

WSR 19-18-004
PERMANENT RULES
TRANSPORTATION COMMISSION

[Filed August 22, 2019, 10:06 a.m., effective September 22, 2019]

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

Purpose: The purpose of this rule is to: (i) Increase ferry fares; (ii) modify certain fare categories; (iii) modify the vehicle reservation "no show" fee; (iv) authorize Washington state department of transportation to develop two fare pilot programs; and (v) per legislative direction, increase a capital surcharge to help fund new ferry construction, all within the specified Washington Administrative Code rules. The revisions follow the annual review of Washington state ferries' fares and policies.

Citation of Rules Affected by this Order: Amending WAC 468-300-010, 468-300-020, and 468-300-040.

Statutory Authority for Adoption: RCW 47.56.030, 47.60.315; and chapter 431, Laws of 2019.

Adopted under notice filed as WSR 19-14-104 on July 2, 2019.

Changes Other than Editing from Proposed to Adopted Version: Deferral of Anacortes to San Juan Islands oversized vehicle transfer changes from October 1, 2019, to May 1,

2020 (WAC 468-300-040 only). Clarification language was added on which fares are collected round trip.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 3, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 3, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: August 6, 2019.

Reema Griffith
 Executive Director

AMENDATORY SECTION (Amending WSR 17-18-018, filed 8/25/17, effective 9/25/17)

WAC 468-300-010 Ferry passenger tolls.

EFFECTIVE 03:00 A.M. October 1, ((2017)) 2019

ROUTES	Full Fare ⁹	Senior/ Disabled, Youth ⁹	Multiride Media 20 Rides ^{1,9}	Monthly Pass ^{5,9}	Bicycle Surcharge ²
Via Auto Ferry					
*Fautleroy-Southworth	((6.45)) 6.75	((3.20)) 3.35	((52.10)) 54.50	((83.40)) 87.20	1.00
*Seattle-Bremerton					
*Seattle-Bainbridge Island					
*Edmonds-Kingston	((8.35)) 8.65	((4.15)) 4.30	((67.30)) 69.70	((107.70)) 111.55	1.00
Port Townsend-Coupeville	((3.35)) 3.50	((1.65)) 1.75	((54.60)) 57.00	((87.40)) 91.20	0.50
*Fautleroy-Vashon					
*Southworth-Vashon					
*Pt. Defiance-Tahlequah	((5.45)) 5.65	((2.70)) 2.80	((44.10)) 45.70	((70.60)) 73.15	1.00
*Mukilteo-Clinton	((5.05)) 5.20	((2.50)) 2.60	((40.90)) 42.10	((65.45)) 67.40	1.00
*Anacortes to Lopez, Shaw, Orcas or Friday Harbor	((13.50)) 14.00	((6.70)) 7.00	((88.65)) 91.90	N/A	2.00 ⁶
Between Lopez, Shaw, Orcas and Friday Harbor ⁴	N/C	N/C	N/C	N/A	N/C
Anacortes to Sidney and Sidney to all destinations	((19.85)) 20.65	((9.85)) 10.30	N/A	N/A	4.00 ⁷
From Lopez, Shaw, Orcas and Friday Harbor to Sidney	((12.40)) 12.90	((6.10)) 6.40	N/A	N/A	2.00 ⁸
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) ³	((24.55)) 25.55	((11.90)) 12.55	N/A	N/A	4.00 ⁷

All fares rounded to the next multiple of \$0.05.

*These routes operate as a one-point toll collection system with round trip tolls.

¹MULTIRIDE MEDIA - Shall be valid only for 90 days from date of purchase after which time the tickets shall not be accepted for passage. Remaining value will not be eligible for refund or exchange. There shall be no commercial resale of this fare media. For mail order deliveries, WSF may add additional days to allow for delivery times.

²BICYCLE SURCHARGE - Is an addition to the appropriate passenger fare. Customers using multiride media and monthly passes are exempt from the bicycle surcharge. On all routes except Anacortes/San Juan Island/Sidney, B.C., customers paying with the ePurse or the ORCA card are exempt from the bicycle surcharge. For the purpose of WSF fare determination, the bicycle fare category shall include both bicycles as defined by RCW

46.04.071 and electric-assisted bicycles as defined in RCW 46.04.169. Bicycles towing a kayak or canoe are to be charged the motorcycle/driver (stowage) rate in WAC 468-300-020. This rate includes the fare for the walk on passenger with the bicycle, and the kayak or canoe being towed by the bicycle. This requirement shall not apply to interisland travel in the San Juan Islands. All other bicycles towing trailers are charged the applicable bicycle surcharge.

³ROUND TRIP - Round trip passage for international travel available for trips beginning or ending on one of the Islands served.

⁴INTER-ISLAND FARES - Passenger fares included in Anacortes tolls.

⁵PASSES - Passenger passes are available for all routes except Anacortes/San Juan Island/Sidney. Passes are valid for the period printed on the pass and will be presented to Washington state ferries staff or scanned through an automated turnstile whenever a passenger fare is collected. This pass is based on 16 days of passenger travel with a 20% discount. A \$1.00 retail/shipping and handling fee will be added to the price of the pass.

A combination ferry-transit pass may be available for a particular route when determined by Washington state ferries and a local public transit agency to be a viable fare instrument. The WSF portion of the fare is based on 16 days of passenger travel per month at a 20% discount.

The monthly pass is valid for a maximum of 31 round trips per month, is nontransferable, is nonreproducible, and is intended for a single user. Monthly passes purchased through the regional SmartCard program are also nontransferable and intended for a single user, but allow for unlimited usage.

⁶BICYCLE SURCHARGE - This becomes \$4.00 during peak season (May 1 through September 30).

⁷BICYCLE SURCHARGE - This becomes \$6.00 during peak season.

⁸BICYCLE SURCHARGE - This becomes \$3.00 during peak season.

⁹CAPITAL SURCHARGE - Included is a \$0.25 capital surcharge on each single passenger fare collected. On all multiride cards except for Port Townsend/Coupeville, there is included a capital surcharge of \$2.50. For Port Townsend/Coupeville, the included capital surcharge is \$5.00 on multiride cards. On all monthly passes except Port Townsend/Coupeville, there is included a \$4.00 capital surcharge. For Port Townsend/Coupeville, the included capital surcharge is \$8.00 on monthly passes.

CHILDREN/YOUTH - Children under six years of age will be carried free when accompanied by parent or guardian. Children/youths six through eighteen years of age will be charged the youth fare, which will be 50% of full fare rounded to the next multiple of \$0.05.

SENIOR CITIZENS - Passengers age 65 and over, with proper identification establishing proof of age, may travel at half-fare passenger tolls on any route where passenger fares are collected.

~~((PERSONS OF DISABILITY - Any individual who, by reason of illness, injury, congenital malfunction, or other incapacity or disability is unable without special facilities or special planning or design to utilize ferry system services))~~ PEOPLE WITH DISABILITIES - Any person who has a physical or mental impairment that substantially limits one or more major life activity, upon presentation of a WSF Disability Travel Permit, Regional Reduced Fare Permit, or other identification which establishes a disability may travel at half-fare passenger tolls on any route where passenger fares are collected. In addition, ~~((those persons))~~ people with disabilities who require attendant care while traveling on the ferries, and are so certified by their physician, may obtain an endorsement on their WSF Disability Travel Permit and such endorsement shall allow the attendant to travel free as a passenger.

BUS PASSENGERS - Passengers traveling on public transit buses pay the applicable fare. Passengers traveling in private or commercial buses will be charged the half-fare rate.

MEDICARE CARD HOLDERS - Any person holding a medicare card duly issued to that person pursuant to Title II or Title XVIII of the Social Security Act may travel at half-fare passenger tolls on any route upon presentation of a WSF Disability Travel Permit or a Regional Reduced Fare Permit at time of travel.

IN-NEED ORGANIZATIONS - For qualified organizations serving in-need clients by providing tickets for transportation on WSF at no cost to clients, program would offer a monthly discount to approximate appropriate multiride media discount rates. Appointing bodies (those that appoint Ferry Advisory Committees) will nominate to the Washington State Transportation Commission those organizations that meet the criteria of the program. The Commission will review such nominations and certify those organizations that qualify. The following criteria will be used for nominating and certifying in-need organizations: Nongovernmental and not-for-profit organizations whose primary purpose is one or more of the following: Help clients with medical issues; provide clients with low-income social services; help clients suffering from domestic violence; provide clients with employment-seeking services; and/or help clients with Social Security. Travel will be initially charged based on full fare and billed monthly. The credits will be approximately based on the discount rates offered to multiride media users applicable on the date of travel.

PROMOTIONAL TOLLS - A promotional rate may be established at the discretion of the WSF Assistant Secretary, Executive Director for a specific discount in order to enhance total revenue and effective only at designated times on designated routes. A promotional fare product may also be established to support tourism or other special events. The promotional fare or product may be bundled and sold as part of a multiparty promotional program.

Special passenger fare rate(s) may be established for a pilot program in conjunction with the Central Puget Sound Regional Fare Integration project on ferry route(s) serving King, Pierce, Snohomish and Kitsap counties. The rate(s) may be established at the discretion of the WSF Assistant Secretary, Executive Director for a specific discount not to exceed fifty percent of full fare.

SCHOOL GROUPS - Passengers traveling in authorized school groups, including home-school groups, will be charged a flat rate of \$1 per walk-on group or per vehicle of students and/or advisors and staff. All school groups require a letter of authorization and prior notification. In the case of home-school groups, in addition to prior notification, a copy of the filed Declaration of Intent (as outlined in RCW 28A.200.010) shall be submitted to the tollbooth at the time of travel. Notification shall be made no less than 72 hours before the scheduled departure and will include the expected number of school-age children and adults that will be traveling to ensure WSF can satisfy U.S. Coast Guard lifesaving equipment requirements. Failure to provide adequate notification may result in delayed travel. Vehicles and drivers will be charged the fare applicable to vehicle size. The special school rate is \$2 on routes where one-point toll systems are in effect.

BUNDLED SINGLE FARE BOOKS - WSF may bundle single fare types into multiride media as a customer convenience. Remaining value will not be eligible for refund or exchange. For mail order deliveries, WSF may add additional days for delivery times.

FIRE DEPARTMENT AND FIRE DISTRICT FARE CONSIDERATION - At the discretion of the WSF Assistant Secretary, WSF may authorize no-fare or discounted fare passage on scheduled and/or special ferry sailings for fire departments and fire districts that provide contracted fire protection services for WSF ferry terminals and/or other WSF facilities within their jurisdiction. Such passage shall be considered full and complete consideration for such fire protection services, in lieu of annual payments for such services, to be so noted in such fire protection agreements. The scope of such authorization includes designated fire department and fire district vehicles (see below), drivers and passengers en route to and from an emergency call, on ferry routes with a WSF terminal and/or other WSF facility served by a fire department or fire district pursuant to a WSF fire protection service agreement. Authorized vehicles may include public fire department and fire district medical aid units, fire trucks, incident command and/or other vehicles dispatched to and returning from an emergency call.

GROUP OR VOLUME SALES - In order to increase total revenues, WSF may develop full fare or discounted customer packages or bundle single fare types into multiride media or offer passes for high volume or group users. In pricing these packages, WSF will have discretion to set appropriate volume discounts based on a case-by-case basis.

SPECIAL EVENTS - In order to increase total revenues, WSF may develop, create or participate in special events that may include, but not be limited to, contributing or packaging discounted fares in exchange for the opportunity to participate in the income generated by the event.

LOW-INCOME FARE PILOT - Starting no earlier than January 1, 2020, special passenger fare rate(s) may be established for a pilot program offering a low-income fare on any ferry route for riders made eligible through an existing transit agency's low-income fare program. Enactment of this program is dependent upon legislative funding for the pilot project. If funded, Washington State Ferries' Assistant Secretary shall submit a proposal to carry out this pilot program and the Washington State Transportation Commission must approve both the program and the fare schedule before it is implemented. Once implemented, WSF shall provide, at a minimum, updates to the Commission every six months on the pilot. The pilot will conclude no longer than three years from its implementation.

GOOD TO GO! PILOT - Special ferry toll rate(s) may be established for a pilot program of Good to Go! or similar fare collection infrastructure, technology, or ORCA replacement system on any ferry route. Washington State Ferries Assistant Secretary shall design the program and submit a proposed program and fare schedule to the Washington State Transportation Commission. The Commission shall review, modify and approve the proposed fare schedule and fare policies before it is implemented. Once implemented, WSF shall provide, at a minimum, updates to the Commission every six months on the pilot. The pilot will conclude no longer than three years from its implementation.

EFFECTIVE 03:00 A.M. (~~October 1, 2018~~) May 1, 2020

ROUTES	Full Fare ⁸	Senior/ Disabled, Youth ⁸	Multiride Media 20 Rides ^{1, 8}	Monthly Pass ^{5, 8}	Bicycle Surcharge ²
Via Auto Ferry					
*Fauntleroy-Southworth	((6.65)) 7.10	((3.30)) 3.55	((53.70)) 57.80	((85.95)) 92.50	1.00
*Seattle-Bremerton					
*Seattle-Bainbridge Island					
*Edmonds-Kingston	((8.50)) 9.05	((4.25)) 4.50	((68.50)) 73.40	((109.60)) 117.45	1.00
Port Townsend-Coupeville	((3.45)) 3.80	((1.70)) 1.80	((56.20)) 62.80	((89.95)) 100.50	0.50
*Fauntleroy-Vashon					
*Southworth-Vashon					
*Pt. Defiance-Tahlequah	((5.55)) 5.95	((2.75)) 2.95	((44.90)) 48.60	((71.85)) 77.80	1.00
*Mukilteo-Clinton	((5.10)) 5.55	((2.55)) 2.75	((41.30)) 45.40	((66.10)) 72.65	1.00
*Anacortes to Lopez, Shaw, Orcas or Friday Harbor	((13.75)) 14.50	((6.85)) 7.25	((90.25)) 96.00	N/A	2.00 ⁶
Between Lopez, Shaw, Orcas and Friday Harbor ⁴	N/C	N/C	N/C	N/A	N/C
Anacortes to Sidney and Sidney to all destinations	((20.25)) 21.30	((10.10)) 10.65	N/A	N/A	4.00 ⁷
From Lopez, Shaw, Orcas and Friday Harbor to Sidney	((12.65)) 13.40	((6.25)) 6.65	N/A	N/A	2.00 ⁸
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) ³	((25.05)) 26.30	((12.00)) 12.80	N/A	N/A	4.00 ⁷

All fares rounded to the next multiple of \$0.05.

*These routes operate as a one-point toll collection system with round trip tolls.

¹MULTIRIDE MEDIA - Shall be valid only for 90 days from date of purchase after which time the tickets shall not be accepted for passage. Remaining value will not be eligible for refund or exchange. There shall be no commercial resale of this fare media. For mail order deliveries, WSF may add additional days to allow for delivery times.

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³ROUND TRIP - Round trip passage for international travel available for trips beginning or ending on one of the Islands served.

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The monthly pass is valid for a maximum of 31 round trips per month, is nontransferable, is nonreproducible, and is intended for a single user. Monthly passes purchased through the regional SmartCard program are also nontransferable and intended for a single user, but allow for unlimited usage.

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Beginning May 1, 2020, an additional \$0.25 capital surcharge for new vessel construction is included on each single passenger fare collected. On all multiride cards except for Port Townsend/Coupeville, there is an included new vessel capital surcharge of \$2.50. For Port Townsend/Coupeville, the included new vessel capital surcharge is \$5.00 on multiride cards. On all monthly passes except Port Townsend/Coupeville, there is included a \$4.00 new vessel capital surcharge. For Port Townsend/Coupeville, the included new vessel capital surcharge is \$8.00 on monthly passes. For passenger half fare on Port Townsend/Coupeville the new vessel capital surcharge is \$0.15.

CHILDREN/YOUTH - Children under six years of age will be carried free when accompanied by parent or guardian. Children/youths six through eighteen years of age will be charged the youth fare, which will be 50% of full fare rounded to the next multiple of \$0.05.

SENIOR CITIZENS - Passengers age 65 and over, with proper identification establishing proof of age, may travel at half-fare passenger tolls on any route where passenger fares are collected.

~~((PERSONS OF DISABILITY - Any individual who, by reason of illness, injury, congenital malfunction, or other incapacity or disability is unable without special facilities or special planning or design to utilize ferry system services))~~ PEOPLE WITH DISABILITIES - Any person who has a physical or mental impairment that substantially limits one or more major life activity, upon presentation of a WSF Disability Travel Permit, Regional Reduced Fare Permit, or other identification which establishes a disability may travel at half-fare passenger tolls on any route where passenger fares are collected. In addition, ~~((those persons))~~ people with disabilities who require attendant care while traveling on the ferries, and are so certified by their physician, may obtain an endorsement on their WSF Disability Travel Permit and such endorsement shall allow the attendant to travel free as a passenger.

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SCHOOL GROUPS - Passengers traveling in authorized school groups, including home-school groups, for institution-sponsored activities will be charged a flat rate of \$5 per walk-on group or per vehicle of students and/or advisors and staff. All school groups require a letter of authorization and prior notification. In the case of home-school groups, in addition to prior notification, a copy of the filed Declaration of Intent (as outlined in RCW 28A.200.010) shall be submitted to the tollbooth at time of travel. Notification shall be made no less than 72 hours before the scheduled departure and will include the expected number of school-age children and adults that will be traveling to ensure WSF can satisfy U.S. Coast Guard lifesaving equipment requirements. Failure to provide adequate notification may result in delayed travel. Vehicles and drivers will be charged the fare applicable to vehicle size. The special school rate is \$10 on routes where one-point toll systems are in effect.

BUNDLED SINGLE FARE BOOKS - WSF may bundle single fare types into multiride media as a customer convenience. Remaining value will not be eligible for refund or exchange. For mail order deliveries, WSF may add additional days for delivery times.

FIRE DEPARTMENT AND FIRE DISTRICT FARE CONSIDERATION - At the discretion of the WSF Assistant Secretary, WSF may authorize no-fare or discounted fare passage on scheduled and/or special ferry sailings for fire departments and fire districts that provide contracted fire protection services for WSF ferry terminals and/or other WSF facilities within their jurisdiction. Such passage shall be considered full and complete consideration for such fire protection services, in lieu of annual payments for such services, to be so noted in such fire protection agreements. The scope of such authorization includes designated fire department and fire district vehicles (see below), drivers and passengers en route to and from an emergency call, on ferry routes with a WSF terminal and/or other WSF facility served by a fire department or fire district pursuant to a WSF fire protection service agreement. Authorized vehicles may include public fire department and fire district medical aid units, fire trucks, incident command and/or other vehicles dispatched to and returning from an emergency call.

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GOOD TO GO! PILOT - Special ferry toll rate(s) may be established for a pilot program of Good to Go! or similar fare collection infrastructure, technology, or ORCA replacement system on any ferry route. Washington State Ferries Assistant Secretary shall design the program and submit a proposed program and fare schedule to the Washington State Transportation Commission. The Commission shall review, modify and approve the proposed fare schedule and fare policies before it is implemented. Once implemented, WSF shall provide, at a minimum, updates to the Commission every six months on the pilot. The pilot will conclude no longer than three years from its implementation.

AMENDATORY SECTION (Amending WSR 17-18-018, filed 8/25/17, effective 9/25/17)

WAC 468-300-020 Vehicle under 22', motorcycle, and stowage ferry tolls.

EFFECTIVE 03:00 A.M. October 1, (~~2017~~) 2019

ROUTES	Vehicle Under 14' Incl. Driver One Way ⁷	Vehicle Under 14' w/Sr Citizen or Disabled Driver ^{4, 7}	Vehicle under 14' Multiride Media 20 Rides ^{2, 7}
Fauntleroy-Southworth Port Townsend/Coupeville	((9.15)) 9.60	((7.50)) 7.90	((147.40)) 154.60
Seattle-Bainbridge Island Seattle-Bremerton Edmonds-Kingston	((41.80)) 12.35	((9.70)) 10.15	((189.80)) 198.60
*Fauntleroy-Vashon			
*Southworth-Vashon			
*Pt. Defiance-Tahlequah	((15.05)) 15.75	((12.30)) 12.90	((120.90)) 126.50
Mukilteo-Clinton	((7.05)) 7.40	((5.75)) 6.10	((113.80)) 119.40
	10 Rides - 5 Round Trips		
*Anacortes to Lopez	((27.25)) 28.60	((20.45)) 21.60	((102.50)) 107.55
*Shaw, Orcas	((32.75)) 34.35	((25.95)) 27.35	((123.15)) 129.15
*Friday Harbor	((38.85)) 40.70	((32.05)) 33.70	((146.00)) 152.95
Between Lopez, Shaw, Orcas and Friday Harbor ³	((16.15)) 16.95	((16.15)) 16.95	((64.85)) 68.05
<i>International Travel</i>			
Anacortes to Sidney and Sidney to all destinations	((44.65)) 46.75	((34.65)) 36.40	N/A
Lopez, Shaw, Orcas and Friday Harbor to Sidney	((27.70)) 29.05	((21.40)) 22.55	N/A
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) ⁵	((55.15)) 57.85	((42.55)) 44.85	N/A

ROUTES	Vehicle 14' to Under 22' Incl. Driver One Way ⁷	Vehicle 14' to Under 22' w/Sr Citizen or Disabled Driver ^{4, 7}	Vehicle 14' to Under 22' Multiride Media 20 Rides ^{2, 7}
Fauntleroy-Southworth Port Townsend/Coupeville	((41.60)) 12.20	((9.95)) 10.50	((186.60)) 196.20
Seattle-Bainbridge Island Seattle-Bremerton Edmonds-Kingston	((15.00)) 15.75	((12.90)) 13.55	((241.00)) 253.00
*Fauntleroy-Vashon			
*Southworth-Vashon			
*Pt. Defiance-Tahlequah	((19.15)) 20.10	((16.40)) 17.25	((153.70)) 161.30
Mukilteo-Clinton	((8.95)) 9.40	((7.65)) 8.10	((144.20)) 151.40

ROUTES	Vehicle 14' to Under 22' Incl. Driver One Way ⁷	Vehicle 14' to Under 22' w/Sr Citizen or Disabled Driver ^{4, 7}	Vehicle 14' to Under 22' Multiride Media 20 Rides ^{2, 7}
10 Rides - 5 Round Trips			
*Anacortes to Lopez	((34.15)) <u>35.90</u>	((27.35)) <u>28.90</u>	((128.40)) <u>134.95</u>
*Shaw, Orcas	((40.95)) <u>43.05</u>	((34.15)) <u>36.05</u>	((153.90)) <u>161.75</u>
*Friday Harbor	((48.65)) <u>51.10</u>	((41.85)) <u>44.10</u>	((182.75)) <u>191.95</u>
Between Lopez, Shaw, Orcas and Friday Harbor ³	((22.95)) <u>24.10</u>	((22.95)) <u>24.10</u>	((92.05)) <u>96.65</u>
<i>International Travel</i>			
Anacortes to Sidney and Sidney to all destinations	((55.20)) <u>57.95</u>	((45.20)) <u>47.60</u>	N/A
Lopez, Shaw, Orcas and Friday Harbor to Sidney	((34.25)) <u>36.00</u>	((27.95)) <u>29.50</u>	N/A
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) ⁵	((68.25)) <u>71.75</u>	((55.65)) <u>58.75</u>	N/A

EFFECTIVE 03:00 A.M. October 1, (~~2017~~) 2019

ROUTES	Motorcycle ⁵ Incl. Driver Stowage ^{1, 7} One Way	Motorcycle w/Sr Citizen or Disabled Driver Stowage ^{1, 7} One Way	Motorcycle Frequent User Commuter 20 Rides ^{2, 7}
Fauntleroy-Southworth Port Townsend/Coupeville	((5.05)) <u>5.25</u>	((3.40)) <u>3.55</u>	((81.80)) <u>85.00</u>
Seattle-Bainbridge Island Seattle-Bremerton Edmonds-Kingston	((6.45)) <u>6.75</u>	((4.35)) <u>4.55</u>	((104.20)) <u>109.00</u>
*Fauntleroy-Vashon			
*Southworth-Vashon			
*Pt. Defiance-Tahlequah	((8.20)) <u>8.55</u>	((5.45)) <u>5.70</u>	((66.10)) <u>68.90</u>
Mukilteo-Clinton	((3.95)) <u>4.10</u>	((2.65)) <u>2.80</u>	((64.20)) <u>66.60</u>
*Anacortes to Lopez	((17.75)) <u>18.40</u>	((10.95)) <u>11.40</u>	((133.75)) <u>138.65</u>
*Shaw, Orcas	((19.10)) <u>19.85</u>	((12.30)) <u>12.85</u>	((143.90)) <u>149.50</u>
*Friday Harbor	((20.65)) <u>21.45</u>	((13.85)) <u>14.45</u>	((155.50)) <u>161.50</u>
Between Lopez, Shaw, Orcas and Friday Harbor ³	((6.50)) <u>6.80</u>	((6.50)) <u>6.80</u>	N/A
Anacortes to Sidney and Sidney to all destinations	((27.00)) <u>28.15</u>	((17.00)) <u>17.80</u>	N/A
Lopez, Shaw, Orcas and Friday Harbor to Sidney	((16.80)) <u>17.50</u>	((10.50)) <u>11.00</u>	N/A
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) ⁵	((33.35)) <u>34.75</u>	((20.75)) <u>21.75</u>	N/A

All fares rounded to the next multiple of \$0.05.

*These routes operate as a one-point toll collection system with round trip tolls.

¹SIZE - Vehicles under 14' in length shall pay the vehicle under 14' toll. Customers may be required to provide documentation, digitally or on paper, at the tollbooth to prove vehicle length. Documentation may include an owner's manual, materials from an auto research web site, or similar reference material that clearly lists the relevant vehicle specifications. All vehicles from 14' to under 22' in length shall pay the 14' to under 22' toll. Motorcycles towing a trailer and vehicles licensed as motorcycles with three or more wheels that are 8'0" or longer shall pay the appropriate length-based vehicle fare. Motorcycles include both mopeds and motorcycles as defined by RCW 46.04.304 and 46.04.330. Both are considered vehicles for the purposes of vehicle registration, license plate display, and WSF fare determination.

²MULTIRIDE MEDIA - Shall be valid only for 90 days from date of purchase after which time the media shall not be accepted for passage. Remaining value will not be eligible for refund or exchange. There shall be no commercial resale of this fare media. For mail order deliveries, WSF may add additional days to allow for delivery time. The vehicle/driver multiride card may be used for passage for an attendant driver plus one disabled driver.

³INTER-ISLAND FARES - Tolls collected westbound only. Vehicles traveling between islands may request a single transfer ticket good for one transfer at an intermediate island. The transfer may only be obtained when purchasing the appropriate vehicle fare for inter-island travel (westbound at Lopez, Shaw, or Orcas) and is free of charge. Transfers shall be valid (~~for 24 hours from time~~) until the end of the service day on the day of purchase.

⁴SENIOR CITIZENS(~~(-DISABLED DRIVER OR DISABLED ATTENDANT DRIVER))~~ - Passengers age 65 and over, with proper identification establishing proof of age, may travel at half-fare passenger tolls on any route where passenger fares are collected. The half-fare discount applies to the driver portion of the vehicle-driver fare. The vehicle portion of the vehicle-driver fare is never further discounted.

PEOPLE WITH DISABILITIES - Any person who has a physical or mental impairment that substantially limits one or more major life activity, upon presentation of a WSF Disability Travel Permit, Reduced Fare Permit, or other identification which establishes a disability, may travel at half-fare passenger tolls on any route where passenger fares are collected. The half-fare discount applies to driver portion of the vehicle-driver fare (~~and only when the driver is eligible. Those persons~~). The vehicle portion of the vehicle-driver fare is never discounted. In addition, people with disabilities who require attendant care while traveling on the ferries, and are so certified by their physician, may obtain an endorsement on their WSF Disability Travel Permit and such endorsement shall allow the attendant(~~(-when driving, to have the driver portion of the vehicle fare waived))~~) to travel free.

⁵ROUND TRIP - Round trip passage for international travel available for trips beginning or ending on one of the islands served.

⁶VEHICLE RESERVATION DEPOSIT - Nonrefundable deposits for advance vehicle reservations may be established at a level of from 25 to 100 percent of the applicable 14' to under 22' standard vehicle one way fare. This is a deposit toward the fare and not an additional fee(~~(s)~~) and applies only to

those routes where the legislature has approved the use of a reservation system. Where it is operationally necessary (routes where vehicle fares are collected in only one direction or to increase operational efficiency at the terminal) a reservation no-show fee may be used in lieu of a deposit. The no-show fee will be limited to 25 to 100 percent of the ~~((equivalent one-way))~~ applicable one way 14' to under 22' standard vehicle fare and will be charged if the customer does not travel within the same ~~((business))~~ service day as their reserved sailing ~~((Refunds may be available under certain circumstances))~~, provided there are no service disruptions.

⁷CAPITAL SURCHARGE - Included is a \$0.25 capital surcharge on each single vehicle/driver fare collected. On all multiride cards except for routes serving Vashon Island and the San Juan Islands, there is an included capital surcharge of \$5.00. For Vashon Island routes, the included capital surcharge is \$2.50 on multiride cards. For motorcycles in the San Juan Islands, the included capital surcharge on multiride cards is \$2.50. For vehicles under 22' in the San Juan Islands, the included capital surcharge on multiride cards is \$1.25.

RIDE SHARE VEHICLES - A commuter ride share vehicle which carries five or more persons on a regular and expense-sharing basis for the purpose of travel to and from work or school and which is certified as such by a local organization approved by the Washington state ferry system, may purchase for a \$20 fee, a permit valid for one year valid only during the hours shown on the permit. The \$20.00 fee shall include the driver. Remaining passengers shall pay the applicable passenger fare. Except that the minimum total paid for all passengers in the van shall not be less than four times the applicable passenger fare. Carpools of three or more registered in WSF's preferential loading program must also pay a \$20.00 yearly permit fee.

STOWAGE - Stowage carry-on items including kayaks, canoes and other items of comparable size which are typically stowed on the vehicle deck of the vessel shall be charged at the motorcycle rate. This rate includes the walk-on passenger carrying on the item to be stowed.

PEAK SEASON SURCHARGE - A 25% surcharge shall be applied to vehicles from May 1 through September 30 except those using multiride media. A 35% surcharge shall be applied on vehicle fares from Anacortes to Lopez, Shaw, Orcas and Friday Harbor, except those using multiride media. The resulting fare is rounded to the nearest \$0.05 if required.

FIRE DEPARTMENT AND FIRE DISTRICT FARE CONSIDERATION - At the discretion of the WSF Assistant Secretary, WSF may authorize no-fare or discounted fare passage on scheduled and/or special ferry sailings for fire departments and fire districts that provide contracted fire protection services for WSF ferry terminals and/or other WSF facilities within their jurisdiction. Such passage shall be considered full and complete consideration for such fire protection services, in lieu of annual payments for such services, to be so noted in such fire protection agreements. The scope of such authorization includes designated fire department and fire district vehicles (see below), drivers and passengers en route to and from an emergency call, on ferry routes with a WSF terminal and/or other WSF facility served by a fire department or fire district pursuant to a WSF fire protection service agreement. Authorized vehicles may include public fire department and fire district medical aid units, fire trucks, incident command and/or other vehicles dispatched to and returning from an emergency call.

IN-NEED ORGANIZATIONS - For qualified organizations serving in-need clients by providing tickets for transportation on WSF at no cost to clients, program would offer a monthly discount to approximate appropriate multiride media discount rates (20% off base season rates, except for Anacortes to San Juan Islands where it is 35% off base season end of week rates). Appointing bodies (those that appoint Ferry Advisory Committees) will nominate to the Washington State Transportation Commission those organizations that meet the criteria of the program. The Commission will review such nominations and certify those organizations that qualify. The following criteria will be used for nominating and certifying in-need organizations: Nongovernmental and not-for-profit organizations whose primary purpose is one or more of the following: Help clients with medical issues; provide clients with low-income social services; help clients suffering from domestic violence; provide clients with employment-seeking services; and/or help clients with Social Security. Travel will be initially charged based on full fare and billed monthly. The credits will be approximate based on the discount rates offered to multiride media users applicable on the date of travel.

PENALTY CHARGES - Owner of vehicle without driver will be assessed a \$100.00 penalty charge.

PROMOTIONAL TOLLS - A promotional rate may be established at the discretion of the WSF Assistant Secretary, Executive Director for a specified discount in order to enhance total revenue and effective only at designated times on designated routes. A promotional fare product may also be established to support tourism or other special events. The promotional fare or product may be bundled and sold as part of a multiparty promotional program.

GROUP OR VOLUME SALES - In order to increase total revenues, WSF may develop full fare or discounted customer packages or bundle single fare types into multiride media or offer passes for high volume or group users. In pricing these packages, WSF will have discretion to set appropriate volume discounts based on a case-by-case basis.

SPECIAL EVENTS - In order to increase total revenues, WSF may develop, create or participate in special events that may include, but not be limited to, contributing or packaging discounted fares in exchange for the opportunity to participate in the income generated by the event.

BUNDLED SINGLE FARE MEDIA - WSF may bundle single fare types into multiple trip books as a customer convenience. Remaining value will not be eligible for refund or exchange. For mail order deliveries, WSF may add additional days to allow for delivery time.

GOOD TO GO! PILOT - Special ferry toll rate(s) may be established for a pilot program of Good to Go! or similar fare collection infrastructure, technology, or ORCA replacement system on any ferry route. Washington State Ferries Assistant Secretary shall design the program and submit a proposed program and fare schedule to the Washington State Transportation Commission. The Commission shall review, modify and approve the proposed fare schedule and fare policies before it is implemented. Once implemented, WSF shall provide, at a minimum, updates to the Commission every six months on the pilot. The pilot will conclude no longer than three years from its implementation.

EFFECTIVE 03:00 A.M. (~~October 1, 2018~~) May 1, 2020

ROUTES	Vehicle Under 14' Incl. Driver One Way ⁷	Vehicle Under 14' w/Sr Citizen or Disabled Driver ^{4, 7}	Vehicle Under 14' Multiride Media 20 Rides ^{2, 7}
Fauntleroy-Southworth Port Townsend/Coupeville	((9.35)) <u>10.05</u>	((7.65)) <u>8.25</u>	((150.60)) <u>162.80</u>
Seattle-Bainbridge Island Seattle-Bremerton Edmonds-Kingston	((12.05)) <u>12.90</u>	((9.90)) <u>10.60</u>	((193.80)) <u>208.40</u>
*Fauntleroy-Vashon			
*Southworth-Vashon			
*Pt. Defiance-Tahlequah	((15.40)) <u>16.40</u>	((12.60)) <u>13.40</u>	((123.70)) <u>132.20</u>

ROUTES	Vehicle Under 14' Incl. Driver One Way ⁷	Vehicle Under 14' w/Sr Citizen or Disabled Driver ^{4, 7}	Vehicle Under 14' Multiride Media 20 Rides ^{2, 7}
Mukilteo-Clinton	((7.20)) <u>7.85</u>	((5.90)) <u>6.45</u>	((116.20)) <u>127.60</u>
10 Rides - 5 Round Trips			
*Anacortes to Lopez	((27.90)) <u>29.55</u>	((20.95)) <u>22.30</u>	((104.95)) <u>111.45</u>
*Shaw, Orcas	((33.50)) <u>35.45</u>	((26.55)) <u>28.20</u>	((125.95)) <u>133.55</u>
*Friday Harbor	((39.70)) <u>41.95</u>	((32.75)) <u>34.70</u>	((149.20)) <u>157.95</u>
Between Lopez, Shaw, Orcas and Friday Harbor ³	((16.50)) <u>17.65</u>	((16.50)) <u>17.65</u>	((66.25)) <u>71.10</u>
<i>International Travel</i>			
Anacortes to Sidney and Sidney to all destinations	((45.70)) <u>48.15</u>	((35.50)) <u>37.50</u>	N/A
Lopez, Shaw, Orcas and Friday Harbor to Sidney	((28.40)) <u>30.00</u>	((22.00)) <u>23.25</u>	N/A
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) ⁵	((56.55)) <u>59.50</u>	((43.75)) <u>46.00</u>	N/A

EFFECTIVE 03:00 A.M. ((October 1, 2018)) May 1, 2020

ROUTES	Vehicle 14' to Under 22' Incl. Driver One Way ⁷	Vehicle 14' to Under 22' w/Sr Citizen or Disabled Driver ^{4, 7}	Vehicle 14' to Under 22' Multiride Media 20 Rides ^{2, 7}
Fauntleroy-Southworth Port Townsend/Coupeville ⁶	((11.90)) <u>12.75</u>	((10.20)) <u>10.95</u>	((191.40)) <u>206.00</u>
Seattle-Bainbridge Island Seattle-Bremerton Edmonds-Kingston	((15.35)) <u>16.40</u>	((13.20)) <u>14.10</u>	((246.60)) <u>264.40</u>
*Fauntleroy-Vashon			
*Southworth-Vashon			
*Pt. Defiance-Tahlequah	((19.60)) <u>20.85</u>	((16.80)) <u>17.85</u>	((157.30)) <u>167.80</u>
Mukilteo-Clinton	((9.15)) <u>9.90</u>	((7.85)) <u>8.50</u>	((147.40)) <u>160.40</u>
10 Rides - 5 Round Trips			
*Anacortes to Lopez ⁶	((35.00)) <u>37.05</u>	((28.05)) <u>29.80</u>	((131.55)) <u>139.55</u>
*Shaw, Orcas ⁶	((41.95)) <u>44.40</u>	((35.00)) <u>37.15</u>	((157.65)) <u>167.15</u>
*Friday Harbor ⁶	((49.80)) <u>52.65</u>	((42.85)) <u>45.40</u>	((187.05)) <u>198.05</u>
Between Lopez, Shaw, Orcas and Friday Harbor ³	((23.50)) <u>25.00</u>	((23.50)) <u>25.00</u>	((94.25)) <u>100.50</u>
<i>International Travel</i>			
Anacortes to Sidney and Sidney to all destinations ⁶	((56.55)) <u>59.65</u>	((46.35)) <u>49.00</u>	N/A
Lopez, Shaw, Orcas and Friday Harbor to Sidney	((35.10)) <u>37.15</u>	((28.70)) <u>30.40</u>	N/A
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) ⁶	((69.95)) <u>73.80</u>	((57.15)) <u>60.30</u>	N/A

EFFECTIVE 03:00 A.M. ((October 1, 2018)) May 1, 2020

ROUTES	Motorcycle ⁵ Incl. Driver Stowage ^{1, 7} One Way	Motorcycle w/Sr Citizen or Disabled Driver Stowage ^{1, 7} One Way	Motorcycle Frequent User Commuter 20 Rides ^{2, 7}
Fauntleroy-Southworth Port Townsend/Coupeville ⁶	((5.15)) <u>5.60</u>	((3.45)) <u>3.80</u>	((83.40)) <u>91.60</u>
Seattle-Bainbridge Island Seattle-Bremerton Edmonds-Kingston	((6.60)) <u>7.15</u>	((4.45)) <u>4.85</u>	((106.60)) <u>116.40</u>
*Fauntleroy-Vashon			
*Southworth-Vashon			
*Pt. Defiance-Tahlequah	((8.40)) <u>8.95</u>	((5.60)) <u>5.95</u>	((67.70)) <u>72.60</u>
Mukilteo-Clinton	((4.00)) <u>4.45</u>	((2.70)) <u>3.05</u>	((65.00)) <u>73.20</u>
*Anacortes to Lopez ⁶	((18.10)) <u>19.05</u>	((11.15)) <u>11.80</u>	((136.40)) <u>144.15</u>
*Shaw, Orcas ⁶	((19.50)) <u>20.50</u>	((12.55)) <u>13.25</u>	((146.90)) <u>155.00</u>
*Friday Harbor ⁶	((21.05)) <u>22.15</u>	((14.10)) <u>14.90</u>	((158.50)) <u>167.40</u>
Between Lopez, Shaw, Orcas and Friday Harbor ³	((6.65)) <u>7.20</u>	((6.65)) <u>7.20</u>	N/A
Anacortes to Sidney and Sidney to all destinations ⁶	((27.60)) <u>29.00</u>	((17.40)) <u>18.35</u>	N/A
Lopez, Shaw, Orcas and Friday Harbor to Sidney	((17.20)) <u>18.15</u>	((10.80)) <u>11.40</u>	N/A
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) ⁶	((34.15)) <u>35.80</u>	((21.35)) <u>22.30</u>	N/A

All fares rounded to the next multiple of \$0.05.

*These routes operate as a one-point toll collection system with round trip tolls.

¹SIZE - Vehicles under 14' in length shall pay the vehicle under 14' toll. Customers may be required to provide documentation, digitally or on paper, at the tollbooth to prove vehicle length. Documentation may include an owner's manual, materials from an auto research web site, or similar reference material that clearly lists the relevant vehicle specifications. Vehicles from 14' to under 22' shall pay the 14' to under 22' toll. Motorcycles towing a trailer and vehicles licensed as motorcycles with three or more wheels that are 8'0" or longer shall pay the appropriate length-based vehicle fare. Motorcycles include both mopeds and motorcycles as defined by RCW 46.04.304 and 46.04.330. Both are considered vehicles for the purposes of vehicle registration, license plate display, and WSF fare determination.

²MULTIRIDE MEDIA - Shall be valid only for 90 days from date of purchase after which time the media shall not be accepted for passage. Remaining value will not be eligible for refund or exchange. There shall be no commercial resale of this fare media. For mail order deliveries, WSF may add additional days to allow for delivery time. The vehicle/driver multiride card may be used for passage for an attendant driver plus one disabled passenger.

³INTER-ISLAND FARES - Tolls collected westbound only. Vehicles traveling between islands may request a single transfer ticket good for one transfer at an intermediate island. The transfer may only be obtained when purchasing the appropriate vehicle fare for inter-island travel (westbound at Lopez, Shaw, or Orcas) and is free of charge. Transfers shall be valid (~~for 24 hours from time~~) until the end of the service day on the day of purchase.

⁴SENIOR CITIZENS(~~(-DISABLED DRIVER OR DISABLED ATTENDANT DRIVER))~~ - Passengers age 65 and over, with proper identification establishing proof of age, may travel at half-fare passenger tolls on any route where passenger fares are collected. The half-fare discount applies to the driver portion of the vehicle-driver fare. The vehicle portion of the vehicle-driver fare is never further discounted.

PEOPLE WITH DISABILITIES - Any person who has a physical or mental impairment that substantially limits one or more major life activity, upon presentation of a WSF Disability Travel Permit, Reduced Fare Permit, or other identification which establishes a disability, may travel at half-fare passenger tolls on any route where passenger fares are collected. The half-fare discount applies to driver portion of the vehicle-driver fare (and only when the driver is eligible. Those persons)). The vehicle portion of the vehicle-driver fare is never discounted. In addition, people with disabilities who require attendant care while traveling on the ferries, and are so certified by their physician, may obtain an endorsement on their WSF Disability Travel Permit and such endorsement shall allow the attendant(~~(-when driving, to have the driver portion of the vehicle fare waived))~~) to travel free.

⁵ROUND TRIP - Round trip passage for international travel available for trips beginning or ending on one of the islands served.

⁶VEHICLE RESERVATION DEPOSIT - Nonrefundable deposits for advance vehicle reservations may be established at a level of from 25 to 100 percent of the applicable 14' to under 22' standard vehicle one way fare. This is a deposit toward the fare and not an additional fee(€) and applies only to those routes where the legislature has approved the use of a reservation system. Where it is operationally necessary (routes where vehicle fares are collected in only one direction or to increase operational efficiency at the terminal) a reservation no-show fee may be used in lieu of a deposit. The no-show fee will be limited to 25 to 100 percent of the (~~equivalent one-way~~) applicable one way 14' to under 22' standard vehicle fare and will be charged if the customer does not travel within the same (~~(business)~~) service day as their reserved sailing(~~(-Refunds may be available under certain circumstances))~~), provided there are no service disruptions.

⁷CAPITAL SURCHARGES - Included is a \$0.25 capital surcharge on each single vehicle/driver fare collected. On all multiride cards except for routes serving Vashon Island and the San Juan Islands, there is an included capital surcharge of \$5.00. For Vashon Island routes, the included capital surcharge is \$2.50 on multiride cards. For motorcycles in the San Juan Islands, the capital surcharge included on multiride cards is \$2.50. For vehicles under 22' in the San Juan Islands, the capital surcharge included on multiride cards is \$1.25.

Beginning May 1, 2020, an additional \$0.25 capital surcharge for new vessel construction is included on each single vehicle/driver fare collected. Included is a \$0.25 new vessel capital surcharge on each single vehicle/driver fare collected. On all multiride cards except for routes serving Vashon Island and the San Juan Islands, there is an included new vessel capital surcharge of \$5.00. For Vashon Island routes, the included new vessel capital surcharge is \$2.50 on multiride cards. For motorcycles in the San Juan Islands, the included new vessel capital surcharge on multiride cards is \$2.50. For vehicles under 22' in the San Juan Islands, the included new vessel capital surcharge on multiride cards is \$1.25.

RIDE SHARE VEHICLES - A commuter ride share vehicle which carries five or more persons on a regular and expense-sharing basis for the purpose of travel to and from work or school and which is certified as such by a local organization approved by the Washington state ferry system, may purchase for a \$20 fee, a permit valid for one year valid only during the hours shown on the permit. The \$20.00 fee shall include the driver. Remaining passengers shall pay the applicable passenger fare. Except that the minimum total paid for all passengers in the van shall not be less than four times the applicable passenger fare. Carpools of three or more registered in WSF's preferential loading program must also pay a \$20.00 yearly permit fee.

STOWAGE - Stowage carry-on items including kayaks, canoes and other items of comparable size which are typically stowed on the vehicle deck of the vessel shall be charged at the motorcycle rate. This rate includes the walk-on passenger carrying on the item to be stowed.

PEAK SEASON SURCHARGE - A 25% surcharge shall be applied to vehicles from May 1 through September 30 except those using multiride media. A 35% surcharge shall be applied on vehicle fares from Anacortes to Lopez, Shaw, Orcas and Friday Harbor, except those using multiride media. The resulting fare is rounded up to the next \$0.05 if required.

FIRE DEPARTMENT AND FIRE DISTRICT FARE CONSIDERATION - At the discretion of the WSF Assistant Secretary, WSF may authorize no-fare or discounted fare passage on scheduled and/or special ferry sailings for fire departments and fire districts that provide contracted fire protection services for WSF ferry terminals and/or other WSF facilities within their jurisdiction. Such passage shall be considered full and complete consideration for such fire protection services, in lieu of annual payments for such services, to be so noted in such fire protection agreements. The scope of such authorization includes designated fire department and fire district vehicles (see below), drivers and passengers en route to and from an emergency call, on ferry routes with a WSF terminal and/or other WSF facility served by a fire department or fire district pursuant to a WSF fire protection service agreement. Authorized vehicles may include public fire department and fire district medical aid units, fire trucks, incident command and/or other vehicles dispatched to and returning from an emergency call.

IN-NEED ORGANIZATIONS - For qualified organizations serving in-need clients by providing tickets for transportation on WSF at no cost to clients, program would offer a monthly discount to approximate appropriate multiride media discount rates (20% off base season rates, except for Anacortes to San Juan Islands where it is 35% off base season end of week rates). Appointing bodies (those that appoint Ferry Advisory Committees) will nominate to the Washington State Transportation Commission those organizations that meet the criteria of the program. The Commission will review such nominations and certify those organizations that qualify. The following criteria will be used for nominating and certifying in-need organizations:

Nongovernmental and not-for-profit organizations whose primary purpose is one or more of the following: Help clients with medical issues; provide clients with low-income social services; help clients suffering from domestic violence; provide clients with employment-seeking services; and/or help clients with Social Security. Travel will be initially charged based on full fare and billed monthly. The credits will be approximate based on the discount rates offered to multiride media users applicable on the date of travel.

PENALTY CHARGES - Owner of vehicle without driver will be assessed a \$100.00 penalty charge.

PROMOTIONAL TOLLS - A promotional rate may be established at the discretion of the WSF Assistant Secretary, Executive Director for a specified discount in order to enhance total revenue and effective only at designated times on designated routes. A promotional fare product may also be established to support tourism or other special events. The promotional fare or product may be bundled and sold as part of multiparty promotional program.

GROUP OR VOLUME SALES - In order to increase total revenues, WSF may develop full fare or discounted customer packages or bundle single fare types into multiride media or offer passes for high volume or group users. In pricing these packages, WSF will have discretion to set appropriate volume discounts based on a case-by-case basis.

SPECIAL EVENTS - In order to increase total revenues, WSF may develop, create or participate in special events that may include, but not be limited to, contributing or packaging discounted fares in exchange for the opportunity to participate in the income generated by the event.

BUNDLED SINGLE FARE MEDIA - WSF may bundle single fare types into multiple trip books as a customer convenience. Remaining value will not be eligible for refund or exchange. For mail order deliveries, WSF may add additional days to allow for delivery time.

GOOD TO GO! PILOT - Special ferry toll rate(s) may be established for a pilot program of Good to Go! or similar fare collection infrastructure, technology, or ORCA replacement system on any ferry route. Washington State Ferries Assistant Secretary shall design the program and submit a proposed program and fare schedule to the Washington State Transportation Commission. The Commission shall review, modify and approve the proposed fare schedule and fare policies before it is implemented. Once implemented, WSF shall provide, at a minimum, updates to the Commission every six months on the pilot. The pilot will conclude no longer than three years from its implementation.

AMENDATORY SECTION (Amending WSR 17-18-018, filed 8/25/17, effective 9/25/17)

WAC 468-300-040 Oversize vehicle ferry tolls.

EFFECTIVE 03:00 A.M. October 1, ((2017)) 2019

((Oversize Vehicle Ferry Tolls[†]

Overall Unit Length – Including Driver

ROUTES	22' To	22' To	30' To	40' To Under-	50' To	60' To under-	70' To and-	Cost Per
	Under 30'	Under 30'						
	Under 7'2"	Over 7'2"	Under 40' ⁵	50' ⁵	Under 60' ⁵	70' ⁵	include 80' ⁵	Ft. Over
	High ⁵	High ⁵						80' @
Fauntleroy-Southworth								
Port Townsend/Coupeville	17.70	35.15	46.75	58.40	70.00	81.65	93.25	1.15
Seattle-Bainbridge Island-								
Seattle/Bremerton								
Edmonds-Kingston	22.90	45.55	60.65	75.75	90.85	105.95	121.05	1.50
*Fauntleroy-Vashon								
*Southworth-Vashon-								
*Pt. Defiance-Tahlequah	29.25	58.25	77.55	96.90	116.20	135.55	154.85	1.95
Mukilteo-Clinton	13.65	27.00	35.90	44.80	53.70	62.60	71.50	0.90
*Anacortes to Lopez ²	52.35	104.45	139.15	173.90	208.65	243.35	278.10	3.50
*Anacortes to Shaw, Oreas ²	62.80	125.30	166.95	208.65	250.30	292.00	333.65	4.15
*Anacortes to Friday Harbor	74.55	148.85	198.35	247.90	297.40	346.95	396.45	4.95
Between Lopez, Shaw, Oreas and Fri-								
day Harbor ³	35.15	70.00	93.25	116.50	139.75	163.05	186.30	N/A
<i>International Travel</i>								
Anacortes to Sidney to all destinations	85.45	85.45	113.90	142.30	170.70	199.10	227.50	2.85
Lopez, Shaw, Oreas and Friday Harbor-								
to Sidney	53.05	53.05	70.60	88.20	105.80	123.40	140.95	1.75
Lopez, Shaw, Oreas and Friday Harbor-								
to Sidney (round trip) ⁴	105.85	105.85	140.95	176.15	211.35	246.55	281.65	3.50))

ROUTES	Oversize Vehicle Ferry Tolls ¹							Cost Per Ft. Over 80'
	Overall Unit Length - Including Driver							
	22' To Under 30' Under 7'2" High ⁵	22' To Under 30' 7'2" High or Over ⁵	30' To Under 40' ⁵	40' To Under 50' ⁵	50' To Under 60' ⁵	60' To under 70' ⁵	70' To and include 80' ⁵	
Fauntleroy-Southworth								
Port Townsend/Coupeville	18.15	36.05	48.00	59.95	71.85	83.80	95.75	1.20
Seattle-Bainbridge Island								
Seattle/Bremerton								
Edmonds-Kingston	23.50	46.75	62.25	77.75	93.25	108.75	124.25	1.55
*Fauntleroy-Vashon								
*Southworth-Vashon								
*Pt. Defiance-Tahlequah	30.00	59.75	79.60	99.45	119.30	139.15	158.95	2.00
Mukilteo-Clinton	14.00	27.70	36.85	45.95	55.10	64.25	73.40	0.90
*Anacortes to Lopez ²	53.75	107.20	142.85	178.50	214.15	249.80	285.45	3.55
*Anacortes to Shaw, Orcas ²	64.40	128.60	171.35	214.15	256.95	299.70	342.50	4.30
*Anacortes to Friday Harbor	76.50	152.75	203.60	254.45	305.30	356.15	406.95	5.10
Between Lopez, Shaw, Orcas and Friday Harbor ³	36.05	71.85	95.75	119.60	143.45	167.35	191.20	N/A
<i>International Travel</i>								
Anacortes to Sidney to all destinations	91.95	91.95	122.55	153.10	183.65	214.25	244.80	3.05
Lopez, Shaw, Orcas and Friday Harbor to Sidney	57.05	57.05	76.00	94.90	113.85	132.75	151.70	1.90
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) ⁴	113.85	113.85	151.75	189.55	227.45	265.25	303.15	3.80

*These routes operate as a one-point toll collection system with round trip tolls.

¹OVERSIZE VEHICLES - Includes all vehicles 22 feet in length and longer regardless of type: Commercial trucks, recreational vehicles, vehicles under 22' pulling trailers, etc. Length shall include vehicle and load to its furthest extension. Overheight charge is included in oversize vehicle toll. Vehicles wider than 8'6" pay double the fare applicable to their length. Private and commercial passenger buses or other passenger vehicles pay the applicable oversize vehicle tolls. Public transit buses and drivers shall travel free upon display of an annual permit which may be purchased for \$10. Upon presentation by either the driver or passenger of a WSF Disability Travel Permit, Regional Reduced Fare Permit, or other identification which establishes disability, vehicles 22-30 feet in length and ((over)) 7'2" or over in height shall be charged the 22-30 foot length and under 7'2" in height fare for vehicles equipped with wheelchair lift or other feature designed to accommodate the person with the disability.

²TRANSFERS - Tolls collected westbound only. Oversize vehicles traveling westbound from Anacortes may purchase a single intermediate transfer when first purchasing the appropriate fare. The transfer is valid ((for a 24-hour period)) until the end of the service day on the day purchased and is priced as follows: ((\$64.40)) \$66.00 base season, ((\$86.80)) \$88.95 peak season.

³INTER-ISLAND - Tolls collected westbound only. Vehicles traveling between islands may request a single transfer ticket good for one transfer at an intermediate island. The transfer may only be obtained when purchasing the appropriate vehicle fare for inter-island travel (westbound at Lopez, Shaw, or Orcas) and is free of charge. Transfers shall be valid ((for 24 hours from time)) until the end of the service day on the day of purchase.

⁴ROUND TRIP - Round trip passage for international travel available for trips beginning or ending on one of the islands served.

⁵CAPITAL SURCHARGE - There is an included \$0.25 capital surcharge on each single vehicle/driver fare collected.

BULK NEWSPAPERS - Per 100 lbs. \$2.85 (Shipments exceeding 60,000 lbs. in any month shall be assessed \$1.42 per 100 lbs.). Daily newspapers, in bundles, to be received and delivered without receipt and subject to owner's risk, will be transported between ferry terminals on regular scheduled sailings.

VEHICLE RESERVATION DEPOSIT - Nonrefundable deposits for advanced reservations may be established at a level of from 25 to 100 percent of the applicable oversize vehicle one way fare. This is a deposit toward the fare and not an additional fee((;)) and applies only to those routes where the legislature has approved the use of a reservation system. Where it is operationally necessary (routes where vehicle fares are collected in only one direction or to increase operational efficiency at the terminal) a reservation no-show fee may be used in lieu of a deposit. The no-show fee will be limited to 25 to 100 percent of the ((equivalent one-way)) applicable one way oversize vehicle fare and will be charged if the customer does not travel within the same ((business)) service day as their reserved sailing((-Refunds may be available under certain special circumstances)), provided there are no service disruptions.

PEAK SEASON SURCHARGE - A peak season surcharge shall apply to all oversize vehicles from May 1 through September 30. The oversize fare shall be determined based on the peak-season car-and-driver fare and the analogous oversize vehicle fare, calculated with the same factor as the oversize base seasons fares are to the base season under 20 foot fare. The senior citizen discount shall apply to the driver of an oversize vehicle. The resulting fare is rounded up to the next \$0.05 if required.

SENIOR CITIZEN DISCOUNTS - Discounts of 50% for the driver of the above vehicles shall apply. Senior citizen discount is determined by subtracting full-fare passenger rate and adding half-fare passenger rate. The senior citizen discount shall apply to the driver of an oversize vehicle.

PENALTY CHARGES - Owner of vehicle without driver will be assessed a \$100.00 penalty charge.

COMMERCIAL ACCOUNTS - Commercial customers making 12 or more, one-way crossings per week (Sunday through Saturday) will qualify for a 10% discount from the regular ferry tolls. WSF will provide a commercial account program that will be prepaid and offer access to volume discounts based on travel, revenue or other criteria in accordance with WSF business rules. On an annual basis, commercial accounts will pay a \$50 nonrefundable account maintenance fee.

GROUP OR VOLUME SALES - In order to increase total revenues, WSF may develop full fare or discounted customer packages or bundle single fare types into multiple trip books or offer passes for high volume or group users. In pricing these packages, WSF will have discretion to set appropriate volume discounts based on a case-by-case basis.

SPECIAL EVENTS - In order to increase total revenues, WSF may develop, create or participate in special events that may include, but not be limited to, contributing or packaging discounted fares in exchange for the opportunity to participate in the income generated by the event.

FIRE DEPARTMENT AND FIRE DISTRICT FARE CONSIDERATION - At the discretion of the WSF Assistant Secretary, WSF may authorize no-fare or discounted fare passage on scheduled and/or special ferry sailings for fire departments and fire districts that provide contracted fire protection services for WSF ferry terminals and/or other WSF facilities within their jurisdiction. Such passage shall be considered full and complete consideration for such fire protection services, in lieu of annual payments for such services, to be so noted in such fire protection agreements. The scope of such authorization includes designated fire department and fire district vehicles (see below), drivers and passengers en route to and from an emergency call, on ferry routes with a WSF terminal and/or other WSF facility served by a fire department or fire district pursuant to a WSF fire protection service agreement. Authorized vehicles may include public fire department and fire district medical aid units, fire trucks, incident command and/or other vehicles dispatched to and returning from an emergency call.

EMERGENCY TRIPS DURING NONSERVICE HOURS - While at locations where crew is on duty charge shall be equal to the cost of fuel consumed to make emergency trip. Such trips shall only be offered as a result of official requests from an emergency services agency and only in the case of no reasonable alternative.

DISCLAIMER - Under no circumstances does Washington state ferries warrant the availability of ferry service at a given date or time; nor does it warrant the availability of space on board a vessel on a given sailing.

GOOD TO GO! PILOT - Special ferry toll rate(s) may be established for a pilot program of Good to Go! or similar fare collection infrastructure, technology, or ORCA replacement system on any ferry route. Washington State Ferries Assistant Secretary shall design the program and submit a proposed program and fare schedule to the Washington State Transportation Commission. The Commission shall review, modify and approve the proposed fare schedule and fare policies before it is implemented. Once implemented, WSF shall provide, at a minimum, updates to the commission every six months on the pilot. The pilot will conclude no longer than three years from its implementation.

EFFECTIVE 03:00 A.M. ((October 1, 2018)) May 1, 2020

((Oversize Vehicle Ferry Tolls[†]

Overall Unit Length – Including Driver

ROUTES	22' To Under 30' Under 72" High ⁵	22' To Under 30' Over 72" High ⁵	30' To Under 40' ⁵	40' To Under- 50' ⁵	50' To Under 60' ⁵	60' To under- 70' ⁵	70' To and- include 80' ⁵	Cost Per Ft. Over 80' @
Fauntleroy-Southworth Port Townsend/Coupeville	17.70	35.15	46.75	58.40	70.00	81.65	93.25	1.15
Seattle-Bainbridge Island- Seattle/Bremerton Edmonds-Kingston	22.90	45.55	60.65	75.75	90.85	105.95	121.05	1.50
*Fauntleroy-Vashon *Southworth-Vashon *Pt. Defiance-Tahlequah	29.25	58.25	77.55	96.90	116.20	135.55	154.85	1.95
Mukilteo-Clinton	13.65	27.00	35.90	44.80	53.70	62.60	71.50	0.90
*Anacortes to Lopez ²	52.35	104.45	139.15	173.90	208.65	243.35	278.10	3.50
*Anacortes to Shaw, Oreas ²	62.80	125.30	166.95	208.65	250.30	292.00	333.65	4.15
*Anacortes to Friday Harbor	74.55	148.85	198.35	247.90	297.40	346.95	396.45	4.95
Between Lopez, Shaw, Oreas and Fri- day Harbor ²	35.15	70.00	93.25	116.50	139.75	163.05	186.30	N/A
<i>International Travel</i> Anacortes to Sidney to all destinations	85.45	85.45	113.90	142.30	170.70	199.10	227.50	2.85
Lopez, Shaw, Oreas and Friday Harbor- to Sidney	53.05	53.05	70.60	88.20	105.80	123.40	140.95	1.75
Lopez, Shaw, Oreas and Friday Harbor- to Sidney (round trip) ⁴	105.85	105.85	140.95	176.15	211.35	246.55	281.65	3.50))

Oversize Vehicle Ferry Tolls¹
Overall Unit Length - Including Driver

ROUTES	22' To	22' To	30' To	40' To Under	50' To	60' To under	70' To and	Cost Per
	Under 30'	Under 30'						
	Under 7'2" High ⁵	7'2" High or Over ⁵	Under 40' ⁵	50' ⁵	Under 60' ⁵	70' ⁵	include 80' ⁵	Ft. Over 80'
Fauntleroy-Southworth								
Port Townsend/Coupeville	18.90	37.25	49.45	61.70	73.95	86.20	98.45	1.25
Seattle-Bainbridge Island								
Seattle/Bremerton								
Edmonds-Kingston	24.35	48.20	64.10	80.00	95.90	111.80	127.70	1.60
*Fauntleroy-Vashon								
*Southworth-Vashon								
*Pt. Defiance-Tahlequah	31.05	61.55	81.90	102.25	122.60	142.95	163.30	2.05
Mukilteo-Clinton	14.60	28.65	38.00	47.40	56.80	66.15	75.55	0.95
*Anacortes to Lopez ²	55.35	110.20	146.80	183.35	219.90	256.50	293.05	3.65
*Anacortes to Shaw, Orcas ²	66.35	132.15	176.05	219.90	263.80	307.70	351.55	4.40
*Anacortes to Friday Harbor	78.75	156.95	209.10	261.25	313.40	365.55	417.70	5.20
Between Lopez, Shaw, Orcas and Friday Harbor ³	37.25	73.95	98.45	122.95	147.40	171.90	196.40	N/A
<i>International Travel</i>								
Anacortes to Sidney to all destinations	99.00	99.00	131.80	164.65	197.50	230.30	263.15	3.30
Lopez, Shaw, Orcas and Friday Harbor to Sidney	61.50	61.50	81.85	102.15	122.50	142.80	163.15	2.05
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) ⁴	122.50	122.50	163.20	203.80	244.50	285.10	325.80	4.10

*These routes operate as a one-point toll collection system with round trip tolls.

¹OVERSIZE VEHICLES - Includes all vehicles 22 feet in length and longer regardless of type: Commercial trucks, recreational vehicles, vehicles under 22' pulling trailers, etc. Length shall include vehicle and load to its furthest extension. Overheight charge is included in oversize vehicle toll. Vehicles wider than 8'6" pay double the fare applicable to their length. Private and commercial passenger buses or other passenger vehicles pay the applicable oversize vehicle tolls. Public transit buses and drivers shall travel free upon display of an annual permit which may be purchased for \$10. Upon presentation by either the driver or passenger of a WSF Disability Travel Permit, Regional Reduced Fare Permit, or other identification which establishes disability, vehicles 22-30 feet in length and ((over)) 7'2" or over in height shall be charged the 22-30 foot length and under 7'2" in height fare for vehicles equipped with wheelchair lift or other feature designed to accommodate the person with the disability.

²TRANSFERS - Tolls collected westbound only. Oversize vehicles traveling westbound from Anacortes may ((purchase)) receive a single intermediate transfer when first purchasing the ((appropriate)) fare for the furthest intended point of travel for the trip. The transfer is valid ((for a 24-hour period and is priced as follows: \$66.00 base season, \$88.95 peak season)) until the end of the service day on the day purchased.

³INTER-ISLAND - Tolls collected westbound only. Vehicles traveling between islands may request a single transfer ticket good for one transfer at an intermediate island. The transfer may only be obtained when purchasing the appropriate vehicle fare for inter-island travel (westbound at Lopez, Shaw, or Orcas) and is free of charge. Transfers shall be valid ((for 24 hours from time)) until the end of the service day on the day of purchase.

⁴ROUND TRIP - Round trip passage for international travel available for trips beginning or ending on one of the islands served.

⁵CAPITAL SURCHARGES - There is included an additional \$0.25 capital surcharge on each single vehicle/driver fare collected. Beginning May 1, 2020, an additional \$0.25 capital surcharge for new vessel construction is included on each single vehicle/driver fare collected.

BULK NEWSPAPERS - Per 100 lbs. \$2.85 (Shipments exceeding 60,000 lbs. in any month shall be assessed \$1.42 per 100 lbs.). Daily newspapers, in bundles, to be received and delivered without receipt and subject to owner's risk, will be transported between ferry terminals on regular scheduled sailings.

VEHICLE RESERVATION DEPOSIT - Nonrefundable deposits for advanced reservations may be established at a level of from 25 to 100 percent of the applicable oversize vehicle one way fare. This is a deposit toward the fare and not an additional fee((s)) and applies only to those routes where the legislature has approved the use of a reservation system. Where it is operationally necessary (routes where vehicle fares are collected in only one direction or to increase operational efficiency at the terminal) a reservation no-show fee may be used in lieu of a deposit. The no-show fee will be limited to 25 to 100 percent of the ((equivalent one-way)) applicable one way oversize vehicle fare and will be charged if the customer does not travel within the same ((business)) service day as their reserved sailing((Refunds may be available under certain special circumstances)), provided there are no service disruptions.

PEAK SEASON SURCHARGE - A peak season surcharge shall apply to all oversize vehicles from May 1 through September 30. The oversize fare shall be determined based on the peak-season car-and-driver fare and the analogous oversize vehicle fare, calculated with the same factor as the oversize base seasons fares are to the base season under 20 foot fare. The senior citizen discount shall apply to the driver of an oversize vehicle. The resulting fare is rounded up to the next \$0.05 if required.

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COMMERCIAL ACCOUNT - Commercial customers, making 12 or more, one-way crossings per week (Sunday through Saturday) will qualify for a 10% discount from the regular ferry tolls. WSF will provide a commercial account program that will be prepaid and offer access to volume discounts based on travel, revenue or other criteria in accordance with WSF business rules. On an annual basis, commercial accounts will pay a \$50 nonrefundable account maintenance fee.

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WSR 19-18-024

PERMANENT RULES

HEALTH CARE AUTHORITY

[Filed August 28, 2019, 10:12 a.m., effective October 1, 2019]

Effective Date of Rule: October 1, 2019.

Purpose: The agency is modifying the family planning only program and TAKE CHARGE program sections to (1) meet clinical standards, (2) align with current eligibility and provider enrollment policies, and (3) assure compliance with the recently approved federal extension of the Washington family planning only program (demonstration project) granted under the authority of Section 1115(a) of the Social Security Act. The agency is modifying the reproductive health sections to meet clinical standards and align with current eligibility and provider enrollment policies.

Citation of Rules Affected by this Order: New WAC 182-532-560 and 182-532-570; repealing WAC 182-532-123, 182-532-125, 182-532-533, 182-532-540, 182-532-700, 182-532-720, 182-532-730, 182-532-740, 182-532-743, 182-532-745, 182-532-750, 182-532-760, 182-532-780 and 182-532-790; and amending WAC 182-532-001, 182-532-050, 182-532-100, 182-532-110, 182-532-120, 182-532-130, 182-532-500, 182-532-510, 182-532-520, 182-532-530, and 182-532-550.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Other Authority: Section 1115(a) of the Social Security Act.

Adopted under notice filed as WSR 19-14-062 on June 28, 2019.

Changes Other than Editing from Proposed to Adopted Version:

Proposed/Adopted	WAC Subsection	Reason
Original WAC 182-532-001 Reproductive health services—Definitions.		
Proposed	"Over-the-counter (OTC)" - Drugs, devices, and products that do not require a prescription before they can be sold or dispensed <u>and are approved by the Food and Drug Administration (FDA).</u> (See WAC 182-530-1050(:-))	The agency removed "and are approved by the Food and Drug Administration (FDA)" from the "OTC" definition. This was previously added to the definition in error.
Adopted	"Over-the-counter (OTC)" - Drugs, devices, and products that do not require a prescription ((before they can)) to be sold or dispensed. (See WAC 182-530-1050(:-))	
Proposed	N/A	Due to a stakeholder comments, the agency added the following definitions from SB [2SSB] 5602 to WAC 182-532-001:
Adopted	"Reproductive health care services" - Any medical services or treatments, including pharmaceutical and preventive care service or treatments, directly involved in the reproductive system and its pro-	"Reproductive health care services" - Any medical services or treatments, including pharmaceutical

Proposed/Adopted	WAC Subsection	Reason
	<p>cesses, functions, and <u>organs involved in reproduction, in all stages of life. Reproductive health care services does not include infertility treatment.</u></p> <p>"Reproductive system" - Includes, but is not limited to: Genitals, gonads, the uterus, ovaries, fallopian tubes, and breasts.</p>	<p>and preventive care service or treatments, directly involved in the reproductive system and its processes, functions, and organs involved in reproduction, in all stages of life. Reproductive health care services does not include infertility treatment.</p> <p>"Reproductive system" - Includes, but is not limited to: Genitals, gonads, the uterus, ovaries, fallopian tubes, and breasts.</p>
Original WAC 182-532-110 Reproductive health services—Provider requirements.		
Proposed	<p>(4) Educate clients on Food and Drug Administration (FDA)-approved prescription ((birth control)) contraceptive methods, as well as over-the-counter (OTC) ((birth control)) contraceptive drugs, devices, and supplies, and related medical services;</p> <p>(5) Provide medical services related to FDA-approved prescription ((birth control)) contraceptive methods((:)) and OTC ((birth control)) contraceptive drugs, devices, and supplies upon request; and</p> <p>(6) Supply or prescribe FDA-approved prescription ((birth control)) contraceptive methods((:)) and OTC ((birth control)) contraceptive drugs, devices, and supplies upon request.</p>	<p>The agency revised WAC 182-532-110 to better reflect the definitions of "contraceptive" and "over-the-counter."</p>
Adopted	<p>(4) Educate clients on Food and Drug Administration (FDA)-approved ((prescription birth control)) contraceptive methods((:)) and over-the-counter (OTC) ((birth control)) contraceptive drugs, devices, and ((supplies, and)) products, as well as related medical services;</p> <p>(5) Provide medical services related to FDA-approved ((prescription birth control)) contraceptive methods((:)) and OTC ((birth control)) contraceptive drugs, devices, and ((supplies)) products upon request; and</p>	

Proposed/Adopted	WAC Subsection	Reason
	<p>(6) Supply or prescribe FDA-approved ((prescription birth control)) contraceptive methods((:)) and OTC ((birth control)) contraceptive drugs, devices, and ((supplies)) products upon request.</p>	
Original WAC 182-532-120 Reproductive health services—Covered services.		
Proposed	<p>(2) Contraception, including: (a) Food and Drug Administration (FDA)-approved prescription and nonprescription contraceptive methods, as described under WAC 182-530-2000;</p>	<p>The agency removed "prescription and nonprescription" from subsection (2)(a) because the distinction was unnecessary.</p>
Adopted	<p>2) Contraception, including: (a) Food and Drug Administration (FDA)-approved contraceptive methods, as described under WAC 182-530-2000;</p>	
Original WAC 182-532-510 Family planning only programs—Eligibility.		
Proposed	<p>(2)(a)(vi) Have been denied apple health coverage through www.wahealthplanfinder.org within the last thirty days, unless the applicant;</p>	<p>The agency removed the restriction of having been denied apple health coverage through www.wahealthplanfinder.org. This language did not address situations in which applicants who submitted paper applications were denied coverage.</p>
Adopted	<p>(2)(a)(vi) Have been denied apple health coverage within the last thirty days, unless the applicant;</p>	
Original WAC 182-532-520 Family planning only programs—Provider requirements.		
Proposed	<p>(4) Educate clients on Food and Drug Administration (FDA)-approved prescription ((birth control)) contraceptive methods, as well as over-the-counter (OTC) ((birth control)) contraceptive drugs, devices, and supplies, and related medical services;</p> <p>(5) Provide medical services related to FDA-approved prescription ((birth control)) contraceptive methods((:)) and OTC ((birth control)) contraceptive drugs, devices, and supplies as medically necessary;</p> <p>(6) Supply or prescribe FDA-approved prescription ((birth control)) contraceptive methods((:)) and OTC</p>	<p>The agency revised WAC 182-532-520 to better reflect the definitions of "contraceptive" and "over-the-counter."</p>

Proposed/ Adopted	WAC Subsection	Reason
	((birth control)) contraceptive drugs, devices, and supplies as medically appropriate; and	
Adopted	(4) Educate clients on Food and Drug Administration (FDA)-approved ((pre-prescription birth control)) contraceptive methods ((;)) and over-the-counter (OTC) ((birth control)) contraceptive drugs, devices, and ((supplies, and)) products, as well as related medical services; (5) Provide medical services related to FDA-approved ((prescription birth control)) contraceptive methods ((;)) and OTC ((birth control)) contraceptive drugs, devices, and ((supplies)) products as medically necessary; (6) Supply or prescribe FDA-approved ((prescription birth control)) contraceptive methods ((;)) and OTC ((birth control)) contraceptive drugs, devices, and ((supplies)) products as medically appropriate; and	
Original WAC 182-532-530 Family planning only programs—Covered services.		
Proposed	(3) Contraception, including: (a) Food and Drug Administration (FDA)-approved prescription and nonprescription contraceptive methods, as described under WAC 182-530-2000;	The agency removed "prescription and nonprescription" from subsection (3)(a) because the distinction was unnecessary.
Adopted	(3) Contraception, including: (a) Food and Drug Administration (FDA)-approved contraceptive methods, as described under WAC 182-530-2000;	

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 2, Amended 11, Repealed 14.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 2, Amended 11, Repealed 14.

Date Adopted: August 28, 2019.

Wendy Barcus
Rules Coordinator

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

WAC 182-532-001 Reproductive health services—Definitions. The following definitions and those found in ~~((WAC 182-500-0005))~~ chapter 182-500 WAC apply to this chapter.

340B dispensing fee - The medicaid agency's established fee paid to a registered and medicaid-participating 340B drug program provider under the public health service (PHS) act for expenses involved in acquiring, storing and dispensing prescription drugs or drug-containing devices (see WAC 182-530-7900). A dispensing fee is not paid for non-drug items, devices, or supplies (see WAC 182-530-7050).

"Complication" - A condition occurring subsequent to and directly arising from the family planning services received under the rules of this chapter.

"Comprehensive ~~((prevention visit for family planning)) preventive family planning visit"~~ - For the purposes of this program, a comprehensive, preventive, contraceptive visit that includes evaluation and management of an individual, such as: Age appropriate history, examination, counseling/anticipatory guidance, risk factor reduction interventions, and ~~((labs))~~ laboratory and diagnostic procedures that are covered under the client's respective ~~((medicaid))~~ agency program. ~~((These services may only be provided by and paid to TAKE CHARGE providers.))~~

"Contraception" - Prevention of pregnancy through the use of contraceptive methods.

"Contraceptive" - ~~((A))~~ Food and Drug Administration (FDA)-approved prescription and nonprescription methods, including devices, drugs, products, methods, or surgical interventions used to prevent pregnancy, as described in WAC 182-530-2000.

~~(("Delayed pelvic protocol" — The practice of allowing a woman to postpone a pelvic exam during a contraceptive visit to facilitate the start or continuation of a hormonal contraceptive method.~~

~~(("Education, counseling and risk reduction intervention (ECRR)" — Client centered education and counseling services designed to strengthen decision-making skills and support a client's safe and effective use of a chosen contraceptive method. For women, ECRR is part of the comprehensive prevention visit for family planning. For men, ECRR is a stand-alone service for those men who seek family planning services and whose partners are at moderate to high risk of unintended pregnancy.))~~

"Family planning only - Pregnancy related program" - The program that covers family planning only services for eligible clients for ten months following the sixty-day post pregnancy period.

"Family planning only program" - The program that ~~((provides an additional ten months of family planning services to eligible women at the end of their pregnancy. This benefit follows the sixty-day postpregnancy coverage for women who received medical assistance benefits during the pregnancy.~~

~~"Family planning provider"~~ - For this chapter, a physician or physician's assistant, advanced registered nurse practitioner (ARNP), or clinic that, in addition to meeting requirements in chapter 182-502 WAC, is approved by the medicaid agency to provide family planning services to eligible clients as described in this chapter.)) covers family planning only services for eligible clients for twelve months from the date the agency determines eligibility. This program was formerly referred to as TAKE CHARGE.

"Family planning services" - Medically safe and effective medical care, educational services, ~~((and/or))~~ and contraceptives that enable individuals to plan and space the number of their children and avoid unintended pregnancies.

~~("Medicaid agency" - Health care authority.)~~

"Natural family planning" (also known as fertility awareness method) - Methods to identify the fertile days of the menstrual cycle and avoid unintended pregnancies, such as observing, recording, and interpreting the natural signs and symptoms associated with the menstrual cycle.

"Over-the-counter (OTC)" - Drugs, devices, and products that do not require a prescription ~~((before they can))~~ to be sold or dispensed. (See WAC 182-530-1050((-))

"Reproductive health" - The prevention and treatment of illness, disease, and disability related to the function of reproductive systems during all stages of life and includes:

(a) Related, appropriate, and medically necessary care;

(b) Education of clients in medically safe and effective methods of family planning; and

(c) Pregnancy and reproductive health care.

"Reproductive health care services" - Any medical services or treatments, including pharmaceutical and preventive care service or treatments, directly involved in the reproductive system and its processes, functions, and organs involved in reproduction, in all stages of life. Reproductive health care services does not include infertility treatment.

"Reproductive system" - Includes, but is not limited to: Genitals, gonads, the uterus, ovaries, fallopian tubes, and breasts.

"Sexually transmitted infection (STI)" - A disease or infection acquired as a result of sexual contact.

~~("TAKE CHARGE" - The medicaid agency's demonstration and research program approved by the federal government under a medicaid program waiver to provide family planning services.~~

~~"TAKE CHARGE provider" - A family planning provider who has a TAKE CHARGE agreement to provide TAKE CHARGE family planning services to eligible clients under the terms of the federally approved medicaid waiver for the TAKE CHARGE program. (See WAC 182-532-730 for provider requirements.))~~

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

WAC 182-532-050 Reproductive health services—
~~((Purpose))~~ **General.** ~~((The medicaid agency defines reproductive health services as those services that:~~

~~(1) Assist clients to avoid illness, disease, and disability related to reproductive health;~~

~~(2) Provide related, appropriate, and medically necessary care when needed; and~~

~~(3) Assist clients to make informed decisions about using medically safe and effective methods of family planning.))~~

WAC 182-532-050 through 182-532-130 describe reproductive health services and related services covered by the medicaid agency. For maternity-related services, see chapter 182-533 WAC. For other related services, see chapter 182-531 WAC.

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

WAC 182-532-100 Reproductive health services—
~~((Client))~~ **Eligibility.** (1) The medicaid agency covers ~~((limited))~~ reproductive health services ~~((for clients eligible for the following:~~

~~(a) Children's health insurance program (CHIP);~~

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

~~(c) Medical care services (MCS) program;~~

~~(d) Limited casualty program medically needy program (LCP-MNP); and~~

~~(e) Alcohol and Drug Abuse Treatment and Support Act (ADATSA) services), as described under WAC 182-532-120, for clients covered by one of the Washington apple health programs as listed in the table in WAC 182-501-0060.~~

(2) A client(s) enrolled in ((a medicaid)) an agency-contracted managed care organization (MCO) may self-refer outside their MCO for reproductive health care services including, but not limited to, family planning ((services (excluding sterilizations for clients twenty-one years of age or older))), abortion(s), and sexually transmitted infection (STI) services((-These clients may seek services from any of the following:

(a) A medicaid agency-approved family planning provider;

(b) A medicaid agency-contracted local health department/STI clinic;

(c) A medicaid agency-contracted provider for abortion services; or

(d) A medicaid agency-contracted pharmacy)) from any agency-approved provider.

(3) A client who is age twenty-one or older may not self-refer outside their MCO for sterilizations.

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

WAC 182-532-110 Reproductive health services—
Provider requirements. To ~~((be paid by the medicaid agency for reproductive health services provided to eligible clients, family planning providers, including licensed mid-~~

wives,)) receive payment for reproductive health services, a provider must:

(1) Meet the requirements ~~((#))~~ under this chapter and chapters 182-501 and 182-502 WAC;

(2) Provide only those services that are within the scope of their licenses;

(3) ~~((Comply with the required general medicaid agency and reproductive health provider policies, procedures, and administrative practices as detailed in the agency's billing instructions))~~ Bill the agency according to the agency's published billing guides;

(4) Educate clients on Food and Drug Administration (FDA)-approved ~~((prescription birth control))~~ contraceptive methods(;) and over-the-counter (OTC) ~~((birth control))~~ contraceptive drugs, devices, and ~~((supplies, and))~~ products, as well as related medical services;

(5) Provide medical services related to FDA-approved ~~((prescription birth control))~~ contraceptive methods(;) and OTC ~~((birth control))~~ contraceptive drugs, devices, and ~~((supplies))~~ products upon request; and

(6) Supply or prescribe FDA-approved ~~((prescription birth control))~~ contraceptive methods(;) and OTC ~~((birth control))~~ contraceptive drugs, devices, and ~~((supplies))~~ products upon request.

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

WAC 182-532-120 Reproductive health services—Covered ~~((yearly exams for women))~~ services. ~~((1) Along with))~~ In addition to the services listed in WAC 182-531-0100, the medicaid agency covers ~~((one))~~ all of the following ~~((yearly exams per client per year))~~:

~~(a) A cervical, vaginal, and breast cancer screening exam; or~~

~~(b) A comprehensive prevention visit for family planning. (Under a delayed pelvic protocol, the comprehensive prevention visit for family planning may be split into two visits, per client, per year.)~~

~~(2) The cervical, vaginal, and breast cancer screening examination:~~

~~(a) Must follow the guidelines of a nationally recognized protocol; and~~

~~(b) May be billed by a provider other than a TAKE CHARGE provider.~~

~~(3) The comprehensive prevention visit for family planning:~~

~~(a) Must be provided by one or more qualified TAKE CHARGE providers. (See WAC 182-532-730.)~~

~~(b) Must include:~~

~~(i) A clinical breast examination and pelvic examination that follows the guidelines of a nationally recognized protocol; and~~

~~(ii) Client-centered counseling that incorporates risk factor reduction for unintended pregnancy and anticipatory guidance about the advantages and disadvantages of all contraceptive methods.~~

~~(c) May include a pap smear according to current, nationally recognized clinical guidelines.~~

~~(d) Must be documented in the client's chart with detailed information that allows for a well-informed follow-up visit.~~

~~(e) Must be billed by a TAKE CHARGE provider only))~~ reproductive health services:

(1) For a client capable of reproducing, one comprehensive preventive family planning visit once every twelve months, based on nationally recognized clinical guidelines, including:

(a) Sexually transmitted infection (STI) and cancer screenings; and

(b) Comprehensive and client-centered counseling, education, risk reduction, and initiation or management of contraceptive methods.

(2) Contraception, including:

(a) Food and Drug Administration (FDA)-approved contraceptive methods, as described under WAC 182-530-2000;

(b) Education and supplies for FDA-approved contraceptives, natural family planning, and abstinence; and

(c) Sterilization procedures, as described under WAC 182-531-1550.

(3) Cervical, breast, and prostate cancer screenings, according to nationally recognized clinical guidelines;

(4) STI screening, testing, and treatment, according to nationally recognized clinical guidelines;

(5) Human papillomavirus (HPV) immunization, administered according to the recommended schedule published by the Centers for Disease Control and Prevention (CDC);

(6) Diagnostic services, follow-up visits, imaging, and laboratory services related to the services listed under WAC 182-532-120; and

(7) Pregnancy-related services including:

(a) Maternity-related services, as described under chapter 182-533 WAC; and

(b) Abortion.

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

WAC 182-532-130 Reproductive health services—Noncovered services. Noncovered reproductive health services are described in WAC 182-501-0070 and 182-531-0150.

FAMILY PLANNING ONLY PROGRAMS

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

WAC 182-532-500 Family planning only programs—Purpose. ~~((+))~~ The purpose of ~~((the))~~ family planning only programs is to provide family planning services to:

~~((a) Increase the healthy intervals between pregnancies; and~~

~~(b))~~ (1) Improve access to family planning and family planning-related services;

(2) Reduce unintended pregnancies ~~((in women who received medical assistance coverage while pregnant.~~

(2) Women receive these services automatically, regardless of how or when the pregnancy ends. This ten-month cov-

erage follows the medicaid agency's sixty-day postpregnancy coverage.

(3) Men are not eligible for the family planning only program); and

(3) Promote healthy intervals between pregnancies and births.

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

WAC 182-532-510 Family planning only programs —(Client) Eligibility. ((A woman is eligible for family planning only services if:

(1) She received medical assistance coverage during her pregnancy; or

(2) She is determined eligible for a retroactive period covering the end of the pregnancy.)) To be eligible for one of the family planning only programs listed in this section, a client must meet the qualifications for that program.

(1) Family planning only - Pregnancy related program.

(a) To be eligible for family planning only - Pregnancy related services, as defined in WAC 182-532-001, a client must be determined eligible for Washington apple health for pregnant clients during the pregnancy, or determined eligible for a retroactive period covering the end of a pregnancy. See WAC 182-505-0115.

(b) A client is automatically eligible for the family planning only - Pregnancy related program when the client's pregnancy ends.

(c) A client may apply for the family planning only program in subsection (2) of this section up to sixty days before the expiration of the family planning only - Pregnancy related program.

(2) Family planning only program.

(a) To be eligible for family planning only services, as defined in WAC 182-532-001, a client must:

(i) Be a United States citizen, U.S. National, or "qualified alien" as described under WAC 182-503-0535;

(ii) Provide a valid Social Security number (SSN) or meet good cause criteria listed in WAC 182-503-0515(2);

(iii) Be a Washington state resident, as described under WAC 182-503-0520;

(iv) Have an income at or below two hundred sixty percent of the federal poverty level, as described under WAC 182-505-0100;

(v) Need family planning services; and

(vi) Have been denied apple health coverage within the last thirty days, unless the applicant:

(A) Is age eighteen and younger and seeking services in confidence;

(B) Is a domestic violence victim who is seeking services in confidence; or

(C) Has an income of one hundred fifty percent to two hundred sixty percent of the federal poverty level, as described in WAC 182-505-0100.

(b) A client is not eligible for family planning only medical if the client is:

(i) Pregnant;

(ii) Sterilized;

(iii) Covered under another apple health program that includes family planning services; or

(iv) Covered by concurrent creditable coverage, as defined in RCW 48.66.020, unless they meet criteria in (a)(vi) of this subsection.

(c) A client may reapply for coverage under the family planning only program up to sixty days before the expiration of the twelve-month coverage period. The agency does not limit the number of times a client may reapply for coverage.

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

WAC 182-532-520 Family planning only programs —Provider requirements. To be (~~reimbursed~~) paid by the medicaid agency for services provided to clients eligible for (~~the~~) family planning only programs, (~~family planning~~) providers must:

(1) Meet the requirements (~~it~~) under this chapter and chapters 182-501 and 182-502 WAC;

(2) Provide only those services that are within the scope of their licenses;

(3) (~~Comply with the required general medicaid agency and family planning only provider policies, procedures, and administrative practices as detailed in the agency's billing instructions~~) Bill the agency according to the agency's published billing guides;

(4) Educate clients on Food and Drug Administration (FDA)-approved (~~prescription birth control~~) contraceptive methods(~~;~~) and over-the-counter (OTC) (~~birth control~~) contraceptive drugs, devices, and (~~supplies, and~~) products, as well as related medical services;

(5) Provide medical services related to FDA-approved (~~prescription birth control~~) contraceptive methods(~~;~~) and OTC (~~birth control~~) contraceptive drugs, devices, and (~~supplies~~) products as medically necessary;

(6) Supply or prescribe FDA-approved (~~prescription birth control~~) contraceptive methods(~~;~~) and OTC (~~birth control~~) contraceptive drugs, devices, and (~~supplies~~) products as medically appropriate; and

(7) Refer the client to available and affordable nonfamily planning primary care services, as needed.

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

WAC 182-532-530 Family planning only programs —Covered (~~yearly exams~~) services. (~~(1)~~) The medicaid agency covers (~~one~~) all of the following services (~~per client per year, as medically necessary:~~

(a) A cervical, vaginal, and breast cancer screening exam; or

(b) A comprehensive prevention visit for family planning. (Under a delayed pelvic protocol, the comprehensive prevention visit for family planning may be split into two visits, per client, per year.)

(2) The cervical, vaginal, and breast cancer screening exam:

(a) Must be:

(i) Provided following the guidelines of a nationally recognized protocol; and

(ii) ~~Conducted at the time of an office visit with a primary focus and diagnosis of family planning.~~

(b) ~~May be billed by a provider other than a TAKE CHARGE provider.~~

(3) ~~The comprehensive prevention visit for family planning:~~

(a) ~~Must be provided by one or more qualified TAKE CHARGE trained providers. (See WAC 182-532-730.)~~

(b) ~~Must include:~~

(i) ~~A clinical breast examination and pelvic examination that follows the guidelines of a nationally recognized protocol; and~~

(ii) ~~Client-centered counseling that incorporates risk factor reduction for unintended pregnancy and anticipatory guidance about the advantages and disadvantages of all contraceptive methods.~~

(c) ~~May include:~~

(i) ~~A pap smear according to current, nationally recognized clinical guidelines; and~~

(ii) ~~For women ages thirteen through twenty five, routine gonorrhea and chlamydia testing and treatment.~~

(d) ~~Must be documented in the client's chart with detailed information that allows for a well-informed follow-up visit.~~

(e) ~~Must be billed by a TAKE CHARGE provider only);~~

(1) One comprehensive preventive family planning visit once every twelve months, based on nationally recognized clinical guidelines. This visit must have a primary focus and diagnosis of family planning and include counseling, education, risk reduction, and initiation or management of contraceptive methods;

(2) Assessment and management of family planning or contraceptive problems, when medically necessary;

(3) Contraception, including:

(a) Food and Drug Administration (FDA)-approved contraceptive methods, as described under WAC 182-530-2000;

(b) Education and supplies for Federal Drug Administration (FDA)-approved contraceptive, natural family planning, and abstinence; and

(c) Sterilization procedures, as described under WAC 182-531-1550.

(4) The following services, when appropriate, during a visit focused on family planning:

(a) Pregnancy testing;

(b) Cervical cancer screening, according to nationally recognized clinical guidelines;

(c) Gonorrhea and chlamydia screening and treatment for clients age thirteen through twenty-five, according to nationally recognized clinical guidelines;

(d) Syphilis screening and treatment for clients who have an increased risk for syphilis, according to nationally recognized guidelines; and

(e) Sexually transmitted infection (STI) screening, testing, and treatment, when medically indicated by symptoms or report of exposure, and medically necessary for the client's safe and effective use of their chosen contraceptive method.

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

WAC 182-532-550 Family planning only programs —~~((Reimbursement and))~~ Payment limitations. (1) The medicaid agency limits ~~((reimbursement))~~ payment under the family planning only programs to services that:

(a) Have a primary focus and diagnosis of family planning as determined by a qualified licensed medical practitioner; and

(b) Are medically necessary for the client to safely and effectively use, or continue to use, ~~((her))~~ the client's chosen contraceptive method.

(2) The ~~((medicaid))~~ agency ~~((reimburses))~~ pays:

(a) Providers for covered family planning ~~((only))~~ services using the agency's published fee schedules~~((-~~

~~3))~~;

(b) For family planning pharmacy services, family planning ~~((lab))~~ laboratory services, and sterilization services ~~((are reimbursed by the medicaid agency under the rules and fee schedules applicable to these specific programs.~~

(4) The medicaid agency pays) using the agency's published fee schedules; and

(c) A dispensing fee only for contraceptive drugs ~~((that are))~~ purchased through the 340B program of the Public Health Service Act. (See chapter 182-530 WAC~~((-~~

~~5))~~ Under WAC 182-501-0200, the medicaid agency requires a provider to)) (3) The agency does not pay for inpatient services under the family planning only programs, except for complications arising from covered family planning services.

(4) The agency requires providers to:

(a) Meet the timely billing requirements of WAC 182-502-0150; and

(b) Seek timely reimbursement from a third party when a client has available third-party resources, as described under WAC 182-501-0200, ~~((The))~~ Exceptions to this requirement are described under WAC 182-501-0200 (2) and (3) and 182-532-570.

(5) Services provided to family planning clients by federally qualified health centers (FQHCs), rural health centers (RHCs), and Indian health care providers (IHCP) do not qualify for encounter or enhanced rates.

NEW SECTION

WAC 182-532-560 Family planning only programs —Documentation requirements. In addition to the requirements in WAC 182-502-0020, providers must document the following in the client's medical record:

(1) Primary focus and diagnosis of the visit is family planning related;

(2) Contraceptive methods discussed;

(3) Plan for use of a contraceptive method, or the reason and plan for no contraceptive method;

(4) Education, counseling, and risk reduction with sufficient detail that allows for follow-up;

(5) Referrals to, or from, other providers; and

(6) If applicable, a copy of the completed consent form for sterilization. (See WAC 182-531-1550)

NEW SECTION

WAC 182-532-570 Family planning only programs—Good cause exemption from billing third-party insurance. (1) For the purposes of this section, "good cause" means that the use of the third-party coverage would violate a client's confidentiality because the third party:

(a) Routinely sends written, verbal, or electronic communications, as defined in RCW 48.43.505, to the third-party subscriber and that subscriber is someone other than the client; or

(b) Requires the client to use a primary care provider who is likely to report the client's request for family planning services to the subscriber.

(2) Clients eligible for family planning only programs may request an exemption from the requirement to bill third-party insurance due to "good cause" if they are:

(a) Eighteen years of age or younger and seeking services in confidence; or

(b) Domestic violence victims and seeking services in confidence.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 182-532-123 Reproductive health—Other covered services for women.
- WAC 182-532-125 Reproductive health—Covered services for men.
- WAC 182-532-533 Family planning only program—Other covered services.
- WAC 182-532-540 Family planning only program—Non-covered services.
- WAC 182-532-700 TAKE CHARGE program—Purpose.
- WAC 182-532-720 TAKE CHARGE program—Eligibility.
- WAC 182-532-730 TAKE CHARGE program—Provider requirements.
- WAC 182-532-740 TAKE CHARGE program—Covered yearly exams for women.
- WAC 182-532-743 TAKE CHARGE program—Other covered services for women.
- WAC 182-532-745 TAKE CHARGE program—Covered services for men.
- WAC 182-532-750 TAKE CHARGE program—Noncovered services.
- WAC 182-532-760 TAKE CHARGE program—Documentation requirements.
- WAC 182-532-780 TAKE CHARGE program—Reimbursement and payment limitations.
- WAC 182-532-790 TAKE CHARGE program—Good cause exemption from billing third party insurance.

WSR 19-18-025**PERMANENT RULES****HEALTH CARE AUTHORITY**

[Filed August 28, 2019, 10:25 a.m., effective September 28, 2019]

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

Purpose: New WAC 182-526-0210 Appeals requested by intermediate care facilities for individuals with intellectual disabilities (ICF/IID), will allow an ICF/IID to request a hearing when a finding of noncompliance results in the termination of medicaid funding and any related provider agreement.

Citation of Rules Affected by this Order: New WAC 182-526-0210.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Other Authority: 42 C.F.R. Sec. 431.151, 153, 154, and 498.5.

Adopted under notice filed as WSR 19-15-041 on July 11, 2019.

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 1, 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 1, Amended 0, Repealed 0.

Date Adopted: August 28, 2019.

Wendy Barcus
Rules Coordinator

NEW SECTION

WAC 182-526-0210 Appeals requested by intermediate care facilities for individuals with intellectual disabilities (ICF/IID). The hearing process described in this section applies to requests for an appeal made by an intermediate care facility for individuals with intellectual disabilities (ICF/IID), as defined in WAC 388-825-020.

(1) **Right to hearing.** An ICF/IID may request a hearing when it is dissatisfied with the medicaid agency's finding of noncompliance resulting in the termination of medicaid funding and any related provider agreements under 42 C.F.R. Sec. 431.151 through 431.154.

(a) An agency review judge conducts the hearing and enters the agency's final order for cases held under this subsection.

(b) An ICF/IID cannot not appeal:

(i) The choice of sanction or remedy;

(ii) The monitoring remedy;

(iii) The level of noncompliance found, except when a favorable review decision would affect the range of civil money penalty amounts the agency could collect; or

(iv) The decision about when to conduct an initial survey of a prospective provider.

(2) **Notice of adverse action.** The agency gives the ICF/IID a written notice of adverse action that includes:

(a) The basis for the finding of noncompliance that resulted in the agency's decision to terminate medicaid funding and any related provider agreements;

(b) A statement of the deficiencies resulting in the decision;

(c) The effective date of the adverse action; and

(d) The ICF/IID's appeal rights and procedures, including deadlines, for filing a hearing request.

(3) **Request for hearing.** The ICF/IID, its legal representative, or other authorized official must file a written request for a hearing with the agency's board of appeals at P.O. Box 42700, Olympia, Washington, or by facsimile at 360-507-9018 within sixty calendar days of receiving the notice of adverse action.

(4) **Hearing.** If an ICF/IID requests a hearing on the termination of medicaid funding and any related provider agreements, the hearing is completed and the agency issues the final order on the hearing within one hundred twenty calendar days of the effective date of the adverse action.

(a) If the agency is unable to hold the hearing until after the effective date of the adverse action, the agency offers the ICF/IID an informal reconsideration that meets the requirements of subsection (5) of this section.

(b) The informal reconsideration process described in subsection (5) of this section is not the same reconsideration process defined in WAC 182-526-0010 or described in WAC 182-526-0605 through 182-526-0635.

(5) **Informal reconsideration for ICF/IID.** The informal reconsideration includes:

(a) Written notice to the ICF/IID of the agency's findings resulting in the termination of medicaid funding and any related provider agreements;

(b) A reasonable opportunity for the ICF/IID to dispute those findings in writing; and

(c) A written affirmation or reversal of the agency's action.

(6) **Termination of medicaid funding and related provider agreements.**

(a) The medicaid funding and any related provider agreements end on the effective date of the termination, unless:

(i) A hearing is timely requested and not provided by the agency until after the effective date of the termination; and

(ii) The termination is based on a survey agency certification stating that there is no jeopardy to beneficiaries' health and safety.

(b) If medicaid funding extends past the termination date, funding will be available only through the earlier of:

(i) The issuance date of a hearing decision that upholds the agency's action; or

(ii) One hundred twenty calendar days after the effective date of termination, as required by 42 C.F.R. Sec. 442.40.

WSR 19-18-026

PERMANENT RULES

HEALTH CARE AUTHORITY

[Filed August 28, 2019, 10:33 a.m., effective September 28, 2019]

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

Purpose: The agency is amending these rules to clarify that pharmacy and pharmacy services may be billed when a client is admitted under administrative status for inpatient stays.

Citation of Rules Affected by this Order: Amending WAC 182-550-2590, 182-550-2600, 182-550-2900, and 182-550-4550.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Adopted under notice filed as WSR 19-15-105 on July 22, 2019.

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 4, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 4, Repealed 0.

Date Adopted: August 28, 2019.

Wendy Barcus
Rules Coordinator

AMENDATORY SECTION (Amending WSR 15-18-065, filed 8/27/15, effective 9/27/15)

WAC 182-550-2590 Agency prior authorization requirements for Level 1 and Level 2 LTAC services. (1) The medicaid agency requires prior authorization for Level 1 and Level 2 long term acute care (LTAC) inpatient stays. The prior authorization process includes all the following:

(a) For an initial thirty-day stay:

(i) The client must:

(A) Be eligible under one of the programs listed in WAC 182-550-2575; and

(B) Require Level 1 or Level 2 LTAC services as defined in WAC 182-550-1050.

(ii) The LTAC provider of services must:

(A) Before admitting the client to the LTAC hospital, submit a request for prior authorization to the agency by fax, electronic mail, or telephone, as published in the agency's LTAC billing instructions;

(B) Include sufficient medical information to justify the requested initial stay;

(C) Obtain prior authorization from the agency's medical director or designee, when accepting the client from the transferring hospital; and

(D) Meet all the requirements in WAC 182-550-2580.

(b) For any extension of stay, the criteria in (a) of this subsection must be met, and the LTAC provider of services must submit a request for the extension of stay to the agency with sufficient medical justification.

(2) The agency authorizes Level 1 or Level 2 LTAC services for initial stays or extensions of stay based on the client's circumstances and the medical justification received.

(3) A client who does not agree with a decision regarding a length of stay has a right to a fair hearing under chapter 182-526 WAC. After receiving a request for a fair hearing, the agency may request additional information from the client and the facility, or both. After the agency reviews the available information, the result may be:

(a) A reversal of the initial agency decision;

(b) Resolution of the client's issue(s); or

(c) A fair hearing conducted according to chapter 182-526 WAC.

(4) The agency may authorize an administrative day rate payment, as well as payment for pharmacy services and pharmaceuticals, for a client who meets one or more of the following. The client:

(a) Does not meet the requirements for Level 1 or Level 2 LTAC services;

(b) Is waiting for placement in another hospital or other facility; or

(c) If appropriate, is waiting to be discharged to the client's residence.

AMENDATORY SECTION (Amending WSR 15-18-065, filed 8/27/15, effective 9/27/15)

WAC 182-550-2600 Inpatient psychiatric services.

(1) The medicaid agency, on behalf of the mental health division (MHD), regional support networks (RSNs) and prepaid inpatient health plans (PIHPs), pays for covered inpatient psychiatric services for a voluntary or involuntary inpatient psychiatric admission of an eligible Washington apple health client, subject to the limitation and restrictions in this section and other published rules.

(2) The following definitions and abbreviations and those found in WAC 182-550-1050 apply to this section (where there is any discrepancy, this section prevails):

(a) "Authorization number" refers to a number that is required on a claim in order for a provider to be paid for providing psychiatric inpatient services to a Washington apple health client. An authorization number:

(i) Is assigned when the certification process and prior authorization process has occurred;

(ii) Identifies a specific request for the provision of psychiatric inpatient services to a Washington apple health client;

(iii) Verifies when prior or retrospective authorization has occurred;

(iv) Will not be rescinded once assigned; and

(v) Does not guarantee payment.

(b) "Certification" means a clinical determination by an MHD designee that a client's need for a voluntary or involuntary inpatient psychiatric admission, length of stay extension, or transfer has been reviewed and, based on the information provided, meets the requirements for medical necessity for inpatient psychiatric care. The certification process occurs concurrently with the prior authorization process.

(c) "IMD" See "institution for mental diseases."

(d) "Institution for mental diseases (IMD)" means a hospital, nursing facility, or other institution of more than sixteen beds that is primarily engaged in providing diagnosis, treatment, or care of people with mental diseases, including medical attention, nursing care, and related services. The MHD designates whether a facility meets the definition for an IMD.

(e) "Involuntary admission" refer to chapters 71.05 and 71.34 RCW.

(f) "Mental health division (MHD)" is the unit within the department of social and health services (DSHS) authorized to contract for and monitor delivery of mental health programs. MHD is also known as the state mental health authority.

(g) "Mental health division designee" or "MHD designee" means a professional contact person authorized by MHD, who operates under the direction of a regional support network (RSN) or a prepaid inpatient health plan (PIHP).

(h) "PIHP" see "prepaid inpatient health plan."

(i) "Prepaid inpatient health plan (PIHP)" see WAC 388-865-0300.

(j) "Prior authorization" means an administrative process by which hospital providers must obtain an MHD designee's for a client's inpatient psychiatric admission, length of stay extension, or transfer. The prior authorization process occurs concurrently with the certification process.

(k) "Regional support network (RSN)" see WAC 388-865-0200.

(l) "Retrospective authorization" means a process by which hospital providers and hospital unit providers must obtain an MHD designee's certification after services have been initiated for a Washington apple health client. Retrospective authorization can be before discharge or after discharge. This process is allowed only when circumstances beyond the control of the hospital or hospital unit provider prevented a prior authorization request, or when the client has been determined to be eligible for Washington apple health after discharge.

(m) "RSN" see "regional support network."

(n) "Voluntary admission" refer to chapters 71.05 and 71.34 RCW.

(3) The following department of health (DOH)-licensed hospitals and hospital units are eligible to be paid for providing inpatient psychiatric services to eligible Washington apple health clients, subject to the limitations listed:

(a) Medicare-certified distinct part psychiatric units;

(b) State-designated pediatric psychiatric units;

(c) Hospitals that provide active psychiatric treatment outside of a medicare-certified or state-designated psychiatric unit, under the supervision of a physician according to WAC 246-322-170; and

(d) Free-standing psychiatric hospitals approved as an institution for mental diseases (IMD).

(4) An MHD designee has the authority to approve or deny a request for initial certification for a client's voluntary inpatient psychiatric admission and will respond to the hospital's or hospital unit's request for initial certification within two hours of the request. An MHD designee's certification and authorization, or a denial, will be provided within twelve hours of the request. Authorization must be requested before admission. If the hospital chooses to admit the client without prior authorization due to staff shortages, the request for an initial certification must be submitted the same calendar day (which begins at midnight) as the admission. In this case, the hospital assumes the risk for denial as the MHD designee may or may not authorize the care for that day.

(5) To be paid for a voluntary inpatient psychiatric admission:

(a) The hospital provider or hospital unit provider must meet the applicable general conditions of payment criteria in WAC 182-502-0100; and

(b) The voluntary inpatient psychiatric admission must meet the following:

(i) For a client eligible for Washington apple health, the admission to voluntary inpatient psychiatric care must:

(A) Be medically necessary as defined in WAC 182-500-0070;

(B) Be ordered by an agent of the hospital who has the clinical or administrative authority to approve an admission;

(C) Be prior authorized and meet certification and prior authorization requirements as defined in subsection (2) of this section. See subsection (8) of this section for a voluntary inpatient psychiatric admission that was not prior authorized and requires retrospective authorization by the client's MHD designee; and

(D) Be verified by receipt of a certification form dated and signed by an MHD designee (see subsection (2) of this section). The form must document at least the following:

(I) Ambulatory care resources available in the community do not meet the treatment needs of the client;

(II) Proper treatment of the client's psychiatric condition requires services on an inpatient basis under the direction of a physician (according to WAC 246-322-170);

(III) The inpatient services can reasonably be expected to improve the client's level of functioning or prevent further regression of functioning;

(IV) The client has been diagnosed as having an emotional or behavioral disorder, or both, as defined in the current edition of the Diagnostic and Statistical Manual of the American Psychiatric Association; and

(V) The client's principle diagnosis must be an MHD covered diagnosis.

(ii) For a client eligible for both medicare and a Washington apple health program, the agency pays secondary to medicare.

(iii) For a client eligible for both medicare and a Washington apple health program and who has not exhausted medicare lifetime benefits, the hospital provider or hospital unit provider must notify the MHD designee of the client's admission if the dual eligibility status is known. The admission:

(A) Does not require prior authorization by an MHD designee; and

(B) Must be under medicare standards.

(iv) For a client eligible for both medicare and a Washington apple health program who has exhausted medicare lifetime benefits, the admission must have prior authorization by an MHD designee.

(v) When a liable third party is identified (other than medicare) for a client eligible for a Washington apple health program, the hospital provider or hospital unit provider must obtain an MHD designee's authorization for the admission.

(6) To be paid for an involuntary inpatient psychiatric admission:

(a) The involuntary inpatient psychiatric admission must be under the admission criteria specified in chapters 71.05 and 71.34 RCW; and

(b) The hospital provider or hospital unit provider:

(i) Must be certified by the MHD under chapter 388-865 WAC;

(ii) Must meet the applicable general conditions of payment criteria in WAC 182-502-0100; and

(iii) When submitting a claim, must include a completed and signed copy of an Initial Certification Authorization form Admission to Inpatient Psychiatric Care form, or an Extension Certification Authorization for Continued Inpatient Psychiatric Care form.

(7) To be paid for providing continued inpatient psychiatric services to a Washington apple health client who has already been admitted, the hospital provider or hospital unit provider must request from an MHD designee within the time frames specified, certification and authorization as defined in subsection (2) of this section for any of the following circumstances:

(a) If the client converts from involuntary (legal) status to voluntary status, or from voluntary to involuntary (legal) status as described in chapter 71.05 or 71.34 RCW, the hospital provider or hospital unit provider must notify the MHD designee within twenty-four hours of the change. Changes in legal status may result in issuance of a new certification and authorization. Any previously authorized days under the previous legal status that are past the date of the change in legal status are not billable;

(b) If an application is made for determination of a patient's Washington apple health eligibility, the request for certification and prior authorization must be submitted within twenty-four hours of the application;

(c) If there is a change in the client's principal (~~ICD9-CM~~) ICD-10-CM diagnosis to an MHD covered diagnosis, the request for certification and prior authorization must be submitted within twenty-four hours of the change;

(d) If there is a request for a length of stay extension for the client, the request for certification and prior authorization must be submitted before the end of the initial authorized days of services (see subsections (11) and (12) of this section for payment methodology and payment limitations); ~~(and)~~

(e) If the client is to be transferred from one community hospital to another community hospital for continued inpatient psychiatric care, the request for certification and prior authorization must be submitted before the transfer~~(-);~~ or

(f) If a client who has been authorized for inpatient care by the MHD designee has been discharged or left against medical advice prior to the expiration of previously autho-

rized days, a hospital provider or hospital unit provider must notify the MHD designee within twenty-four hours of discharge. Any previously authorized days past the date the client was discharged or left the hospital are not billable.

(8) An MHD designee has the authority to approve or deny a request for retrospective certification for a client's voluntary inpatient psychiatric admission, length of stay extension, or transfer when the hospital provider or hospital unit provider did not notify the MHD designee within the notification time frames stated in this section. For a retrospective certification request before discharge, the MHD designee responds to the hospital or hospital unit within two hours of the request, and provides certification and authorization or a denial within twelve hours of the request. For retrospective certification requests after the discharge, the hospital or hospital unit must submit all the required clinical information to the MHD designee within thirty days of discharge. The MHD designee provides a response within thirty days of the receipt of the required clinical documentation. All retrospective certifications must meet the requirements in this section. An authorization or denial is based on the client's condition and the services provided at the time of admission and over the course of the hospital stay, until the date of notification or discharge, as applicable.

(9) To be paid for a psychiatric inpatient admission of an eligible Washington apple health client, the hospital provider or hospital unit provider must submit on the claim form the authorization (see subsection (2)(a) for definition of prior authorization and retrospective authorization).

(10) The agency uses the payment methods described in WAC 182-550-2650 through 182-550-5600, as appropriate, to pay a hospital and hospital unit for providing psychiatric services to Washington apple health clients, unless otherwise specified in this section.

(11) Covered days for a voluntary psychiatric admission are determined by an MHD designee utilizing MHD approved utilization review criteria.

(12) The number of initial days authorized for an involuntary psychiatric admission is limited to twenty days from date of detention. The hospital provider or hospital unit provider must submit the Extension Certification Authorization for Continued Inpatient Psychiatric Care form twenty-four hours before the expiration of the previously authorized days. Extension requests may not be denied for a person detained under ITA unless a less restrictive alternative is identified by the MHD designee and approved by the court. Extension requests may not be denied for youths detained under ITA who have been referred to the children's long-term inpatient program unless a less restrictive alternative is identified by the MHD designee and approved by the court.

(13) The agency pays the administrative day rate and pays for pharmacy services and pharmaceuticals for any authorized days that meet the administrative day definition in WAC 182-550-1050(~~and~~) when all the following conditions are met:

- (a) The client's legal status is voluntary admission;
- (b) The client's condition is no longer medically necessary;
- (c) The client's condition no longer meets the intensity of service criteria;

(d) Less restrictive alternative treatments are not available, posing barrier to the client's safe discharge; and

(e) The hospital or hospital unit and the MHD designee mutually agree that the administrative day is appropriate.

(14) The hospital provider or hospital unit provider will use the MHD approved due process for conflict resolution regarding medical necessity determinations provided by the MHD designee.

(15) In order for an MHD designee to implement and participate in a Washington apple health client's plan of care, the hospital provider or hospital unit provider must provide any clinical and cost of care information to the MHD designee upon request. This requirement applies to all Washington apple health clients admitted for:

- (a) Voluntary inpatient psychiatric services; and
- (b) Involuntary inpatient psychiatric services, regardless of payment source.

(16) If the number of days billed exceeds the number of days authorized by the MHD designee for any claims paid, the agency will recover any unauthorized days paid.

AMENDATORY SECTION (Amending WSR 19-13-006, filed 6/6/19, effective 7/7/19)

WAC 182-550-2900 Payment limits—Inpatient hospital services. (1) To be eligible for payment for covered inpatient hospital services, a hospital must:

- (a) Have a core-provider agreement with the medicaid agency; and
- (b) Be an in-state hospital, a bordering city hospital, a critical border hospital, or a distinct unit of that hospital, as defined in WAC 182-550-1050; or
- (c) Be an out-of-state hospital that meets the conditions in WAC 182-550-6700.

(2) The agency does not pay for any of the following:

- (a) Inpatient care or services, or both, provided in a hospital or distinct unit to a client when a managed care organization (MCO) plan is contracted to cover those services.
- (b) Care or services, or both, provided in a hospital or distinct unit provided to a client enrolled in the hospice program, unless the care or services are completely unrelated to the terminal illness that qualifies the client for the hospice benefit.
- (c) Ancillary services provided in a hospital or distinct unit unless explicitly spelled out in this chapter.

(d) Additional days of hospitalization on a non-DRG claim when:

(i) Those days exceed the number of days established by the agency or mental health designee under WAC 182-550-2600, as the approved length of stay (LOS); and

(ii) The hospital or distinct unit has not received prior authorization for an extended LOS from the agency or mental health designee as specified in WAC 182-550-4300(4). The agency may perform a prospective, concurrent, or retrospective utilization review as described in WAC 182-550-1700, to evaluate an extended LOS. A mental health designee may also perform those utilization reviews to evaluate an extended LOS.

(e) Inpatient hospital services when the agency determines that the client's medical record fails to support the

medical necessity and inpatient level of care for the inpatient admission. The agency may perform a retrospective utilization review as described in WAC 182-550-1700, to evaluate if the services are medically necessary and are provided at the appropriate level of care.

(f) Two separate inpatient hospitalizations if a client is readmitted to the same or affiliated hospital or distinct unit within fourteen calendar days of discharge and the agency determines that one inpatient hospitalization does not qualify for a separate payment. See WAC 182-550-3000 (7)(f) for the agency's review of fourteen-day readmissions.

(g) Inpatient claims for fourteen-day readmissions considered to be provider preventable as described in WAC 182-550-2950.

(h) A client's day(s) of absence from the hospital or distinct unit.

(i) A nonemergency transfer of a client. See WAC 182-550-3600 for hospital transfers.

(j) Charges related to a provider preventable condition (PPC), hospital acquired condition (HAC), serious reportable event (SRE), or a condition not present on admission (POA). See WAC 182-502-0022.

(k) An early elective delivery as defined in WAC 182-500-0030. The agency may pay for a delivery before thirty-nine weeks gestation, including induction and cesarean section, if medically necessary under WAC 182-533-0400(20).

(3) This section defines when the agency considers payment for an interim billed inpatient hospital claim.

(a) When the agency is the primary payer, each interim billed nonpsychiatric claim must:

(i) Be submitted in sixty-calendar-day intervals, unless the client is discharged before the next sixty-calendar-day interval.

(ii) Document the entire date span between the client's date of admission and the current date of services billed, and include the following for that date span:

(A) All inpatient hospital services provided; and

(B) All applicable diagnosis codes and procedure codes.

(iii) Be submitted as an adjustment to the previous interim billed hospital claim.

(b) When the agency is not the primary payer:

(i) The agency pays an interim billed nonpsychiatric claim when the criteria in (a) of this subsection are met; and

(ii) Either of the following:

(A) Sixty calendar days have passed from the date the agency became the primary payer; or

(B) A client is eligible for both medicare and medicaid and has exhausted the medicare lifetime reserve days for inpatient hospital care.

(c) For psychiatric claims, (a)(i) and (b)(i) of this subsection do not apply.

(4) The agency considers for payment a hospital claim submitted for a client's continuous inpatient hospital admission of sixty calendar days or less upon the client's formal release from the hospital or distinct unit.

(5) To be eligible for payment, a hospital or distinct unit must bill the agency using an inpatient hospital claim:

(a) Under the current national uniform billing data element specifications:

(i) Developed by the National Uniform Billing Committee (NUBC);

(ii) Approved or modified, or both, by the Washington state payer group or the agency; and

(iii) In effect on the date of the client's admission.

(b) Under the current published international classification of diseases clinical modification coding guidelines;

(c) Subject to the rules in this section and other applicable rules;

(d) Under the agency's published billing instructions and other documents; and

(e) With the date span that covers the client's entire hospitalization. See subsection (3) of this section for when the agency considers and pays an initial interim billed hospital claim and any subsequent interim billed hospital claims;

(f) That requires an adjustment due to, but not limited to, charges that were not billed on the original paid claim (e.g., late charges), through submission of an adjusted hospital claim. Each adjustment to a paid hospital claim must provide complete documentation for the entire date span between the client's admission date and discharge date, and include the following for that date span:

(i) All inpatient hospital services provided; and

(ii) All applicable diagnosis codes and procedure codes; and

(g) With the appropriate NUBC revenue code specific to the service or treatment provided to the client.

(6) When a hospital charges multiple rates for an accommodation room and board revenue code, the agency pays the hospital's lowest room and board rate for that revenue code. The agency may request the hospital's charge master. Room charges must not exceed the hospital's usual and customary charges to the general public, as required by 42 C.F.R. Sec. 447.271.

(7) The agency allows hospitals an ~~((all-inclusive))~~ administrative day rate for those days of a hospital stay in which a client no longer meets criteria for the acute inpatient level of care ~~((The agency allows this day rate only when an appropriate placement outside the hospital is not available))~~, as provided in WAC 182-550-4550.

(8) The agency pays for observation services according to WAC 182-550-6000, 182-550-7200, and other applicable rules.

(9) The agency determines its actual payment for an inpatient hospital admission by making any required adjustments from the calculations of the allowed covered charges. Adjustments include:

(a) Client participation (e.g., spenddown);

(b) Any third-party liability amount, including medicare part A and part B; and

(c) Any other adjustments as determined by the agency.

(10) The agency pays hospitals less for services provided to clients eligible under state-administered programs, as provided in WAC 182-550-4800.

(11) All hospital providers must present final charges to the agency according to WAC 182-502-0150.

AMENDATORY SECTION (Amending WSR 15-18-065, filed 8/27/15, effective 9/27/15)

WAC 182-550-4550 Administrative day rate and swing bed day rate. (1) **Administrative day rate.** The medicaid agency allows hospitals an ~~((all-inclusive))~~ administrative day rate for those days of hospital stay in which a client does not meet criteria for acute inpatient level of care, but is not discharged because an appropriate placement outside the hospital is not available.

(a) The agency uses the annual statewide weighted average nursing facility medicaid payment rate to update the all-inclusive administrative day rate on November 1st of each year.

(b) The agency does not pay for ancillary services, except for pharmacy services and pharmaceuticals, provided during administrative days.

(c) The agency identifies administrative days during the length of stay review process after the client's discharge from the hospital.

(d) The agency pays the hospital the administrative day rate starting with the date of hospital admission if the admission is solely for a stay until an appropriate subacute placement can be made.

(2) **Swing bed day rate.** The agency allows hospitals a swing bed day rate for those days when a client is receiving agency-approved nursing service level of care in a swing bed. The agency's aging and disability services administration (ADSA) determines the swing bed day rate.

(a) The agency does not pay a hospital the rate applicable to the acute inpatient level of care for those days of a hospital stay when a client is receiving agency-approved nursing service level of care in a swing bed.

(b) The agency's allowed amount for those ancillary services not covered under the swing bed day rate is based on the payment methods provided in WAC 182-550-6000 and 182-550-7200. These ancillary services may be billed by the hospital on an outpatient hospital claim, except for pharmacy services and pharmaceuticals.

(c) The agency allows pharmacy services and pharmaceuticals not covered under the swing bed day rate, that are provided to a client receiving agency-approved nursing service level of care, to be billed directly by a pharmacy through the point of sale system. The agency does not allow those pharmacy services and pharmaceuticals to be paid to the hospital through submission of a hospital outpatient claim.

WSR 19-18-031

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Long-Term Support Administration)

[Filed August 29, 2019, 8:50 a.m., effective September 29, 2019]

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

Purpose: The department is creating two new sections, WAC 388-78A-3181 Remedies—Specific—Civil penalties and 388-78A-3183 Remedies—Civil fine grid, to assure

compliance with requirements of HB [EHB] 2750 (chapter 173, Laws of 2018) passed by the 2018 legislature.

Citation of Rules Affected by this Order: New WAC 388-78A-3181 and 388-78A-3183.

Statutory Authority for Adoption: Chapter 18.20 RCW.

Adopted under notice filed as WSR 19-12-117 on June 5, 2019.

Changes Other than Editing from Proposed to Adopted Version: Minor correction of typographical error to change the word "find" to "fine" in WAC 388-78A-3183.

A final cost-benefit analysis is available by contacting Jeanette K. Childress, P.O. Box 45600, Olympia, WA 98504-5600, phone 360-725-2591, email Jeanette.Childress@dshs.wa.gov.

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

Date Adopted: August 28, 2019.

Cheryl Strange
Secretary

NEW SECTION

WAC 388-78A-3181 Remedies—Specific—Civil penalties. (1) The department may impose civil penalties of at least one hundred dollars per day per violation.

(2) Fines up to one thousand dollars per day per violation may be issued under RCW 18.20.190 through December 31, 2019, and thereafter as follows:

(a) Beginning January 1, 2020, through December 31, 2020, the civil penalties may not exceed two thousand dollars per day per violation; and

(b) Beginning January 1, 2021, the civil penalties may not exceed three thousand dollars per day per violation.

(3) Fines up to three thousand dollars may be issued under RCW 18.20.185 for willful interference with a representative of the long-term care ombuds.

(4) Fines up to three thousand dollars may be issued under RCW 74.39A.060 for retaliation against a resident, employee, or any other person making a complaint, providing information to, or cooperating with, the ombuds, the department, the attorney general's office, or a law enforcement agency.

(5) Fines up to ten thousand dollars may be issued under RCW 18.20.190 for a current or former licensed provider who is operating an unlicensed home.

(6) When the assisted living facility fails to pay a fine under this chapter when due, the department may, in addition to other remedies, withhold an amount equal to the fine plus interest, if any, from any contract payment due to the provider from the department.

(7) Civil monetary penalties are due twenty-eight days after the assisted living facility or the owner or operator of an unlicensed assisted living facility is served with notice of the penalty unless the assisted living facility requests a hearing in compliance with chapter 34.05 RCW, RCW 43.20A.215, and

this chapter. If the hearing is requested, the penalty becomes due ten days after a final decision affirming the assessed civil penalty. Thirty days after the department serves the assisted living facility with notice of the penalty, interest begins to accrue at a rate of one percent per month as authorized under RCW 43.20B.695.

(8) All receipts from civil penalties imposed under this chapter must be deposited in the assisted living facility temporary management account created in RCW 18.20.430.

NEW SECTION

WAC 388-78A-3183 Remedies—Civil fine grid. Effective (exact date to be determined), the department will consider the guidance in the tiered sanction grid below when imposing civil fine remedies:

No Harm	Minimal to Moderate Harm		Severe Harm		Imminent Danger, Immediate Threat, or Both
Recurring/ Uncorrected	Initial	Recurring/ Uncorrected	Initial	Recurring/ Uncorrected	Any Violation
Civil fine of at least one hundred dollars per violation.	Civil fine up to two hundred and fifty dollars per violation per day.	Civil fine up to five hundred dollars per violation per day.	Civil fine up to seven hundred and fifty dollars per violation per day.	Civil fine up to one thousand dollars per violation per day.	Civil fine of one thousand dollars per violation per day.

Beginning January 1, 2020, the department will consider the guidance in the tiered sanction grid below when imposing civil fine remedies:

No Harm	Minimal to Moderate Harm		Severe Harm		Imminent Danger, Immediate Threat, or Both
Recurring/ Uncorrected	Initial	Recurring/ Uncorrected	Initial	Recurring/ Uncorrected	Any Violation
Civil fine of at least one hundred dollars per violation.	Civil fine up to two hundred and fifty dollars per violation or a daily civil fine of at least one hundred and twenty-five dollars per day.	Civil fine up to five hundred dollars per violation or a daily civil fine of at least two hundred and fifty dollars per day.	Civil fine up to one thousand dollars per violation or a daily civil fine of at least five hundred dollars per day.	Civil fine up to one thousand five hundred dollars per violation or a daily civil fine of at least seven hundred and fifty dollars per day.	Civil fine of two thousand dollars or daily civil fine of at least one thousand dollars per day.

Beginning January 1, 2021, the department will consider the guidance in the tiered sanction grid below when imposing civil fine remedies:

No Harm	Minimal to Moderate Harm		Severe Harm		Imminent Danger, Immediate Threat, or Both
Recurring/ Uncorrected	Initial	Recurring/ Uncorrected	Initial	Recurring/ Uncorrected	Any Violation
Civil fine of at least one hundred dollars per violation.	Civil fine up to five hundred dollars per violation or a daily civil fine of at least two hundred and fifty dollars per day.	Civil fine up to one thousand dollars per violation or a daily civil fine of at least five hundred dollars per day.	Civil fine up to two thousand dollars per violation or a daily civil fine of at least one thousand dollars per day.	Civil fine up to three thousand dollars per violation or a daily civil fine of at least one thousand five hundred dollars per day.	Civil fine of three thousand dollars or daily civil fine of at least one thousand dollars per day.

For the purpose of this section, the following definitions of harm apply:

(1) **"Minimal"** means violations that result in little to no negative outcome or little or no potential harm for a resident.

(2) **"Moderate"** means violations that result in negative outcome and actual or potential harm for a resident.

(3) **"Severe"** means violations that either result in one or more negative outcomes and significant actual harm to residents that does not constitute imminent danger, or there is a reasonable predictability of recurring actions, practices, situations, or incidents with potential for causing significant harm to a resident, or both.

(4) **"Imminent danger"** or **"immediate threat"** means serious physical harm to or death of a resident has occurred, or there is a serious threat to the resident's life, health, or safety.

WSR 19-18-047

PERMANENT RULES

DEPARTMENT OF AGRICULTURE

[Filed August 30, 2019, 8:25 a.m., effective September 30, 2019]

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

Purpose: The department is adopting amendments to WAC 16-390-240 USDA audit verification and terminal market inspection fees, that include adopting fees identical to and not less than fees adopted by the United States Department of Agriculture, Agricultural Marketing Service (USDA-AMS) as published in the Federal Register (Vol. 84, No. 83) on April 30, 2019, under the "Fresh Fruits, Vegetables, and Other Products (Inspection, Certification, and Standards)" table with an effective date of October 1, 2019. These changes are necessary to comply with the department's cooperative agreement with USDA-AMS for services the department provides as a "Federal-State Inspection Agency."

Citation of Rules Affected by this Order: Amending WAC 16-390-240.

Statutory Authority for Adoption: RCW 15.17.030, [15.17].140(2), [15.17].150, and [15.17].270.

Adopted under notice filed as WSR 19-13-074 on June 17, 2019.

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

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

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

Date Adopted: August 27, 2019.

Derek I. Sandison
Director

AMENDATORY SECTION (Amending WSR 18-21-167, filed 10/23/18, effective 11/23/18)

WAC 16-390-240 USDA audit verification and terminal market inspection fees. WSDA performs audit and inspection services requested by customers under a "cooperative agreement" with the United States Department of Agriculture's Agricultural Marketing Service (USDA/AMS). Under USDA/AMS rules, WSDA provides these services as a "federal-state inspection agency." Under USDA/AMS regulations and the cooperative agreement, the fees that WSDA charges for these services must be no less than the current USDA/AMS fees for these services. The applicable current USDA/AMS fees were published in the Federal Register (~~at Vol. 82, No. 88, on May 9, 2017~~) in Vol. 84, No. 83 on April 30, 2019, under the "~~((Fruit and Vegetable Fees))~~ Fresh Fruits, Vegetables, and Other Products (Inspection, Certification, and Standards)" table and, for the mileage fee related to terminal market inspection(~~(, in Patch #32, dated July 25, 2018)~~), for incorporation in the USDA/AMS "General Market Manual" at Appendix II, "Schedule of User Fees." In conformity with the cooperative agreement, WSDA adopts the same applicable fees for these services as set forth in this section.

~~(1) ((The fee for USDA audit verification services is \$108.00 per hour.~~

~~(2))~~ Mileage related to audit verification services is charged at the rate established by the Washington state office of financial management at the time the service was performed.

~~((3) The fee for terminal market inspection services is \$85.00 per hour, \$191.00 per lot for a earlot equivalent of each product, and \$159.00 per lot for one-half earlot equivalent or less of each product. The fee for each additional lot of the same product is \$79.00. The overtime fee for terminal market inspection services is an additional \$27.00 per hour. The fee for terminal market inspection services on a holiday is an additional \$63.00 per hour.))~~ (2) Specialty crop fees/audit and terminal market fees:

Quality and Condition Inspections for Whole Lots	\$210.00 per lot
Quality and Condition Half Lot or Condition-Only Inspections for Whole Lots	\$174.00 per lot
Condition Half Lot	\$161.00 per lot
Quality and Condition or Condition-Only Inspections for Additional Lots of the Same Product	\$96.00 per lot
Dockside Inspections - Each Package Weighing <30 lbs.	\$0.044 per pkg.
Dockside Inspections - Each Package Weighing ≥30 lbs.	\$0.068 per pkg.
Charge per Individual Product for Dockside Inspection	\$210.00 per lot

Charge per Each Additional Lot of the Same Product	\$96.00 per lot		
Inspections for All Hourly Work	Regular	Overtime	Holiday
	\$93.00	\$113.00	\$134.00
Audit Services - State	\$115.00	N/A	N/A

(3) The mileage fee related to terminal market inspection services is \$1.96 per mile. ~~((USDA fees for lots and mileage are regulated by 7 C.F.R. 51.38 and 51.40.))~~ Round trip mileage will be charged from an inspector's assigned location to the inspection site.

WSR 19-18-049
PERMANENT RULES
HEALTH CARE AUTHORITY

[Filed August 30, 2019, 8:41 a.m., effective October 1, 2019]

Effective Date of Rule: October 1, 2019.

Purpose: The agency is adding coverage limits for mandibular advancement devices.

Citation of Rules Affected by this Order: New WAC 182-552-0450.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Adopted under notice filed as WSR 19-11-068 on May 16, 2019.

Changes Other than Editing from Proposed to Adopted Version:

Proposed/Adopted	WAC Subsection	Reason
Original WAC 182-552-0450 (2)(a).		
Proposed	"(2) For clients: (a) Age twenty and younger, if this device is recommended during the early and periodic screening, diagnosis, and treatment (EPSDT) exam and then ordered by a provider, the agency evaluates the health care service according to WAC 182-534-0100. (b) Age twenty-one and older who have natural dentition, the agency pays for one custom-made mandibular advancement device every five years. The client must: (iii) Either meet the sleep testing criteria described in WAC 182-552-0400 or score above thirty on the apnea-hypopnea index (AHI) or respiratory disturbance index (RDI)."	The agency struck subsection (2)(a) to remove the requirement that a formal screening under [an] EPSDT exam is needed to trigger an evaluation of whether a mandibular advancement device is covered under EPSDT. EPSDT coverage criteria is now outlined in subsection (2)(b) of the adopted rule.
Adopted	"(2) For clients: (a) Who have natural dentition, the agency pays for one custom-made mandibular advancement device every five years. The client must: (iii) Meet the sleep testing criteria described in WAC 182-552-0400.	

Proposed/Adopted	WAC Subsection	Reason
	(b) For clients age twenty or younger, the agency evaluates requests for a mandibular advancement device according to the early periodic screening, diagnosis, and treatment (EPSDT) criteria found in WAC 182-534-0100. Under EPSDT, the agency will pay for a service if it is medically necessary, safe, effective, and not experimental."	
Original WAC 182-552-0450 (2)(b)(iii).		
Proposed	"(2) For clients: (b) Age twenty-one and older who have natural dentition, the agency pays for one custom-made mandibular advancement device every five years. The client must: (iii) Either meet the sleep testing criteria described in WAC 182-552-0400 or score above thirty on the apnea-hypopnea index (AHI) or respiratory disturbance index (RDI)."	The agency revised subsection (2)(b)(iii) of the proposed rule because the proposed language created a separate standard for coverage of continuous positive airway pressure than the standard listed in WAC 182-552-0400. The change reflected in the adopted rule corrects this issue.
Adopted	"(2) For clients: (a) Who have natural dentition, the agency pays for one custom-made mandibular advancement device every five years. The client must: (iii) Meet the sleep testing criteria described in WAC 182-552-0400."	
Original WAC 182-552-0450(3).		
Proposed	"(3) The provider must keep the following in the client's record:"	The agency revised subsection (3) of the proposed rule to clarify who is responsible for keeping the listed documentation in the client's record.
Adopted	"(3) The prescriber must keep the following in the client's record:"	
Original WAC 182-552-0450 (5)(c).		
Proposed	"(c) Has completed agency-recognized continuing education in dental sleep medicine provided by the ABDSM or a comparable organization within two years prior to ordering the mandibular advancement device."	The agency revised subsection (5)(c) of the proposed rule to correct terminology.
Adopted	"(c) Has completed agency-recognized continuing education in dental sleep medicine provided by the ABDSM or a comparable organization within two years prior to providing the mandibular advancement device."	

Proposed/Adopted	WAC Subsection	Reason
Original WAC 182-552-0450.		
Proposed	N/A	The agency added subsection (6) to the rule to outline the agency's process for evaluating authorization requests that exceed the limitations in this section.
Adopted	"(6) The agency evaluates requests for authorization for mandibular advancement devices that exceed the limitations in this section on a case-by-case basis in accordance with WAC 182-501-0169."	

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 1, 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 1, Amended 0, Repealed 0.

Date Adopted: August 30, 2019.

Wendy Barcus
Rules Coordinator

NEW SECTION

WAC 182-552-0450 Mandibular advancement device. The agency covers the purchase of a mandibular advancement device for a client when the provider determines that the use of a continuous positive airway pressure (CPAP) device is medically contraindicated or the client cannot medically tolerate a CPAP device. Prior authorization is required for all eligible clients.

(1) The agency considers a mandibular advancement device to be medical equipment subject to the same billing requirements, restrictions, and limitations as other medical equipment according to chapter 182-543 WAC.

(2) For clients:

(a) Who have natural dentition, the agency pays for one custom-made mandibular advancement device every five years. The client must:

(i) Complete a face-to-face evaluation with a sleep medicine physician in an agency-designated center of excellence (COE) prior to sleep testing;

(ii) Be diagnosed with obstructive sleep apnea (OSA) using a clinical evaluation and positive attended polysomnogram (PSG); and

(iii) Meet the sleep testing criteria described in WAC 182-552-0400.

(b) For clients age twenty or younger, the agency evaluates requests for a mandibular advancement device according to the early periodic screening, diagnosis, and treatment (EPSDT) criteria found in WAC 182-534-0100. Under

EPSDT, the agency will pay for a service if it is medically necessary, safe, effective, and not experimental.

(3) The prescriber must keep the following in the client's record:

(a) Documentation of a CPAP trial lasting at least six consecutive months; and

(b) A description of why CPAP failed or an explanation of why CPAP is not the appropriate treatment.

(4) The mandibular advancement device must be titrated by a licensed provider who has documented experience in titrating these devices.

(5) The mandibular advancement device must be provided and billed by a licensed dentist who:

(a) Holds a certification in dental sleep medicine from the American Board of Dental Sleep Medicine (ABDSM); or

(b) Is the dental director of a dental sleep medicine facility accredited by the ABDSM; or

(c) Has completed agency-recognized continuing education in dental sleep medicine provided by the ABDSM or a comparable organization within the two years prior to providing the mandibular advancement device.

(6) The agency evaluates requests for authorization for mandibular advancement devices that exceed the limitations in this section on a case-by-case basis in accordance with WAC 182-501-0169.

WSR 19-18-068

PERMANENT RULES

DEPARTMENT OF REVENUE

[Filed September 3, 2019, 1:20 p.m., effective October 4, 2019]

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

Purpose: WAC 458-20-193C is being amended to incorporate language from SSB 5581 (2019), which limits the business and occupation tax exemption for imports to wholesale sales of tangible personal property when the wholesale sale is (1) between a parent company and its wholly-owned subsidiary; or (2) the sale of unroasted coffee beans. In addition, the rule is being reorganized to improve clarity and readability.

Citation of Rules Affected by this Order: Amending WAC 458-20-193C.

Statutory Authority for Adoption: RCW 82.32.300 and 82.01.060(2).

Adopted under notice filed as WSR 19-14-074 on July 1, 2019.

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 0, Repealed 0.
Date Adopted: September 3, 2019.

Atif Aziz
Rules Coordinator

AMENDATORY SECTION (Amending WSR 86-07-005, filed 3/6/86)

WAC 458-20-193C Imports and exports—Sales of goods from or to persons in foreign countries.

~~((WAC 458-20-193 deals with interstate and foreign commerce and is published in four separate parts:~~

- ~~Part A. Sales of goods originating in Washington to persons in other states.~~
- ~~Part B. Sales of goods originating in other states to persons in Washington.~~
- ~~Part C. Imports and exports: Sales of goods from or to persons in foreign countries.~~
- ~~Part D. Transportation, communication, public utility activities, or other services in interstate or foreign commerce.~~

Part C.

Foreign Commerce))

(1) Introduction. This rule explains the application of the business and occupation (B&O) and retail sales taxes to sales of imports and exports. For purposes of this rule, the terms "good," "goods," "article," and "articles" mean "tangible personal property."

(2) Other rules that may apply. Readers may want to refer to other rules for additional information, including:

(a) WAC 458-20-178 Use tax and the use of tangible personal property.

(b) WAC 458-20-193 Interstate sales of tangible personal property.

(3) Definitions. The following definitions apply throughout this rule:

(a) "Export" means tangible personal property that originates within the taxing jurisdiction of this state destined for delivery to a purchaser in a foreign country. Exports do not include "ship's stores."

(i) Export sales require as a necessary incident of the contract of sale, the seller to deliver the tangible personal property by agreement:

(A) To the buyer at a foreign destination; or

(B) To a carrier consigned to and for transportation to a foreign destination; or

(C) To the buyer at shipside or aboard the buyer's vessel or other vehicle of transportation under circumstances where it is clear that the process of exportation of the tangible personal property has begun.

(ii) Exportation will not necessarily be deemed to have begun if goods are merely in storage awaiting shipment, even

though there is reasonable certainty that the goods will be exported.

(iii) The intention to export, as evidenced, for example, by financial and contractual relationships, does not indicate "certainty of export" if the goods have not commenced their journey abroad; there must be an actual entrance of the goods into the export stream.

(iv) In all circumstances there must be a certainty of export and the process of export must have started. It is not important that title and/or possession of the goods pass in this state so long as delivery is made directly into the export channel.

(b) "Foreign commerce" means ((that)) commerce ((which)) that involves the purchase, sale or exchange of property and its transportation from a state or territory of the United States to a foreign country, or from a foreign country to a state or territory of the United States.

~~((Imports. An import is an article which comes from a foreign country (not from a state, territory or possession of the United States) for the first time into the taxing jurisdiction of a state.~~

~~Taxation of such goods is impermissible while the goods are still in the process of importation, i.e., while they are still in import transportation. Further, such goods are not subject to taxation if the imports are merely flowing through this state on their way to a destination in some other state.~~

~~Exports. An export is an article which originates within the taxing jurisdiction of the state destined for a purchaser in a foreign country. Thus ships stores and supplies are not exports.~~

Business and Occupation Tax

Wholesaling and Retailing.))

(c) "Import" means tangible personal property in import transportation.

(i) An "import" includes goods that are still in the process of importation, i.e., while they are still in import transportation. Except as provided in RCW 82.04.460, property is in the process of import transportation from the time the property begins its transportation at a point outside of the United States until the time that the property is delivered to the buyer in this state. Property is also in the process of import transportation if it is merely flowing through this state on its way to a destination in some other state or country.

(ii) An "import" does not include property that is no longer in the process of import transportation.

(d) "Ship's stores" means the supplies and equipment required for the operation and upkeep of a ship.

(4) Business and occupation tax - Wholesaling and retailing.

(a) Imports. Sales of imports ((by an importer or his agent are not taxable and a deduction will be allowed with respect to the sales of such goods, if at the time of sale such goods are still in the process of import transportation. Immunity from tax does not extend: (1) To the sale of imports to Washington customers by the importer thereof or by any person after completion of importation whether or not the goods are in the original unbroken package or container; nor (2) to the sale of imports subsequent to the time they have been placed in use in this state for the purpose for which they were

imported; nor (3) to sales of products which, although imports, have been processed or handled within this state or its territorial waters.

Exports. A deduction is allowed with respect to export sales when as a necessary incident to the contract of sale the seller agrees to, and does deliver the goods (1) to the buyer at a foreign destination; or (2) to a carrier consigned to and for transportation to a foreign destination; or (3) to the buyer at shipside or aboard the buyer's vessel or other vehicle of transportation under circumstances where it is clear that the process of exportation of the goods has begun, and such exportation will not necessarily be deemed to have begun if the goods are merely in storage awaiting shipment, even though there is reasonable certainty that the goods will be exported. The intention to export, as evidenced for example, by financial and contractual relationships does not indicate "certainty of export" if the goods have not commenced their journey abroad; there must be an actual entrance of the goods into the export stream.

In all circumstances there must be (a) a certainty of export and (b) the process of export must have started.

It is of no importance that title and/or possession of the goods pass in this state so long as delivery is made directly into the export channel.) are subject to the B&O tax, except for the following wholesale sales of imports:

- (i) A sale of unroasted coffee beans; or
- (ii) A sale between a parent company and its wholly owned subsidiary.

(b) **Exports.** Sales of exports are not subject to the B&O tax.

(i) To be tax exempt ((upon export sales)), the seller must document the fact that ((he)) it placed the goods into the export process. ((That)) This may be shown by the seller obtaining and keeping ((in his files)) any ((one)) of the following ((documentary evidence)) documentation:

((+)) (A) A bona fide bill of lading in which the seller is shipper/consignor and by which the carrier agrees to transport the goods sold to the foreign buyer/consignee at a foreign destination; or

((+)) (B) A copy of the shipper's export declaration, showing that the seller was the exporter of the goods sold; or

((+)) (C) Documents consisting of:

((+)) (I) Purchase orders or contracts of sale which show that the seller is required to get the goods into the export stream, e.g., "f.a.s. vessel"; and

((+)) (II) Local delivery receipts, tripsheets, waybills, warehouse releases, etc., reflecting how and when the goods were delivered into the export stream; and

((+)) (III) When available, United States export or customs clearance documents showing that the goods were actually exported; and

((+)) (IV) When available, records showing that the goods were packaged, numbered, or otherwise handled in a way which is exclusively attributable to goods for export.

(ii) Thus, where the seller actually delivers the goods into the export stream and retains such records as above set forth, the B&O tax does not apply. It is not sufficient to show that the goods ultimately reached a foreign destination; but rather, the seller must show that ((he)) it was required to, and did put the goods into the export process.

(iii) Sales of tangible personal property, of ((ships)) ship's stores, and supplies to operators of steamships, etc., are not ((deductible)) exempt irrespective of the fact that the property will be consumed on the high seas, or outside the territorial jurisdiction of this state, or by a vessel engaged in conducting foreign commerce.

However, ((on July 1, 1985, a statutory business and occupation)) under RCW 82.04.433, a B&O tax deduction ((became effective)) is available for sales of fuel for consumption outside the territorial waters of the United States by vessels used primarily in foreign commerce. ((In order))

(A) To qualify for this deduction sellers must take a certificate signed by the buyer or the buyer's agent stating: The name of the vessel for which the fuel is purchased; that the vessel is primarily used in foreign commerce; and, the amount of fuel purchased which will be consumed outside of the territorial waters of the United States. Sellers must exercise good faith in accepting such certificates and are required to add their own signed statement to the certificate to the effect that to best of their knowledge the information contained in the certificate is correct.

(B) The following is an acceptable certificate form:

Foreign Fuel Exemption Certificate

SELLER: VESSEL:

WE HEREBY CERTIFY that this purchase of (kind and amount of product) from (seller) will be consumed as fuel outside the territorial waters of the United States by the above-named vessel. We further certify that said vessel is used primarily in foreign commerce and that none of the fuel purchased will be consumed within the territorial boundaries of the State of Washington.

DATED, ((19)) 20

Purchaser

.....
Purchaser's Agent

By:

.....
Title or Office

(C) When a seller takes a completed certification such as this ((is taken)) in good faith ((by the seller)), the sale is exempt ((of business and occupation)) from the B&O tax, whether made at wholesale or retail, and even though the fuel is delivered to the buyer in this state.

(5) **Business and occupation tax - Extracting((s)) and manufacturing.** Persons engaged in ((these)) extracting or manufacturing activities in Washington ((and who)) that transfer or make delivery of articles produced to points outside the state are subject to ((business)) the B&O tax under the extracting or manufacturing classification and are not subject to ((business)) the B&O tax under the retailing or wholesaling classification. See also WAC 458-20-135 and 458-20-136. The activities taxed occur entirely within the state, are inherently local, and are conducted prior to the commercial journey. The tax is measured by the value of products as determined by the selling price. See WAC 458-20-112. It is immaterial that the value so determined includes an addi-

tional increment of value because the sale occurs outside the state.

(6) Retail sales tax. The same principles apply to the retail sales tax as are set forth for the business and occupation tax (~~(above)~~) described in subsections (4) and (5) of this rule, except that certain statutory exemptions may apply. (See WAC 458-20-174, 458-20-175, 458-20-176, 458-20-177, 458-20-238 and 458-20-239.)

(7) Use tax. The use tax is imposed upon the use, including storage, of all tangible personal property acquired for any use or consumption in this state unless specifically exempt by statute.

WSR 19-18-081

PERMANENT RULES DEPARTMENT OF

CHILDREN, YOUTH, AND FAMILIES

[Filed September 3, 2019, 4:02 p.m., effective October 4, 2019]

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

Purpose: Make family, friend, and neighbor (FFN) child care compliant with new child care and development fund requirements for receipt of grant monies embodied in the 2014 Child Care and Development Block Grant Act reauthorization and supporting rules. Specifically, the rules fulfill the department of children, youth, and families' requirement to specify the number of children an FFN provider may care for at one time (capacity), and to revise and clarify health and safety standards regarding prevention of shaken baby syndrome, abusive head trauma, and child maltreatment. The rules also clarify that child care must occur in Washington state. Finally, the rules emphasize that the provider approval process includes submitting a nonexpired, government issued photo identification and meeting the background check requirement as well as the character, suitability, and competence required by chapter 110-06 WAC.

Citation of Rules Affected by this Order: Amending WAC 110-16-0010, 110-16-0015, 110-16-0030, and 110-16-0035.

Statutory Authority for Adoption: RCW 43.216.055, 43.216.065, and chapter 43.216 RCW.

Other Authority: 42 U.S.C. 9858 et seq.

Adopted under notice filed as WSR 19-15-156 on July 24, 2019.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 3, 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 1, Repealed 0.

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

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

New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 3, 2019.

Brenda Villarreal
Rules Coordinator

AMENDATORY SECTION (Amending WSR 18-20-081, filed 10/1/18, effective 11/1/18)

WAC 110-16-0010 Provider approval. (1) To be approved as a family, friend, and neighbor (FFN) in-home/relative provider for the WCCC program, the individual must:

- (a) Be eighteen years of age or older;
- (b) Complete the approval process that will include, but not be limited to, providing:
 - (i) Legal name, current street address, telephone number, and email address;
 - (ii) Documents required to establish that the individual meets legal employment eligibility requirements that may include, but are not limited to:
 - (A) A legible copy of the individual's valid Social Security card; and
 - (B) A legible copy of the individual's (~~(valid)~~) nonexpired government issued photo identification, such as a (~~(current)~~) driver's license, Washington state identification, or passport.
 - (c) Meet all applicable WCCC subsidy (~~(and background check)~~) requirements of chapter(~~(s)~~) 110-15 (~~(and 110-06)~~) WAC;
 - (d) Have the character, suitability, and competence required by chapter 110-06 WAC to meet the needs of children in care.

(2) An individual will not be approved to receive WCCC subsidy payment as a provider for an eligible child in his or her care if the individual is:

- (a) The child's biological or adoptive parent, step-parent, or the parent's live-in partner;
- (b) The child's legal guardian or the guardian's spouse or live-in partner;
- (c) An adult acting in loco parentis or that adult's spouse or live-in partner;
- (d) An (~~(individual with a revoked child care license; or)~~) adult sibling who lives in the same household as the children needing care;
- (e) Living outside of Washington state and wants to provide care in his or her home;
- (f) Disqualified based on the requirements contained in chapter 110-06 WAC; or
- (g) Receiving temporary assistance for needy families (TANF) benefits on behalf of the eligible child.

(3) Providers are not eligible to receive WCCC benefits for their own children for the same hours for which they receive payment for child care they provide for other WCCC-eligible children.

AMENDATORY SECTION (Amending WSR 18-20-081, filed 10/1/18, effective 11/1/18)

WAC 110-16-0015 Provider responsibilities. (1) The provider must:

(a) Agree to provide care, supervision, and daily activities based on the child's developmental needs, including health, safety, physical, nutritional, emotional, cognitive, and social needs;

(b) Report any legal name, address, or telephone number changes to DCYF within ten days;

(c) Comply with the requirements contained in this chapter and the applicable requirements in chapters 110-06 and 110-15 WAC;

(d) Allow parents access to their own children at all times while in care; and

(e) Have access to a telephone with 911 emergency calling services and capability for both incoming and outgoing calls during all times children are in care.

(2) The provider must not submit an invoice for more than six children for the same hours of care.

(3) The provider must not care for more than six children, including their own children, at any one time.

(4) Care must be provided in the following locations:

(a) Providers related to the child by marriage, blood relationship, or court decree and who are grandparents, great-grandparents, siblings (if living in a separate residence), aunts, or uncles, must choose to be approved to provide care in either the provider's home or the child's home, with the exception that providers residing with a person disqualified under chapter 110-06 WAC must provide care in the child's home.

(b) Providers related to the child by marriage, blood, or court decree, but not listed in (a) of this subsection, must choose to be approved to provide care in either the provider's home or the child's home, with the exception that providers residing with a person disqualified under chapter 110-06 WAC must provide care in the child's home.

(c) Providers not related to the child, such as friends or neighbors must provide care in the child's home.

~~((4))~~ (5) Providers must comply with health and safety activities as follows:

(a) Providers related to the child as described in subsection ~~((3))~~ (4)(b) of this section, must participate in a technical assistance phone call with the department within ninety days of the subsidy payment begin date and annually thereafter;

(b) Providers not related to the child, as described in subsection ~~((3))~~ (4)(c) of this section:

(i) Must complete the department-approved training required in WAC 110-16-0025; and

(ii) Must have an annual technical assistance visit in the child's home.

AMENDATORY SECTION (Amending WSR 18-20-081, filed 10/1/18, effective 11/1/18)

WAC 110-16-0030 Health and safety activities. (1) Providers not related to the child as described in WAC 110-16-0015 ~~((3))~~ (4)(c), must comply with the following health and safety activity requirements:

(a) Complete the Parent and FFN Provider Health and Safety Agreement; and

(b) Participate in an annual, scheduled visit in the child's home. If necessary, as determined by the department, follow-up visits may occur on a more frequent basis.

(2) The Parent and FFN Provider Health and Safety Agreement must:

(a) Be signed by the provider and parent(s) and verify that the parent(s) and provider discussed and reviewed all of the topics and subject matter items contained in the agreement. The subject matter items include, but are not limited to ~~((5))~~; Prevention of shaken baby syndrome, abusive head trauma, and child maltreatment; emergency contacts ~~((5))~~; fire and emergency prevention ~~((5))~~; knowledge and treatment of children's illnesses and allergies ~~((5))~~; developmental and special needs ~~((5))~~; medication administration ~~((5))~~; safe transportation ~~((5))~~; child immunizations ~~((5))~~; and safe evacuation; and

(b) Be received by the department within forty-five days of completion of the training requirements in WAC 110-16-0025 (2)(a) or verification of the training exemption in WAC 110-16-0025 (2)(b).

(3) The purpose of the annual, scheduled visit in the child's home is to:

(a) Provide technical assistance to the provider regarding the health and safety requirements described in this chapter;

(b) Observe the provider's interactions with the child, and discuss health and safety practices;

(c) Provide written information and local resources about child development to include the major domains of cognitive, social, emotional, physical development, and approaches to learning; and

(d) Provide regional contact information for FFN child care services and resources.

(4) If the department is not able to successfully complete a scheduled visit with the provider in the child's home after three attempts, the provider will be deemed not in compliance with the requirements of this chapter.

(5) At the annual, scheduled visit, the provider must show:

(a) Proof of identity;

(b) Proof of current certification for first aid and cardiopulmonary resuscitation (CPR) in the form of a card, certificate, or instructor letter;

(c) Proof of vaccination against or acquired immunity for vaccine-preventable diseases for all children in care, if the provider's children are on-site at any time with the eligible children. Proof can include:

(i) A current and complete department of health certificate of immunization status (CIS) or certificate of exemption (COE) or other department of health approved form; or

(ii) A current immunization record from the Washington state immunization information system (WA IIS).

(d) Written permission from the parent to:

(i) Allow children to use a swimming pool;

(ii) Administer medication for treatment of illnesses and allergies of the children in care;

(iii) Provide for and accommodate developmental and special needs; and

(iv) Provide transportation for care, activities, and school when applicable.

(e) The written home evacuation plan required in WAC 110-16-0035 (4)(c).

AMENDATORY SECTION (Amending WSR 18-20-081, filed 10/1/18, effective 11/1/18)

WAC 110-16-0035 Health and safety practices. ~~((1))~~ Providers not related to the child, as described in WAC 110-16-0015 ~~((3))~~ (4)(c), must comply with the following health and safety activity practices ~~((according to the))~~ training as described in WAC 110-16-0025 and required by the department including, but not limited to, the following health and safety ((training)) practices:

~~((a))~~ (1) The prevention and control of infectious diseases;

~~((b))~~ (2) The prevention of sudden infant death syndrome and safe sleep practices, including sudden infant death syndrome/sudden unexpected infant death syndrome risk reduction; ((and

~~((c))~~ (3) The prevention of shaken baby syndrome, abusive head trauma, and child maltreatment; and

(4) The recognition and reporting of child abuse and neglect as defined in RCW 26.44.020 and mandatory reporting requirements under RCW 26.44.030.

~~((2))~~ (5) **Medication administration.** ~~((Providers not related to the child, as described in WAC 110-16-0015 (3)(e), must comply with the following medication administration requirements:))~~

(a) A child's parent, or an appointed designee, must provide training to the provider for special medical procedures that the provider may have to administer to the child. This training must be documented and signed by the provider and parent;

(b) The provider must not give medication to any child without written and signed consent from that child's parent or health care provider. The medication must be given according to the directions on the medication label using appropriately cleaned and sanitized medication measuring devices;

(c) The provider must not give or allow others to give any medication to a child for the purpose of sedating the child unless the medication has been prescribed for a specific child for that particular purpose by a health care professional; and

(d) Medication must be stored and maintained as directed on the packaging or prescription label, including applicable refrigeration requirements.

~~((3))~~ (6) **Indoor building and physical premises safety.** ~~((Providers not related to the child, as described in WAC 110-16-0015 (3)(e), must comply with the following indoor building and physical premises safety requirements:))~~

(a) The provider must visually scan indoor areas to identify potential child safety hazards and discuss removal or reduction of identified hazards with the parent. If it is not possible for the provider to immediately correct or make a hazard completely inaccessible to a child, the provider must supervise the child to avoid injury from such identified hazard. Child safety hazards include, but are not limited to:

(i) Tobacco and cannabis products and containers holding tobacco and cannabis products or ashes;

(ii) Firearms, guns, weapons, and ammunition;

(iii) Any equipment, material, or objects that may pose a risk of choking, aspiration, or ingestion. For purposes of this section, equipment, material, or objects with a diameter or overall dimension of one and three-quarter inch or less are considered items that may pose a risk of choking, aspiration, or ingestion;

(iv) Straps, strings, cords, wires, or similar items capable of forming a loop around a child's neck that are not being used for a supervised activity;

(v) Poisons, chemicals, toxins, dangerous substances or any product labeled "Keep out of reach of children," including, but not limited to, fuel, lighter fluid, solvents, fertilizer, ice melt product, pool chemicals, pesticides, or insecticides, cleansers and detergents, air freshener or aerosols, sanitizing products, and disinfectants;

(vi) Personal grooming, cosmetics, and hygiene products including, but not limited to, nail polish remover, lotions, creams, toothpaste, powder, shampoo, conditioners, hair gels or hair sprays, bubble bath, or bath additives;

(vii) Alcohol, including closed and open containers;

(viii) Plastic bags and other suffocation hazards;

(ix) Equipment, materials, or products that may be hot enough to injure a child;

(x) Freezers, refrigerators, washers, dryers, compost bins, and other entrapment dangers;

(xi) Uneven walkways, damaged flooring or carpeting, or other tripping hazards;

(xii) Large objects capable of tipping or falling over, such as televisions, dressers, bookshelves, wall cabinets, sideboards or hutches, and wall units;

(xiii) Indoor temperatures less than sixty-eight degrees Fahrenheit or greater than eighty-two degrees Fahrenheit;

(xiv) Water accessible to children that may be hotter than one hundred twenty degrees Fahrenheit (the provider should always feel hot water before using on or for a child);

(xv) Windows and stairs accessible to children; and

(xvi) Electrical outlets, power strips, exposed wires, and electrical/extension cords.

(b) During care hours, providers must not themselves, and must not allow others who may be in the presence of the children to:

(i) Possess or use illegal drugs;

(ii) Consume or use alcohol or cannabis products in any form;

(iii) Be under the influence of alcohol, cannabis products in any form, illegal drugs, or misused prescription drugs; and

(iv) Smoke or vape in the home, vehicle, or in close proximity to a child.

~~((4))~~ (7) **Outdoor building and physical premises safety.** The provider must visually scan outdoor play areas to identify potential child safety hazards and discuss removal or reduction of identified hazards with the parent. If it is not possible for the provider to immediately correct or make a hazard completely inaccessible to a child, the provider must supervise the child to avoid injury. Outdoor hazards include, but are not limited to:

(a) Outdoor play area or equipment that is not clean, not in good condition, or not maintained or safe for a child of a certain age to use;

(b) Bouncing equipment including, but not limited to, trampolines, rebounders and inflatable equipment. This requirement does not apply to bounce balls designed to be used by individual children;

(c) Toxic plants or plants with poisonous leaves such as foxglove, morning glory, tomato, potato, rhubarb, or poison ivy;

(d) Extreme weather conditions such as:

(i) Heat in excess of one hundred degrees Fahrenheit;

(ii) Cold below twenty degrees Fahrenheit;

(iii) Lightning storm, tornado, hurricane or flooding; and

(iv) Air quality warnings by public health or other authorities.

(e) Bodies of water such as:

(i) Swimming pools when not being used, portable wading pools, hot tubs, spas, and jet tubs;

(ii) Ponds, lakes, storm retention ponds, ditches, fountains, fish ponds, landscape pools, or similar bodies of water; and

(iii) Uncovered wells, septic tanks, below grade storage tanks, farm manure ponds, or other similar hazards.

(f) Streets, alleyways, parking lots or garages.

~~((5))~~ **(8) Emergency preparedness and response planning.** ~~((Providers not related to the child, as described in WAC 110-16-0015 (3)(e), must comply with the following emergency preparedness and response planning requirements:))~~

(a) The provider must visually scan indoor and outdoor areas to identify potential fire or burn hazards and discuss the removal or reduction of identified hazards with the parent. If it is not possible for the provider to immediately correct or make identified hazards completely inaccessible to a child, the provider must supervise the child to avoid injury from such identified hazards. Fire or burn hazards include, but are not limited to:

(i) Appliances and any heating device that has a hot surface when in use or still hot after use;

(ii) Open flame devices, candles, matches, and lighters. Open flame devices, candles, matches, and lighters must not be used during care hours; and

(iii) The lack of, or nonworking smoke detectors, fire extinguishers, or other fire prevention equipment.

(b) If there is a fire in the home during care hours, the provider's first responsibility is to evacuate the children in care to a safe gathering spot outside the home and then call 911;

(c) The provider and parent must have an agreed upon written home evacuation plan in the event of fire or an emergency or other disaster. The plan must be updated as needed and include, at a minimum:

(i) A floor plan that shows emergency exit pathways, doors, and windows;

(ii) A description for how the provider will evacuate all of the children, especially those who cannot walk;

(iii) A description for how the provider will account for all of the children in the home;

(iv) A designated, safe gathering spot or alternative short-term location for the children and provider pending arrival of the fire department, emergency response, or the parent;

(v) A description of what to take, such as a first aid kit, medications, water, and food; and

(vi) A description for how parents will be contacted after the emergency is over and arrange for pick-up of children, if needed.

(d) To be properly prepared for a home evacuation or lockdown, the provider must be able to easily access emergency items including, but not limited to:

(i) A first aid kit;

(ii) A working flashlight available for use as an emergency light source and extra batteries if the flashlight is powered by batteries;

(iii) A working telephone; and

(iv) Food, water, and a three-day supply of medication required by individual children.

(e) The provider must practice emergency and home evacuation drills with the children as follows:

(i) Earthquake and home evacuation drills once every six calendar months; and

(ii) A lockdown drill annually.

~~((6))~~ **(9) Child transportation.** ~~((Providers not related to the child, as described in WAC 110-16-0015 (3)(e), must comply with the following child transportation requirements: When transporting children, the provider must:))~~

(a) Comply with RCW 46.61.687 and other applicable laws that pertain to child restraints and car seats appropriate for the size and age of each child in care;

(b) Drive only with a valid driver's license;

(c) Have in effect a current motor vehicle insurance policy that provides coverage for the driver, the vehicle, and all other occupants;

(d) Ensure that children are accounted for when entering and exiting a vehicle for transport to and from any destination; and

(e) Never leave the children by themselves.

~~((7))~~ **(10) Supervision of children.** ~~((Providers not related to the child, as described in WAC 110-16-0015 (3)(e), must comply with the following supervision requirements:))~~

(a) The provider must supervise children during care hours. Supervising children requires the provider to engage in specific actions including, but not limited to:

(i) Scanning the environment, looking and listening for both verbal and nonverbal cues to anticipate problems and planning accordingly;

(ii) Positioning oneself to supervise areas accessible to children; and

(iii) Considering the following when deciding whether increased supervision is needed:

(A) Ages of children;

(B) Individual differences and abilities of children;

(C) Layout of the home and play areas; and

(D) Risks associated with the activities children are engaged in.

(b) The provider must provide increased supervision when the children:

(i) Interact with pets or animals;

(ii) Engage in water or sand play;

(iii) Play in an area in close proximity to a body of water;

(iv) Use a route to access an outdoor play area when the area is not next to the home;

- (v) Engage in activities in the kitchen;
 - (vi) Ride on public transportation;
 - (vii) Engage in outdoor play; and
 - (viii) Participate in field trips.
- (c) The provider must ensure no infant or child is left unattended during:
- (i) Diapering;
 - (ii) Bottle feeding; or
 - (iii) Tummy time.
- (d) The provider must not allow any person other than a child's parent or authorized individual to have unsupervised access to a child during care hours. For the purpose of this section, individuals authorized to have unsupervised access include:
- (i) A government representative including emergency responders who have specific and verifiable authority for access; and
 - (ii) A person, such as a family member, family friend, or the child's therapist or health care provider, authorized in writing or over the telephone by a child's parent.

WSR 19-18-095**PERMANENT RULES****DEPARTMENT OF HEALTH**

(Dental Quality Assurance Commission)

[Filed September 4, 2019, 11:24 a.m., effective October 5, 2019]

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

Purpose: WAC 246-817-550 Acts that may be performed by licensed dental hygienists under general supervision, the adopted rule amendments update the listing of allowable duties a dentist may delegate to a licensed dental hygienist under general supervision. The dental quality assurance commission (commission) considered a petition for rule making in July 2017 to allow dental hygienists to perform certain tasks under general supervision that are typically completed by dental assistants under close supervision. Close supervision requires the dentist to be physically present in the treatment facility during the performance of a delegated task while general supervision does not.

Citation of Rules Affected by this Order: Amending WAC 246-817-550.

Statutory Authority for Adoption: RCW 18.32.0365 and 18.29.050.

Adopted under notice filed as WSR 19-13-093 on June 18, 2019.

A final cost-benefit analysis is available by contacting Jennifer Santiago, P.O. Box 47852, Olympia, WA 98501, phone 360-236-4893, fax 360-236-2901, TTY 360-833-6388 or 711, email jennifer.santiago@doh.wa.gov, web site www.doh.wa.gov.

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

Number of Sections Adopted at 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 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: July 26, 2019.

Julia Richman, D.D.S.
Dental Quality Assurance Commission

AMENDATORY SECTION (Amending WSR 17-01-045, filed 12/13/16, effective 1/13/17)

WAC 246-817-550 Acts that may be performed by licensed dental hygienists under general supervision. A dentist may allow a dental hygienist licensed under chapter 18.29 RCW to perform the following acts under the dentist's general supervision:

- (1) Head and neck examination.
- (2) Oral inspection and measuring of periodontal pockets, with no diagnosis.
- (3) Record health histories.
- (4) Take and record blood pressure and vital signs.
- (5) Take intraoral and extraoral radiographs.
- (6) Take intraoral and extraoral photographs.
- (7) Patient education in oral hygiene.
- ~~((4) Take intra-oral and extra-oral radiographs.~~
- ~~(5))~~ (8) Give preoperative and postoperative instructions.
- (9) Oral prophylaxis and removal of deposits and stains from the surfaces of the teeth.
- (10) Give fluoride treatments.
- (11) Apply topical anesthetic agents.
- (12) Deliver oral antibiotic prophylaxis as prescribed by a dentist.
- (13) Place and remove the rubber dam.
- (14) Apply topical preventive or prophylactic agents.
- ~~((6))~~ (15) Administer local anesthetic agents and adjunctive procedures if all conditions in (a) through (d) of this subsection are met. Adjunctive procedures include local anesthetic reversal agents and buffered anesthetic.
 - (a) The patient is at least eighteen years of age;
 - (b) The patient has been examined by the delegating dentist within the previous twelve months;
 - (c) There has been no change in the patient's medical history since the last examination. If there has been a change in the patient's medical history within that time, the dental hygienist must consult with the dentist before administering local anesthetics;
 - (d) The delegating dentist who performed the examination has approved the patient for the administration of local anesthetics by a dental hygienist under general supervision and documented this approval in the patient's record;
 - (e) If any of the conditions in (a) through (d) of this subsection are not met, then close supervision is required.
- ~~((7))~~ (16) Perform subgingival and supragingival scaling.

- (17) Perform root planing.
- (18) Apply sealants.
- (19) Polish and smooth restorations.
- ~~((8) Oral prophylaxis and removal of deposits and stains from the surfaces of the teeth.~~
- ~~(9) Record health histories.~~
- ~~(10) Take and record blood pressure and vital signs.~~
- ~~(11) Perform sub-gingival and supra-gingival scaling.~~
- ~~(12) Perform root planing.~~
- ~~(13) Apply sealants.~~
- ~~(14) Apply topical anesthetic agents.~~
- ~~(15) Deliver oral antibiotic prophylaxis as prescribed by a dentist.~~
- ~~(16))~~ (20) Sterilize equipment and disinfect operatories.
- (21) Place retraction cord.
- (22) Take impressions, bite registration, or digital scans of the teeth and jaws for:
 - (a) Diagnostic and opposing models;
 - (b) Fixed and removable orthodontic appliances, occlusal guards, bleaching trays, and fluoride trays; and
 - (c) Temporary indirect restorations such as temporary crowns.
- (23) Take a facebow transfer for mounting study casts.
- (24) Fabricate and deliver bleaching and fluoride trays.
- (25) Fabricate, cement, and remove temporary crowns or temporary bridges.
- (26) Place a temporary filling such as zinc oxide-eugenol or ZOE after diagnosis and examination by the dentist.
- (27) Remove excess cement after the dentist has placed a permanent or temporary inlay, crown, bridge or appliance, or around orthodontic bands.
- (28) Pack and medicate extraction areas.
- (29) Place periodontal packs.
- (30) Remove periodontal packs or sutures.
- (31) Select denture shade and mold.
- (32) Place and remove orthodontic separators.
- (33) Select and fit orthodontic bands, try in fixed or removable orthodontic appliances prior to the dentist cementing or checking the appliance.