amount of each sample and the employee(s) conducting the sampling in the traceability system.

(g) Processors may sample one unit, per batch of a new edible marijuana-infused product to be offered for sale on the market. Sampling for quality may not take place at a licensed premises. Only the processor or employees of the licensee may sample the edible marijuana-infused product. The processor must record the amount of each sample and the employee(s) conducting the sampling in the traceability system.

(h) Processors may sample up to one quarter gram, per batch of a new marijuana-infused extract for inhalation to be offered for sale on the market. Sampling for quality may not take place at a licensed premises. Only the processor or employee(s) of the licensee may sample the marijuana-infused extract for inhalation. The processor must record the amount of each sample and the employee(s) conducting the sampling in the traceability system.

(i) The limits described in subsection (3) of this section do not apply to the usable marijuana in sample jars that may be provided to retailers described in WAC 314-55-105(8).

(j) Retailers may not provide free samples to customers.



AMENDATORY SECTION (Amending WSR 13-21-104, filed 10/21/13, effective 11/21/13)

**WAC 314-55-102 Quality assurance testing.** (1) A third-party testing lab must be certified by the board or their vendor as meeting the board's accreditation and other requirements prior to conducting required quality assurance tests. Certified labs will receive a certification letter from the board and must conspicuously display this letter in the lab in plain sight of the customers. The board can summarily suspend a lab's certification if a lab is found out of compliance with the requirements of WAC 314-55-102.

(2) A person with financial interest in ~~(an accredited)~~ a certified third-party testing lab may not have direct or indirect financial interest in a licensed marijuana producer or processor for whom they are conducting required quality assurance tests. A person with direct or indirect financial interest in a certified third-party testing lab must disclose to the board by affidavit any direct or indirect financial interest in a licensed marijuana producer or processor.

~~((2))~~ (3) As a condition of ~~(accreditation)~~ certification, each lab must employ a scientific director responsible to ensure the achievement and maintenance of quality standards of practice. The scientific director shall meet the following minimum qualifications:

(a) Has earned, from a college or university accredited by a national or regional certifying authority a doctorate in the chemical or biological sciences and a minimum of two years' post-degree laboratory experience; or

(b) Has earned a master's degree in the chemical or biological sciences and has a minimum of four years' of post-degree laboratory experience; or

(c) Has earned a bachelor's degree in the chemical or biological sciences and has a minimum of six years of post-education laboratory experience.

~~((3))~~ (4) As a condition of ~~(accreditation)~~ certification, labs must follow the most current version of the Cannabis Inflorescence and Leaf monograph published by the American Herbal Pharmacopoeia or notify the board what alternative scientifically valid testing methodology the lab is following for each quality assurance test. The board may require third-party validation of any monograph or analytical method followed by the lab to ensure the methodology produces scientifically accurate results prior to them using those standards when conducting required quality assurance tests.

~~((4))~~ (5) As a condition of ~~(accreditation)~~ certification, the board may require third-party validation and ongoing monitoring of a lab's basic proficiency to correctly execute the analytical methodologies employed by the lab. The board may contract with a vendor to conduct the validation and ongoing monitoring described in this subsection. The lab shall pay all vendor fees for validation and ongoing monitoring directly to the vendor.

~~((5))~~ (6) The lab must allow the board or their vendor to conduct physical visits and inspect related laboratory equipment, testing and other related records during normal business hours without advance notice.

(7) Labs must adopt and follow minimum good lab practices (GLPs), and maintain internal standard operating procedures (SOPs), and a quality control/quality assurance (QC/QA) program as specified by the board. The board or authorized third-party organization can conduct audits of a lab's GLPs, SOPs, QC/QA, and inspect all other related records.

~~((6))~~ (8) The general body of required quality assurance tests for marijuana flowers~~(s)~~ and infused products~~(s) and extracts~~) may include moisture content, potency analysis, foreign matter inspection, microbiological screening, pesticide and other chemical residue and metals screening, and residual solvents levels.

~~((7))~~ (9) Table of required quality assurance tests.

Product	Test(s) Required	Sample Size Needed to Complete all Tests
<del>((Flowers to be sold as usable marijuana (see note below)))</del> <u>Lots of marijuana flowers</u>	1. Moisture content 2. Potency analysis 3. Foreign matter inspection 4. Microbiological screening	Up to 7 grams
<del>((Flowers to be used to make an extract (nonsolvent) like kief, hashish, bubble hash, or infused dairy butter, or oils or fats derived from natural sources</del>	None	None
<del>Extract (nonsolvent) like kief, hashish, bubble hash or infused dairy butter, or oils or fats derived from natural sources</del>	1. Potency analysis 2. Foreign matter inspection 3. Microbiological screening	Up to 7 grams
<del>Flowers to be used to make an extract (solvent-based), made with a CO<sub>2</sub> extractor, or with a food grade ethanol or glycerin</del>	1. Foreign matter inspection 2. Microbiological screening	Up to 7 grams))
<u>Infused extract (solvent based) for inhalation made using n-butane, isobutane, propane, heptane, or other solvents or gases approved by the board of at least 99% purity</u>	1. Potency analysis 2. Residual solvent test 3. Microbiological screening (only if using flowers and other plant material that failed initial test)	Up to 2 grams

Product	Test(s) Required	Sample Size Needed to Complete all Tests
(( <del>Extract</del> )) <u>Infused extract for inhalation made with a CO<sub>2</sub> extractor like hash oil</u>	1. Potency analysis 2. Microbiological screening (only if using flowers and other plant material that failed initial test)	Up to 2 grams
(( <del>Extract</del> )) <u>Infused extract for inhalation made with ((<del>food grade</del>)) ethanol or other approved food grade solvent</u>	1. Potency analysis 2. Microbiological screening (only if using flowers and other plant material that failed initial test)	Up to 2 grams
(( <del>Extract made with food grade glycerin or propylene glycol</del> ))	1. Potency analysis	Up to 1 gram))
<u>Infused extract (nonsolvent) meant for inhalation infused with kief, hashish, or bubble hash</u>	1. Potency analysis 2. Microbiological screening	Up to 2 grams
Infused edible	1. Potency analysis 2. Microbiological screening	1 unit
Infused liquid like a soda or tonic	1. Potency analysis 2. Microbiological screening	1 unit
Infused topical	1. Potency analysis 2. Microbiological screening	1 unit

((~~8~~)) (10) Independent testing labs may request additional sample material in excess of amounts listed in the table in subsection ((~~7~~)) (9) of this section for the purposes of completing required quality assurance tests. Labs certified as meeting the board's accreditation requirements may retrieve samples from a marijuana licensee's licensed premises and transport the samples directly to the lab and return any unused portion of the samples.

((~~9~~)) (11) Labs certified as meeting the board's accreditation requirements are not limited in the amount of ((~~useable~~)) usable marijuana and marijuana products they may have on their premises at any given time, but they must have records to prove all marijuana and marijuana-infused products only for the testing purposes described in WAC 314-55-102.

((~~10~~)) (12) At the discretion of the board, a producer or processor must provide an employee of the board or their designee samples in the amount listed in subsection ((~~7~~)) (9) of this section or samples of the growing medium, soil amendments, fertilizers, crop production aids, pesticides, or water for random compliance checks. Samples may be screened for pesticides and chemical residues, unsafe levels of metals, and used for other quality assurance tests deemed necessary by the board. All costs of this testing will be borne by the producer or processor.

((~~11~~)) (13) No lot of usable flower or batch of marijuana-infused product may be sold or transported until the completion of all required quality assurance testing.

((~~12~~)) (14) Any ((~~useable~~)) usable marijuana or marijuana-infused product that passed the required quality assurance tests may be labeled as "Class A." Only "Class A" ((~~useable~~)) usable marijuana or marijuana-infused product will be allowed to be sold.

((~~13~~)) (15) If a lot of marijuana flowers fail a quality assurance test, any marijuana plant trim, leaf and other usable material from the same plants automatically fails quality

assurance testing also. Upon approval of the board, a lot that fails a quality assurance test may be used to make a CO<sub>2</sub> or solvent based extract. After processing, the CO<sub>2</sub> or solvent based extract must still pass all required quality assurance tests in WAC 314-55-102.

((~~14~~)) (16) At the request of the producer or processor, the board may authorize a retest to validate a failed test result on a case-by-case basis. All costs of the retest will be borne by the producer or the processor.

(17) Labs must report all required quality assurance test results directly into LCB's seed to sale traceability system within twenty-four hours of completion. Labs must also record in the seed to sale traceability system an acknowledgment of the receipt of samples from producers or processors and verify if any unused portion of the sample was destroyed or returned to the licensee.

NEW SECTION

**WAC 314-55-200 How will the liquor control board identify marijuana, usable marijuana, and marijuana-infused products during checks of licensed businesses?**

Officers shall identify marijuana, usable marijuana, and marijuana-infused products during on-site inspections of licensed producers, processors, and retailers of marijuana by means of product in the traceability system, and/or by observation based on training and experience. Products that are undetermined to be marijuana, usable marijuana, and marijuana-infused products will be verified by the following:

- (1) Officers may take a sample large enough for testing purposes;
- (2) Field test kits may be used if available and appropriate for the type of product being verified; and
- (3) Those samples not able to be tested with a field test kit may be tested through the Washington state toxicology or crime lab.

NEW SECTION

**WAC 314-55-210 Will the liquor control board seize or confiscate marijuana, usable marijuana, and marijuana-infused products?** The liquor control board may seize or confiscate marijuana, usable marijuana, and marijuana-infused products under the following circumstances:

(1) During an unannounced or announced administrative search or inspection of a licensed location, or vehicle involved in the transportation of marijuana products, where any product was found to be in excess of product limitations set forth in WAC 314-55-075, 314-55-077, and 314-55-079.

(2) Any product not properly logged in inventory records or untraceable product required to be in the traceability system.

(3) Marijuana, usable marijuana, and marijuana-infused product that are altered or not properly packaged and labeled in accordance with WAC 314-55-105.

(4) During a criminal investigation, officers shall follow seizure laws detailed in RCW 69.50.505 and any other applicable criminal codes.

NEW SECTION

**WAC 314-55-220 What is the process once the board summarily orders marijuana, usable marijuana, or marijuana-infused products of a marijuana licensee to be destroyed?** (1) The board may issue an order to summarily destroy marijuana, usable marijuana, or marijuana-infused products after the board's enforcement division has completed a preliminary staff investigation of the violation and upon a determination that immediate destruction of marijuana, usable marijuana, or marijuana-infused products is necessary for the protection or preservation of the public health, safety, or welfare.

(2) Destruction of any marijuana, usable marijuana, or marijuana-infused products under this provision shall take effect immediately upon personal service on the licensee or employee thereof of the summary destruction order unless otherwise provided in the order.

(3) When a license has been issued a summary destruction order by the board, an adjudicative proceeding for the associated violation or other action must be promptly instituted before an administrative law judge assigned by the office of administrative hearings. If a request for an administrative hearing is timely filed by the licensee, then a hearing shall be held within ninety days of the effective date of the summary destruction ordered by the board.

NEW SECTION

**WAC 315-55-230 What are the procedures the liquor control board will use to destroy or donate marijuana, usable marijuana, and marijuana-infused products to law enforcement?** (1) The liquor control board may require a marijuana licensee to destroy marijuana, usable marijuana, and marijuana-infused products found in a licensed establishment to be in excess of product limits set forth in WAC 314-55-075, 314-55-077, and 314-55-079.

(2) Destruction of seized marijuana, usable marijuana, marijuana-infused products, or confiscated marijuana after

case adjudication, will conform with liquor control board evidence policies, to include the option of donating marijuana, usable marijuana, and marijuana-infused products, set for destruction, to local and state law enforcement agencies for training purposes only.

(3) Marijuana, usable marijuana, and marijuana-infused products set for destruction shall not reenter the traceability system or market place.