

**WSR 24-02-008
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 23-272—Filed December 20, 2023, 3:55 p.m., effective December 26, 2023]

Effective Date of Rule: December 26, 2023.

Purpose: The purpose of this emergency rule is to open recreational razor clam seasons.

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

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

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

Reasons for this Finding: Survey results show that adequate clams are available for harvest in Razor Clam Areas 1, 3, 4, and 5 for recreational harvest. Washington department of health has certified clams from these Razor Clam Areas 1, 3, 4, and 5 to be safe for human consumption. There is insufficient time to adopt permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: December 20, 2023.

Kelly Susewind
Director

NEW SECTION

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

(1) Effective 12:01 p.m. December 26 through 11:59 p.m. December 29, 2023, razor clam digging is permissible in Razor Clam Areas defined in WAC 220-330-160 during dates and times listed below:

| Razor Clam Area | Date | Time |
|-----------------|------------------------|-------------------------------|
| Area 1 | December 26 through 29 | From 12:01 p.m. to 11:59 p.m. |
| Area 2 | Closed | Closed |

| Razor Clam Area | Date | Time |
|-----------------|------------------------|-------------------------------|
| Area 3 | December 26 through 29 | From 12:01 p.m. to 11:59 p.m. |
| Area 4 | December 26 and 28 | From 12:01 p.m. to 11:59 p.m. |
| Area 5 | December 27 and 29 | From 12:01 p.m. to 11:59 p.m. |
| Area 6 | Closed | Closed |
| Area 7 | Closed | Closed |

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

REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. December 30, 2023:

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

WSR 24-02-023

EMERGENCY RULES

DEPARTMENT OF HEALTH

[Filed December 22, 2023, 7:58 a.m., effective December 22, 2023, 7:58 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: WA HEALTH reporting for acute care hospitals; new WAC 246-320-700 Reporting of health system readiness data. The department of health (department) is extending this emergency rule to continue to require acute care hospitals in Washington state, licensed under chapter 70.41 RCW, to report hospital maintenance and operation data to the department through Washington's Healthcare and Emergency and Logistics Tracking Hub (WA HEALTH) in accordance with the WA HEALTH User Guide. This fourth emergency rule continues the emergency rule originally filed on August 31, 2022, as WSR 22-18-060 and extended on December 29, 2022, as WSR 23-02-036; on April 28, 2023, as WSR 23-10-047; and on August 25, 2023, as WSR 23-18-015.

Citation of Rules Affected by this Order: New WAC 246-320-700.

Statutory Authority for Adoption: RCW 70.41.030.

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

Reasons for this Finding: WA HEALTH was created to provide decision makers and leaders across the state with timely data and information to understand and respond to health care system impacts from coronavirus disease 2019 (COVID-19). WA HEALTH continues to be used daily for state and local public health and medical preparedness planning to inform planned patient movement, communicable respiratory hospitalizations and disease trends (COVID-19, influenza, and soon respiratory syncytial virus (RSV)), and the ability of the system to absorb another health care surge so patients have access to the appropriate level of health care across the state.

It is important to collect data in this system as Washington state prepares for a new influenza season, which may also be strained with surge capacity due to other diseases like RSV and COVID[-19]. The department assumes that all of these viruses may continue to impact our health system and bed capacity in the coming months. This reporting data is critical to keeping good situational awareness of the system's status and capacity. It also allows for coordinated preparedness planning and more timely action when the next man-made, natural, or public health threat impacts this sector. Without it, we lose critical visibility and preparedness ability around these key data sets and sectors.

The adoption of this rule as an emergency rule is necessary to allow for the continuation of critical public health reporting. It continues to be essential to have state level awareness, monitoring, and memorization of timely and accurate data pertaining to hospital patient volumes, capacities, and resource constraints as there continues to be a lack of surge capacity on Washington's health care system. The WA HEALTH system helps to ensure continued health system readiness, promote safe and adequate care of individuals in hospitals, and mitigate the impact of current and emerging public health threats and associated surges.

On September 15, 2023, the department submitted a proposal and associated budget proviso, to the office of financial management (OFM) to build out automated data entry from the hospital's electronic medical record (EHR) system to WA HEALTH to support near real-time bed capacity and tracking for hospitals. As of the date of this emergency rule filing, OFM is in the process of reviewing the submitted proviso. Emergency rule making is being continued on the WA HEALTH system during this proposal review as it may determine the scope of any permanent rule making that would supplant it. Permanent rule making will be considered pending the results of the OFM review.

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 Nongovernmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: December 22, 2023.

Kristin Peterson, JD
Chief of Policy
for Umair A. Shah, MD, MPH
Secretary

OTS-3921.2

NEW SECTION

WAC 246-320-700 Reporting of health system readiness data. The purpose of this section is to outline each hospital's responsibility for reporting to the department data pertaining to the maintenance and operation of the hospital in support of health system readiness.

(1) For the purposes of this section:

"WA HEALTH User Guide" means the written instructions issued by the department for reporting to the department hospital maintenance and operation data pertaining to health system readiness.

(2) Hospitals must report data to the department in accordance with the WA HEALTH User Guide, including any amended versions thereof issued by the department. Copies of the WA HEALTH User Guide may be obtained on the department's website or by contacting the department.

(3) Any person who receives data reported under this section must maintain confidentiality of the data as required by applicable law.

WSR 24-02-027
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 23-273—Filed December 22, 2023, 1:38 p.m., effective January 1, 2024]

Effective Date of Rule: January 1, 2024.

Purpose: The purpose of this emergency rule is to open commercial red sea urchin harvest seasons.

Citation of Rules Affected by this Order: Repealing WAC 220-340-75000B; and amending WAC 220-340-750.

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

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

Reasons for this Finding: This emergency rule opens harvest of red sea urchins in Sea Urchin Districts 1, 2, 3, and 4 on January 1, 2024. The red urchin quota for each district follows comanager agreement in a signed plan. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: December 22, 2023.

Kelly Susewind
Director

NEW SECTION

WAC 220-340-75000C Commercial sea urchin fisheries. Effective January 1, 2024, until further notice, the provisions of WAC 220-340-750 regarding commercial harvest of sea urchins shall be modified as described below. All other provisions of WAC 220-340-750 not addressed herein remain in effect unless otherwise amended by emergency rule:

(1) It is unlawful for any person to fish for, take, or possess for commercial purposes any green sea urchins less than 2.25 inches; or red sea urchins measuring less than 3.25 inches or greater than 5 inches. All measurements are caliper measurements of the largest shell (test) diameter, exclusive of the spines.

(2) The following areas are open for red sea urchin harvest only, seven days-per-week: Sea Urchin District 1, District 2, District 3, District 4.

(3) The following areas are open for green sea urchin harvest only, seven days-per-week: Sea Urchin District 1, District 3, District 4.

(4) The maximum cumulative landings for red sea urchins and green sea urchins for each weekly fishery opening period is 1,500 pounds per species per valid designated sea urchin harvest license.

REPEALER

The following section of the Washington Administrative Code is repealed effective January 1, 2024:

WAC 220-340-75000B Commercial sea urchin fisheries.
(23-269)

WSR 24-02-028
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 23-271—Filed December 22, 2023, 1:42 p.m., effective January 1, 2024]

Effective Date of Rule: January 1, 2024.

Purpose: The purpose of this emergency rule is to set closure dates for recreational fishing seasons for North Fork and South Fork, Nooksack River.

Citation of Rules Affected by this Order: Amending WAC 220-312-040.

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

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

Reasons for this Finding: This emergency rule is necessary to close all game fish seasons in the Nooksack River, North and South forks. In recent years, there has been a substantial increase in angler effort on the Nooksack in areas and during times that wild steelhead are present. Early closures are needed to minimize impacts to the wild steelhead population. These closures reflect seasons agreed to with comanagers in the signed Winter Steelhead Management Plan.

There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: December 22, 2023.

Kelly Susewind
Director

NEW SECTION

WAC 220-312-04000B Freshwater exceptions to statewide rules—Puget Sound. Effective January 1, through February 15, 2024, the following provisions of WAC 220-312-040 regarding game fish seasons for the Nooksack River, North Fork and Nooksack River, South Fork shall be modified during the dates and in locations listed and as described herein. All other provisions of WAC 220-312-040 not addressed herein, or unless otherwise amended, remain in effect:

(1) Nooksack River, North Fork (Whatcom Co.): From the Hwy. 9
Bridge to Maple Creek:

February 1 through February 15, 2024: Game fish: Closed.

(2) Nooksack River, South Fork (Whatcom Co.): From mouth to Skoo-
kum Creek:

January 1 through January 31, 2024: Game fish: Closed.

WSR 24-02-040
EMERGENCY RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed December 27, 2023, 12:00 p.m., effective December 27, 2023, 12:00 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The department is adopting emergency amendments to WAC 388-416-0005 How long can I get Basic Food? and 388-418-0011 What is a mid-certification review, and do I have to complete one in order to keep receiving benefits? These amendments are necessary to comply with the approved federal waiver for the elderly simplified application project (ESAP), extending the basic food certification period from 12 months to 36 months for households where all members are age 60 or older and/or disabled adults with no earned income.

Citation of Rules Affected by this Order: Amending WAC 388-416-0005 and 388-418-0011.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.500, 74.04.510, 74.08A.120.

Other Authority: USDA, Food and Nutrition Services (waiver approval).

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

Reasons for this Finding: This rule is necessary to implement final provisions of the federal ESAP waiver to coincide with automation updates supporting this change. Approval of these rules positively impacts households where all members are age 60 or older and/or disabled adults with no earned income. The department is concurrently proceeding with the permanent rule-making process.

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

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

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

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

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

Date Adopted: December 27, 2023.

Katherine I. Vasquez
Rules Coordinator

SHS-5012.3

AMENDATORY SECTION (Amending WSR 11-16-030 and 11-18-012, filed 7/27/11 and 8/26/11, effective 10/16/11)

WAC 388-416-0005 How long can I get Basic Food? (1) The length of time the department determines your assistance unit (AU) is eligible to get Basic Food is called a certification period. The department may certify your AU for up to ~~((twelve))~~ 12 months, unless:

(a) You receive food assistance under the Washington state combined application project (WASHCAP). ~~((7))~~ We set your WASHCAP certification period as described under WAC 388-492-0090.

~~((b))~~ (b) You receive food assistance under the elderly simplified application project (ESAP). ESAP households are certified for 36 months.

~~((b))~~ (c) You receive transitional food assistance ~~((7))~~ (TFA). We set your TFA certification period as described under WAC 388-489-0015.

(2) We terminate your Basic Food benefits before the end of your certification period in subsection (1) of this section if:

(a) You fail to complete a mid-certification review as described under WAC 388-418-0011;

(b) We get proof of a change that makes your AU ineligible; or

(c) We get information that your AU is ineligible and you do not provide needed information to verify your AU's circumstances.

AMENDATORY SECTION (Amending WSR 22-17-080, filed 8/17/22, effective 9/17/22)

WAC 388-418-0011 What is a mid-certification review, and do I have to complete one in order to keep receiving benefits? (1) A **mid-certification review** (MCR) is a form we send you to ask about your current circumstances. We use the answers you give us to decide if you are still eligible for benefits and to calculate your monthly benefits.

(2) If you receive cash assistance or basic food benefits, you must complete a mid-certification review unless you meet one of the exceptions below:

(a) You **do not** have to complete a mid-certification review for cash assistance if you:

(i) Receive refugee cash assistance as described under WAC 388-400-0030;

(ii) Receive aged, blind, or disabled (ABD) program assistance as described under WAC 388-400-0060;

(iii) Receive a referral to the housing and essential needs (HEN) program as described under WAC 388-400-0070; or

(iv) Have a review period of six months or less.

(b) You **do not** have to complete a mid-certification review for basic food if:

(i) Your assistance unit has a certification period of six months or less; or

(ii) ~~((All adults in your))~~ Your assistance unit ~~((are))~~ consists only of elderly or disabled adults, or qualifies for the elderly simplified application project (ESAP), and does not have ~~((no))~~ earned income.

(3) **When we send the review form:**

| If you must complete a MCR ... | We send your review form ... |
|---|---|
| (a) For one program such as basic food. | In the fifth month of your certification or review period. You must complete your review by the 10th day of month six. |
| <u>(b) If you are no longer eligible for ESAP but remain eligible for basic food for the remainder of a 36-month certification period converted from an ESAP certification.</u> | <u>In the 11th and 23rd months of your certification period when your certification period has more than 13 months remaining of the 36-month certification period. You must complete your review by the 10th day of the 12th month or the 24th month or both of the certification period.</u> |
| (((b))) (c) For two or more programs, and all programs have a 12-month certification or review period. | In the fifth month of your certification or review period. You must complete your review by the 10th day of month six. |
| (((e))) (d) For basic food and another program when either program has a certification or review period between six and 12 months. | In the fifth month of your basic food certification period when you receive basic food and another program. You must complete your review by the 10th day of month six of your basic food certification. |

(4) If you must complete a mid-certification review, we send you the review form with questions about your current circumstances. You can choose to complete the review form online, or in one of the following ways:

(a) **Complete the form and return it to us.** For us to count your mid-certification review as complete, you must take all of the steps below:

(i) Complete the review form, telling us about changes in your circumstances we ask about;

(ii) Sign and date the form;

(iii) Give us proof of any changes you report. If you report a change that will increase your benefits without giving proof of this change, we will not increase your benefits;

(iv) If you receive temporary assistance for needy families and you are working or self-employed, you must give us proof of your income even if it has not changed; and

(v) Mail or turn in the completed form and any required proof to us by the due date on the review.

(b) **Complete the mid-certification review over the phone.** For us to count your mid-certification review as complete, you must take all of the steps below:

(i) Contact us at the phone number on the review form, telling us about changes in your circumstances we ask about;

(ii) Give us proof of any changes you report. We may be able to verify some information over the phone. If you report a change that will increase your benefits without giving proof of this change, we will not increase your benefits;

(iii) If you receive temporary assistance for needy families and you are working or self-employed, you must give us proof of your income even if it has not changed; and

(iv) Mail or turn in any required proof to us by the due date on the review.

(c) **Complete the application process for another program.** If we approve an application for another program in the month you must complete your mid-certification review, we use the application to complete your review when the same person is head of household for the application and the mid-certification review.

(5) If your benefits change because of what we learned in your mid-certification review, the change takes effect the next month even if this does not give you 10 days notice before we change your benefits.

(6) If you do not complete your required mid-certification review, we stop your benefits at the end of the month the review was due.

(7) **Late reviews.** If you complete the mid-certification review after the last day of the month the review was due, we process the review as described below based on when we receive the review:

(a) **Mid-certification reviews you complete by the last day of the month after the month the review was due:** We determine your eligibility for ongoing benefits. If you are eligible, we reinstate your benefits based on the information in the review.

(b) **Mid-certification reviews you complete after the last day of the month after the month the review was due:** We treat this review as a request to send you an application. For us to determine if you are eligible for benefits, you must complete the application process as described in chapter 388-406 WAC.

WSR 24-02-041
EMERGENCY RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed December 27, 2023, 12:06 p.m., effective January 1, 2024]

Effective Date of Rule: January 1, 2024.

Purpose: The department is adopting emergency amendments to WAC 388-478-0055 How much do I get from my state supplemental payments (SSP)? These amendments clarify the cost-of-living-adjustment (COLA) to SSP standards for medically institutionalized recipients of SSI, as determined by the Social Security Administration.

Citation of Rules Affected by this Order: Amending WAC 388-478-0055.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, 74.08A.120, and 74.08A.250.

Other Authority: RCW 74.09.340.

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

Reasons for this Finding: RCW 74.09.340 requires the residential personal needs allowance for medically institutionalized individuals to be adjusted according to the percentage of COLA determined by SSA. These amendments clarify how this impacts recipients of SSP.

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 Nongovernmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: December 27, 2023.

Katherine I. Vasquez
Rules Coordinator

SHS-5015.3

AMENDATORY SECTION (Amending WSR 23-24-009, filed 11/27/23, effective 12/28/23)

WAC 388-478-0055 How much do I get from my state supplemental payments (SSP)? (1) The SSP is a state-funded cash assistance program issued to certain individuals who the Social Security Administration (SSA) determines are eligible for supplemental security income (SSI) as described in WAC 388-474-0012.

(2) Monthly SSP rate standards for eligible persons as described in WAC 388-474-0012 are:

(a) \$38.25 for:

- (i) Individuals with an ineligible spouse;
- (ii) Aged 65 and older;
- (iii) Blind as determined by SSA; or
- (iv) Disabled as determined by SSA.

(b) Between \$0.54 and \$199.77 for grandfathered clients as defined in 388-474-0001 and varies by individual based on federal requirements.

(c) \$70.00 as of July 2023 for individuals residing in a medical institution. It is based on increasing the federal SSI personal needs allowance (PNA) of \$30.00 up to the current Washington state institutional PNA standard described in subsection (5) of WAC 182-513-1105. Starting January 1, 2024, this payment increases annually by a cost-of-living-adjustment (COLA) determined by SSA. The current state PNA standard for institutional apple health is located at <https://www.hca.wa.gov/free-or-low-cost-health-care/i-help-others-apply-and-access-apple-health/program-standard-income-and-resources>.

(3) A change in living situation, cost-of-living-adjustment (~~((COLA))~~), or federal benefit rate (FBR) can affect a grandfathered client. A grandfathered client gets a federal SSI payment and a SSP payment, which totals the higher of one of the following:

(a) The state assistance standard set in December 1973, unless you lived in a medical institution at the time of conversion, plus the federal COLA since then; or

(b) The current payment standard.

(4) SSP rate standards may be adjusted at the end of the calendar year to comply with WAC 388-478-0057.

WSR 24-02-047

EMERGENCY RULES

HEALTH CARE AUTHORITY

[Filed December 28, 2023, 8:22 a.m., effective January 1, 2024]

Effective Date of Rule: January 1, 2024.

Purpose: Effective January 1, 2024, the legislature provided funding for adult cochlear implants. The agency is revising these rules to include coverage for adult cochlear implants for apple health (medicaid) clients and update cochlear implant device coverage. The agency has already begun the permanent rule-making process, filed proposed rules under WSR 23-24-002, and scheduled a public hearing for January 9, 2024.

Citation of Rules Affected by this Order: Amending WAC 182-531-0200 and 182-531-0375.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

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

Reasons for this Finding: The legislature appropriated funding for adult cochlear implant coverage for a vulnerable population. Immediate adoption preserves public health and the general welfare.

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 Nongovernmental Entity: New 0, Amended 0, Repealed 0.

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 0.

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

Date Adopted: December 28, 2023.

Wendy Barcus
Rules Coordinator

OTS-4917.3

AMENDATORY SECTION (Amending WSR 15-16-084, filed 7/31/15, effective 8/31/15)

WAC 182-531-0200 Physician-related and health care professional services requiring prior authorization. (1) The medicaid agency requires **prior authorization** for certain services. Prior authorization includes **expedited prior authorization (EPA)** and **limitation extension (LE)**. See WAC 182-501-0165.

(2) The EPA process is designed to eliminate the need for telephone prior authorization for selected admissions and procedures.

(a) The provider must create an authorization number using the process explained in the medicaid agency's physician-related billing instructions.

(b) Upon request, the provider must provide supporting clinical documentation to the medicaid agency showing how the authorization number was created.

(c) Selected nonemergency admissions to contract hospitals require EPA. These are identified in the medicaid agency billing instructions.

(d) Procedures allowing expedited prior authorization include, but are not limited to, the following:

(i) Reduction mammoplasties/mastectomy for gynecomastia;

(ii) Strabismus surgery for clients (~~(eighteen)~~) 18 years of age and older;

(iii) Meningococcal vaccine;

(iv) Placement of drug eluting stent and device;

(v) Cochlear implant(~~(s for clients twenty years of age and younger)~~) devices;

(vi) Hyperbaric oxygen therapy;

(vii) Visual exam/refraction for clients (~~(twenty-one)~~) 21 years of age and older;

(viii) Blepharoplasties; and

(ix) Neuropsychological testing for clients (~~(sixteen)~~) 16 years of age and older.

(3) The medicaid agency evaluates new technologies under the procedures in WAC 182-531-0550. These require prior authorization.

(4) Prior authorization is required for the following:

(a) Abdominoplasty;

(b) All inpatient hospital stays for **acute physical medicine and rehabilitation (PM&R)**;

(c) (~~(Unilateral)~~) Cochlear implant(~~(s for clients twenty years of age and younger)~~) devices (refer to WAC 182-531-0375);

(d) Diagnosis and treatment of eating disorders for clients (~~(twenty-one)~~) 21 years of age and older;

(e) Osteopathic manipulative therapy in excess of the medicaid agency's published limits;

(f) Panniculectomy;

(g) Bariatric surgery (see WAC 182-531-1600);

(h) Vagus nerve stimulator insertion, which also:

(i) For coverage, must be performed in an inpatient or outpatient hospital facility; and

(ii) For reimbursement, must have the invoice attached to the claim.

(i) Osseointegrated/bone anchored hearing aids (BAHA) for clients (~~(twenty)~~) 20 years of age and younger;

(j) Removal or repair of previously implanted BAHA or cochlear implant devices for clients (~~(twenty-one)~~) 21 years of age and older when medically necessary; and

(k) Gender reassignment surgery (see WAC 182-531-1675).

(5) All hysterectomies performed for medical reasons may require prior authorization, as explained in subsection (2) of this section.

(a) Hysterectomies may be performed without prior authorization in either of the following circumstances:

(i) The client has been diagnosed with cancer(s) of the female reproductive organs; and/or

(ii) A hysterectomy is needed due to trauma.

(b) The agency reimburses all attending providers for a hysterectomy procedure only when the provider submits an accurately completed agency-approved consent form with the claim for reimbursement.

(6) The medicaid agency may require a second opinion and/or consultation before authorizing any elective surgical procedure.

(7) Children six years of age and younger do not require authorization for hospitalization.

AMENDATORY SECTION (Amending WSR 15-03-042, filed 1/12/15, effective 2/12/15)

WAC 182-531-0375 Audiology services. (1) The agency covers ~~((medically necessary cochlear implant devices))~~ with prior authorization ~~((cochlear devices for clients twenty years of age and younger with the following limitations:~~

~~(a) The client meets one of the following:~~

~~(i) Has a diagnosis of profound to severe bilateral, sensorineural hearing loss;~~

~~(ii) Has stimulable auditory nerves but has limited benefit from appropriately fitted hearing aids (e.g., fail to meet age-appropriate auditory milestones in the best-aided condition for young children, or score of less than ten or equal to forty percent correct in the best-aided condition on recorded open-set sentence recognition tests);~~

~~(iii) Has the cognitive ability to use auditory clues;~~

~~(iv) Is willing to undergo an extensive rehabilitation program;~~

~~(v) Has an accessible cochlear lumen that is structurally suitable for cochlear implantation;~~

~~(vi) Does not have lesions in the auditory nerve and/or acoustic areas of the central nervous system; or~~

~~(vii) Has no other contraindications to surgery; and~~

~~(b) The procedure is performed in an inpatient hospital setting or outpatient hospital setting) for eligible clients.~~

(2) The agency covers BAHAs for clients ~~((twenty))~~ 20 years of age and younger with prior authorization.

(3) The agency covers replacement parts and batteries for BAHAs and cochlear implant devices ~~((for clients twenty years of age and younger only))~~. See WAC 182-547-0800 and 182-547-0850.

(4) The agency considers requests for removal or repair of previously implanted BAHAs and cochlear implant devices ~~((for clients twenty one years of age and older only))~~ when medically necessary. Prior authorization from the agency is required.

~~((5)) For audiology, the agency limits:~~

~~(a) Caloric vestibular testing to four units for each ear; and~~

~~(b) Sinusoidal vertical axis rotational testing to three units for each direction.))~~

WSR 24-02-051

EMERGENCY RULES

DEPARTMENT OF HEALTH

[Filed December 28, 2023, 10:50 a.m., effective December 28, 2023, 10:50 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Home care aide and nursing assistant-certified alternate certification time frames.

The department of health (department) is establishing alternate certification time frames for individuals working toward certification as a home care aide or nursing assistant-certified (NA-C). This includes amending WAC 246-980-025, 246-980-030, 246-980-040, and 246-980-065; and adopting new WAC 246-980-011. Due to lasting impacts caused by the coronavirus disease 2019 (COVID-19) pandemic, many long-term care workers are still unable to obtain training and certification as home care aides or NA-Cs within statutory time frames. By continuing alternate time frames established under ESHB 1120 (chapter 203, Laws of 2021), the department will allow workers impacted by the pandemic more time to complete requirements while training, testing, and credentialing capacity issues are being resolved.

These emergency rules continue emergency rules originally filed January 12, 2023, under WSR 23-03-066 and extended thereafter as necessary, and most recently on August 30, 2023, under WSR 23-18-052. These rules established alternate certification time frames for two different groups of long-term care workers: Individuals working toward certification as a home care aide and individuals working toward certification as an NA-C. The rule language for this extension is the same as the most recent filing. Rules impacting home care aides were developed in collaboration with the department of social and health services (DSHS), while rules impacting NA-Cs were developed in collaboration with DSHS and the Washington state board of nursing (WABON).

New WAC 246-980-011 establishes alternate time frames for long-term care workers seeking certification as a home care aide or NA-C.

Amendments to WAC 246-980-025, 246-980-030, 246-980-040, and 246-980-065 create cross-references to WAC 246-980-011 and, where applicable, to DSHS rules that establish alternate time frames for training and testing.

Citation of Rules Affected by this Order: New WAC 246-980-011; and amending WAC 246-980-025, 246-980-030, 246-980-040, and 246-980-065.

Statutory Authority for Adoption: RCW 18.88B.021; ESHB 1120 (chapter 203, Laws of 2021).

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

Reasons for this Finding: This emergency rule is necessary to avoid a critical shortage of long-term care workers as a result of the COVID-19 pandemic.

During the COVID-19 pandemic, both training and testing were unavailable for several months in 2020 before resuming at limited capacity. This created a large backlog of long-term care workers unable to become certified as a home care aide or NA-C within statutory time frames. During the COVID-19 declared emergency, thousands of workers seeking certification were allowed to continue working under Gover-

nor's Proclamations 20-52 and 20-65 (waivers), which waived credentialing requirements. Now that the waivers have been rescinded, however, uncertified workers will no longer be able to work and will still be unable to readily access the training and testing necessary for certification. Losing these workers would exacerbate the existing workforce shortage, forcing more medically vulnerable patients to rely on other care options, such as higher-level residential care settings.

ESHB 1120, passed in 2021, gives the department authority to allow long-term care workers additional time to become certified if a pandemic or other declared state of emergency impacts their ability to complete certification timely. Pursuant to ESHB 1120, the department collaborated with DSHS and WABON to develop alternate, extended time frames for long-term care workers seeking certification as a home care aide or NA-C. These alternate time frames create a path to certification for uncertified home care aides and NA-Cs and allow workers to continue caring for clients while the testing and training backlog is being resolved.

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 Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 1, Amended 4, 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 1, Amended 4, Repealed 0.

Date Adopted: December 28, 2023.

Kristin Peterson, JD
 Chief of Policy
 for Umair A. Shah, MD, MPH
 Secretary

OTS-3558.9

NEW SECTION

WAC 246-980-011 Long-term care workers working or hired during the COVID-19 public health emergency. (1) Unless exempt from certification as described in WAC 246-980-025, a long-term care worker affected by the coronavirus disease 2019 (COVID-19) public health emergency who is required to be certified as a home care aide must obtain certification as follows:

| Hired or rehired during the time frame of: | Shall be certified no later than: |
|--|-----------------------------------|
| August 17, 2019, to September 30, 2020 | January 31, 2024 |

| Hired or rehired during the time frame of: | Shall be certified no later than: |
|--|-----------------------------------|
| October 1, 2020, to April 30, 2021 | April 30, 2024 |
| May 1, 2021, to March 31, 2022 | July 31, 2024 |
| April 1, 2022, to September 30, 2022 | October 31, 2024 |
| October 1, 2022, to June 30, 2023 | January 31, 2025 |
| July 1, 2023, to January 31, 2024 | April 30, 2025 |
| Beginning February 1, 2024 | Standard training |

The above chart provides additional time for a long-term care worker to be certified, as either a home care aide or nursing assistant.

(2) "Hired" and "rehired" as used in this section mean the date of hire as defined in WAC 246-980-010. A long-term care worker is considered rehired if they held previous employment as a long-term care worker and did not have an active home care aide credential when hired during the time frames outlined in subsection (1) of this section.

(3) If a long-term care worker or home care aide is limited-English proficient, the worker may request an additional 60 days to obtain certification under WAC 246-980-065.

(4) Nothing in this section prevents a long-term care worker hired between August 17, 2019, and September 30, 2022, from completing training or obtaining certification in advance of the deadlines stipulated in subsection (1) of this section.

AMENDATORY SECTION (Amending WSR 18-20-072, filed 9/28/18, effective 10/29/18)

WAC 246-980-025 Individuals exempt from obtaining a home care aide certification. (1) The following individuals are not required to obtain certification as a home care aide. If they choose to voluntarily become certified, they must successfully pass the entry level training required by RCW 74.39A.074 and meet the requirements of WAC 246-980-040 (1)(b) and (c).

(a) An individual provider caring only for a biological, step, or adoptive child or parent.

(b) An individual provider who provides (~~twenty~~) 20 hours or less of care for one person in any calendar month.

(c) An individual employed by a community residential service business.

(d) An individual employed by a residential habilitation center licensed under chapter 71A.20 RCW or a facility certified under 42 C.F.R. Part 483.

(e) A direct care worker who is not paid by the state or by a private agency or facility licensed by the state to provide personal care services.

(f) A person working as an individual provider who only provides respite services and works less than (~~three hundred~~) 300 hours in any calendar year.

(g) Any direct care worker exempt under RCW 18.88B.041(1).

(2) The following long-term care workers are not required to obtain certification as a home care aide. If they choose to voluntarily become certified, they must meet the requirements of WAC 246-980-040 (1)(b) and (c). The training requirements under RCW 74.39A.074(1) are not required.

(a) An individual who holds an active credential by the department as a:

(i) Registered nurse, a licensed practical nurse, or advanced registered nurse practitioner under chapter 18.79 RCW; or

(ii) Nursing assistant-certified under chapter 18.88A RCW.

(b) A home health aide who was employed by a medicare certified home health agency within the year before being hired as a long-term care worker and has met the requirements of 42 C.F.R. Part 484.36.

(c) A person who is in an approved training program for certified nursing assistant under chapter 18.88A RCW, provided that the training program is completed within (~~one hundred twenty~~) 120 calendar days of the date of hire and that the nursing assistant-certified credential has been issued within (~~two hundred~~) 200 calendar days of the date of hire, or that the training and certification are completed in compliance with the deadlines in WAC 246-980-011.

(d) An individual with special education training and an endorsement granted by the superintendent of public instruction under RCW 28A.300.010 and is approved by the secretary.

(e) An individual employed as a long-term care worker on January 6, 2012, or who was employed as a long-term care worker between January 1, 2011, and January 6, 2012, and who completed all of the training requirements in effect as of the date of hire. This exemption expires if the long-term care worker has not provided care for three consecutive years.

(i) The department may require the exempt long-term care worker who was employed as a long-term care worker between January 1, 2011, and January 6, 2012, to provide proof of that employment. Proof may include a letter or similar documentation from the employer that hired the long-term care worker between January 1, 2011, and January 6, 2012, indicating the first and last day of employment, the job title, a job description, and proof of completing training requirements. Proof of training will also be accepted directly from the approved instructor or training program, if applicable.

(ii) For an individual provider reimbursed by the department of social and health services, the department will accept verification from the department of social and health services or the training partnership.

AMENDATORY SECTION (Amending WSR 18-20-072, filed 9/28/18, effective 10/29/18)

WAC 246-980-030 Working while obtaining certification as a home care aide. (1) A long-term care worker may provide care before receiving certification as a home care aide if all the following conditions are met:

(a) Before providing care, the long-term care worker must complete the training required by RCW 74.39A.074 (1)(d)(i)(A) and (B).

(b) The long-term care worker must submit an application for home care aide certification to the department within (~~fourteen~~) 14 cal-

endar days of hire. An application is considered to be submitted on the date it is post-marked or, for applications submitted in person or online, the date it is accepted by the department.

(2) Except as provided in WAC 246-980-011, a long-term care worker is no longer eligible to provide care without a credential under the following circumstances:

(a) The long-term care worker does not successfully complete all of the training required by RCW 74.39A.074(1) within ~~((one hundred twenty calendar days from their date of hire))~~ the timelines in WAC 388-71-0876 or 388-112A-0081;

(b) The long-term care worker has not obtained their certification within ~~((two hundred))~~ 200 calendar days from their date of hire, or ~~((two hundred sixty))~~ 260 calendar days if granted a provisional certificate under RCW 18.88B.041.

(3) This section does not apply to long-term care workers exempt from certification under WAC 246-980-025.

AMENDATORY SECTION (Amending WSR 21-02-002, filed 12/23/20, effective 1/23/21)

WAC 246-980-040 Certification requirements. (1) To qualify for certification as a home care aide, except as provided in WAC 246-980-011, the applicant must:

(a) Successfully complete all training required by RCW 74.39A.074(1) within ~~((one hundred twenty calendar days of the date of hire as a long-term care worker))~~ the timelines in WAC 388-71-0876 or 388-112A-0081;

(b) Successfully pass the home care aide certification examination, after completing training; and

(c) Become certified within ~~((two hundred))~~ 200 days of date of hire, or ~~((two hundred sixty))~~ 260 days if granted a provisional certificate under RCW 18.88B.041.

(2) An applicant for certification as a home care aide must submit to the department:

(a) A completed application for both certification and the examination on forms provided by the department;

(b) The exam fee set by the examination vendor and required fees under WAC 246-980-990; and

(c) A certificate of completion from an approved training program indicating that the applicant has successfully completed the entry level training required by RCW 74.39A.074. The certificate of completion or other official verification may also be submitted directly from the approved instructor or training program.

(3) An applicant must submit to a state and federal background check as required by RCW 74.39A.056.

(4) An applicant exempt from certification under WAC 246-980-025(2) who voluntarily chooses to be certified must provide documentation of qualification for the exemption. The applicant is not required to take the training required in subsection (1)(a) of this section or provide proof of training completion to the department.

AMENDATORY SECTION (Amending WSR 16-09-004, filed 4/7/16, effective 5/8/16)

WAC 246-980-065 Home care aide provisional certification. (1)

The department may issue a provisional certification to a long-term care worker who is limited-English proficient and submits:

- (a) A request for a provisional certification; and
 - (b) Verification of his or her date of hire as a long-term care worker, as follows:
 - (i) For individual providers, verification of the applicant's date of hire submitted directly by the department of social and health services; or
 - (ii) For all other applicants, a form supplied by the department and completed by the employer who hired the applicant as a long-term care worker, verifying the applicant's date of hire.
- (2) A provisional certification will be issued only once.
- (3) Except as provided in WAC 246-980-011, a provisional certification will take effect ((two hundred)) 200 days from the applicant's date of hire as a long-term care worker, as defined in WAC 246-980-010(2).
- (4) Except as provided in WAC 246-980-011, a provisional certification will expire ((two hundred sixty)) 260 days from the applicant's date of hire as a long-term care worker. The applicant must stop working on the ((two hundred sixtieth)) 260th day of employment if the certification has not been granted for any reason.
- (5) A request for provisional certification may be denied pursuant to chapter 18.130 RCW, the Uniform Disciplinary Act, or based on RCW 18.88B.080.
- (6) For the purposes of this section, "limited-English proficient" means that an individual is limited in his or her ability to read, write, or speak English.

WSR 24-02-054
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 23-274—Filed December 28, 2023, 12:55 p.m., effective December 28, 2023, 12:55 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency rule is to open gamefish seasons in a portion of Tokul Creek.

Citation of Rules Affected by this Order: Amending WAC 220-312-040.

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

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

Reasons for this Finding: This emergency rule is necessary to open gamefish seasons in a portion of Tokul Creek. Tokul Creek hatchery has met broodstock goals for this season. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: December 28, 2023.

Kelly Susewind
Director

NEW SECTION

WAC 220-312-04000C Freshwater exceptions to statewide rules—Puget Sound. Effective immediately, through January 14, 2024, recreational gamefish seasons for Tokul Creek, from Fish Hatchery Road Bridge to boundary marker downstream of diversion dam shall be modified as follows. All other provisions of WAC 220-312-040 not addressed herein, or unless otherwise amended by emergency rule, remain in effect:

Tokul Creek (King County): From Fish Hatchery Road Bridge to boundary marker downstream of diversion dam: Gamefish:

(a) Open immediately, through January 14, 2024, except closed waters from 5:00 p.m. to 7:00 a.m., daily.

(b) Anti-snagging rules in effect.

(c) Statewide minimum length/daily limit, except: Cutthroat trout and wild rainbow trout: Minimum length 14 inches.

WSR 24-02-055
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 23-275—Filed December 28, 2023, 2:25 p.m., effective December 28, 2023, 2:25 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: This emergency rule sets the closure of Crab Management Region 2E to commercial harvest, effective one hour after official sunset on December 31, 2023.

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

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

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

Reasons for this Finding: The harvestable share in Crab Management Region 2E is projected to be attained by December 31, 2023. There is sufficient allocation remaining to accommodate harvest in the Puget Sound commercial crab fishery in Regions 1, 3-1, 3-2, 3-3, and 3-4 until further notice. Crab Management Regions 2-West will remain closed due to the attainment of the state share. These provisions are in conformity with agreed management plans with applicable tribes. Comanagement plans are entered into as required by court order. The Puget Sound commercial season is structured to meet harvest allocation objectives negotiated with applicable treaty tribes and outlined in the management plans. There is insufficient time to adopt permanent rules. Further adjustment of season structure may be made pending updated harvest data.

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 Nongovernmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date Adopted: December 28, 2023.

Kelly Susewind
Director

NEW SECTION

WAC 220-340-45500E Commercial crab fishery—Seasons and areas—Puget Sound. Notwithstanding the provisions of WAC 220-340-455, effective immediately, until further notice:

(1) Harvest of Dungeness crab in Puget Sound is permitted during the "Open period" indicated in the following table. On the opening date harvest will be permitted starting at 8:00 a.m. Harvest for these areas after the opening date is permitted starting one hour before official sunrise until further notice. Any closures will take effect one hour after official sunset unless otherwise indicated.

| Geographical Management Unit (WAC 220-320-110) | Open Period |
|---|---|
| Region 1, MFSF Catch Areas 21A, 21B, and 22B | Immediately until further notice. |
| Region 1, Marine Fish-Shellfish Catch Areas 22A, 20A, and 20B | Immediately until further notice. |
| Region 2E, excluding Everett Flats CSMA (WAC 220-320-120(3)) | Immediately through December 31, 2023. |
| Region 2E, Everett Flats CSMA (WAC 220-320-120(3)) | Immediately through December 31, 2023. |
| Region 2W, not including Port Townsend Bay CSMA (WAC 220-320-120(5)) | Closed. |
| Region 2W, Port Townsend Bay CSMA (WAC 220-320-120(5)) | Closed. |
| Subregion 3-1 | Immediately until further notice. |
| Subregion 3-2, not including Discovery Bay CSMA (WAC 220-230-120 (1)(a)), Sequim Bay CSMA (WAC 220-320-120(6)), or the Port Angeles Harbor CSMA (WAC 220-320-120(4)). | Immediately until further notice. |
| Subregion 3-2, Discovery Bay CSMA (WAC 220-320-120 (1)(a)) | Immediately until further notice. |
| Subregion 3-2, Sequim Bay CSMA (WAC 220-320-120(6)) | Immediately until further notice. |
| Subregion 3-2, the Port Angeles Harbor CSMA (WAC 220-320-120(4)). | Closed, due to on-going public health concerns. |
| Subregion 3-3 | Immediately until further notice. |
| Subregion 3-4 | Immediately until further notice. |

(2) The area closed to commercial harvest in WAC 220-340-455 (2) (c) is amended to be: Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 21A in Bellingham Bay west of a line projected from the exposed boulder off the southeast portion of Point Francis (48.6973°, -122.6073°) to the old pilings at Stevie's Point (48.7765°, -122.5523°).

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

REPEALER

The following section of Washington Administrative Code is repealed effective immediately:

WAC 220-340-45500D Commercial crab fishery—Seasons and areas—Puget Sound. (23-268)

WSR 24-02-058

EMERGENCY RULES

HEALTH CARE AUTHORITY

[Filed December 29, 2023, 7:54 a.m., effective January 1, 2024]

Effective Date of Rule: January 1, 2024.

Purpose: The health care authority (agency) is amending these rules to expand screening and preventative services for certain sexually transmitted infections, to include HIV testing, viral hepatitis B and C, and hepatitis A/B combination vaccines, when clinically appropriate or according to nationally recognized guidelines. The agency is also including coverage for family planning-related services and supplies, defined as those services provided as part of, or as follow up to, a family planning visit.

Citation of Rules Affected by this Order: Amending WAC 182-532-530, 182-532-550, and 182-532-560.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

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

Reasons for this Finding: These rules are necessary to expand family-planning only coverage to support preventative screenings and family planning services while the permanent rule-making process is completed. The agency began the permanent rule-making process under WSR 23-24-065. The family planning only program operates under a federal waiver allowing changes to be in response to state needs. These changes have recently been approved by the Centers for Medicare and Medicaid Services as eligible additions to the state program.

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 Nongovernmental Entity: New 0, Amended 0, Repealed 0.

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 3, 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 3, Repealed 0.

Date Adopted: December 29, 2023.

Wendy Barcus
Rules Coordinator

OTS-5096.1

AMENDATORY SECTION (Amending WSR 22-02-025, filed 12/28/21, effective 2/1/22)

WAC 182-532-530 Family planning only programs—Covered services.

The medicaid agency covers all of the following services:

(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) Family planning-related services and supplies defined as those services provided as part of, or as follow-up to a family planning visit;

(4) 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))~~ (5) The following services, when clinically appropriate ~~(, during a visit focused on family planning)~~ or according to nationally recognized guidelines:

(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;

(f) HIV testing, including rapid tests; and

(g) Viral hepatitis B and C testing.

(6) Hepatitis B and hepatitis A/B combination vaccines.

~~((5))~~ (7) Human papillomavirus (HPV) vaccines.

AMENDATORY SECTION (Amending WSR 19-18-024, filed 8/28/19, effective 10/1/19)

WAC 182-532-550 Family planning only programs—Payment limitations. (1) The medicaid agency limits 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, the client's chosen contraceptive method; and

(c) Include family planning-related services and supplies listed in WAC 182-532-530.

(2) The agency pays:

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

(b) For family planning pharmacy services, family planning laboratory services, and sterilization services using the agency's published fee schedules; and

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

(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. 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.

AMENDATORY SECTION (Amending WSR 19-18-024, filed 8/28/19, effective 10/1/19)

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 or 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)

WSR 24-02-059
EMERGENCY RULES
DEPARTMENT OF HEALTH
(Board of Nursing)

[Filed December 29, 2023, 8:13 a.m., effective December 29, 2023, 8:13 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Out-of-state nursing school requirements for licensure. The Washington state board of nursing (board), formally known as the nursing care quality assurance commission, is amending WAC 246-840-030 and 246-840-090 to clarify existing licensure requirements for registered nurse (RN) and licensed practical nurse (LPN) applicants applying for initial licensure via an out-of-state traditional nursing education program approved by another United States nursing board, and applicants applying via interstate endorsement.

The board is engaged in permanent rule making to adopt these emergency amendments as permanent rules. Transition from emergency to permanent rules was approved by the board and a notice of intent to begin rule making was filed on May 24, 2023, under WSR 23-11-143.

This is the third emergency rule, initially filed as WSR 23-11-015 on May 5, 2023, and most recently filed as WSR 23-18-064 on September 1, 2023. The amended language has changed since the last emergency rule filing to increase clarity of licensure requirements for out-of-state applicants and improve the flow of the amended WAC sections.

The rules as currently written state that a nurse who has graduated from another state's approved nursing program or from a substantially equivalent program may be licensed in Washington. The board became aware that certain nursing programs in Florida and elsewhere had fraudulent programs that did not meet the educational standards of any state. The emergency rule language clarifies the board's authority to protect the people of Washington by only licensing qualified, properly trained nurses who meet minimum educational standards.

These emergency rules clarify that RN and LPN applicants, applying for licensure via interstate endorsement or for initial licensure via an out-of-state traditional nursing education program approved by another United States nursing board, must successfully complete a nursing education program in another state, which is approved by the nursing board in that state and substantially meets requirements for nursing education approved in Washington state. The amendments also reaffirm that the board retains the authority to evaluate and determine the sufficiency of academic preparation for all applicants. These amendments are preliminary steps to future permanent rule amendments and clarification identified by the board's licensing subcommittee.

Citation of Rules Affected by this Order: Amending WAC 246-840-030 and 246-840-090.

Statutory Authority for Adoption: RCW 18.79.110.

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

Reasons for this Finding: Immediate amendment of these rules is necessary for the preservation of the public health, safety, and general welfare and observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary

to the public interest. Adoption of emergency rules described above is necessary to ensure nurses working in Washington state meet minimum standards for safe practice. This emergency rule will be refiled every 120 days until permanent rule making is completed. Permanent rule making is currently in process.

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 Nongovernmental Entity: New 0, Amended 0, Repealed 0.

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

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

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

Date [Adopted]: December 22, 2023.

Alison Bradywood DNP, MN/MPH, RN, NEA-BC
Executive Director

OTS-4435.6

AMENDATORY SECTION (Amending WSR 21-04-016, filed 1/22/21, effective 2/22/21)

WAC 246-840-030 Initial licensure for registered nurses and practical nurses—Out-of-state traditional nursing education program approved by another United States nursing board. (1) Registered ~~((nursing))~~ nurse and practical ~~((nursing))~~ nurse applicants educated in a traditional nursing education program approved by another United States nursing board and applying for initial licensure ~~((must))~~ shall:

~~((1))~~ (a) Successfully complete a ~~((board-approved))~~ nursing education program in another U.S. state, which:

(i) Is approved by the nursing board in that state; and

(ii) Substantially meets requirements for nursing education approved in Washington state. The board retains authority to evaluate and determine the sufficiency of academic preparation for all applicants.

~~((Applicants from a board approved registered nurse program who are applying for a practical nurse license:~~

~~(a) Complete all course work required of board approved practical nurse programs as listed in WAC 246-840-575(2). Required courses not included in the registered nurse program may be accepted if the courses were obtained through a commission approved program.~~

~~(b) Be deemed as capable to safely practice within the scope of practice of a practical nurse by the nurse administrator of the applicant's nursing education program.~~

~~(2))~~ (b) Successfully pass the ~~((commission))~~ board-approved licensure examination as provided in WAC 246-840-050.

~~((3))~~ (c) Submit the following documents:

~~((a))~~ (i) A completed licensure application with the required fee as defined in WAC 246-840-990.

~~((b))~~ (ii) An official transcript sent directly from the applicant's nursing education program to the ~~((commission))~~ board. The transcript must include course names and credits accepted from other programs. The transcript must show:

~~((i))~~ (A) The applicant has graduated from an approved nursing program or has successfully completed the prelicensure portion of an approved graduate-entry registered nursing program; or

~~((ii))~~ (B) That the applicant has completed all course work required in a ~~((commission))~~ board-approved practical nurse program as listed in WAC ~~((246-840-575(2)))~~ 246-840-539.

~~((e-Applicants))~~ (iii) An applicant from a board-approved registered nurse program who ~~((are))~~ is applying for a practical nurse license ~~((must))~~ shall also submit an attestation sent from the nurse administrator of the applicant's nursing education program indicating that the applicant is capable to safely practice within the scope of practice of a practical nurse.

(2) An applicant from an out-of-state board-approved registered nurse program who is applying for a practical nurse license shall:

(a) Complete all course work required of board-approved practical nurse programs as listed in WAC 246-840-539. Required courses not included in the registered nurse program may be accepted if the courses were obtained through a board-approved program.

(b) Be deemed as capable to safely practice within the scope of practice of a practical nurse by the nurse administrator of the applicant's nursing education program.

AMENDATORY SECTION (Amending WSR 21-04-016, filed 1/22/21, effective 2/22/21)

WAC 246-840-090 Licensure for nurses by interstate endorsement.

Registered nurse and practical nurse applicants for interstate endorsement may be issued a license without examination provided the applicant meets the following requirements:

(1) The applicant graduated and holds a degree from:

(a) A ~~((commission or))~~ state board-approved program preparing candidates for licensure as a nurse, which substantially meets requirements for nursing education approved in Washington state, as determined by the board; or

(b) A nursing program that is equivalent to ~~((commission))~~ board-approved nursing education in Washington state at the time of graduation as determined by the ~~((commission))~~ board.

(2) The applicant holds a current active nursing license in another state or territory, or holds an inactive or expired license in another state or territory and successfully completes a ~~((commission))~~ board-approved refresher course.

(a) An applicant whose license was inactive or expired must be issued a limited education authorization by the ~~((commission))~~ board to enroll in the clinical portion of the refresher course.

(b) The limited education authorization is valid only while working under the direct supervision of a preceptor and is not valid for employment as a registered nurse.

(3) The applicant was originally licensed to practice as a nurse in another state or territory after passing the National Council Licensure Examination (NCLEX).

(4) ~~((Applicants))~~ An applicant graduating from a nursing program ~~((s))~~ outside the U.S. ~~((must))~~ shall demonstrate English proficiency by:

(a) Passing a ~~((commission))~~ board-approved English proficiency test if the nursing education is not in one of the following countries: Canada (except for Quebec), United Kingdom, Ireland, Australia, New Zealand, American Samoa, Guam, Northern Mariana Islands, and U.S. Virgin Islands ~~((, or complete one thousand))~~; or

(b) Completing 1,000 hours of employment as a licensed nurse in another state ~~((, or provide))~~. The 1,000 hours of employment must be in the same licensed role as the nurse is applying for licensure in Washington state. Proof of employment must be submitted to the board; or

(c) Providing evidence directly from the ~~((school))~~ program of earning a high school diploma or college degree from a United States institution.

~~((The one thousand hours of employment must be in the same licensed role as the nurse is applying for licensure in Washington state. Proof of employment must be submitted to the commission.))~~

(5) For RNs: If the applicant is a graduate of a nontraditional nursing education program and:

(a) Was licensed as a practical/vocational nurse prior to licensure as a registered nurse, the applicant ~~((must submit evidence of two hundred hours of preceptorship in the role of a registered nurse as defined in WAC 246-840-035, or at least one thousand hours of practice as a registered nurse without discipline of the registered nurse license by any other state or territory))~~ shall meet the requirements defined in WAC 246-840-048.

(b) Was not licensed as a practical/vocational nurse prior to licensure as a registered nurse, the applicant ~~((must))~~ shall submit evidence of at least ~~((one thousand))~~ 1,000 hours of practice as a registered nurse without discipline of the registered nurse license by any other state or territory.

(6) All applicants must submit the following documents:

(a) A completed licensure application with the required fee as defined in WAC 246-840-990.

(b) An official transcript sent directly from the applicant's nursing education program to the ~~((commission))~~ board if the education cannot be verified from the original board of nursing, or ~~((commission))~~ board-approved evaluation agency.

(i) The transcript must contain adequate documentation demonstrating that the applicant graduated from an approved nursing program or successfully completed the prelicensure portion of an approved graduate-entry registered nursing program.

(ii) The transcripts ~~((shall))~~ must include course names and credits accepted from other programs.

(c) Verification of an original registered or practical nurse license from the state or territory of original licensure. The verification must identify that issuance of the original licensure included passing the NCLEX.

(d) For an applicant ~~((s))~~ educated outside the United States and in territories or countries not listed in subsection (4) (a) of this section, successful results of a ~~((commission))~~ board-approved English

proficiency exam, or, evidence of (~~one thousand~~) 1,000 hours worked as a nurse.

(e) For RNs: If the applicant is a graduate of a nontraditional program in nursing and:

(i) Was licensed as a practical/vocational nurse prior to licensure as a registered nurse, the applicant (~~must~~) shall submit (~~documentation of two hundred hours of preceptorship in the role of a registered nurse as defined in WAC 246-840-035 or at least one thousand hours of practice as a registered nurse without discipline of the registered nurse license by any other state or territory~~) the requirements outlined in WAC 246-840-048.

(ii) Was not licensed as a practical/vocational nurse prior to licensure as a registered nurse, the applicant (~~must~~) shall submit documentation of at least (~~one thousand~~) 1,000 hours of practice as a registered nurse without discipline of the registered nurse license by any other state or territory.

WSR 24-02-060

EMERGENCY RULES

DEPARTMENT OF HEALTH

[Filed December 29, 2023, 8:15 a.m., effective December 29, 2023, 8:15 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Drinking water state revolving fund (DWSRF) loan program, federal Bipartisan Infrastructure Law (BIL) requirements for disadvantaged communities and loans for lead service line (LSL) identification and replacement.

The department of health (department) adopted an emergency rule on August 30, 2023 (WSR 23-18-044), to amend chapter 246-296 WAC to redefine the term disadvantaged community, update loan terms, update application requirements, and clarify loan rating and ranking criteria to conform with requirements in BIL. This emergency rule is being adopted to extend the existing emergency rule without changes to the previous emergency rule.

The amendments allow the department to modernize the definition of disadvantaged community, allow for partial or full loan forgiveness for disadvantaged and nondisadvantaged communities, remove water system plan requirements for those systems that are seeking a loan to address LSL identification and replacement, and update priority rating and ranking criteria to allow more water systems to qualify for loans.

Citation of Rules Affected by this Order: Amending WAC 246-296-020, 246-296-050, 246-296-100, and 246-296-130.

Statutory Authority for Adoption: RCW 70A.125.160.

Other Authority: Federal Safe Drinking Water Act, 40 C.F.R. Part 35, Subpart L; and P.L. 117-58.

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

Reasons for this Finding: The rule amendment is necessary for the preservation of the public health, safety, and general welfare of state citizens so that applicants can immediately receive a loan during the current cycle that starts October 1, 2023, which allows for up to full principal forgiveness to communities that qualify as disadvantaged and nondisadvantaged in conformance with the requirements under BIL. This rule amendment increases public health protection by broadening the types of qualifying infrastructure improvements as outlined in BIL, in addition to traditional funding uses such as replacing aging infrastructure, installing treatment to remove regulated contaminants, restructuring failing water systems, and responding to public health emergency events.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 4, 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 Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 4, 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 4, Repealed 0.

Date Adopted: December 29, 2023.

Kristin Peterson, JD
Chief of Policy
for Umair A. Shah, MD, MPH
Secretary

OTS-4864.1

AMENDATORY SECTION (Amending WSR 22-07-025, filed 3/9/22, effective 4/9/22)

WAC 246-296-020 Definitions, abbreviations, and acronyms. The definitions, abbreviations, and acronyms in this section apply throughout this chapter unless the context clearly indicates otherwise.

(1) **"Affordability"** means a community's ability, on a per household basis, to pay for rate increases that result from a DWSRF loan project.

(2) **"Application"** means the DWSRF loan request form provided by the department.

(3) **"Application package"** means the DWSRF loan application form(s), requirements, terms of assistance, and related information created by the department.

(4) **"Borrower"** means the person that has legal and financial responsibility for the DWSRF loan.

(5) **"Capitalization grant"** means an award by EPA of funds to a state for the DWSRF and other purposes as authorized in Section 1452 of the SDWA.

(6) **"Construction completion report"** means a form provided by the department and completed for each specific construction project to document:

(a) Project construction in accordance with chapter 246-290 WAC and general standards of engineering practice;

(b) Physical capacity changes;

(c) Satisfactory test results; and

(d) The completed form is stamped with an engineer's seal, and signed and dated by a professional engineer.

(7) **"Default"** means failure to meet a financial obligation such as a DWSRF loan payment.

(8) **"Department"** means the Washington state department of health.

(9) **"Disadvantaged community"** means ~~((the service area of a proposed project within a public water system where the project will result in:~~

~~-(a) Water rates that are more than one and one-half percent of the MHI of the service area; or~~

~~-(b) Restructuring, when one or more public water systems are having financial difficulties))~~ a qualifying service area of a project

servicing residential connections within a public water system that is disproportionately impacted by economic, health, and environmental burdens. Potential qualifying areas will be assessed by indicators established in state guidance including population served, social vulnerability, environmental health disparities, and affordability of average annual water charges.

(10) "**DWSRF (drinking water state revolving fund)**" means the program that meets the requirements of RCW 70A.125.160 to administer federal funds and other funds deposited in a dedicated account used to finance public water system infrastructure improvements and drinking water program activities.

(11) "**DWSRF loan**" means an agreement between the department and the borrower in which the DWSRF provides funds for eligible assistance and the borrower agrees to repay the principal sum, applicable interest, and DWSRF loan fee to the DWSRF.

(12) "**DWSRF loan fee**" means a nonrefundable fee that is charged on all DWSRF loans, including DWSRF loans for which all or part of the principal is forgiven.

(13) "**Ecology**" means the Washington state department of ecology.

(14) "**Eligible public water system**" means a Group A community public water system, either privately or publicly owned, or a non-profit Group A noncommunity public water system.

(15) "**Emergency**" means an event such as a natural disaster or other unforeseen or unavoidable circumstances that causes damage or disrupts normal public water system operations and requires immediate action to protect public health and safety. A failure to maintain, replace, reconstruct, upgrade, or make necessary infrastructure improvements does not constitute an emergency.

(16) "**EPA**" means the United States Environmental Protection Agency.

(17) "**Green project**" means a public water system infrastructure improvement project that includes water efficiency, energy efficiency, or environmental innovations as follows:

(a) Water efficiency projects use improved technologies and practices to deliver equal or better service with less water, including preventing water loss and reducing customer demand to protect water resources;

(b) Energy efficiency projects use improved technologies and practices to reduce energy consumption or produce cleaner energy for use in water treatment;

(c) Environmentally innovative projects use new or innovative approaches to manage water resources in a more environmentally sustainable way. Projects that are considered environmentally innovative include those that:

(i) Prevent or remove pollution;

(ii) Help a community adapt to climate change through water resource protection programs; or

(iii) Result in other proven, sustainable environmental benefits.

(18) "**Group A public water system**" is defined and referenced under WAC 246-290-020.

(19) "**Group B public water system**" means a public water system that is not a Group A public water system and is defined and referenced under WAC 246-291-005.

(20) "**Individual water supply system**" means any water system that is not subject to chapter 246-290 or 246-291 WAC; and provides water to either one single-family residence, or to a system with four or fewer connections, all of which serve residences on the same farm.

(21) **"IUP (intended use plan)"** means the federally required document prepared each year by the department identifying the intended uses of the DWSRF funds and describing how those uses support the DWSRF goals.

(22) **"Loan closeout"** means a loan agreement is complete when the loan is repaid in full.

(23) **"MHI (median household income)"** means the midpoint or the average of two midpoints in the range of household incomes in the project's service area. The median divides the list of households in a service area into two parts; half of the households exceed the median, and half of the households are below the median.

(24) **"Multiple benefit"** means projects that address more than one type of health risk.

(25) **"Municipality"** means a city, town, special purpose district, or municipal corporation established according to the applicable laws of this state.

(26) **"NEPA"** means the National Environmental Policy Act of 1969, 42 United States Code 4321 et seq., PL-91-190.

(27) **"Nonprofit organization"** means an entity that has a federal tax exempt status identification number.

(28) **"Owner"** means any agency, subdivision of the state, municipal corporation, firm, company, mutual or cooperative association, institution, partnership, person, or any other entity that holds as property a public water system.

(29) **"Person"** means any individual, corporation, company, association, society, firm, partnership, joint stock company, or any governmental agency, or the authorized agents of these entities.

(30) **"Principal forgiveness"** means that a reduction of a percentage of the total loan amount is not required to be paid back by the borrower. Principal forgiveness is applied when the project is complete.

(31) **"Project report"** means a department-approved document the borrower or borrower's agency develops under WAC 246-290-110.

(32) **"Public water system"** is defined and referenced under WAC 246-290-020.

(33) **"Receivership"** means the voluntary or involuntary transfer of ownership and operation of a public water system according to chapter 7.60 RCW and RCW 43.70.195.

(34) **"Regional benefit"** means project improvements that affect more than one public water system.

(35) **"Restructuring"** means changing public water system ownership including, but not limited to:

(a) Consolidation of two or more existing public water systems into a single public water system;

(b) Transfer of ownership; or

(c) Receivership.

(36) **"SDWA (Safe Drinking Water Act)"** means Public Law 93-523, including all amendments.

(37) **"SEPA"** means the State Environmental Policy Act under chapter 43.21C RCW.

(38) **"Set-aside"** means the use of a portion of DWSRF funds allotted to the state for a range of specific SDWA-related activities under Section 1452 of the SDWA, to fund new programs, and for other drinking water program activities.

(39) **"SERP (state environmental review process)"** means the NEPA-like environmental review process adopted by Washington state to com-

ply with the requirements of 40 C.F.R. 35.3140. SERP combines the SEPA review with additional elements to comply with federal requirements.

(40) "**Surface water**" means a body of water open to the atmosphere and subject to surface runoff.

(41) "**Sustainable**" means able to continue a benefit into the future as a result of appropriate public water system design, processes, operations, governance, and maintenance.

(42) "**SWSMP (small water system management program)**" means a document for a small nonexpanding Group A public water system developed and approved under WAC 246-290-105.

(43) "**System capacity**" means a public water system's operational, technical, managerial, and financial capability to achieve and maintain ongoing compliance with all relevant local, state, and federal plans and regulations.

(44) "**Transfer of ownership**" means to change legal ownership of a public water system from one person to another.

(45) "**Water right**" means a legal authorization, such as a permit, claim, or other authorization, on record with or accepted by the department of ecology, authorizing the beneficial use of water in accordance with all applicable state laws.

(46) "**WFI (water facilities inventory)**" means a department form summarizing a public water system's characteristics.

(47) "**WSP (water system plan)**" means a document that a Group A community public water system submits to the department as required under WAC 246-290-100. The plan addresses a public water system's capacity to comply with relevant local, state, and federal plans and regulations, describes the public water system's present and future needs, and establishes eligibility for funding under this chapter.

AMENDATORY SECTION (Amending WSR 16-14-086, filed 7/5/16, effective 8/5/16)

WAC 246-296-050 DWSRF loan terms. (1) The department may approve a DWSRF loan for a project that will not serve a disadvantaged community:

(a) That partially or fully forgives the principal amount of the loan; or

(b) At an interest rate at or below market interest rates for a maximum of ~~((twenty))~~ 20 years from project completion.

(2) The department may approve a DWSRF loan for a project ~~((s))~~ that will serve a disadvantaged ~~((communities))~~ community:

(a) That partially or fully forgives the principal amount of the loan; or

(b) At an interest rate set at or below market interest rates for up to ~~((thirty))~~ 30 years, as long as the DWSRF loan does not exceed the useful life of the project ~~((+~~

~~(b) That qualifies for principal forgiveness for up to fifty percent of the principal DWSRF loan amount; or~~

~~(c) That qualifies for principal forgiveness for up to seventy-five percent of the principal DWSRF loan amount for an emergency loan).~~

(3) A project is considered complete when the department approves the construction completion report.

(4) The borrower shall begin repaying the principal and interest no later than one year after the project is complete.

(5) The department shall:

(a) Set terms that secure repayment of the debt and maintain a financially sound DWSRF program in perpetuity; and

(b) Publish specific rates and contract terms in the annual application package.

AMENDATORY SECTION (Amending WSR 12-01-077, filed 12/19/11, effective 2/1/12)

WAC 246-296-100 DWSRF loan eligibility and application requirements. To be eligible for a DWSRF loan, an applicant shall:

(1) Document that the public water system has the system capacity to stay in compliance with applicable federal, state, and local drinking water requirements, unless:

(a) The funding will bring the public water system into compliance; and

(b) The owner of the public water system agrees to reasonable and appropriate changes to stay in compliance.

(2) ~~((Before))~~ Except when applying for a DWSRF loan((7)) that addresses lead service line identification or lead service line replacements, the applicant shall have a current department-approved WSP or SWSMP that:

(a) Includes the proposed project; and

(b) Addresses any difficulties with system capacity;

(3) Comply with federal, state, and local drinking water requirements or a variance under WAC 246-290-060, unless the DWSRF loan will fund projects that result in public water system compliance;

(4) Comply with any department or EPA orders;

(5) Install a source meter on each source if meters are not already installed;

(6) Install service meters on all service connections if meters are not already installed within the project area, unless:

(a) The project is for a transient noncommunity public water system;

(b) The project is for a mobile home park with a source or master meter;

(c) The project is for an apartment building or complex with a source or master meter; or

(d) The department determines that installing meters is:

(i) Prohibitive for the DWSRF project as a whole; and

(ii) Waiving the meter requirement is necessary to award a DWSRF loan for a project to resolve high priority public health problems.

(7) Have no outstanding fees or penalties owed to the department.

(8) Provide documentation that the project has sufficient water rights as determined by ecology.

(9) Comply with the requirements of WAC 246-296-120(1).

AMENDATORY SECTION (Amending WSR 16-14-086, filed 7/5/16, effective 8/5/16)

WAC 246-296-130 Project priority rating and ranking criteria.

The department shall, at a minimum, consider the following to assign points, and rate and rank proposed projects:

(1) Criteria for risk categories and points based on:

(a) Type and significance of public health problems the project will resolve;

(b) If the project is needed to bring the public water system into compliance with federal, state, and local drinking water requirements;

(c) Current compliance status; and

(d) Affordability on a per household basis, determined by comparing the community's average water rate to the MHI in the community's service area, for a community public water system.

(2) Additional points based on the type of project being proposed, if the project:

(a) Is ready to proceed to construction;

(b) Completes projects previously funded by DWSRF grants or loans;

(c) Is to consolidate or restructure a public water system;

~~((b))~~ (d) Creates a sustainable regional public health benefit;

~~((c) Has multiple benefits that are sustainable;~~

~~(d) Is consistent with the Growth Management Act;~~

~~(e) Is financially sustainable;))~~

(e) Is a water main replacement project that coincides with other infrastructure projects;

(f) Qualifies as a green project; or

(g) ~~((Serves a disadvantaged community; or~~

~~(h) Results in service meters on existing services not currently metered))~~ Has an affordability index equal to or greater than one percent.

WSR 24-02-061
EMERGENCY RULES
HEALTH CARE AUTHORITY

[Admin #2023-03.04—Filed December 29, 2023, 8:36 a.m., effective January 1, 2024]

Effective Date of Rule: January 1, 2024.

Purpose: The health care authority is creating new WAC 182-12-5200 When is a retiring employee or a retiring school employee who separates from employment eligible to enroll in public employees benefits board (PEBB) retiree insurance coverage, as authorized in HB 1008, chapter 164, Laws of 2023, 68th legislature, 2023 regular session.

Citation of Rules Affected by this Order: New WAC 182-12-5200.

Statutory Authority for Adoption: HB 1008, chapter 164, Laws of 2023, 68th legislature, 2023 regular session.

Other Authority: RCW 41.05.021 and 41.05.160.

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

Reasons for this Finding: This emergency rule making is necessary to implement to HB 1008, chapter 164, Laws of 2023, while the authority conducts the permanent rule-making process.

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 1, Amended 0, Repealed 0.

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

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

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

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

Date Adopted: December 29, 2023.

Wendy Barcus
Rules Coordinator

OTS-4906.2

NEW SECTION

WAC 182-12-5200 When is a retiring employee or a retiring school employee who separates from employment eligible to enroll in public employees benefits board (PEBB) retiree insurance coverage? (1) A retiring employee or a retiring school employee who meet the definition of a separated employee as defined in RCW 41.05.011 (25)(a) or (b) is eligible to continue enrollment or defer enrollment in public employees benefits board (PEBB) insurance coverage as a retiree if they meet

procedural and substantive eligibility requirements as described in WAC 182-12-171 (1), (2), and (3), except as described in subsection (2) of this section.

(2) Effective January 1, 2024, the exceptions for a retiring employee and a retiring school employee to immediately begin receiving a monthly retirement plan payment to meet the substantive eligibility requirements as described in WAC 182-12-171 (2)(a), (c)(ii), and (d), and 182-12-5110 (4)(a)(ii), will include the following:

(a) A retiring employee or a retiring school employee who is a member of a Plan 3 retirement plan, also called a separated employee, must meet their Plan 3 retirement eligibility criteria; and

(b) A retiring employee or a retiring school employee who is a member of the teachers' retirement system Plan 2, school employees' retirement system Plan 2, or public employees' retirement system Plan 2, also called a separated employee, who separates from employment on or after January 1, 2024, and who is at least age 55 and have at least 20 years of service.

(3) The exceptions described in subsection (2) of this section apply to an employee or a school employee who is determined to be retroactively eligible for a disability retirement as described in WAC 182-12-211 (1)(c).

WSR 24-02-063
RESCISSION OF EMERGENCY RULES
DEPARTMENT OF
CHILDREN, YOUTH, AND FAMILIES
[Filed December 29, 2023, 11:15 a.m.]

Effective December 21, 2023, the department of children, youth, and families is rescinding WSR 24-01-007, which was filed as emergency rule making on December 6, 2023, for working connections child care. The emergency rules will be revised and refiled as a new emergency.

Please contact Brenda Villarreal at 360-522-3691 if you have any questions or need anything further.

Brenda Villarreal
Rules Coordinator

WSR 24-02-064
EMERGENCY RULES
DEPARTMENT OF

CHILDREN, YOUTH, AND FAMILIES

[Filed December 29, 2023, 11:19 a.m., effective December 29, 2023, 11:19 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: This rule making will expand eligibility to people working in licensed child care centers and licensed family homes, specialty and therapeutic court participants, and undocumented children. This rule making will also establish eligibility for families with a parent participating in a state-registered apprenticeship with income less than 85 percent of the state median income (SMI) who, within the last year, were approved for working connections child care. This emergency rule making replaces WSR 24-01-007 filed on December 6, 2023. This emergency is being refiled to correct language in WAC 110-15-005(1) to say that not all eligible consumers need to meet the requirements regarding countable income at or below 60 percent of the SMI at initial application or at or below 65 percent of the SMI at reapplication. The previous emergency filing incorrectly stated that this was an eligibility requirement for all consumers. The emergency was also revised to create clarity about waiving copayments in WAC 110-15-0075(4).

Citation of Rules Affected by this Order: Amending WAC 110-15-0005, 110-15-0015, 110-15-0024, 110-15-0045, and 110-15-0075.

Statutory Authority for Adoption: 2SSB 5225, 2SHB 1525; chapter 43.216 RCW.

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

Reasons for this Finding: The new eligibility categories are necessary for the preservation of public health, safety, and general welfare through:

- Increasing the number of vulnerable children eligible for child care where they will receive supervision, nurturing, and care.
- Allowing child care employees to use subsidy for their own children.
- Providing undocumented children subsidized child care with state dollars.

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 5, Repealed 0.

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 5, Repealed 0.

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

Date Adopted: December 29, 2023.

Brenda Villarreal

OTS-5105.2

AMENDATORY SECTION (Amending WSR 22-05-007, filed 2/3/22, effective 3/6/22)

WAC 110-15-0005 Eligibility. (1) **Consumers.** At the time of application and reapplication, to be eligible for WCCC, consumers must:

- (a) Have parental control of one or more eligible children;
- (b) Live in the state of Washington;
- (c) Participate in an approved activity or meet the eligibility special circumstances requirements under WAC 110-15-0020, 110-15-0023, or 110-15-0024;
- ~~(d) ((Have countable income at or below 60 percent of the SMI at initial application or at or below 65 percent of the SMI at reapplication;~~
- ~~(e))~~ Not have assets that exceed \$1,000,000; ~~((and~~
- ~~(f))~~ (e) Have an agreed payment arrangement with any provider to whom any outstanding WCCC copayment is owed; and
- (f) One of the following:
 - (i) Have countable income at or below 60 percent of the state median income (SMI) at initial application or at or below 65 percent of the SMI at reapplication;
 - (ii) Within the first 12 months of a state-registered apprenticeship program, have a household annual income adjusted for family size that does not exceed 75 percent of the SMI; or
 - (iii) Be employed by a licensed or certified child care provider as confirmed or verified in the agency's electronic workforce registry and have a household annual income adjusted for family size that does not exceed 85 percent of the SMI.

(2) Parents currently attending high school or who are age 21 years or younger and completing a high school equivalency certificate are eligible for WCCC if their income does not exceed 85 percent of the SMI at the time of application.

(3) **Children.** To be eligible for WCCC, children must:

- ~~(a) ((Belong to one of the following groups as defined in WAC 388-424-0001:~~
 - ~~(i) A U.S. citizen;~~
 - ~~(ii) A U.S. national;~~
 - ~~(iii) A qualified alien; or~~
 - ~~(iv) A nonqualified alien who meets the Washington state residency requirements as listed in WAC 388-468-0005.~~
- ~~(b) Legally))~~ Reside in Washington state ~~((, which will be determined by applying the criteria of WAC 388-424-0001 or 388-468-0005));~~ and
- ~~((e))~~ (b) At the time of eligibility determination or redetermination, be less than age 13 years ~~((of age on the first day of eligibility));~~ or
- ~~((d))~~ (c) Be less than age 19 years ~~((of age)),~~ and:
 - (i) Have a verified special need, according to WAC 110-15-0020;

or

- (ii) Be under court supervision.

AMENDATORY SECTION (Amending WSR 19-12-058, filed 5/31/19, effective 7/1/19)

WAC 110-15-0015 Determining family size. (1) DCYF determines a consumer's family size as follows:

(a) For a single parent, including a minor parent living independently, DCYF counts the consumer and the consumer's children;

(b) For unmarried parents who have at least one mutual child, DCYF counts both parents and all of their children living in the household;

(c) ~~For unmarried parents who have no mutual children ((are counted as separate WCCC households)),~~ DCYF counts the unmarried parents and their respective children, although living in the same household, as separate WCCC households;

(d) For married parents, DCYF counts both parents and all of their children living in the household;

(e) ~~((For parents who are undocumented aliens as defined in WAC 388-424-0001, DCYF counts the parents and children, documented and undocumented, and all other family rules in this section apply. Children needing care must meet citizenship requirements described in WAC 110-15-0005;~~

~~(f))~~ For a legal guardian verified by a legal or court document, adult sibling or step-sibling, nephew, niece, aunt, uncle, grandparent, any of these relatives with the prefix "great," such as a "great-nephew," or an in loco parentis custodian who is not related to the child as described in WAC ~~((110-15-0005))~~ 110-15-0003, DCYF counts only the children and only the children's income is counted;

~~((g))~~ (f) For a parent who is out of the household because of employer requirements, such as training or military service, and expected to return to the household, DCYF counts the consumer, the absent parent, and the children;

~~((h))~~ (g) For a parent who is voluntarily out of the household for reasons other than requirements of the employer, such as unapproved schooling and visiting family members, and is expected to return to the household, DCYF counts the consumer, the absent parent, and the children. WAC 110-15-0020 and all other family and household rules in this section apply;

~~((i))~~ (h) For a parent who is out of the country and waiting for legal reentry ~~((in to))~~ into the United States, DCYF counts only the consumer and children residing in the United States ~~((and)).~~ All other family and household rules in this section apply;

~~((j))~~ (i) An incarcerated parent is not part of the household count for determining income and eligibility. DCYF counts the remaining household members using all other family rules in this section; and

~~((k))~~ (j) For a parent incarcerated at a Washington state correctional facility whose child lives with them at the facility, DCYF counts the parent and child as their own household.

(2) When the household consists of the consumer's own child and another child identified in subsection (1) ~~((f))~~ (e) of this section, the household may be combined into one household or kept as distinct households for the benefit of the consumer.

AMENDATORY SECTION (Amending WSR 23-23-082, filed 11/13/23, effective 12/14/23)

WAC 110-15-0024 Categorical eligibility for families receiving child protective, child welfare, or family assessment response services, or referred during specialty or therapeutic court proceedings.

(1) Families with children (~~(who have received)~~) are eligible for WCCC benefits for a 12-month period if the consumer is a Washington state resident and the child or children are living with a biological parent or guardian and:

(a) In the six months prior to application or reapplication for WCCC benefits, the family received:

(i) Child protective services as defined and used by chapters 26.44 and 74.13 RCW(~~(τ)~~);

(ii) Child welfare services as defined and used by chapter 74.13 RCW(~~(τ)~~); or

(iii) Services through a family assessment response, as defined and used by chapter 26.44 RCW (~~(in the six months previous to application or reapplication for working connections child care (WCCC) benefits are eligible for WCCC benefits for a 12-month period if, in addition the:~~

~~(a) Consumer is a Washington state resident;~~

~~(b) Family has been referred for child care as part of the family's case management as defined by RCW 74.13.020; and~~

~~(c) Child or children are residing with a biological parent or guardian);~~ and

(b) The family has been referred for child care as part of the family's case management as defined by RCW 74.13.020; or

(c) The child's or children's parent or guardian:

(i) Is participating in a specialty or therapeutic court or is listed as a victim in a case in a specialty or therapeutic court; and

(ii) Was referred for child care as part of the specialty court or therapeutic court proceedings.

(2) Families eligible for WCCC under this section will:

(a) Have no copayment;

(b) Be authorized for full-time child care regardless of participation in an approved activity; and

(c) Be eligible to have benefits paid only to a provider that meets the requirements in WAC 110-15-0125.

(3) "Specialty court" and "therapeutic court," for the purpose of this section, are defined by RCW 2.30.020.

AMENDATORY SECTION (Amending WSR 22-05-007, filed 2/3/22, effective 3/6/22)

WAC 110-15-0045 Approved activities for applicants and consumers not participating in WorkFirst. (1) Applicants and consumers not participating in WorkFirst activities may be eligible for WCCC benefits for the following approved activities:

(a) Employment;

(b) Self-employment;

(c) Supplemental nutrition assistance program employment and training (SNAP E&T); or

(d) The following education programs:

- (i) High school or working towards a high school equivalency certificate for consumers under age 22 years (~~(of age)~~);
- (ii) Part-time enrollment in a vocational education, adult basic education (ABE), high school equivalency certificate for consumers age 22 years (~~(of age)~~) and older, or English as a second language (ESL) program combined with an average of 20 or more employment hours per week or 16 more work-study hours per week; or
- (iii) For full-time students of a community, technical, or tribal college, enrollment in:
 - (A) A vocational education program that leads to a degree or certificate in a specific occupation;
 - (B) An associate degree program; or
 - (C) A registered apprenticeship program.
- (iv) "Full-time student" for the purpose of this subsection means a consumer attends a community, technical, or tribal college and meets its definition of full-time student.
- (e) Applicants and consumers who meet the requirements of (~~(e)~~) (d) of this subsection are eligible to receive subsidy payment for up to 10 hours per week of study time for approved classes.
- (2) Applicants and consumers who are eligible for WCCC benefits under the terms of this section are eligible to receive subsidy payment for:
 - (a) Transportation time between the child care location and the consumer's place of employment or approved activity; and
 - (b) Up to eight hours of sleep time before or after a night shift.

AMENDATORY SECTION (Amending WSR 23-12-038, filed 5/30/23, effective 7/1/23)

WAC 110-15-0075 Determining income eligibility and copayment amounts. (1) DCYF takes the following steps to determine consumers' eligibility and copayments, when care is provided under a WCCC voucher or contract:

- (a) Determine their family size as described in WAC 110-15-0015; and
- (b) Determine their countable income as described in WAC 110-15-0065.

(2) DCYF calculates consumers' copayments as follows:

| If the household's income is: | Then the household's maximum monthly copayment is: |
|--|--|
| At or below 20 percent of the SMI | Waived |
| Above 20 percent and at or below 36 percent of the SMI | \$65 |
| Above 36 percent and at or below 50 percent of the SMI | \$90 |
| Above 50 percent and at or below 60 percent of the SMI | \$165 |

| | |
|--|--|
| If the household's income is: | Then the household's maximum monthly copayment is: |
| At reapplication, above 60 percent and at or below 65 percent of the SMI | \$215 |
| <u>An applicant between 60 percent and 75 percent of the SMI for families participating in a state-registered apprenticeship</u> | <u>\$215</u> |

(3) DCYF does not prorate copayments when consumers use care for only part of a month.

(4) ~~((For parents))~~ DCYF waives copayments for eligible consumers who are one or more of the following:

(a) Age 21 years or younger who attend high school or are working towards completing a high school equivalency certificate(~~(, copayments are not required)~~);

(b) Employed by a licensed or certified child care provider as confirmed or verified in the agency's electronic workforce registry;

(c) Eligible under WAC 110-15-0023; or

(d) Eligible under WAC 110-15-0024.

WSR 24-02-085
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 24-01—Filed January 3, 2024, 7:53 a.m., effective January 3, 2024, 7:53 a.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: The purpose of this emergency rule is to set landing provisions for coastal commercial crab fishers.

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

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

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

Reasons for this Finding: Limiting landings from Oregon into ports in southern Washington provides access to landing areas in Washington in a manner that minimizes enforcement concerns with transiting Dungeness crab through areas that are closed in Washington. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: January 2, 2024.

Amy H. Windrope
for Kelly Susewind
Director

NEW SECTION

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

(1) Vessels that participate in the Dungeness crab fishery south of Cape Falcon, OR (45°46.00 N. Lat.) may not deliver crab north of the Columbia River except into the ports of Ilwaco and Chinook until further notice. Such vessels must adhere to the Oregon Department of Fish and Wildlife closed area transit allowance requirements.

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