

WSR 17-01-039
EXPEDITED RULES
PROFESSIONAL EDUCATOR
STANDARDS BOARD

[Filed December 13, 2016, 12:42 p.m.]

Title of Rule and Other Identifying Information: WAC 181-02-002 describes content skills tests accepted from National Board for Professional Teaching. Equivalencies include both second tier and teacher assessments.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO David Brenna, Professional Educator Standards Board, 600 Washington Street South, Room 400, Olympia, WA 98504, AND RECEIVED BY February 22, 2017.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Clarifying language for board approved equivalencies to content tests and certain certificates for teachers.

Statutory Authority for Adoption: Chapter 28A.410 RCW.

Statute Being Implemented: Chapter 28A.410 RCW.

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

Name of Proponent: Professional educator standards board, governmental.

Name of Agency Personnel Responsible for Drafting: David Brenna, 600 Washington Street, Room 400, Olympia, WA, (360) 725-6238.

December 13, 2016
David Brenna
Senior Policy Analyst

AMENDATORY SECTION (Amending WSR 06-11-160, filed 5/24/06, effective 6/24/06)

WAC 181-02-002 WEST-E exemptions. (1) Individuals who hold a certificate through the National Board for Professional Teaching Standards are exempt from the WEST-E requirement if there is a direct equivalency between the endorsement sought and the national board certificate, or the individual has a second tier certificate from a state as approved by the professional educator standards board and published by the superintendent of public instruction. The equivalent National Board for Professional Teaching Standards and Washington endorsement table approved by the professional educator standards board may not be changed without prior professional educator standards board approval.

(2) Candidates applying for a Washington state residency or professional teaching certificate per WAC 181-

79A-257 who have taken and passed equivalent content tests from other states as approved and published by the professional educator standards board, are exempt from the WEST-E requirement.

WSR 17-01-080
EXPEDITED RULES
EMPLOYMENT SECURITY DEPARTMENT

[Filed December 15, 2016, 4:41 p.m.]

Title of Rule and Other Identifying Information: WAC 192-120-050 Conditional payment of benefits, the rule provides that, when the department has an eligibility question regarding an unemployment benefits recipient in continued claim status, benefits will be conditionally paid. It also provides that claimants may request that their conditional payments be held until the department makes a decision regarding their eligibility.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Juanita Myers, Employment Security Department, P.O. Box 9046, Olympia, WA 98507, AND RECEIVED BY February 22, 2017.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The rule is being amended to strike subsections (2) and (3) which authorize claimants to have their conditional payments held until an eligibility decision is issued. With the amendment, claimants in continued claim status will be paid conditionally when their eligibility is [in] question.

Reasons Supporting Proposal: The United States Department of Labor (USDOL), Employment and Training Administration, has notified the department that providing claimants with the option to have their payments held is inconsistent with federal law. The department will amend the rule consistent with USDOL's interpretation.

Statutory Authority for Adoption: RCW 50.12.010 and 50.12.040.

Statute Being Implemented: Chapter 50.20 RCW.

Rule is necessary because of federal law, UI Program Letter No. 45-89.

Name of Proponent: Employment security department, governmental.

Name of Agency Personnel Responsible for Drafting: Juanita Myers, 212 Maple Park, Olympia, (360) 902-9665; Implementation and Enforcement: Neil Gorrell, 212 Maple Park, Olympia, (360) 902-9303.

December 14, 2016
Dale Peinecke
Commissioner

AMENDATORY SECTION (Amending WSR 16-21-013, filed 10/7/16, effective 11/14/16)

WAC 192-120-050 Conditional payment of benefits.

(1) If you are a continued claim recipient and your eligibility for benefits is questioned by the department, you will be conditionally paid benefits without delay for any week(s) for which you file a claim for benefits, until and unless you have been provided adequate notice and an opportunity to be heard.

~~(2) ((At your request, we will hold conditional payments when you are eligible for conditional payment under WAC 192-100-070.~~

~~(3) Payment will be issued for any payments withheld under subsection (2) of this section if we determine you are eligible for benefits.~~

(4)) Conditional payments will not be made under the conditions described in WAC 192-140-200 and 192-140-210.

WSR 17-01-147

EXPEDITED RULES

DEPARTMENT OF AGRICULTURE

[Filed December 21, 2016, 8:18 a.m.]

Title of Rule and Other Identifying Information: Chapter 16-06 WAC, Public records.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Henri Gonzales, Agency Rules Coordinator, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, AND RECEIVED BY February 22, 2017.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is proposing to:

(1) Clarify procedures regarding the disclosure of electronic records;

(2) Add language exempting employee driver's license numbers from public disclosure as specified in RCW 42.56.250(3); and

(3) Add language exempting all records, data, and information filed in support of an industrial hemp research license application from public disclosure as specified in RCW 15.120.050(7).

Reasons Supporting Proposal: Chapter 16-06 WAC establishes procedures the department follows to provide full access to public records and to implement the provisions of the Public Records Act (chapter 42.56 RCW). The rule establishes procedures for both persons requesting access to public records and also for department staff. The proposed amend-

ment clarifies procedures regarding disclosure of electronic records in order to remain up-to-date with current technology. In addition, the amendment adds an exemption regarding employee driver's license numbers that was made to the Public Records Act during the 2014 legislative session. It also adds an exemption regarding industrial hemp research license applications that was established during the 2016 legislative session. Updates to the rule are necessary to keep procedures current and reflect recent legislative changes.

Statutory Authority for Adoption: Chapters 42.56 and 34.05 RCW.

Statute Being Implemented: Chapter 42.56 RCW.

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

Name of Proponent: Washington state department of agriculture, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Pam Potwin, 1111 Washington Street S.E., Olympia, WA 98504-2560, (360) 902-1935; and Enforcement: Elizabeth McNagny, 1111 Washington Street S.E., Olympia, WA 98504-2560, (360) 902-1809.

December 21, 2016

Kirk Robinson

Deputy Director

AMENDATORY SECTION (Amending WSR 14-19-056, filed 9/12/14, effective 10/13/14)

WAC 16-06-200 Costs of disclosure. (1) No fee will be charged for the inspection of public records.

(2) The department charges a fee of fifteen cents per page of photocopy when copy charges exceed twenty dollars for providing copies of public records. The department may also charge actual costs of mailing, including the cost of the shipping container. This charge is the amount necessary to reimburse the department for copying costs incident to the disclosure request.

(3) The department may charge the actual cost involved for the duplication of tape recordings, video tapes, photographs, slides, postage, other electronic records, or delivery if these costs exceed twenty dollars.

(4) The public records officer may waive the fee when the expenses of processing payment exceeds the costs of providing copies.

(5) Electronic records: The department charges a fee of five cents per page of scanned copy when the costs exceed twenty dollars and the records are converted from paper to electronic format, upon request. There will be no charge for e-mailing electronic records to a requestor unless another cost applies.

AMENDATORY SECTION (Amending WSR 14-19-056, filed 9/12/14, effective 10/13/14)

WAC 16-06-210 Exemptions. The Public Records Act provides that a number of types of information or records are exempt from public inspection and copying. In addition, records are exempt from disclosure if any other statute exempts or prohibits disclosure. Requestors should be aware of the following exemptions to public disclosure specific to

department records. This list is not exhaustive and other exemptions may apply:

(1) Personal information in any files maintained for employees, appointees, or elected officials of any public agency to the extent that disclosure would violate their right to privacy (reference RCW 42.56.230(3)).

(2) Investigative records (reference RCW 42.56.240).

(3) Test questions, scoring keys, and other examination data used to administer a license (reference RCW 42.56.250(1)).

(4) Records that are relevant to a controversy to which an agency is a party but which records would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts (reference RCW 42.56.290).

(5) Lists of individuals requested for commercial purposes (reference RCW 42.56.070(9)).

(6) Records related to the entry of prohibited agricultural products imported into Washington state or that had Washington state as a final destination received from the United States Department of Homeland Security or the United States Department of Agriculture that are not disclosable by the federal agency under federal law including 5 U.S.C. Sec. 552 (reference RCW 42.56.380(12)).

(7) Credit card numbers, debit card numbers, electronic check numbers, card expiration dates, or bank or other financial account numbers, except when disclosure is expressly required or governed by other law (reference RCW 42.56.230(5)).

(8) Applications for public employment, including the names of applicants, resumes, and other related materials submitted with respect to the applicant (reference RCW 42.56.250(2)).

(9) Residential addresses, residential telephone numbers, personal wireless telephone numbers, personal electronic mail addresses, Social Security numbers, driver's license numbers, and emergency contact information of employees or volunteers of a public agency, and the names, dates of birth, residential addresses, residential telephone numbers, personal wireless telephone numbers, personal electronic mail addresses, Social Security numbers, and emergency contact information of dependents of employees or volunteers of a public agency that are held by any agency in personnel records, public employment related records, or volunteer rosters, or are included in any mailing list of employees or volunteers of any public agency (reference RCW 42.56.-250(3)).

(10) Information provided for the semi-annual report for fertilizers, minerals and limes that would reveal the business operation of the person making the report (reference RCW 15.54.362(5) and 42.56.380(2)).

(11) The semiannual report required in the Commercial Feed Act is not a public record, and any information given in such report which would reveal the business operation of the person making the report is exempt from disclosure, and information obtained by the department from other governmental agencies or other sources that is used to verify information received in the report is exempt from public disclosure (reference RCW 15.53.9018).

(12) The department has the authority to publish reports of official seed inspections, seed certifications, laboratory

statistics, verified violations of this chapter, and other seed branch activities which do not reveal confidential information regarding individual company operations or production (reference RCW 15.49.370(8)).

(13) Business related information obtained under the Organic Food Products Act concerning an entity certified under that act or an applicant for certification under RCW 15.86.110, and records whose disclosure is prohibited by the federal Organic Certification Act, 7 U.S.C. Sec. 6515(g) and the rules adopted under that act (reference RCW 42.56.380(1)).

(14) Consignment information contained on phytosanitary certificates issued by the department under chapters 15.13, 15.17, and 15.49 RCW or federal phytosanitary certificates issued under 7 C.F.R. 353 through cooperative agreements with the animal and plant health inspection service, United States Department of Agriculture, or on applications for phytosanitary certification required by the department (reference RCW 42.56.380(4)).

(15) Financial and commercial information and records supplied by businesses or individuals during application for loans or program services provided by the former chapter 15.110 RCW or chapter 43.325 RCW (the energy freedom loan program) (reference RCW 42.56.270(4)).

(16) Information obtained under RCW 15.19.080 regarding the purchases, sales, or production of an individual American ginseng grower or dealer (reference RCW 42.56.380(6)).

(17) Financial statement information required to determine whether or not an applicant for a license to operate a warehouse under chapter 22.09 RCW, agriculture commodities, meets minimum net worth requirements (reference RCW 22.09.040(9)).

(18) All financial statement information to determine whether or not an applicant for a license to be a grain dealer under chapter 22.09 RCW meets the minimum net worth requirements (reference RCW 22.09.045(7)).

(19) Information submitted by an individual or business to the department of agriculture under the requirements of chapters 16.36, 16.57, and 43.23 RCW for the purpose of herd inventory management for animal disease traceability, is exempt from disclosure. This information includes animal ownership, numbers of animals, locations, contact information, movements of livestock, financial information, the purchase and sale of livestock, account numbers or unique identifiers issued by government to private entities, and information related to livestock disease or injury that would identify an animal, a person or location. Disclosure to local, state, and federal officials is not public disclosure. This exemption does not affect the disclosure of information used in reportable animal health investigations under chapter 16.36 RCW once they are complete (reference RCW 42.56.380(9)).

(20) Results of testing for animal diseases from samples submitted by or at the direction of the animal owner or the owner's designee and that can be identified to a particular business or individual is exempt from disclosure (reference RCW 42.56.380(10)).

(21) Information that can be identified to a particular business and that is collected under chapter 15.17 RCW, standards of grades and packs, and specifically RCW

15.17.140(2) and 15.17.143 for certificates of compliance (reference RCW 42.56.380(7)).

(22) Financial statement information provided under RCW 16.65.030 (1)(d), public livestock markets, is confidential information and not subject to public disclosure (reference RCW 16.65.030 (1)(d) and 42.56.380(8)).

(23) Privileged or confidential information or data that contains trade secrets, commercial, or financial information and is required and submitted under the Washington Pesticide Control Act (reference RCW 15.58.060 (1)(c) and 15.58.065).

(24) Except for release of statistical information not descriptive of any readily identifiable person or persons, all financial and commercial information and records supplied by persons to the department with respect to export market development projects (reference RCW 43.23.270 and 42.56.270(3)).

(25) Information submitted by an applicant under chapter 17.24 RCW that is privileged or confidential because it contains trade secrets or commercial or financial information (reference RCW 17.24.061).

(26) Production or sales records required to determine assessment levels and actual assessment payments to commodity boards and commissions formed under chapters 15.24, 15.26, 15.28, 15.44, 15.65, 15.66, 15.74, 15.88, 15.89, 15.100, and 16.67 RCW, or required by the department to administer these chapters or the department's programs (reference RCW 42.56.380(3)).

(27) Financial and commercial information and records supplied by persons:

(a) To the department for the purpose of conducting a referendum for the potential establishment of a commodity board or commission; or

(b) To the department or commodity boards or commissions formed under chapters 15.24, 15.28, 15.44, 15.65, 15.66, 15.74, 15.88, 15.89, 15.100, or 16.67 RCW, with respect to domestic or export marketing activities or individual producer's production information (reference RCW 42.56.380(5)).

(28) Farm plans developed by conservation districts, unless the farm plan is used for the application or issuance of a permit (reference RCW 42.56.270(17)).

(29) Under RCW 42.56.610 and 90.64.190, information identifying the number of animals; volume of livestock nutrients generated; number of acres covered by the plan or used for land application of livestock nutrients; livestock nutrients transferred to other persons; and crop yields in plans, records, and reports obtained by state and local agencies from dairies, animal feeding operations, and concentrated animal feeding operations not required to apply for a National Pollutant Discharge Elimination System permit is disclosable in the following ranges:

(a) Number of animals: Beef cattle

- 1 to 19
- 20 to 159
- 160 to 299
- 300 to 999
- 1,000 to 5,999
- 6,000 to 10,999
- 11,000 to 15,999

- 16,000 to 20,999
- 21,000 to 25,999
- 26,000 to 31,199
- 31,200 to 37,439
- 37,440 to 44,999
- 45,000 and above

(b) Number of animals: Mature dairy cattle

- 1 to 37
- 38 to 199
- 200 to 699
- 700 to 1,699
- 1,700 to 2,699
- 2,700 to 3,699
- 3,700 to 4,699
- 4,700 to 5,699
- 5,700 to 6,839
- 6,840 and above

(c) Number of animals: Dairy heifers

- 1 to 49
- 50 to 149
- 150 to 299
- 300 to 999
- 1,000 to 1,999
- 2,000 to 2,999
- 3,000 to 3,999
- 4,000 and above

(d) Number of animals: Swine (fifty-five pounds or greater)

- 1 to 19
- 20 to 159
- 160 to 399
- 400 to 749
- 750 to 2,499
- 2,500 to 4,249
- 4,250 to 5,999
- 6,000 to 7,749
- 7,750 and above

(e) Number of animals: Swine (less than fifty-five pounds)

- 1 to 99
- 100 to 499
- 500 to 1,099
- 1,100 to 1,999
- 2,000 to 2,999
- 3,000 to 9,999
- 10,000 to 16,999
- 17,000 to 23,999
- 24,000 to 30,999
- 31,000 and above

(f) Number of animals: Layers (all ages)

- 1 to 199
- 200 to 999
- 1,000 to 10,999
- 11,000 to 24,999
- 25,000 to 81,999
- 82,000 to 138,999
- 139,000 to 195,999
- 196,000 to 252,999
- 253,000 to 309,999
- 310,000 to 371,999

372,000 to 446,399
 446,400 to 535,679
 535,680 to 642,815
 642,816 to 771,379
 771,380 to 925,655
 925,656 to 1,110,787
 1,110,788 to 1,332,945
 1,332,946 and above

(g) Number of animals: Broilers (all ages)

1 to 199
 200 to 999
 1,000 to 17,999
 18,000 to 37,499
 37,500 to 124,999
 125,000 to 212,499
 212,500 to 299,999
 300,000 and above

(h) Number of animals: Horses

1 to 19
 20 to 79
 80 to 149
 150 to 499
 500 to 849
 850 to 1,199
 1,200 to 1,549
 1,550 and above

(i) Livestock nutrients generated or exported by volume

(ft³/day)

1 to 74
 75 to 134
 135 to 299
 300 to 449
 450 to 749
 750 to 1,499
 1,500 to 2,499
 2,500 to 4,999
 5,000 to 8,499
 8,500 to 11,999
 12,000 to 15,999
 16,000 and above

(j) Livestock nutrients generated or exported by weight

(tons/year)

1 to 5,256
 5,257 to 10,512
 10,513 to 21,024
 21,025 to 42,048
 42,049 to 84,096
 84,097 to 164,184
 164,185 to 262,734
 262,735 to 394,200
 394,201 to 558,384
 558,385 to 722,634
 722,635 to 919,734
 919,735 to 1,051,134
 1,051,135 and above

(k) Number of acres covered by the plan or used for land application of livestock nutrients

0 to 25
 26 to 65
 66 to 120

121 to 300
 301 to 550
 551 to 900
 901 to 1,300
 1,301 to 1,800
 1,801 to 2,500
 2,501 to 3,200
 3,201 to 4,000
 4,001 to 6,000
 6,001 to 9,000
 9,001 to 11,500
 11,501 to 14,000
 14,001 and above

(l) Crop yields - tons/acre

0 to 1
 1.1 to 2
 2.1 to 3.5
 3.6 to 5
 5.1 to 7
 7.1 to 9
 9.1 to 12
 12.1 to 14.5
 14.6 to 17
 17.1 to 19.5
 19.6 to 22
 22.1 to 26
 26.1 and above

(30) Records of international livestock importation that can be identified to a particular animal, business, or individual received from the United States Department of Homeland Security or the United States Department of Agriculture that are not disclosable by the federal agency under federal law including 5 U.S.C. Sec. 552 (reference RCW 42.56.380(11)).

(31) A person aggrieved by a violation of chapter 17.21 RCW or the rules adopted under that chapter is entitled, on request, to have his or her name protected from disclosure in any communication with persons outside the department and in any record published, released, or made available to persons outside the department except as provided in RCW 17.21.340 (1)(a)(ii).

(32) All records, data, and information filed in support of an industrial hemp research program license application (reference RCW 15.120.050(7)).

AMENDATORY SECTION (Amending WSR 14-19-056, filed 9/12/14, effective 10/13/14)

WAC 16-06-250 Processing of public records requests—Electronic records. (1) Requesting electronic records: The process for requesting electronic public records is the same as for requesting paper public records.

(2) Providing electronic records:

(a) The department has the discretion to determine whether to provide records electronically or in paper form.

(b) When a requestor requests records in an electronic format, the public records officer will endeavor to provide the nonexempt records or portions of such records that are reasonably locatable in an electronic format that is used by the department and is generally commercially available, or in a

format that is reasonably translatable from the format in which the department keeps the record.

~~((e) When electronic records require redaction, or are contained in a proprietary data base, or otherwise cannot be reasonably provided in an electronic format, the department will provide paper copies of the records to the requestor.~~

~~(3) Customized access to data bases: With the consent of the requestor, the department may provide customized access under RCW 43.41A.130 if the record is not reasonably locatable or not reasonably translatable into the format requested. The department may charge a fee consistent with RCW 43.41A.130 for customized access.)~~

WSR 17-01-156
EXPEDITED RULES
DEPARTMENT OF
EARLY LEARNING

[Filed December 21, 2016, 9:31 a.m.]

Title of Rule and Other Identifying Information: New sections for administering wait lists in the working connections child care (WCCC) and seasonal child care (SCC) subsidy programs: WAC 170-290-2210 Eligibility, 170-290-2220 Benefits start, 170-290-2230 Withdrawal from and reinstatement to the wait list, 170-290-2240 Provider payments, and 170-290-3506 Wait list for seasonal child care.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Lori Anderson, Rules Coordinator, Department of Early Learning (DEL), P.O. Box 40970, Olympia, WA 98504-0970, or email rules@del.wa.gov, AND RECEIVED BY February 21, 2017.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Budgetary limits on child care subsidy programs require rules for administering wait lists in the event consumer need exceeds program capacity. These rules clarify how wait lists will be administered, including prioritization, when benefits start for a consumer who is taken off the wait list, withdrawal from and reinstatement to the wait list, and provider payment terms.

Reasons Supporting Proposal: The department of early learning administers Washington state's WCCC and SCC subsidy programs. Forecasts for these programs indicate that consumer needs will exceed the program funds appropriated by the legislature before the end of June 2017 and likely exceed the 2018-19 appropriation. A substantial number of families placed on a WCCC wait list are likely to apply for and be determined eligible for SCC, and data indicates that SCC enrollment would therefore likely exceed its limit. Wait

lists will be created when consumer needs exceed the appropriated funds for these programs and it will be necessary to have rules in place for uniform administration and to inform the public of agency operations.

The proposals relate only to internal governmental operations that are not subject to violation by a person. DEL believes the proposals comply with RCW 34.05.353 (1)(a) and may be adopted through expedited rule making.

Statutory Authority for Adoption: RCW 43.215.060 and 43.215.070.

Statute Being Implemented: RCW 43.215.135; chapter 43.215 RCW.

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

Name of Proponent: DEL, governmental.

Name of Agency Personnel Responsible for Drafting: Matt Judge, Subsidy Policy Supervisor, DEL State Office, P.O. Box 40970, Olympia, WA 98504, (360) 725-4665; Implementation and Enforcement: DEL/DSHS, statewide.

December 21, 2016

Ross Hunter
Director

Wait List for Child Care Programs

NEW SECTION

WAC 170-290-2210 Eligibility. (1) If the applicant or reapplicant meets one of the qualifiers of the priority list and otherwise meets all eligibility requirements of Part II or III of this chapter, the applicant or reapplicant will not be placed on the wait list and will be eligible to receive WCCC subsidies. The priority list includes:

- (a) Families applying for or receiving TANF;
- (b) TANF families curing sanction;
- (c) Families that received subsidies within the last thirty days and:
 - (i) Have reapplied for subsidies; and
 - (ii) Have household income of two hundred percent federal poverty level or below.
- (d) Families that include a child with special needs;
- (e) Teen parents (under age twenty-two) who are not living with a parent/guardian, and are attending high school with an on-site child care center;
- (f) Families that are homeless according to the McKinney-Vento Act definition; and
- (g) Families that include a child enrolled in Early Head Start-Child Care Partnership slots.

(2) To the extent that available funds are insufficient to allow all priority groups to not be placed on the wait list and be eligible to receive WCCC subsidies, only the highest ranked groups will be prioritized. The priority groups are ranked in the order listed in subsection (1)(a) of this section, highest to lowest.

(3) An applicant or reapplicant not belonging to a group on the priority list will be placed on the wait list upon approval of eligibility.

(4) The consumer will be placed on the wait list based on the date of the application or reapplication.

(5) If the applicant or reapplicant remains on the wait list for twelve months or longer, a new eligibility determination will be required when child care becomes available.

NEW SECTION

WAC 170-290-2220 Benefits start. (1) DSHS notifies the consumer that child care is available by sending written notice.

(2) If otherwise eligible, the consumer's twelve-month eligibility period begins on the date the consumer is removed from the wait list.

NEW SECTION

WAC 170-290-2230 Withdrawal from and reinstatement to the wait list. (1) The consumer will be withdrawn from the wait list when the consumer does not return the requested income verification of new employment by the sixtieth day per WAC 170-290-0012.

(2) The consumer must reapply for eligibility per WAC 170-290-2210, if the required information is received after the end of the advance notice period.

(3) If the consumer is withdrawn from the wait list for not returning information and the consumer provides the requested information during the ten-day advance notice period and remains eligible for child care:

(a) DSHS may reinstate the consumer to the wait list; and

(b) DSHS may reinstate the consumer on the wait list using the same application date prior to the withdrawal from the wait list.

NEW SECTION

WAC 170-290-2240 Provider payments. (1) The consumer chooses an eligible provider under WAC 170-290-0125 and the provider cares for the children during an eligibility period.

(2) Provider payment begin date is:

(a) The date the family comes off the wait list when an eligible provider is already providing care;

(b) The date an eligible provider begins to provide care after the family comes off the wait list; or

(c) The date a provider becomes an eligible provider, when providing care before the provider is eligible and the family comes off the wait list.

(3) DSHS will send an authorization letter to the consumer and provider.

NEW SECTION

WAC 170-290-3506 Wait list for seasonal child care. The wait list for seasonal child care is determined as provided in WAC 170-290-2210 through 170-290-2240.

**WSR 17-01-157
EXPEDITED RULES
DEPARTMENT OF
EARLY LEARNING**

[Filed December 21, 2016, 9:47 a.m.]

Title of Rule and Other Identifying Information: WAC 170-290-0030 Consumers' responsibilities.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Lori Anderson, Rules Coordinator, Department of Early Learning (DEL), P.O. Box 40970, Olympia, WA 98504-0970, or email rules@del.wa.gov, AND RECEIVED BY February 21, 2017.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposal strikes language that conflicts with WAC 170-290-0125, which is incorporated by reference. Additionally, the language that directs DEL's subsidized child care program consumers to pay for child care not eligible for program benefits has been edited to improve clarity. The proposed amendments do not make policy changes to the existing rule.

Reasons Supporting Proposal: DEL administers Washington state's working connections child care subsidy program. WAC 170-290-0030 explains the responsibilities of program applicants and consumers. The proposed amendment (1) better clarifies for program consumers and providers the consumers' responsibilities by removing conflicting language and (2) improves readability by using more concise language.

DEL believes the proposed amendments comply with RCW 34.05.353 (1)(a) and may be adopted through expedited rule making.

Statutory Authority for Adoption: RCW 43.215.060 and 43.215.070.

Statute Being Implemented: RCW 43.215.135; chapter 43.215 RCW.

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

Name of Proponent: DEL, governmental.

Name of Agency Personnel Responsible for Drafting: Matt Judge, Subsidy Policy Supervisor, DEL State Office, P.O. Box 40970, Olympia, WA 98504, (360) 725-4665; Implementation and Enforcement: DEL/DSHS, statewide.

December 21, 2016

Ross Hunter

Director

AMENDATORY SECTION (Amending WSR 16-09-059, filed 4/15/16, effective 5/16/16)

WAC 170-290-0030 Consumers' responsibilities.

When a person applies for or receives WCCC benefits, the applicant or consumer must, as a condition of receiving those benefits:

(1) Give DSHS correct and current information so DSHS can determine eligibility and authorize child care payments correctly;

(2) Choose a provider who meets requirements of WAC 170-290-0125;

(3) Pay the copayment directly to the child care provider or arrange for a third party to pay the copayment directly to the provider;

(4) In cases of overdue or past due copayments, the consumer, as a condition of maintaining eligibility, must do one or more of the following:

(a) Pay past or overdue copayments;

(b) Give DSHS a written agreement between the provider and consumer to verify that copayment arrangements include one or more of the following:

(i) An installment payment plan;

(ii) A collection agency payment plan;

(iii) In-kind services in lieu of paying the copayment; or

(iv) Forgiveness of the copayment from the provider; or

(c) Provide proof that the consumer has attempted to pay a copayment to a licensed provider who is no longer in business or a license-exempt provider who is no longer providing child care. "Proof" includes, but is not limited to, a return receipt that was signed for and not responded to, or a returned document that was not picked up;

~~(5) ((Only use WCCC benefits while the consumer is participating in WCCC approved activities outside the consumer's home;~~

~~(6)) Pay the provider for child care services when the consumer requests additional child care ((for personal reasons other than participating in WCCC approved activities that have been authorized by DSHS)) beyond the current authorization;~~

~~((7)) (6) Pay the provider for optional child care programs that the consumer requests. The provider must have a written policy in place charging all families for these optional child care programs;~~

~~((8)) (7) Pay the provider the same late fees that are charged to other families, if the consumer pays a copayment late or picks up the child late;~~

~~((9)) (8) Ensure that care is provided in the correct home per WAC 170-290-0130 if the consumer uses an in-home/relative provider, and monitor the in-home/relative provider's quality of care to ensure that the child's environmental, physical, nutritional, emotional, cognitive, safety, and social needs are being met;~~

~~((10)) (9) Cooperate (provide the information requested) with the child care subsidy audit process:~~

(a) A consumer becomes ineligible for WCCC benefits upon a determination of noncooperation;

(b) The consumer remains ineligible until he or she meets child care subsidy audit requirements;

(c) The consumer may become eligible again when he or she meets WCCC requirements in part II of this chapter and cooperates;

(d) Care can begin on or after the date the consumer cooperated and meets WCCC requirements in Part II of this chapter.

~~((11)) (10) Provide the information requested by the fraud early detection (FRED) investigator from the DSHS office of fraud and accountability (OFA). If the consumer refuses to provide the information requested within fourteen days, it could affect the consumer's benefits;~~

~~((12)) (11) Document their child's attendance in child care by having the consumer or other person authorized by the consumer to take the child to or from the child care:~~

(a) If the provider uses a paper attendance record, sign the child in on arrival and sign the child out at departure, using their full signature and writing the time of arrival and departure; or

(b) Record the child's attendance using an electronic system if used by the provider;

~~((13)) (12) Provide the in-home/relative provider the names, addresses, and telephone numbers of persons who are authorized to pick up the child from care; and~~

~~((14)) (13) Ensure that their children who receive child care outside of their own home are current on all immunizations required under WAC 246-105-030, except when the parent or guardian provides:~~

(a) A department of health (DOH) medical exemption form signed by a health care professional; or

(b) A DOH form or similar statement signed by the child's parent or guardian expressing a religious, philosophical or personal objection to immunization.