

**WSR 19-02-001**  
**RECISSION OF EMERGENCY RULES**  
**DEPARTMENT OF**  
**CHILDREN, YOUTH, AND FAMILIES**

[Filed December 19, 2018, 1:38 p.m., effective January 19, 2019]

Effective January 19, 2019, the department of children, youth, and families requests to rescind the family friend and neighbor emergency rules filed as WSR 18-20-093 on October 1, 2018, as the permanent rules have been filed. Questions may be directed to Brenda Villarreal, rules coordinator, by calling 360-902-7956 or email [dcyf.rulescoordinator@dcyf.wa.gov](mailto:dcyf.rulescoordinator@dcyf.wa.gov).

December 19, 2018  
 Brenda Villarreal  
 Rules Coordinator

**WSR 19-02-007**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 18-335—Filed December 20, 2018, 11:18 a.m., effective January 1, 2019]

Effective Date of Rule: January 1, 2019.

Purpose: Amend recreational fishing rules for Drano Lake.

Citation of Rules Affected by this Order: Repealing WAC 220-312-03000J.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

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

Reasons for this Finding: This rule is necessary to return Drano Lake to permanent rule. Drano Lake was closed to angling in mid-October due to poor returns of fall Chinook to Little White Salmon National Fish Hatchery. Fall Chinook will no longer be present beginning January 1, 2019, when fisheries for steelhead and other fish will resume.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: December 20, 2018.

James B. Scott, Jr.  
 for Kelly Susewind  
 Director

**REPEALER**

The following section of the Washington Administrative Code is repealed effective January 1, 2019:

WAC 220-312-03000J Freshwater exceptions to statewide rules—Southwest. (18-331)

**WSR 19-02-010**  
**EMERGENCY RULES**  
**HEALTH CARE AUTHORITY**

[Filed December 20, 2018, 3:07 p.m., effective January 1, 2019]

Effective Date of Rule: January 1, 2019.

Purpose: The agency is creating new sections and amending others within chapter 182-547 WAC, Hearing aids, to restore coverage of hearing instruments for adults.

Citation of Rules Affected by this Order: New WAC 182-547-0750, 182-547-0850, 182-547-0950 and 182-547-1050; and amending WAC 182-547-0100, 182-547-0200, and 182-547-1100.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160, E2SSB 5179, 65th legislature, 2018 regular session.

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

Reasons for this Finding: This rule making in [is] necessary to implement the requirements of E2SSB 5179, 65th legislature, 2018 regular session, effective January 1, 2019, while the permanent rules are finalized.

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 3, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental 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 4, Amended 3, Repealed 0.

Date Adopted: December 20, 2018.

Wendy Barcus  
 Rules Coordinator

AMENDATORY SECTION (Amending WSR 13-20-013, filed 9/20/13, effective 10/21/13)

**WAC 182-547-0100 (~~(Hearing aids)~~)General(~~—For clients twenty years of age and younger~~)**. Unless otherwise defined in WAC 182-547-0200, the terms within this chapter are intended to correspond with the terms in chapter 18.35 RCW.

(1) The medicaid agency covers the hearing aids listed in this chapter, according to agency rules and subject to the limitations and requirements in this chapter. See also WAC 182-531-0375 audiology services.

(2) The agency pays for hearing aids when:

(a) Covered;

(b) Within the scope of an eligible client's medical care program;

(c) Medically necessary as defined under WAC 182-500-0070;

(d) Authorized, as required within this chapter, chapters 182-501 and 182-502 WAC, and the agency's published billing instructions and provider notices;

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

(f) The client (~~(is twenty years of age or younger and)~~) completes a hearing evaluation, including an audiogram and/or developmentally appropriate diagnostic physiologic test results performed and/or interpreted by a hearing health care professional.

(3) The agency requires prior authorization for covered hearing aids when the clinical criteria set forth in this chapter are not met. The agency evaluates these requests on a case-by-case basis to determine whether they are medically necessary, according to the process found in WAC 182-501-0165.

AMENDATORY SECTION (Amending WSR 13-20-013, filed 9/20/13, effective 10/21/13)

**WAC 182-547-0200 (~~(Hearing aids)~~)Definitions**. The following definitions and those found in chapter 182-500 WAC apply to this chapter.

**"Bone-anchored hearing aid (BAHA)" or "bone conduction hearing device"** means a type of hearing aid that transmits sound vibrations through bones in the head. The inner ear translates the vibrations the same way a normal ear translates sound waves. These devices can be surgically implanted or worn on headbands.

**"Cochlear implant"** means an electronic hearing device designed to produce useful hearing sensations to a person with severe to profound deafness by electrically stimulating nerves inside the inner ear. A cochlear implant has a surgically implanted receiver and electrode system in the inner ear and an external microphone, sound processor, and transmitter system. The external system may be worn entirely behind the ear or its parts may be worn in a pocket, belt pouch, or harness.

**"Digital hearing aids"(~~(—Hearing aids)~~)** means wearable sound-amplifying devices that use a digital circuit to analyze and process sound.

**"Hearing aids"(~~(—)~~)** means wearable sound-amplifying devices that are intended to compensate for hearing loss.

Hearing aids are described by where they are worn in the ear as in-the-ear (ITE), behind-the-ear (BTE), etc. Hearing aids can also be described by how they process the amplified signal. This would include analog conventional, analog programmable, digital conventional, and digital programmable.

**"Hearing health care professional"(~~(—)~~)** means an audiologist or hearing aid fitter/dispenser licensed under chapter 18.35 RCW, or an otorhinolaryngologist or otologist licensed under chapter 18.71 RCW.

**"Maximum allowable fee"(~~(—)~~)** means the maximum dollar amount that the agency will pay a provider for specific services, supplies and equipment.

**"Prior authorization"(~~(—)~~)** means a form of authorization used by the provider to obtain approval for a specific hearing aid and service(s). The approval is based on medical necessity and must be received before the service(s) are provided to clients as a precondition for payment.

AMENDATORY SECTION (Amending WSR 13-20-013, filed 9/20/13, effective 10/21/13)

**WAC 182-547-1100 (~~(Hearing aids)~~)Reimbursement—General**. (1) The medicaid agency's payment for purchased hearing aids includes all of the following:

(a) (~~(A prefitting)~~) The audiometric evaluation;

(b) An impression for an ear mold;

(c) The ear mold; (~~(and~~

(e) A minimum of three post-fitting consultations.)

(d) The dispensing fee;

(e) A conformity evaluation, if done;

(f) Three batteries; and

(g) Up to three follow-up visits for the fitting, orientation, and checking of the hearing aid.

(2) The agency denies payment for hearing aids and/or services when claims are submitted without the prior authorization number, when required, or the appropriate diagnosis or procedure code(s).

(3) The agency does not pay for hearing aid charges paid by insurance or other payer source.

(4) To receive payment, the provider must keep documentation in the client's medical file to support the medical necessity for the specific make and model of the hearing aid ordered for the client. This documentation must include the record of the audiology testing providing evidence that the client's hearing loss meets the eligibility criteria for a hearing aid.

#### NEW SECTION

**WAC 182-547-0750 Eligibility—Clients age twenty-one and older**. (1) Clients age twenty-one and older who are receiving services under one of the following medical assistance programs are eligible for hearing aids and related services:

(a) A categorically needy (CN) medicaid program;

(b) The medical care services (MCS) program; or

(c) An alternative benefit plan (ABP) program.

(2) Clients enrolled in a medicaid agency-contracted managed care organization (MCO) must arrange for hearing aid and related services directly through the client's MCO. Additionally, clients enrolled in an agency-contracted MCO

must obtain replacement parts for cochlear implants and bone-anchored hearing aids (Baha®), including batteries, through their MCO.

#### NEW SECTION

**WAC 182-547-0850 Coverage—Clients age twenty-one and older.** (1) **Nonrefurbished, monaural hearing aids.** The medicaid agency covers one new nonrefurbished monaural hearing aid, which includes the ear mold, every five years for clients age twenty-one and older.

(a) The client must have an average decibel loss of forty-five or greater in the better ear, based on a pure-tone audiometric evaluation by a licensed audiologist or a licensed hearing aid specialist at 1000, 2000, 3000, and 4000 hertz (Hz) with effective masking as indicated.

(b) The hearing aid must meet the client's specific hearing needs and carry a manufacturer's warranty for a minimum of one year.

(2) **Binaural hearing aids.** The agency covers binaural hearing aids with prior authorization (PA).

(3) **Replacement.** The agency covers the following replacements if the need for replacement is not due to the client's carelessness, negligence, recklessness, deliberate intent, or misuse under WAC 182-501-0050:

(a) One replacement hearing aid, including the ear mold, in a five-year period when the client's hearing aid(s) is lost or broken and cannot be repaired, and the warranty is expired; and

(b) One replacement ear mold, per year, when the client's existing ear mold is damaged or no longer fits the client's ear.

(4) **Repair of hearing aids.** The agency covers two repairs, per hearing aid, per year, when the cost of the repair is less than fifty percent of the cost of a new hearing aid. To receive payment, all of the following must be met:

(a) All warranties are expired; and

(b) The repair is under warranty for a minimum of ninety days.

(5) **Repair or replacement of external parts of cochlear devices and bone-anchored hearing aids (BAHAs).** The agency covers the following with PA.

(a) Repair or replacement of external parts of cochlear devices. If the client has bilateral cochlear devices, both devices are eligible for repair and replacement of external parts; and

(b) Repair or replacement of external parts of BAHAs, whether implanted or worn with a headband. If the client has bilateral BAHAs, both devices are eligible for repair and replacement of external parts.

(6) **Rental of hearing aids.** The agency covers rental hearing aid(s) for up to two months while the client's own hearing aid(s) is being repaired. For rental hearing aid(s) only, the agency pays separately for an ear mold(s).

(7) **Second hearing aid.** The agency pays for a second hearing aid when the client meets the following expedited prior authorization clinical criteria or PA for a limitation extension is requested:

(a) The client tries one hearing aid for a six-month period, but the hearing aid does not adequately meet the client's hearing need; and

(b) One of the following reasons is documented in the client's record:

(i) Inability to hear has caused difficulty with job performance;

(ii) Inability to hear has caused difficulty in functioning in the school environment; or

(iii) Client is legally blind.

#### NEW SECTION

**WAC 182-547-0950 Noncovered services—Clients age twenty-one and older.** (1) The medicaid agency does not cover the following items for clients age twenty-one and older:

(a) Batteries;

(b) Tinnitus maskers;

(c) Frequency modulation (FM) systems, including the computer-aided hearing devices for FM systems; and

(d) Nonprescription hearing aids or similar devices including, but not limited to:

(i) Personal sound amplification products (PSAPs);

(ii) Hearables; and

(iii) Pocket talkers or similar devices.

(2) The agency evaluates requests for noncovered hearing aids and related services according to WAC 182-501-0160.

#### NEW SECTION

**WAC 182-547-1050 Prior authorization—Clients age twenty-one and older.** (1) For covered services that require prior authorization (PA), the provider must properly request authorization in accordance with the medicaid agency's rules and billing instructions.

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

(3) When the agency authorizes hearing aids or hearing aid-related services, the PA indicates only that the specific service is medically necessary; it is not a guarantee of payment. The client must be eligible for covered services at the time those services are provided.

(4) To receive payment, providers must order and dispense hearing aids and hearing aid-related services within the authorized time frame.

### **WSR 19-02-022**

#### **EMERGENCY RULES**

#### **HEALTH CARE AUTHORITY**

[Filed December 21, 2018, 10:12 a.m., effective January 1, 2019]

Effective Date of Rule: January 1, 2019.

Purpose: The agency is amending WAC 182-501-0060 Health care coverage—Program benefit packages—Scope of service categories, to implement E2SSB 5179, which restores coverage of hearing instruments for adults.

Citation of Rules Affected by this Order: Amending WAC 182-501-0060.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160, E2SSB 5179, 65th legislature, 2018 regular session.

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

Reasons for this Finding: This rule making is necessary to implement the requirements of E2SSB 5179, 65th legislature, 2018 regular session, effective January 1, 2019, while the permanent rules are finalized.

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 the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: December 21, 2018.

Wendy Barcus  
Rules Coordinator

**AMENDATORY SECTION** (Amending WSR 15-07-083, filed 3/17/15, effective 4/17/15)

**WAC 182-501-0060 Health care coverage—Program benefit packages—Scope of service categories.** (1) This rule provides a table that lists:

(a) The following Washington apple health (WAH) programs:

- (i) The alternative benefits plan (ABP) medicaid;
- (ii) Categorically needy (CN) medicaid;
- (iii) Medically needy (MN) medicaid; and

(iv) Medical care services (MCS) programs (includes incapacity-based and aged, blind, and disabled medical care services), as described in WAC 182-508-0005; and

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

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

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

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

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

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

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

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

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

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

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

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

(5) Programs not addressed in the table:

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

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

(c) Postpartum and family planning extension (see WAC 182-523-0130(4) and 182-505-0115(5));

(d) Eligibility for pregnant minors (see WAC 182-505-0117); and

(e) Kidney disease program (see chapter 182-540 WAC).

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

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

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

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

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

Service Categories	ABP 20-	ABP 21+	CN <sup>1</sup> 20-	CN 21+	MN 20-	MN 21+	MCS
Ambulance (ground and air)	Y		Y	Y	Y	Y	Y
Applied behavior analysis (ABA)	Y	N	Y	N	Y	N	N
Behavioral health services							
• Mental health (MH) inpatient care	Y	Y	Y	Y	Y	Y	Y
• MH outpatient community care	Y	Y	Y	Y	Y	Y	Y <sup>2</sup>
• MH psychiatric visits	Y	Y	Y	Y	Y	Y	Y <sup>3</sup>

Service Categories	ABP 20-	ABP 21+	CN <sup>1</sup> 20-	CN 21+	MN 20-	MN 21+	MCS
• MH medication management	Y	Y	Y	Y	Y	Y	Y
• Substance use disorder (SUD) detoxification	Y	Y	Y	Y	Y	Y	Y
• SUD diagnostic assessment	Y	Y	Y	Y	Y	Y	Y
• SUD residential treatment	Y	Y	Y	Y	Y	Y	Y
• SUD outpatient treatment	Y	Y	Y	Y	Y	Y	Y
Blood/blood products/related services	Y	Y	Y	Y	Y	Y	Y
Dental services	Y	Y	Y	Y	Y	Y	Y
Diagnostic services (lab and X-ray)	Y	Y	Y	Y	Y	Y	Y
Early and periodic screening, diagnosis, and treatment (EPSDT) services	Y	N	Y	N	Y	N	N
Habilitative services	Y	Y	N	N	N	N	N
Health care professional services	Y	Y	Y	Y	Y	Y	Y
Hearing evaluations	Y	Y	Y	Y	Y	Y	Y
Hearing aids	Y	<del>(N)</del> Y	Y	<del>(N)</del> Y	Y	<del>(N)</del> Y	<del>(N)</del> Y
Home health services	Y	Y	Y	Y	Y	Y	Y
Hospice services	Y	Y	Y	Y	Y	Y	N
Hospital services Inpatient/outpatient	Y	Y	Y	Y	Y	Y	Y
Intermediate care facility/services for persons with intellectual disabilities	Y	Y	Y	Y	Y	Y	Y
Maternity care and delivery services	Y	Y	Y	Y	Y	Y	Y
Medical equipment, durable (DME)	Y	Y	Y	Y	Y	Y	Y
Medical equipment, nondurable (MSE)	Y	Y	Y	Y	Y	Y	Y
Medical nutrition services	Y	Y	Y	Y	Y	Y	Y
Nursing facility services	Y	Y	Y	Y	Y	Y	Y
Organ transplants	Y	Y	Y	Y	Y	Y	Y
Orthodontic services	Y	N	Y	N	Y	N	N
Out-of-state services	Y	Y	Y	Y	Y	Y	N
Outpatient rehabilitation services (OT, PT, ST)	Y	Y	Y	Y	Y	N	Y
Personal care services	Y	Y	Y	Y	N	N	N
Prescription drugs	Y	Y	Y	Y	Y	Y	Y
Private duty nursing	Y	Y	Y	Y	Y	Y	N
Prosthetic/orthotic devices	Y	Y	Y	Y	Y	Y	Y
Reproductive health services	Y	Y	Y	Y	Y	Y	Y
Respiratory care (oxygen)	Y	Y	Y	Y	Y	Y	Y
School-based medical services	Y	N	Y	N	Y	N	N
Vision care Exams, refractions, and fittings	Y	Y	Y	Y	Y	Y	Y
Vision hardware Frames and lenses	Y	N	Y	N	Y	N	N

- 1 Clients enrolled in the Washington apple health for kids and Washington apple health for kids with premium programs, which includes the children's health insurance program (CHIP), receive CN-scope of health care services.
- 2 Restricted to incapacity-based MCS clients enrolled in managed care.
- 3 Incapacity-based MCS clients can receive one psychiatric diagnostic evaluation per year and eleven monthly visits per year for medication management.

**WSR 19-02-027**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 18-337—Filed December 21, 2018, 1:50 p.m., effective December 24, 2018]

Effective Date of Rule: December 24, 2018.

Purpose: Puget Sound commercial sea urchin fisheries.  
 Citation of Rules Affected by this Order: Repealing WAC 220-340-75000H; and amending WAC 220-340-750.

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

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is

necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This emergency rule is needed to close commercial sea urchin harvest in part of Districts 1 and 2 to prevent overharvest. Harvestable surpluses of sea urchin exist in the districts specified for commercial harvest. There is insufficient time to adopt permanent rules.

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

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: December 21, 2018.

Kelly Susewind  
Director

#### NEW SECTION

**WAC 220-340-75000I Commercial sea urchin fisheries.** Notwithstanding the provisions of WAC 220-340-750, effective December 24, 2018 until further notice, it is unlawful to take or possess sea urchins taken for commercial purposes except as provided for in this section:

(1) The following areas are open for red sea urchin harvest seven days-per-week: Sea Urchin District 1, District 2, and District 3 east of a line projected true north from the shoreline at 123 degrees 48.3 minutes west longitude, and District 4 west of a line projected true north from the shoreline at 123 degrees 52.7 minutes west longitude. It is unlawful to fish for, take, or possess red sea urchins smaller than 3.25 inches or larger than 5.0 inches (size is largest test diameter exclusive of spines).

(2) The following areas are open for green sea urchin harvest seven days-per-week: Sea Urchin District 3 east of a line projected true north from the shoreline at 123 degrees 48.3 minutes west longitude, District 4 west of a line projected true north from the shoreline at 123 degrees 52.7 minutes west longitude, District 6, and District 7 except all waters of Hale Passage and Wollochet Bay within the following lines: west of a line projected true south from the shoreline near Point Fosdick at 122°35 minutes west longitude to 47°14 minutes north latitude, and thence projected true west to the shoreline of Fox Island, and east of a line projected true south from the shoreline near Green Point at 122°41 minutes west longitude to 47°16.5 minutes north latitude, and thence projected true east to the shoreline of Fox Island. It is unlaw-

ful to fish for, take, or possess green sea urchins smaller than 2.25 inches (size is largest test diameter exclusive of spines).

(3) The following areas are open for green sea urchin harvest seven days-per-week, provided a designated representative of the Washington Department of Fish and Wildlife is on board the vessel: Marine Fish Shellfish Management and Catch Reporting Areas 23B, 25A, and 25B in Sea Urchin District 2.

(4) The maximum cumulative landings for red sea urchin and green sea urchin for each weekly fishery opening period is 1,500 pounds per species per valid designated sea urchin harvest license. Each fishery week begins Monday and extends through Sunday.

#### REPEALER

The following section of the Washington Administrative Code is repealed effective December 24, 2018:

WAC 220-340-75000H Commercial sea urchin fisheries.  
(18-318)

**WSR 19-02-028  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 18-338—Filed December 21, 2018, 1:57 p.m., effective December 22, 2018, 8:00 a.m.]

Effective Date of Rule: December 22, 2018, 8:00 a.m.

Purpose: Amends Puget Sound commercial crab rules.

Citation of Rules Affected by this Order: Repealing WAC 220-340-45500Q; and amending WAC 220-340-455.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

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

Reasons for this Finding: This rule is a simple pot limit increase in Region 1. It will maintain the current closures of Region 2 East and Region 2 West. It will continue the Puget Sound commercial crab harvest in Region 1, 3-1, 3-2, 3-3 East and 3-3 West. This rule increases the pot limits in Region 1 from thirty-five pots per license to forty pots per license. Pot limits in Region 3-2, 3-3 East and 3-3 West will remain at sixty pots per license. In Region 3-1, fishers are still allowed to use their maximum of one hundred pots per license. There is sufficient allocation available in the commercial regions to accommodate the continued opening. These provisions are in conformity with agreed management plans with applicable tribes. These management plans are entered into as required by court order. The Puget Sound commercial season is structured to meet harvest allocation objectives negotiated with applicable treaty tribes and outlined in the management plans. There is insufficient time to adopt permanent rules.

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

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: December 21, 2018.

Kelly Susewind  
Director

#### NEW SECTION

**WAC 220-340-45500R Commercial crab fishery—Seasons and areas—Puget Sound.** Notwithstanding the provisions of WAC 220-340-455:

(1) Effective at 8:00 a.m. December 22, 2018, until further notice, it is unlawful for any license holder or alternate operator to fish for crabs for commercial purposes with more than 40 pots per license in Crab Management Region 1. Region 1 includes Marine Fish-Shellfish Catch Reporting Areas 20A, 20B, 21A, 21B, 22A, and 22B.

(2) Effective immediately, until further notice, Crab Management Region 2W is closed. Region 2 West includes Marine Fish-Shellfish Catch Reporting Areas 25B, 25D and 26AW.

(3) Effective immediately until further notice, Crab Management Region 2E is closed. Region 2 East includes Marine Fish-Shellfish Catch Reporting Areas 24A, 24B, 24C, 24D and 26A East.

(4) Effective immediately, until further notice, it is unlawful for any license holder or alternate operator to fish for crabs for commercial purposes with more than 60 pots per license in Crab Management Region 3-2, Region 3-3 East or Region 3-3 West. These regions include Marine Fish-Shellfish Catch Reporting Areas 25A, 25E, 23D, 23C and 29.

(5) Effective immediately, until further notice, it is unlawful for any license holder or alternate operator to fish for crabs for commercial purposes with more than 100 pots per license in Crab Management Region 3-1. This region includes Marine Fish-Shellfish Catch Reporting Area 23A and 23B.

(6) All remaining buoy tags per license must be onboard the designated vessel and available for immediate inspection.

(7) Effective immediately, until further notice, it is permissible to fish for Dungeness crab for commercial purposes in the following areas:

(a) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 20A between a line from the boat ramp at the western boundary of Birch Bay State Park to the

western point of the entrance of the Birch Bay Marina and a line from the same boat ramp to Birch Point.

(b) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 22B in Fidalgo Bay south of a line projected from the red number 4 entrance buoy at Cape Sante Marina to the northern end of the eastern most oil dock.

(c) Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 22A in Deer Harbor north of a line projected from Steep Point to Pole Pass.

(8) Effective immediately, until further notice, the following areas are closed to commercial crab fishing:

(a) That portion of Marine Fish-Shellfish Management and Catch Reporting Area 25A west of the 123° 7.0' longitude line projected from the new Dungeness light due south to the shore of Dungeness Bay.

(b) That portion of Marine Fish-Shellfish Management and Catch Reporting Area 23D west of a line from the eastern tip of Ediz Hook to the ITT Rayonier Dock.

#### REPEALER

The following section of the Washington Administrative code is repealed effective 8:00 a.m. December 22, 2018:

WAC 220-340-45500Q Commercial crab fishery—Seasons and areas—Puget Sound. (18-334)

#### **WSR 19-02-032**

#### **EMERGENCY RULES**

#### **DEPARTMENT OF**

#### **FISH AND WILDLIFE**

[Order 18-336—Filed December 21, 2018, 3:47 p.m., effective January 1, 2019]

Effective Date of Rule: January 1, 2019.

Purpose: Amend recreational salmon fishing rules for Catch Record Card Area 10.

Citation of Rules Affected by this Order: Amending WAC 220-313-060.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

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

Reasons for this Finding: This emergency rule is needed to reduce the salmon daily limit in Catch Record Card Area 10. Based on abundance estimates there is not sufficient salmon available to maintain a fishery though [through] the planned season. A daily limit of one salmon will increase the potential of the winter fishery to remain open for the entire winter season. There is insufficient time to adopt permanent rules.

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

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

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: December 21, 2018.

Nate Pamplin  
for Kelly Susewind  
Director

#### NEW SECTION

**WAC 220-313-06000V Puget Sound salmon—Salt-water seasons and daily limits.** Notwithstanding the provisions of WAC 220-313-060, the following rules apply effective January 1 through March 31, 2019:

Catch Record Card Area 10:

(a) January 1 through March 31:

(i) Daily limit of 1 salmon.

(ii) Release wild Chinook.

(b) Waters of Agate Pass west of a line from Point Monroe to Indianola and east of a line from Point Bolin to Battle Point: Fly fishing only, lead core lines prohibited, and catch and release from January 1 through January 31.

**WSR 19-02-041  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 18-339—Filed December 26, 2018, 11:21 a.m., effective December 26, 2018, 11:21 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Amends recreational harvest rules for razor clams.

Citation of Rules Affected by this Order: Repealing WAC 220-330-16000W; and amending WAC 220-330-160.

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

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

Reasons for this Finding: This emergency rule is needed to open the recreational razor clam season. Survey results show that adequate clams are available for harvest in Razor Clam Areas 3, 4 and 5 for recreational harvest. Washington department of health has certified clams from this beach to be

safe for human consumption. Razor clam beaches are closed by permanent rules unless opened by an emergency rule. There is insufficient time to adopt permanent rules.

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

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: December 26, 2018.

Eric Gardner  
for Kelly Susewind  
Director

#### NEW SECTION

**WAC 220-330-16000W Razor clams—Areas and seasons.** Notwithstanding the provisions of WAC 220-330-160, it is unlawful to take, dig for or possess razor clams taken for personal use from any beaches in any razor clam area except as provided for in this section:

(1) Effective 12:01 p.m. January 2, 2019 through 11:59 p.m. January 6, 2019, razor clam digging is permissible in Razor Clam Area 3. Digging is permissible from 12:01 p.m. to 11:59 p.m. each day only.

(2) Effective 12:01 p.m. January 5, 2019 through 11:59 p.m. January 5, 2019 razor clam digging is permissible in Razor Clam Area 4. Digging is permissible from 12:01 p.m. to 11:59 p.m. only.

(3) Effective 12:01 p.m. January 4, 2019 through 11:59 p.m. January 4, 2019 and 12:01 p.m. January 6, 2019 through 11:59 p.m. January 6, 2019, razor clam digging is permissible in Razor Clam Area 5. Digging is permissible from 12:01 p.m. to 11:59 p.m. each day only.

(4) It is unlawful to dig for razor clams at any time in the Twin Harbors and Copalis Beach Clam sanctuaries defined in WAC 220-320-130.

#### REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. January 7, 2019:

WAC 220-330-16000W Razor clams—Areas and seasons.



**WSR 19-02-073****EMERGENCY RULES****DEPARTMENT OF****SOCIAL AND HEALTH SERVICES**

(Developmental Disabilities Administration)

[Filed December 31, 2018, 8:00 a.m., effective January 1, 2019]

Effective Date of Rule: January 1, 2019.

Purpose: The department is amending WAC 388-101D-0025 and repealing WAC 388-101D-0120 to remove requirements for hourly staffing schedules.

Citation of Rules Affected by this Order: Repealing WAC 388-101D-0120; and amending WAC 388-101D-0025.

Statutory Authority for Adoption: RCW 71A.12.030, 71A.12.120.

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

Reasons for this Finding: ESSB 6032 (2018) directs the department to replace hourly payment methodology with a tiered rate methodology for residential services providers. Amended language in WAC 388-101D-0025 is necessary to implement the tiered rate methodology because providers will no longer need to staff within contracted hours, and will instead receive a daily rate. Repealing WAC 388-101D-0120 removes the requirement for providers to obtain approval for staffing schedules, which is no longer necessary under the tiered rate methodology. The Centers for Medicare and Medicaid Services approved the developmental disabilities administration's waiver amendments, which require implementation of the tiered rate system on January 1, 2019. Enacting these rules on an emergency basis is necessary to meet deadlines under ESSB 6032 and the approved waiver amendments.

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 1.

Number of Sections Adopted at the Request of a Non-governmental 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 1.

Date Adopted: December 20, 2018.

Katherine I. Vasquez  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 16-14-058, filed 6/30/16, effective 8/1/16)

**WAC 388-101D-0025 Service provider responsibilities.** (1) Service providers must meet the requirements of:

- (a) This chapter;
  - (b) Each contract and statement of work entered into with the department;
  - (c) Each client's individual support plan when the individual support plan identifies the service provider as responsible; and
  - (d) Each client's individual instruction and support plan.
- (2) The service provider must:
- (a) Have a designated administrator and notify the department when there is a change in administrator;
  - (b) Ensure that clients have immediate access to staff, or the means to contact staff, at all times;
  - (c) Provide adequate staff (~~((within contracted hours to administer the program and))~~) to meet the needs of clients as identified in their person-centered service plans;
  - (d) Not routinely involve clients in the unpaid instruction and support of other clients;
  - (e) Not involve clients receiving crisis diversion services in the instruction and support of other clients; and
  - (f) Retain all records and other material related to the residential services contract for six years after expiration of the contract.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 388-101D-0120 Approval of staff-coverage schedules.

**WSR 19-02-080****EMERGENCY RULES****DEPARTMENT OF****FISH AND WILDLIFE**

[Order 18-340—Filed December 31, 2018, 12:44 p.m., effective January 1, 2019, 8:00 a.m.]

Effective Date of Rule: January 1, 2019, 8:00 a.m.

Purpose: Amends coastal commercial crab rules.

Citation of Rules Affected by this Order: Amending WAC 220-340-420 and 220-340-450.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.12.045, and 77.12.047.

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

Reasons for this Finding: This rule is necessary to open coastal commercial crabbing. Mandatory pick rate allowance for coastal crab will be achieved by the opening dates contained herein. The stepped opening periods/areas will also

provide for fair start provisions. Pot limits will reduce the crowding effect in this restricted area and language improves enforcement of pot limits. A longer gear set period will allow for safer fishing conditions. A delay due to elevated marine toxins aligns with the Tri-State Crab Agreement and similar rules in Oregon and California. There is insufficient time to adopt permanent rules.

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

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: December 31, 2018.

Jeff Davis  
for Kelly Suswind  
Director

#### NEW SECTION

**WAC 220-340-42000K Commercial crab fishery—Unlawful acts.** Notwithstanding the provisions of WAC 220-340-420, effective immediately until further notice:

(1) It is unlawful for any fisher or wholesale dealer or buyer to land or purchase Dungeness crab taken from Grays Harbor, Willapa Bay, Columbia River, or Washington coastal or adjacent waters of the Pacific Ocean from any vessel, unless:

(a) The vessel inspection certificate numbers are recorded on all shellfish tickets completed for coastal Dungeness crab landings until February 14, 2019 and;

(b) A valid Washington crab vessel inspection certificate has been issued to the delivering vessel. Vessel-hold inspection certificates dated from January 3, 2019 to January 8, 2019, are only valid for the area south of 46°28.00 N. Lat.

(2) It is unlawful for persons participating in the Columbia River, Coastal, or Willapa Bay commercial Dungeness crab fishery until 8:00 a.m. January 7, 2019 to:

(a) Deploy or operate more than 400 shellfish pots if the permanent number of shellfish pots assigned to the Coastal commercial crab fishery license held by that person is 500.

(b) Deploy or operate more than 250 shellfish pots if the permanent number of shellfish pots assigned to the Coastal Dungeness crab fishery license held by that person is 300.

(c) Fail to maintain onboard any participating vessel the excess crab pot buoy tags assigned to the Coastal Dungeness crab fishery license being fished.

(3) It is unlawful to possess or deliver Dungeness crab unless the following conditions are met:

(a) Vessels that participated in the coastal Dungeness crab fishery from Klipsan Beach (46°28.00 North Latitude) to Point Arena, CA, including Willapa Bay and the Columbia River, may possess crab for delivery into Washington ports south of 47°00.00 N. Lat., provided the crab were taken south of Klipsan (46°28.00 N. Lat.).

(b) The vessel does not enter the area north of 47°00.00 N. Lat. unless the operator of the vessel has contacted the Washington Department of Fish and Wildlife prior to entering this area. Prior to entering the area north of 47°00.00 N. Lat., the vessel operator must call 360-581-3337, and report the vessel name, operator name, estimated amount of crab to be delivered in pounds, and the estimated date, time, and location of delivery 24 hours prior to entering the area.

(4) It is unlawful for a vessel not designated on a Dungeness crab coastal fishery license to deploy crab pot gear except under the following conditions:

(a) The vessel deploys pot gear only during the 73-hour period immediately preceding the season opening date and during the 48-hour period immediately following the season opening date;

(b) The undesignated vessel carries no more than 250 crab pots at any one time; and;

(c) The primary or alternate operator of the crab pot gear named on the license associated with the gear is on board the undesignated vessel while the gear is being deployed.

(5) Violation of subsection (5) of this section is a gross misdemeanor or class C felony punishable under RCW 77.15.500 Commercial fishing without a license—Penalty, depending on the circumstances of the violation.

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

#### NEW SECTION

**WAC 220-340-45000I Commercial crab fishery—Seasons and areas—Coastal.** Notwithstanding the provisions of WAC 220-340-450 effective immediately until further notice: it is unlawful to fish for Dungeness crab in Washington coastal waters, the Pacific Ocean, Grays Harbor, Willapa Bay, or the Columbia River, except as provided in this section.

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

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

(b) It is permissible to set crab gear beginning at 8:00 a.m., January 1, 2019.

(c) It is permissible to pull crab gear beginning at 9:00 a.m., January 4, 2019.

(d) Licenses and vessels designated to those licenses that participate in the coastal commercial Dungeness crab fishery in the waters from Point Arena, California, to Klipsan Beach, Washington (46°28.00), including Willapa Bay, before the area north of Klipsan Beach (46°28.00) opens, are prohibited from fishing in the following areas for the durations specified:

- i. The waters between Klipsan Beach (46°28.00) and Oysterville (46°33.00) until 8:00 a.m. January 20, 2019; and
- ii. The waters between Oysterville (46°33.00) and the U.S./Canada border until 8:00 a.m. February 14, 2019.

(2) Open area: The area from Klipsan Beach (46°28.00) to Destruction Island (47°40.50) and Grays Harbor.

(a) It is permissible to set crab gear beginning at 8:00 a.m., January 7, 2019.

(b) It is permissible to pull crab gear beginning at 9:00 a.m., January 10, 2019.

(3) For waters of the Pacific Ocean north of Point Arena, California, it is unlawful for a person to use a vessel to fish in any area where the season opening is delayed due to marine biotoxins for the first 30 days following the opening of the area if the vessel was employed in the coastal crab fishery during the previous 45 days.

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

(a) Northeast Corner (Raft River):	47°28.00 N. Lat.	124°20.70 W. Lon.
(b) Northwest Corner:	47°28.00 N. Lat.	124°34.00 W. Lon.
(c) Southwest Corner:	47°08.00 N. Lat.	124°25.50 W. Lon.
(d) Southeast Corner (Copalis River):	47°08.00 N. Lat.	124°11.20 W. Lon.

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

(a) Northeast Corner (Cape Johnson):	47°58.00' N. Lat.	124°40.40' W. Lon.
(b) Northwest Corner:	47°58.00' N. Lat.	124°49.00' W. Lon.
(c) Southwest Corner:	47°40.50' N. Lat.	124°40.00' W. Lon.
(d) Southeast Corner (Destruction Island):	47°40.50' N. Lat.	124°24.43' W. Lon.

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

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

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

**WSR 19-02-082**  
**EMERGENCY RULES**  
**UNIVERSITY OF WASHINGTON**

[Filed December 31, 2018, 1:08 p.m., effective January 1, 2019]

Effective Date of Rule: January 1, 2019.

Purpose: Update the university's definition of service animal in WAC 478-128-020 to align with the effective date of the updates to RCW 49.60.040 concerning service animals as amended by chapter 176, Laws of 2018.

Citation of Rules Affected by this Order: Amending WAC 478-128-020.

Statutory Authority for Adoption: RCW 49.60.040.

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

Reasons for this Finding: The University of Washington finds good cause that new emergency WAC 478-128-020 is necessary to align the definition of service animal with the amended definition in RCW 49.60.040 at chapter 176, Laws of 2018 to be effective on January 1, 2019.

There is insufficient time under permanent rule-making procedures to update the definition in WAC 478-128-020 to coincide with the effective date of the new definition in RCW 49.60.040. The university intends to proceed with permanent rule making in the near future.

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 the Request of a Non-governmental 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: December 31, 2018.

Barbara Lechtanski  
Director of Rules Coordination

AMENDATORY SECTION (Amending WSR 09-08-016, filed 3/23/09, effective 4/23/09)

**WAC 478-128-020 Definitions.** "Animal" means any living creature except human beings, fish, any research animal maintained in university facilities, or natural wildlife inhabiting university property. This definition includes, among other things, pets.

"Imminent danger" means a threat to human and/or animal life or university property that is immediate or reasonably foreseeable under the circumstances.

"Organic debris" means animal feces, urine, vomit, blood, etc.

"Owner" means any person having an interest in or right of possession to an animal, or any person having control, custody, or possession of an animal.

"Running at large" means to be off the owner's residential premises and not under the owner's direct control.

"Service animal" (~~means an animal, including guide dogs, individually trained to do work or perform tasks for the benefit of an individual with a disability, as defined by applicable state and/or federal laws, which includes but is not limited to, guiding individuals who are blind or have low vision, alerting individuals who are deaf or hard of hearing, providing minimal protection, pulling a wheelchair, or fetching dropped items~~) has the same meaning as defined in RCW 49.60.040.

"Service animal in training" means (~~an animal~~) a dog or miniature horse that is being trained ((for the purpose of assisting or accommodating an individual with a disability as defined by applicable state and/or federal laws)) to be a service animal, as that term is defined in RCW 49.60.040.

"University property" means property that the university owns as well as property that the university operates, leases, rents, or otherwise controls.

"Working animal" means an animal that is trained for specific tasks and under the control of police, security or emergency personnel, or other university employees or agents. Examples of working animals include, but are not limited to, patrol, rescue, or sentry dogs and therapy animals.

### WSR 19-02-083

#### EMERGENCY RULES DEPARTMENT OF

#### SOCIAL AND HEALTH SERVICES

(Aging and Long-Term Support Administration)

[Filed December 31, 2018, 4:42 p.m., effective January 1, 2019]

Effective Date of Rule: January 1, 2019.

Purpose: The department is amending WAC 388-106-1920 What is the maximum amount of step three services I may receive a month?, as a result of a rate change effective January 1, 2019.

Citation of Rules Affected by this Order: Amending WAC 388-106-1920.

Statutory Authority for Adoption: RCW 74.39A.030, 74.08.090.

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

Reasons for this Finding: The department is amending WAC 388-106-1920 to increase the step three benefit level for medicaid alternative care and tailored supports for older adult participants. This benefit level is tied to the home care agency rate that typically increases every six months. The department recently received notice of the new rate for home

care agencies effective January 1, 2019. Without the emergency in place to increase rates, clients will receive reduced service, which would negatively impact the general welfare of those served. The increase provides a greater level of safety and health for the recipients of this benefit.

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 the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: December 27, 2018.

Katherine I. Vasquez  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 18-20-001, filed 9/19/18, effective 10/20/18)

**WAC 388-106-1920 What is the maximum amount of step three services I may receive a month?** (1) Unless the department authorizes additional funds through an exception to rule under WAC 388-440-0001, beginning January 1, 2019, the maximum amount of step three services you and your caregiver may receive in MAC and TSOA will be published on the ALTSA/HCS rates website found on the MAC and TSOA tab at:

~~((a) From January 1, 2018 through June 30, 2018 is an average of five hundred fifty-eight dollars per month not to exceed three thousand three hundred forty-eight dollars in a six month period.~~

~~(b) Beginning July 1, 2018 is an average of five hundred seventy-three dollars per month not to exceed three thousand four hundred thirty-eight dollars in a six month period))~~ [https://www.dshs.wa.gov/sites/default/files/ALTSA/msd/documents/All\\_HCS\\_Rates.xls](https://www.dshs.wa.gov/sites/default/files/ALTSA/msd/documents/All_HCS_Rates.xls).

(2) If you are a care receiver who does not have an available unpaid caregiver, you are receiving TSOA personal assistance services, and the department has not authorized additional funds through an exception to rule under WAC 388-440-0001, beginning January 1, 2019, the maximum amount of step three services you may receive will be published on the ALTSA/HCS rates website found on the MAC and TSOA tab at:

~~((a) From January 1, 2018 through June 30, 2018 is five hundred fifty-eight dollars per month.~~

~~(b) Beginning July 1, 2018 is five hundred seventy-three dollars per month))~~ [https://www.dshs.wa.gov/sites/default/files/ALTSA/msd/documents/All\\_HCS\\_Rates.xls](https://www.dshs.wa.gov/sites/default/files/ALTSA/msd/documents/All_HCS_Rates.xls).