

WSR 22-02-001
PERMANENT RULES
CRIMINAL JUSTICE
TRAINING COMMISSION

[Filed December 22, 2021, 12:05 p.m., effective January 22, 2022]

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

Purpose: To enact the Law Enforcement Training and Community Safety Act WAC changes as passed by the Washington state criminal justice training commission (WSCJTC), which modified the independent investigation team WAC to include community members training, conflict of interest form standards, the required removal of any team member violating the confidentiality agreement, and repealed the limited briefings for sheriffs and police chiefs.

Citation of Rules Affected by this Order: Amending WAC 139-12-030.

Statutory Authority for Adoption: RCW 10.114.011.

Other Authority: RCW 43.101.080.

Adopted under notice filed as WSR 21-19-132 on December 8 [September 21], 2021.

Changes Other than Editing from Proposed to Adopted Version: WAC 139-12-030 (2)(b)(•)(b): Additional language added to assure [ensure] a law enforcement agency's conflict of interest form met or exceeded the standards of the WSCJTC's conflict of interest form. WAC 139-12-030 (2)(•)(c): Repealed language that required the community member to be at the limited briefing with the sheriff or police chief. The language for the briefings was repealed in the original filing.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: December 8, 2021.

Derek Zable
Records Manager

OTS-3229.2

AMENDATORY SECTION (Amending WSR 20-01-023, filed 12/6/19, effective 1/6/20)

WAC 139-12-030 Independent investigation criteria. There are five principles that are fundamental to enhancing public trust in the integrity of independent investigations involving police use of deadly force:

- Independence;
- Transparency;
- Communication;
- Credible process; and
- Credible investigators.

Standards are necessary for the involved agency and the public to assess whether the actions taken by the IIT are independent, transparent, credible, and communicated in a manner that results in a compliant and complete investigation and builds public trust.

(1) **Independence.**

(a) Independence is essential to the integrity and objectivity of the investigation. Maintaining independence is achieved through compliance with rules and regulations designed to prohibit undue influence, and the appearance of undue influence, by the involved agency in the investigation.

(b) Standards for an investigation completely independent of the involved agency:

- Once the involved agency personnel and/or other first responders have rendered the scene safe and provided or facilitated life-saving first aid to persons at the scene who have life-threatening injuries, the involved agency will immediately call the IIT. Then the primary focus of the involved agency shifts to the protection and preservation of evanescent evidence in order to maintain the integrity of the scene until the IIT arrives. Once the IIT arrives, and the IIT commander has the appropriate resources on scene, the involved agency will relinquish control of the scene to the IIT.

- No member of the involved agency may participate in any way in the investigation of police use of deadly force conducted by the IIT, with the following exception:

- Specialized equipment belonging to the involved agency may not be used by the IIT unless: 1 - no reasonable alternative exists; 2 - the equipment is critical to carrying out the independent investigation; and 3 - the use is approved by the IIT commander. If the equipment is used, the nonlaw enforcement community representatives on the IIT must be notified about: 1 - why it needs to be used; and 2 - the steps taken to appropriately limit the role of any involved agency personnel in facilitating the use of that equipment.

- No information about the ongoing independent investigation of police use of deadly force will be shared with any member of the involved agency (~~(, except limited briefings given to the chief or sheriff of the involved agency about the progress of the investigation so that they can manage the internal administrative investigation and communicate with their community about the progress of the)~~). The administrative investigation of the involved agency must remain separate from the independent criminal investigation.

- If the chief or sheriff of the involved agency requests that the IIT release the body cam video or other investigation information of urgent public interest, the IIT commander should honor the request with the agreement of the prosecutor of jurisdiction.

(2) **Transparency.**

(a) Transparency is the critical element of procedural justice that allows community members to assess whether the process of the investigation is conducted in a trustworthy manner and complies with the standards for the five listed principles.

(b) Standards for the transparency of an independent investigation:

- The policies and operating procedures of the IIT will be available to the public.
 - The names of the members, supervisors, commanders, and nonlaw enforcement community representatives on the IIT will be available to the public.
 - A minimum of two nonlaw enforcement community representatives from the impacted communities will be assigned to each IIT to:
 - a. Participate directly in the vetting, interviewing, and/or selection of IIT investigators. (Existing teams will have until January 2021 to provide necessary information about the qualifications of current IIT investigators to the nonlaw enforcement community representatives for review.)
 - b. Review written conflict of interest statements submitted within ~~((seventy-two))~~ 72 hours of the commencement of each investigation by the investigators. Agencies may use a standard conflict of interest form developed by the Washington state criminal justice training commission. If an IIT uses their own conflict of interest form, the standards must meet or exceed the form provided by the Washington state criminal justice training commission;
 - c. ~~((Be present at the briefings with the involved agency(s) chief or sheriff;~~
 - d.)) Have access to the investigation file when it is completed;
 - ~~((e.))~~ d. Be provided a copy of all press releases and communication to the media prior to release; and
 - ~~((f.))~~ e. Review notification of equipment use of the involved agency.
 - The nonlaw enforcement community representatives must sign a binding confidentiality agreement at the beginning of each police use of deadly force investigation that remains in effect until the prosecutor of jurisdiction either declines to file charges or the criminal case is concluded.
 - ~~((If the confidentiality agreement is violated, the nonlaw enforcement representative may be subject to prosecution under RCW 9A.76.020 (Obstructing a law enforcement officer) and chapter 10.97 RCW, Washington State Criminal Records Privacy Act. For the purpose of this chapter, "criminal background information" is the same as "criminal history information" as defined in RCW 10.97.030(4).))~~ Any nonlaw enforcement representative or law enforcement officer found to have violated the confidentiality agreement will be subject to immediate removal from the team, as well as any future independent investigation.
 - The commander or other representative of the IIT will provide public updates about the investigation at a minimum of once per week, even if there is no new progress to report.
 - When an independent investigation is complete the information will be made available to the public in a manner consistent with applicable state law.
- (3) **Communication.**
- (a) Communication is key to enhancing the public's perception of police legitimacy and fairness. A lack of open communication leads to suspicion and damages trust.
 - (b) Standards for communication during an independent investigation:
 - A family member of the person against whom deadly force has been used will be notified as soon as they can be located by either the involved agency or the IIT, whichever is faster.

- A member of the IIT will be assigned as a family liaison within the first (~~twenty-four~~) 24 hours and keep the family, or a representative of the family's choice, apprised of all significant developments in the independent investigation and will give the family and the involved agency advance notice of all scheduled press releases.

- Neither the involved agency nor the IIT will provide the media with criminal background information of the person against whom deadly force has been used, unless it is specifically requested, and release of the information is required by the Public Records Act or other applicable laws.

- If the person against whom deadly force is used is, or is believed to be a member of a federally recognized tribe:

- The involved agency will notify the governor's office of Indian affairs (GOIA) in accordance with RCW 10.114.021.

- A member of the IIT will be assigned as a tribal liaison within the first (~~twenty-four~~) 24 hours and keep the tribe (or a representative of the tribe's choice) apprised of all significant developments of the investigation.

(4) **Credibility.**

(a) In order for investigations to be viewed as credible it is critical to demonstrate that the procedures followed are consistent, known to the public, and rooted in best practices for homicide investigations, with particular attention focused on those unique areas of evidence relevant to the officer's decision-making process. Equally important is the credibility of the investigators. Training, a history of ethical behavior, and demonstrated impartiality are critical to maintain confidence in the investigation.

(b) Standards for a credible independent investigative process:

- After life-saving first aid has been provided, members of the involved agency and other first responders at the scene will:

- Secure the incident scene and maintain its integrity until the IIT arrives.

- The perimeter must be clearly marked and protected.

- Evanescent evidence must be located and preserved, consistent with best practices published annually by the criminal justice training commission.

- The independent investigation will follow accepted best practices for homicide investigations published and annually updated by the WSCJTC.

- An involved agency conducting a timely internal administrative investigation for compliance with department policy and procedures is critical to maintaining public trust and is separate and distinct from the independent investigation required by the LETCSA. To allow the involved agency to move forward with the administrative investigation in a timely fashion, the independent investigation required by LETCSA must be conducted in a manner that does not inhibit the involved agency from doing so. To accomplish this:

- The IIT commander must create and enforce firewalls, which is a process to prevent information sharing between the IIT from the involved agency, and train all team members to observe them to ensure no member of the IIT receives any compelled statements of the involved officer(s) or any investigative content that was informed by such compelled statements.

- The firewall system and training must ensure that the involved agency is affirmatively advised not to furnish "prohibited content" to the IIT.

- If any member of the IIT receives prohibited information, the investigator receiving the prohibited information must immediately report it to their supervisor and the member must discontinue participation in the investigation. The information will be removed and/or isolated from the remaining investigation unless the prosecutor of jurisdiction deems such action unnecessary.

(c) The standards for credible investigators include:

(i) Appointed Members.

The chiefs and sheriffs who sign a written agreement to support and participate in the IIT shall appoint:

- The IIT leadership team, which may include an IIT commander, assistant commander, or co-commander.

- At least two nonlaw enforcement community representatives who have credibility with and ties to communities impacted by police use of deadly force. The chiefs ((and)), sheriffs, and community members of each regional team shall create a transparent process for soliciting names and creating a roster of individuals willing to serve in this capacity. The IIT community representatives must be chosen from this list by the chief(s) ((and/or)), sheriff(s), and community member(s). The Washington state criminal justice training commission will post IIT rosters on the criminal justice training commission website from each region, which will be provided by the IITs. There shall be standardized trainings for nonlaw enforcement community representatives, including training on the requirements of the mandatory nondisclosure agreements.

- All IIT leadership shall be commissioned peace officer(s), with previous experience in criminal investigations.

- The IIT supervisors shall be recommended by their agency to the IIT commander.

(ii) Selection Process for IIT Members.

The IIT leadership shall:

- Ensure all applicants meet all time, rank, and training prerequisites described in ((chapter xxx WAC [WAC 139-12-030 (4)(c)(v)])) (c)(v) of this subsection.

- Ensure that qualified applicants are interviewed by a panel, which includes the nonlaw enforcement community representatives and other members of the IIT selected by the IIT commander.

- All applicants shall be interviewed using criteria pertinent for the position of an IIT investigator. The same questions should be asked of each applicant.

- At the conclusion of the panel the IIT commander shall consider the recommendations of the panel and select those best suited for the needs of the IIT.

(iii) Requirements for IIT Investigators.

- Applicants for the position of investigator must be employed by a member agency of the IIT.

- The applicant shall be a commissioned peace officer in the state of Washington with previous experience as a detective or investigator, or have special skills or experience necessary for the team.

(iv) Periodic Appointment Review.

The chief or sheriff of a member agency, and the IIT commander shall review the appointment of their IIT members who have served three years for possible rotation or replacement.

(v) Training Requirements.

The credibility of an individual assigned to an IIT is grounded in two elements: Training and experience in criminal investigations. Since some IIT members were chosen because of their experience in

criminal investigations, it is important to clearly define expectations for both training and experience, and acknowledge the relationship between those two elements.

IIT members who do not meet the training requirement are eligible to participate on the IIT, but not in a lead position.

Civilian IIT members (i.e. crime scene investigators, evidence technicians, etc.) are not required to obtain the qualified lead investigator certificate, but the IIT leadership shall establish reasonable noncommissioned training requirements through their IIT protocol.

The CJTC will issue an "IIT qualified lead investigator certificate" to ensure that those who are assigned to a lead investigator role for an IIT meet the training requirements listed below by the end of 2020.

To obtain an IIT qualified lead investigator certificate, candidates must:

- Provide proof of at least three years of uninterrupted experience as a certified peace officer, crime scene investigator, or related expertise in a discipline relevant to investigations.
- Provide proof of successful completion of the prescribed training classes, (or appropriate equivalent experience), listed in this chapter.

(A) Basic training classes:

- Basic homicide investigation;
- Interviewing and interrogation;
- LETCSA Violence deescalation and mental health training.

IIT members who have two years or more of relevant, full-time criminal investigative work experience may substitute their work experience for the required basic training classes. County sheriffs, police chiefs, and IIT commanders are encouraged to promote continuing education as a best practice for all members assigned to the IIT.

(B) Advanced training classes.

A minimum of eight hours of training annually may include, but is not limited to, the following criminal investigation topics:

- Advanced homicide investigation techniques;
- Advanced interviewing and interrogation;
- Officer-involved shooting investigation;
- In-custody death investigation;
- Excited delirium and positional asphyxia;
- Bloodstain pattern analysis;
- Crime scene photography/videography and
- Other related training, seminars, and conferences or on-going

training as offered by WSCJTC or other training venues on an as available basis.

(C) In-service training.

• All IIT members shall receive priority registration to LETCSA training, required homicide investigations training, and recertification every three years.

• The IIT shall train as a unit at least annually.

(vi) Demonstrated History of Honorable Behavior.

Investigators assigned to an IIT are expected to have a work history free of a sustained finding of serious misconduct and/or a pattern of sustained complaints and a personal history free of demonstrable bias or prejudice against community members that may be impacted by the police use of deadly force.

Examples of disqualifying sustained misconduct and/or personal history include, but are not limited to:

- Discrimination of any type, based on protected classes identified under RCW 49.60.030(1).
 - Theft, fraud, dishonesty, and abuse of authority including, but not limited to: Theft, falsifying an official police record or making a false statement, serious ACCESS (a centralized computer enforcement service system) violations, obtaining or disclosing confidential information, and excessive use of force.
 - Dishonorable behavior including, but not limited to: Harassment, bullying, aggressive or intimidating behavior, or threats of violence, including domestic violence.
- (vii) Conflicts of Interest.

Within (~~seventy-two~~) 72 hours of the commencement of each investigation, investigators and nonlaw enforcement community representatives, must complete a "conflict of interest" assessment tool regarding any connection to the officers being investigated. The assessment (created by WSCJTC) will include questions about prior interactions or relationships with officers being investigated, and will address social conflict, work conflict, and bias. The conflict assessment will be reviewed and discussed by the nonlaw enforcement community representatives and the IIT commander. The conflict of interest assessments for investigators and nonlaw enforcement community representatives will be developed at the March 2020 summit and adopted by the commission at the June 2020 meeting.

[Statutory Authority: RCW 9A.16.040 and 43.101.080. WSR 20-01-023, § 139-12-030, filed 12/6/19, effective 1/6/20.]

WSR 22-02-005

PERMANENT RULES

DEPARTMENT OF HEALTH

(Dental Quality Assurance Commission)

[Filed December 22, 2021, 2:06 p.m., effective January 22, 2022]

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

Purpose: WAC 246-817-581 Novel coronavirus disease 2019 vaccination by licensed dental hygienist. The dental quality assurance commission (commission) adopted rules allowing dentists to delegate administration of novel coronavirus disease 2019 (COVID-19) vaccination to licensed dental hygienists with close supervision and demonstration of competency. The adopted rule also provides for acceptance of approved vaccination protocols and screening to meet the dentist's requirement to diagnose and authorize treatment.

In response to the COVID-19 pandemic, dentists are among the essential health providers who can safely administer vaccinations and help address this public health emergency. Mass vaccination across the state has taken cooperation and coordination across the entire health system. Dentists and delegated dental hygienists can increase capacity for priority populations who may not otherwise be connected to the traditional health care system and will establish additional avenues and opportunities for future need. Permanent rule making allows dentists to continue delegating COVID-19 vaccinations to dental hygienists after the governor ends the state of emergency. Vaccinations and potential booster vaccinations will be necessary to prevent another outbreak. Efforts to prevent another outbreak, including increased health care worker capacity and vaccination availability in new settings, need to continue to preserve public health, safety, and the general welfare of patients and dental staff.

The commission filed emergency rule making as WSR 21-06-012 on February 19, 2021; extended emergency rule making as WSR 21-13-091 on June 18, 2021; and WSR 21-21-052 on October 15, 2021, for COVID-19 vaccination delegation. This permanent rule will replace the emergency rule. The commission will rescind the emergency rule once the permanent rule becomes effective.

Citation of Rules Affected by this Order: New WAC 246-817-581.

Statutory Authority for Adoption: RCW 18.29.050 and 18.32.0365.

Other Authority: RCW 18.32.002.

Adopted under notice filed as WSR 21-18-005 on August 18, 2021.

A final cost-benefit analysis is available by contacting Bruce Bronoske, Jr., P.O. Box 47852, Olympia, WA 98504, phone 360-236-4843, fax 360-236-1901, TTY 711, email bruce.bronoske@doh.wa.gov, website www.doh.wa.gov, dental@doh.wa.gov.

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

Number of Sections Adopted at the Request of a 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: October 22, 2021.

David L. Carsten, DDS, Chairperson
Dental Quality Assurance Commission

OTS-2845.4

NEW SECTION

WAC 246-817-581 Novel coronavirus disease 2019 vaccination. (1)

A supervising dentist may delegate the administration of a vaccination of novel coronavirus disease 2019 to a licensed dental hygienist under the dentist's close supervision, provided the licensed dental hygienist has demonstrated skills necessary to perform the task competently.

(2) For the purpose of administering vaccination for the novel coronavirus disease 2019, a dentist's approval of the vaccination protocol and screening meets the dentist's requirement to diagnose the condition to be treated and personal authorization of the procedure as required by close supervision under WAC 246-817-510(1).

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WSR 22-02-013

PERMANENT RULES

DEPARTMENT OF HEALTH

[Filed December 27, 2021, 11:38 a.m., effective January 27, 2022]

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

Purpose: The department of health (department) is repealing chapter 246-826 WAC, Health care assistants, in support of ESSB 6237 (chapter 153, Laws of 2012). The bill created a career pathway for medical assistants and eliminated the health care assistant profession. ESSB 6237 created the medical assistant professions under chapter 18.360 RCW and repealed chapter 18.135 RCW, Health care assistants. In support of ESSB 6237, the department is repealing the health care assistant rules under chapter 246-826 WAC. Without the statute, the rules governing health care assistants are not enforceable and chapter 246-826 WAC must be repealed.

Due to staffing shortages and competing priorities, the department has been unable to address this area of cleanup until now.

Citation of Rules Affected by this Order: Repealing WAC 246-826-020, 246-826-030, 246-826-040, 246-826-050, 246-826-060, 246-826-070, 246-826-080, 246-826-100, 246-826-110, 246-826-120, 246-826-130, 246-826-140, 246-826-150, 246-826-160, 246-826-170, 246-826-180, 246-826-200, 246-826-210, 246-826-230, 246-826-300, 246-826-301, 246-826-302, 246-826-303, and 246-826-990.

Statutory Authority for Adoption: RCW 43.70.040.

Other Authority: ESSB 6237 (chapter 153, Laws of 2012).

Adopted under notice filed as WSR 21-18-106 on August 31, 2021.

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 24.

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 0, Repealed 24.

Date Adopted: December 27, 2021.

Kristin Peterson, JD
Deputy Secretary
Policy and Planning
for Umair A. Shah, MD, MPH
Secretary

OTS-3140.1REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 246-826-020	Delegation of functions to health care assistants.
WAC 246-826-030	Supervision of health care assistants.
WAC 246-826-040	Certification of health care assistants.
WAC 246-826-050	Renewal of health care assistants.
WAC 246-826-060	Department of health responsibilities.
WAC 246-826-070	Maintenance of listing of drugs and functions authorized.
WAC 246-826-080	Medication, diagnostic agent, and vaccine list.
WAC 246-826-100	Health care assistant classification.
WAC 246-826-110	Qualified trainer.
WAC 246-826-120	Provision of health care assistants training.
WAC 246-826-130	Category A minimum requirements.
WAC 246-826-140	Category B minimum requirements.
WAC 246-826-150	Category C minimum requirements.
WAC 246-826-160	Category D minimum requirements.
WAC 246-826-170	Category E minimum requirements.
WAC 246-826-180	Category F minimum requirements.
WAC 246-826-200	Hospital or nursing home drug injection.
WAC 246-826-210	Intravenous medications flow restrictions.
WAC 246-826-230	AIDS prevention and information education requirements—Health care assistants.
WAC 246-826-300	Definitions.
WAC 246-826-301	Hemodialysis technician, category G minimum requirements to perform hemodialysis.
WAC 246-826-302	Minimum training standards for mandatory hemodialysis technician training programs.
WAC 246-826-303	Minimum standards of practice and core competencies of hemodialysis technicians.
WAC 246-826-990	Health care assistant fees and renewal cycle.

WSR 22-02-014
PERMANENT RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed December 27, 2021, 12:29 p.m., effective February 1, 2022]

Effective Date of Rule: February 1, 2022.

Purpose: The department is adopting new WAC 388-424-0035 Verifications—Survivors of certain crimes; and amendments to WAC 388-400-0010 Who is eligible for state family assistance?, 388-424-0001 Citizenship and alien status—Definitions, 388-424-0009 Citizenship and alien status—Social Security number (SSN) requirements, 388-424-0010 Citizenship and alien status—Eligibility for TANF, 388-424-0015 Immigrant eligibility restrictions for the state family assistance, ABD cash and PWA programs, and 388-424-0030 How does my alien status impact my eligibility for state-funded benefits under the food assistance program?

These adoptions support implementation of 3SSB 5164 (chapter 136, Laws of 2020). Effective February 1, 2022, victims of human trafficking and other certain crimes, and their qualifying family members are eligible for the food assistance program for legal immigrants and state family assistance.

Citation of Rules Affected by this Order: New WAC 388-424-0035; and amending WAC 388-400-0010, 388-424-0001, 388-424-0009, 388-424-0010, 388-424-0015, and 388-424-0030.

Statutory Authority for Adoption: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.820, 74.08.090, 74.08A.120, 74.09.035.

Adopted under notice filed as WSR 21-21-078 on October 18, 2021.

Changes Other than Editing from Proposed to Adopted Version: WAC 388-424-0001 Citizenship and immigration status—Definitions, "and others" was added to subsections (4)(c)(A) and (B) to clarify that all crimes under chapters 9A.40 and 9.68A RCW meet the definition for "survivors of certain crimes." WAC 388-424-0035 Verifications—Survivors of certain crimes, "signed self-attestation" was changed to "verbal self-attestation."

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 6, 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 6, Repealed 0.

Date Adopted: December 22, 2021.

Katherine I. Vasquez
Rules Coordinator

SHS-4896.6

AMENDATORY SECTION (Amending WSR 16-02-028, filed 12/29/15, effective 2/1/16)

WAC 388-400-0010 Who is eligible for state family assistance?

(1) To be eligible for state family assistance (SFA), ~~((aliens))~~ ap-
plicants must meet Washington state residency requirements as listed in WAC 388-468-0005 and immigrant eligibility requirements as listed in WAC 388-424-0015.

(2) You are eligible for SFA if you are not eligible for temporary assistance for needy families (TANF) for the following reasons:

(a) You are a qualified alien and have been in the United States for less than five years as described in WAC 388-424-0006;

(b) You are a nonqualified alien as defined in WAC 388-424-0001, who meets the Washington state residency requirements as listed in WAC 388-468-0005;

(c) You are a ~~((nineteen))~~ 19 or ~~((twenty-year-old))~~ 20 year old student that meets the education requirements of WAC 388-404-0005;

(d) You are a caretaker relative of a ~~((nineteen))~~ 19 or ~~((twenty-year-old))~~ 20 year old student that meets the education requirements of WAC 388-404-0005; ~~((or))~~

(e) You are a pregnant woman who has been convicted of misrepresenting their residence in order to receive benefits from two or more states at the same time; or

(f) You do not meet citizenship or immigration status requirements in WAC 388-424-0010 and you are a survivor of certain crimes as defined in WAC 388-424-0001(4).

(3) You and the other TANF eligible members of your assistance unit may receive, at the department's discretion, SFA rather than TANF if:

(a) You are otherwise eligible for TANF as a parent; and

(b) Another parent in your assistance unit is eligible for TANF or SFA; and

(c) One of the following conditions exists:

(i) You or the other parent in your assistance unit is pregnant; or

(ii) Your assistance unit includes a child under ~~((twelve))~~ 12 months of age.

(4) If you apply for SFA, have not received SFA within the past ~~((thirty))~~ 30 days, and will be a mandatory WorkFirst participant as described in WAC 388-310-0200 once approved, you must complete a WorkFirst orientation before we approve your application.

[Statutory Authority: RCW 74.04.050, 74.08.283, 74.08.090, and 74.04.057. WSR 16-02-028, § 388-400-0010, filed 12/29/15, effective 2/1/16. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.62.030, 74.09.035, 74.08.090, 74.09.530, 41.05.021, 2011 1st sp.s. c 15, and 2013 2nd sp.s. c 10. WSR 14-10-046, § 388-400-0010, filed 4/30/14, effective 6/1/14. Statutory Authority: RCW 74.04.050, 74.04.057, and 74.08.090. WSR 11-16-056, § 388-400-0010, filed 7/29/11, effective 8/29/11. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.025, 74.08.090 and 21 U.S.C. 862a (d) (1) (A). WSR 05-21-100, § 388-400-0010, filed 10/18/05, effective 11/18/05. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090. WSR 04-15-057, § 388-400-0010, filed 7/13/04, effective

8/13/04. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, and 74.04.510. WSR 00-05-007, § 388-400-0010, filed 2/4/00, effective 3/6/00. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057 and 74.08.090. WSR 98-16-044, § 388-400-0010, filed 7/31/98, effective 9/1/98.]

AMENDATORY SECTION (Amending WSR 20-09-044, filed 4/8/20, effective 5/9/20)

WAC 388-424-0001 Citizenship and ((alien)) immigration status—

Definitions. For the purposes of determining an individual's citizenship and ((alien)) immigration status for public assistance, the following definitions apply:

(1) "**Lawfully present**" are immigrants or noncitizens who have been inspected and admitted into the United States and have not overstayed the period for which they were admitted, or have current permission from the U.S. Citizenship and ((Immigrant)) Immigration Services (CIS) to stay or live in the U.S.

(2) "**Qualified aliens**" are lawfully present immigrants defined in federal law as one of the following:

(a) Individuals lawfully admitted for permanent residence (LPRs).

(b) Individuals who are admitted to the U.S. as refugees under INA §207. The following individuals are treated the same as refugees in their eligibility for public assistance:

(i) Hmong or Highland Lao are members of a Hmong or Highland Laotian tribe which rendered military assistance to the U.S. during the Vietnam era (August 5, 1964 to May 7, 1975), and are "lawfully present" in the U.S. This category also includes the spouse (including unremarried widow or widower) or unmarried dependent child of such tribal members.

(ii) Victims of trafficking according to federal law are:

(A) Individuals who have been certified ((or approved)) as victims of trafficking by the federal U.S. Department of Health and Human Services (HHS), Office ((of refugee resettlement)) on Trafficking in Person (OTIP), or have been granted a T visa.

(B) Immediate family members of trafficking victims. Immediate family members are the spouse or child of a victim of any age and the parent or unmarried minor sibling if the victim is under ((twenty-one)) 21 years old.

(iii) Special immigrants from Iraq and Afghanistan are individuals granted special immigrant status under INA §101 (a) (27).

(c) Individuals who have been granted asylum under INA §208.

(d) Cuban/Haitian entrants. These are nationals of Cuba or Haiti who were paroled into the U.S. or given other special status.

(e) Abused spouses or children, parents of abused children, or children of abused spouses:

(i) When the alien no longer resides with the person who committed the abuse, and has one of the following:

(A) A pending or approved I-130 petition or application to immigrate as an immediate relative of a U.S. citizen or as the spouse or unmarried child under age ((twenty-one)) 21 of a lawful permanent resident (LPR);

(B) A notice of "prima facie" approval of a pending self-petition under the violence against women act (VAWA); or

(C) Proof of a pending application for suspension of deportation or cancellation of removal under VAWA.

(ii) Children of an abused spouse do not need their own separate pending or approved petition, but are included in their parent's petition if it was filed before they turned (~~(twenty-one)~~) 21 years old. Children of abused persons who meet the conditions above retain their "qualified alien" status even after they turn (~~(twenty-one)~~) 21 years old.

(f) Individuals who have been granted parole into the U.S. for at least a period of one year (or indefinitely) under INA §212 (d) (5), including "public interest" parolees.

(g) Individuals granted withholding of deportation or removal under INA §243(h) or §241 (b) (3).

(h) Individuals who were admitted to the U.S. as conditional entrants under INA §203 (a) (7) prior to April 1, 1980.

(i) Amerasians who were born to U.S. citizen armed services members in Southeast Asia during the Vietnam War.

(3) **"Nonqualified aliens"** are noncitizens who are lawfully present in the U.S. and who are not included in the definition of qualified aliens in subsection (1) of this section. Nonqualified aliens include but are not limited to:

(a) Citizens of Marshall Islands, Micronesia or Palau;

(b) Immigrants paroled into the U.S. for less than one year;

(c) Immigrants granted temporary protected status; or

(d) Nonimmigrants who are allowed entry into the U.S. for a specific purpose usually for a limited time are also nonqualified. Examples include:

(i) Business visitors;

(ii) Students; and

(iii) Tourists.

(4) **"Survivors of certain crimes"** are noncitizens, and any of their qualifying family members, as defined in subsection (5) of this section, who have:

(a) Filed or are preparing to file an application for a T visa (trafficking victim);

(b) Filed or are preparing to file an application for a U visa (crime victim); or

(c) Been harmed by one of the specific crimes described below;
and

(i) Was granted continued presence by U.S. Homeland Security; or

(ii) Has filed or is preparing to file an application for asylum status.

Specific crimes include:

(A) Those related to human trafficking, kidnapping, unlawful imprisonment, custodial interference, luring, trafficking, coercion of involuntary servitude and others under chapter 9A.40 RCW;

(B) Sexual exploitation of children and others under chapter 9.68A RCW; or

(C) Substantially similar crimes under federal law or the laws of another state.

(5) "Qualifying family members" are the spouse and child(ren) of survivors of certain crimes, and the parents or unmarried minor siblings if the survivor is under 21 years old. Qualifying family members do not include a person charged with or convicted of attempt, conspiracy, solicitation, or commission of a crime, listed under subsection (4) (c) of this section, against the survivor of certain crimes.

~~((4))~~ (6) "**Undocumented aliens**" are noncitizens without a lawful immigration status as defined in subsections (2) or (3) of this section, and who:

(a) Entered the U.S. illegally; or

(b) Were lawfully admitted but whose status expired or was revoked per United States Citizenship and Immigration Services (USCIS).

~~((5))~~ (7) "**U.S. citizens**" are one of the following:

(a) Individuals born in the United States or its territories (Guam, Puerto Rico, and the U.S. Virgin Islands; also residents of the Northern Mariana Islands who elected to become U.S. citizens).

(b) American Indians born outside the U.S. without regard to immigration status or date of entry if:

(i) They were born in Canada and are fifty percent American Indian blood (but need not belong to a federally recognized tribe); or

(ii) They are members of a federally recognized Indian tribe or Alaskan Native village or corporation.

(c) Individuals who have become naturalized U.S. citizens.

(d) Individuals born abroad to at least one U.S. citizen parent depending on conditions at the time of their birth, per title 8, subchapter III, section 1401 of the United States Code.

(e) Individuals who turn ~~(eighteen)~~ 18 years of age on or after February 27, 2001, automatically become U.S. citizens if the following conditions are met while the individual is under age eighteen per INA 320.

(i) The individual is granted lawful permanent resident (LPR) status;

(ii) At least one of the individual's parents is a U.S. citizen by birth or naturalization; and

(iii) The individual:

(A) Resides in the U.S. in the legal and physical custody of the citizen parent; or

(B) Was adopted according to the requirements of INA 101 and resides in the U.S. in the legal and physical custody of the citizen parent.

(f) Individuals, who turned ~~(eighteen)~~ 18 before February 27, 2001, would have automatically ~~(become)~~ became a citizen if, while ~~((the individual was))~~ still under ~~(eighteen)~~ 18, ~~((he or she))~~ they became a lawful permanent resident and both ~~((his or her))~~ of their parents were naturalized. Such individuals also may have derived citizenship when only one parent naturalized, if the other parent was dead or a U.S. citizen by birth, or the individual's parents were separated and the naturalized parent had custody.

~~((6))~~ (8) "**U.S. nationals**" are persons who owe permanent allegiance to the U.S. and may enter and work in the U.S. without restriction. The following are the only persons classified as U.S. nationals:

(a) Persons born in American Samoa or Swain's Island after December 24, 1952; and

(b) Residents of the Northern Mariana Islands who did not elect to become U.S. citizens.

[Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.057, 74.04.500, 74.04.510, 74.04.515, 74.08.090, and 74.08A.120. WSR 20-09-044, § 388-424-0001, filed 4/8/20, effective 5/9/20. Statutory Authority: RCW 74.04.050, 74.04.057, and 74.08.090. WSR 11-16-056, § 388-424-0001, filed 7/29/11, effective 8/29/11. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, 74.08A.020, and Sec. 8120 of Pub. L 111-118 (DOD appropriations law); USDA Food and Nutrition Service fed-

eral guidance from January 29, 2010; U.S. DHHS Administration for Children and Families, Office of Family Assistance federal guidance letter No. TANF-ACF-PI-2010-05 issued on June 16, 2010. WSR 10-15-045, § 388-424-0001, filed 7/13/10, effective 7/27/10. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08A.320, 74.08.090, and Public Law 110-161 Section 525; Public Law 110-181 Section 1244; FNS Admin Notice 08-17; State Letter 04-12 from the Office of Refugee Resettlement. WSR 08-14-116, § 388-424-0001, filed 6/30/08, effective 8/1/08. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090. WSR 04-15-004, § 388-424-0001, filed 7/7/04, effective 8/7/04.]

AMENDATORY SECTION (Amending WSR 13-18-005, filed 8/22/13, effective 10/1/13)

**WAC 388-424-0009 Citizenship and ((alien)) immigration status—
Social Security number (SSN) requirements.** (1) Any person who has applied for a Social Security number (SSN) as part of their application for benefits cannot have benefits delayed, denied, or terminated pending the issuance of the SSN by the Social Security Administration (SSA).
(2) The following ((immigrants)) benefit applicants are not required to apply for an SSN:
(a) An alien, regardless of their immigration status, who is applying for a program listed in WAC 388-476-0005(6);
(b) A nonqualified alien; ((and))
(c) Members of a household who are not applying for benefits for themselves; and
(d) Individuals who meet the definition of "survivor of certain crimes" as defined in WAC 388-424-0001(4).
(3) "Qualified and nonqualified aliens," as defined in WAC 388-424-0001, who are applying for federal benefits but who are not authorized to work in the U.S., must still apply for a nonwork SSN. The department must assist them in this application without delay.
(4) Any person who is otherwise eligible for benefits may choose not to provide the department with an SSN without jeopardizing the eligibility of others in the household. See WAC 388-450-0140 for how the income of such individuals is treated.

[Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, 74.04.510, and 2011 1st sp.s. c 15. WSR 13-18-005, § 388-424-0009, filed 8/22/13, effective 10/1/13. Statutory Authority: RCW 74.04.050, 74.04.057, and 74.08.090. WSR 11-16-056, § 388-424-0009, filed 7/29/11, effective 8/29/11. Statutory Authority: RCW 74.04.050, 74.04.055, 74.08.090, and CHIPRA of 2009, P.L. No. 111-3, Sec. 214; Sec. 8120, Title VIII, Division A of Department of Defense Appropriation Act of 2010, P.L. No. 111-118. WSR 10-15-068, § 388-424-0009, filed 7/16/10, effective 8/16/10. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090. WSR 04-15-004, § 388-424-0009, filed 7/7/04, effective 8/7/04.]

AMENDATORY SECTION (Amending WSR 15-02-006, filed 12/26/14, effective 1/26/15)

- WAC 388-424-0010 Citizenship and ((alien)) immigration status—Eligibility for TANF.** (1) To receive temporary assistance for needy families (TANF), an individual must meet all other eligibility requirements and be one of the following as defined in WAC 388-424-0001:
- (a) A United States (U.S.) citizen;
 - (b) A U.S. national;
 - (c) An American Indian born outside the U.S.;
 - (d) A "qualified alien" (~~(~~
 - ~~(e) A victim of trafficking; or~~
 - ~~(f) A Hmong or Highland Lao)) as defined in WAC 388-424-0001(2).~~
- (2) A "qualified alien" who first physically entered the U.S. before August 22, 1996 as described in WAC 388-424-0006(1) may receive TANF.
- (3) A "qualified alien" who first physically entered the U.S. on or after August 22, 1996 cannot receive TANF for five years after obtaining status as a qualified alien unless the criteria in WAC 388-424-0006(4) are met.
- (4) An alien who is ineligible for TANF because of the five-year bar or because of their immigration status may be eligible for:
- (a) Emergency benefits as described in WAC 388-436-0015 (consolidated emergency assistance program); or
 - (b) State-funded cash as described in WAC 388-424-0015 (state family assistance (SFA)), and aged, blind, or disabled (ABD) cash.

[Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.08.090, 74.08A.100, 74.04.770, 74.62.030, 41.05.021, 74.09.035, 74.09.530, and 2011 1st sp.s. c 15, 2013 2nd sp.s. c 10, and the 2013 biennial budget. WSR 15-02-006, § 388-424-0010, filed 12/26/14, effective 1/26/15. Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090, 74.08A.100, 74.04.770, 74.04.0052, 74.04.655, 74.08.043, 74.08.335, and 2011 1st sp.s. c 36. WSR 12-10-042, § 388-424-0010, filed 4/27/12, effective 6/1/12. Statutory Authority: RCW 74.04.050, 74.04.057, and 74.08.090. WSR 11-16-056, § 388-424-0010, filed 7/29/11, effective 8/29/11. Statutory Authority: RCW 74.04.050, 74.04.055, 74.08.090, and CHIPRA of 2009, P.L. No. 111-3, Sec. 214; Sec. 8120, Title VIII, Division A of Department of Defense Appropriation Act of 2010, P.L. No. 111-118. WSR 10-15-068, § 388-424-0010, filed 7/16/10, effective 8/16/10. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090, 74.08A.120, and P.L. No. 111-3 (H.R. 2, Title II, Sec. 214 -Children's Health Insurance Program Reauthorization Act of 2009); P.L. No. 111-08 Omnibus Appropriations Act of 2009, Office of Refugee Resettlement State Letter #09-17. WSR 09-15-082, § 388-424-0010, filed 7/14/09, effective 8/14/09. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08A.320, 74.08.090, and Public Law 110-161 Section 525; Public Law 110-181 Section 1244; FNS Admin Notice 08-17; State Letter 04-12 from the Office of Refugee Resettlement. WSR 08-14-116, § 388-424-0010, filed 6/30/08, effective 8/1/08. Statutory Authority: RCW 74.08.090, 74.09.530, and 74.09.415. WSR 05-23-013, § 388-424-0010, filed 11/4/05, effective 1/1/06. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090. WSR 04-15-004, § 388-424-0010, filed 7/7/04, effective 8/7/04. Statutory Authority: RCW 74.08.090, 74.08A.100, 74.09.080, and 74.09.415. WSR 02-17-030, §

388-424-0010, filed 8/12/02, effective 9/12/02. Statutory Authority: RCW 74.04.050, 74.04.057, 74.08.090, 74.09.530, and Public Law 106-395. WSR 02-03-008, § 388-424-0010, filed 1/4/02, effective 2/4/02. Statutory Authority: RCW 74.08.090 and 74.08A.100. WSR 99-17-023, § 388-424-0010, filed 8/10/99, effective 9/10/99. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057 and 74.08.090. WSR 98-16-044, § 388-424-0010, filed 7/31/98, effective 9/1/98. Formerly WAC 388-505-0520 and 388-518-1805.]

AMENDATORY SECTION (Amending WSR 15-02-006, filed 12/26/14, effective 1/26/15)

WAC 388-424-0015 Immigrant eligibility restrictions for the state family assistance, ABD cash, and PWA programs. (1) To receive state family assistance (SFA) benefits, you must be:

(a) A "qualified alien" as defined in WAC 388-424-0001 who is ineligible for TANF due to the five-year bar as described in WAC 388-424-0006(3); (~~(e)~~)

(b) A nonqualified alien who meets the Washington state residency requirements as listed in WAC 388-468-0005, including a noncitizen American Indian who does not meet the criteria in WAC 388-424-0001; or

(c) A "survivor of certain crimes" as defined in WAC 388-424-0001(4).

(2) To receive aged, blind, or disabled (ABD) cash or pregnant women assistance (PWA) benefits, you must be:

(a) A U.S. citizen;

(b) A U.S. national;

(c) An American Indian born outside the U.S.;

(d) A "qualified alien" or similarly defined lawful immigrant such as victim of trafficking as defined in WAC 388-424-0001; or

(e) A nonqualified alien described in WAC 388-424-0001 who:

(i) Has verified their intent to stay in the United States indefinitely; and

(ii) The United States Immigration and Customs Enforcement is not taking steps to enforce their departure.

[Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.08.090, 74.08A.100, 74.04.770, 74.62.030, 41.05.021, 74.09.035, 74.09.530, and 2011 1st sp.s. c 15, 2013 2nd sp.s. c 10, and the 2013 biennial budget. WSR 15-02-006, § 388-424-0015, filed 12/26/14, effective 1/26/15. Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.08.090, 74.08A.100, 74.04.770, 74.04.0052, 74.04.655, 74.08.043, 74.08.335, and 2011 1st sp.s. c 36. WSR 12-10-042, § 388-424-0015, filed 4/27/12, effective 6/1/12. Statutory Authority: RCW 74.04.050, 74.04.057, and 74.08.090. WSR 11-16-056, § 388-424-0015, filed 7/29/11, effective 8/29/11. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090. WSR 04-15-004, § 388-424-0015, filed 7/7/04, effective 8/7/04. Statutory Authority: RCW 74.04.050, 74.08.090. WSR 00-08-060, § 388-424-0015, filed 3/31/00, effective 4/1/00. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057 and 74.08.090. WSR 98-16-044, § 388-424-0015, filed 7/31/98, effective 9/1/98. Formerly WAC 388-518-1805.]

AMENDATORY SECTION (Amending WSR 20-09-044, filed 4/8/20, effective 5/9/20)

WAC 388-424-0030 How does my ((alien)) immigration status impact my eligibility for state-funded benefits under the food assistance program?

(1) If you are not a U.S. citizen and are not eligible for federally funded basic food benefits, you may be eligible for state-funded benefits under the food assistance program (FAP) if you are ((a legal immigrant. This means you must be one of the following)):

(a) A "qualified alien" as defined in WAC 388-424-0001, who does not meet the eligibility requirements under WAC 388-424-0020 to receive federally funded basic food benefits; ((or))

(b) A "nonqualified alien" as described in WAC 388-424-0001 who:

(i) Is not a nonimmigrant as described in WAC 388-424-0001

(3) (d);

(ii) Intends to stay in the United States indefinitely; and

(iii) The United States Immigration and Customs Enforcement is not taking steps to enforce your departure; or

(c) A "survivor of certain crimes" as defined in WAC 388-424-0001(4).

(2) If you are eligible for state-funded FAP, we calculate your benefits as described under WAC 388-400-0050.

[Statutory Authority: RCW 74.04.005, 74.04.050, 74.04.057, 74.04.500, 74.04.510, 74.04.515, 74.08.090, and 74.08A.120. WSR 20-09-044, § 388-424-0030, filed 4/8/20, effective 5/9/20. Statutory Authority: RCW 74.04.005, 74.04.500, 74.04.510, 74.04.515, 74.08.090, and 74.08A.120. WSR 12-18-024, § 388-424-0030, filed 8/27/12, effective 9/27/12.]

NEW SECTION

WAC 388-424-0035 Verifications—Survivors of certain crimes.

(1) Applicants may provide a verbal self-attestation to verify that they meet the requirements of WAC 388-424-0001(4). Alternative proof, such as supporting documents, may also be provided.

(2) Absence of the following documents shall not affect eligibility for benefits for applicants defined under WAC 388-424-0001(4):

(a) Passport;

(b) Valid regular or nonwork SSN;

(c) Alien Registration number; or

(d) Documentation from a federal agency used to verify immigration status.

[]

WSR 22-02-017

PERMANENT RULES

DEPARTMENT OF HEALTH

[Filed December 27, 2021, 2:32 p.m., effective January 27, 2022]

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

Purpose: Chapter 246-15 WAC, Whistleblower complaints in health care settings. The department of health (department) is amending sections of this chapter to implement SHB 1049 (chapter 62, Laws of 2019), codified in RCW 43.70.075, and to ensure the rules are clear, up-to-date, and align with best practices.

Citation of Rules Affected by this Order: Amending WAC 246-15-001, 246-15-010, 246-15-020, and 246-15-030.

Statutory Authority for Adoption: RCW 43.70.075.

Other Authority: SHB 1049 (chapter 62, Laws of 2019), codified as RCW 43.70.075.

Adopted under notice filed as WSR 21-19-017 on September 7, 2021.

Changes Other than Editing from Proposed to Adopted Version: The department made the following nonsubstantive changes in response to feedback from interested parties:

The department removed the definition of "reprisal or retaliatory action" from WAC 246-15-010 as it is not used in the rule. The term is used and it is defined in RCW 43.70.075 (3) (c).

Department staff identified that the rule describing when the identity of the whistleblower may be revealed could be confusing about whether the identity protections were for reporting whistleblowers only or if those identity protections might also be applied to others. The department added language to WAC 246-15-020(2) to clarify when a whistleblower's identity will remain confidential and the limited circumstances when the whistleblower's identity will be revealed.

The department added clarification to WAC 246-15-030 that, if authorized, the regulatory authority can investigate whistleblower complaints and gather relevant evidence during the investigation. This is current department practice and interested parties asked that it be stated here in the rule for clarity.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 4, Repealed 0.

Number of Sections Adopted at 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 4, Repealed 0.

Date Adopted: December 27, 2021.

Kristin Peterson, JD
Deputy Secretary
Policy and Planning
for Umair A. Shah, MD, MPH
Secretary

OTS-3160.4

AMENDATORY SECTION (Amending WSR 97-02-013, filed 12/20/96, effective 1/20/97)

WAC 246-15-001 Purpose and scope. (~~((Regulations for whistle-blower protection are hereby))~~) The rules in this chapter are adopted pursuant to RCW 43.70.075. The purpose of these ((regulations)) rules is to protect the identity of persons who communicate in good faith to the department alleging the improper quality of care by a health care facility or provider as defined in this chapter, and set forth the process the department will use in receiving, investigating, and resolving complaints.

[Statutory Authority: RCW 43.70.075 and 43.70.040. WSR 97-02-013, § 246-15-001, filed 12/20/96, effective 1/20/97.]

AMENDATORY SECTION (Amending WSR 14-08-046, filed 3/27/14, effective 4/27/14)

WAC 246-15-010 Definitions. The ~~((words and phrases))~~ definitions in this section apply throughout this chapter ((have the following meanings)) unless the context clearly indicates otherwise.

- (1) "Consumer" means:
 - (a) An individual receiving health care or services from a health care facility or health care professional;
 - (b) A person pursuant to RCW 7.70.065 authorized to provide informed consent to health care on behalf of (a) of this subsection who is not competent to consent.
- (2) "Department" means the Washington state department of health.
- (3) "Employee" means an individual employed by a health care facility or health care professional at the time the:
 - (a) Alleged improper quality of care occurred; or
 - (b) Alleged improper quality of care is discovered.
- (4) "Good faith" means an honest and reasonable belief in the truth of the allegation.
- (5) "Health care" means any care, service, or procedure provided by a health care facility or a health care provider:
 - (a) To diagnose, treat, or maintain a patient's physical or mental condition; or
 - (b) That affects the structure or function of the human body.
- (6) "Health care facility" ~~((includes the following))~~ means the following facilities and includes such facilities if owned and operated by a political subdivision or instrumentality of the state, and such other facilities as required by federal law and implementing regulations:
 - ~~(a) ((Adult residential rehabilitation centers regulated pursuant to chapter 71.12 RCW;~~
 - ~~(b) Alcoholism treatment facilities regulated pursuant to chapter 71.12 RCW;~~
 - ~~(c) Alcoholism hospitals regulated pursuant to chapter 71.12 RCW;~~
 - ~~(d) Ambulance and aid services regulated pursuant to chapter 18.73 RCW;~~

~~(e) Assisted living facilities regulated pursuant to chapter 18.20 RCW;~~

~~(f) Childbirth centers regulated pursuant to chapter 18.46 RCW;~~

~~(g) Home care agencies regulated pursuant to chapter 70.127 RCW;~~

~~(h)) Ambulatory diagnostic, treatment, or surgical facilities licensed under chapter 70.41 RCW;~~

~~(b) Ambulatory surgical facilities licensed under chapter 70.230 RCW;~~

~~(c) Behavioral health agencies licensed under chapter 71.05 or 71.24 RCW;~~

~~(d) Home health agencies ((regulated pursuant to)) licensed under chapter 70.127 RCW;~~

~~((i)) (e) Hospices ((agencies regulated pursuant to)) licensed under chapter 70.127 RCW;~~

~~((j)) (f) Hospitals ((regulated pursuant to)) licensed under chapter 70.41 RCW;~~

~~((k) Pharmacies regulated pursuant to chapter 18.64 RCW;~~

~~(l)) (g) Kidney disease treatment centers licensed under chapter 70.41 RCW;~~

~~(h) Nursing homes licensed under chapter 18.51 RCW;~~

~~(i) Private psychiatric hospitals ((regulated pursuant to)) licensed under chapter 71.12 RCW; or~~

~~((m) Residential treatment facilities for psychiatrically impaired children and youth regulated pursuant to chapter 71.12 RCW;~~

~~(n)) (j) Rural health care facilities ((regulated pursuant to chapter 70.175 RCW)) as defined in RCW 70.175.020.~~

(7) "Health care provider," "health care professional," "professional" or "provider" mean a person who is licensed, certified, registered or otherwise authorized by the law of this state to provide health care in the ordinary course of business or practice of a profession.

(8) "Improper quality of care," ((as defined in RCW 43.70.075,)) means any practice, procedure, action, or failure to act that violates any state law or rule of the applicable state health licensing authority under Title 18 RCW or chapters 70.41, ((70.96A,)) 70.127, 70.175, 71.05, 71.12, and 71.24 RCW, and enforced by the department of health. Each health disciplinary authority as defined in RCW 18.130.040 may, with consultation and interdisciplinary coordination provided by the department, further define improper quality of care. Improper quality of care shall not include good faith personnel actions related to employee performance or actions taken according to established terms and conditions of employment. ((Good faith personnel action will not prevent investigations of alleged improper quality of care.))

(9) "Whistleblower" means a consumer, employee, or health care professional ((who in good faith reports alleged quality of care concerns to the department of health)) including a health care provider as defined in RCW 7.70.020(1) or member of a medical staff at a health care facility, who in good faith reports alleged quality of care concerns to the department of health or initiates, participates, or cooperates in any investigation or administrative proceeding under RCW 43.70.075.

[Statutory Authority: RCW 43.70.075 and 2012 c 10. WSR 14-08-046, § 246-15-010, filed 3/27/14, effective 4/27/14. Statutory Authority: RCW 43.70.075 and 43.70.040. WSR 97-02-013, § 246-15-010, filed 12/20/96, effective 1/20/97.]

AMENDATORY SECTION (Amending WSR 97-02-013, filed 12/20/96, effective 1/20/97)

WAC 246-15-020 Rights and responsibilities—Whistleblower and department. (1) ~~((A person who in good faith communicates a complaint or information as defined in this chapter as provided in RCW 43.70.075 is:~~

~~(a) Immune from civil liability on claims based upon that communication to the department under RCW 4.24.510;~~

~~(b) Entitled to recover costs and reasonable attorneys' fees incurred in establishing a defense under RCW 4.24.510 if prevailing upon the defense; and~~

~~(c) Afforded the protections and remedies of the human rights commission pursuant to chapter 49.60 RCW. The department will refer whistleblowers expressing concern about reprisal or retaliatory action to the human rights commission.~~

~~(2) The department will protect)) The identity of the whistleblower ((by revealing it)) remains confidential when, in good faith, the whistleblower:~~

~~(a) Complains about the improper quality by a health care provider or in a health care facility;~~

~~(b) Initiates any investigation or administrative proceeding about a complaint of improper quality of care; or~~

~~(c) Submits a notification or report of an adverse event or an incident to the department under RCW 70.56.020 or to the independent entity under RCW 70.56.040.~~

~~(2) The identity of the whistleblower under subsection (1) of this section will be revealed only:~~

~~(a) To appropriate ((department)) government agency staff or disciplining authority member;~~

~~(b) By court order; or~~

~~(c) If the complaint ((is not)) initiation, notification, or report was not made or done in good faith.~~

[Statutory Authority: RCW 43.70.075 and 43.70.040. WSR 97-02-013, § 246-15-020, filed 12/20/96, effective 1/20/97.]

AMENDATORY SECTION (Amending WSR 97-02-013, filed 12/20/96, effective 1/20/97)

WAC 246-15-030 Procedures for filing, investigation, and resolution of whistleblower complaints. ~~((In filing, investigating and resolving a whistleblower complaint, the department will follow its usual procedures for complaint processing while protecting a whistleblower's identity consistent with WAC 246-15-020.~~

~~(1) Filing.~~

~~(a) Upon receipt of a complaint from a whistleblower alleging improper quality of care, department staff will enter the complaint into the tracking system for complaints against health care providers or facilities and create a file on that complaint.~~

~~(b) Staff will affix a permanent cover to the letter of complaint, or other form of notice, in the complaint file, noting the statutory citation for protection of identity of the complainant.~~

~~(c) Staff will assess priority of the case and conduct the initial case planning based on the complainant information.~~

~~(2) Investigation.~~

~~(a) For cases assigned to an investigation, staff will develop an investigative plan. The investigator will gather pertinent information and perform other functions as appropriate to the allegation. The investigator may interview witnesses or others with information relevant to the investigation, review records and consult with staff of other agencies.~~

~~(b) At the conclusion of the investigation, the investigator will prepare the necessary documents, such as an investigative report summarizing the findings, and other documents necessary for the department to take further action.~~

~~(3) Resolution.) (1) In filing, investigating, and resolving a whistleblower complaint, the department will protect a whistleblower's identity consistent with WAC 246-15-020.~~

~~(2) The regulatory authority ((for the health facility or provider)) will:~~

~~(a) Assess complaints based on potential imminent danger to the public and prioritize based on the initial determination;~~

~~(b) If authorized, conduct investigations and gather information as appropriate to the allegation;~~

~~(c) Review investigative findings to determine whether a violation of any statutes or rules occurred; and~~

~~((b)) (d) Take appropriate disciplinary action ((as necessary;~~

~~(e) Ensure upon case closure, that the permanent cover affixed in subsection (1)(c) of this section will remain;~~

~~(d) Will code or obliterate references to the whistleblower complainant in investigative materials or in the investigative report as necessary to protect the whistleblower's identity prior to any public disclosure; and~~

~~(e) Make the case file available to the public upon case closure, subject to public disclosure and other relevant laws)) or close the case.~~

[Statutory Authority: RCW 43.70.075 and 43.70.040. WSR 97-02-013, § 246-15-030, filed 12/20/96, effective 1/20/97.]

WSR 22-02-022

PERMANENT RULES

DEPARTMENT OF HEALTH

(Dental Quality Assurance Commission)

[Filed December 28, 2021, 8:56 a.m., effective January 28, 2022]

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

Purpose: WAC 246-817-440 regarding dental continuing education. The dental quality assurance commission (commission) adopted a rule amendment to allow full continuing education credit for recorded interactive webinars to obtain full, one-hour continuing education credit, making it the same as live interactive webinars. Prior to this rule adoption, dentists could earn 30 minutes for every one-hour of self-study continuing education completed, including online courses, towards the total of continuing education hours. Live interactive webinars are already allowed for full continuing education credit under WAC 246-817-440 (4) (a). The adopted language also clarifies that full credit also applies to live interactive webinars.

A rules petition was received on November 13, 2020, requesting amendments to WAC 246-817-440 to allow full, one-hour continuing education credit for self-study online continuing education courses. The commission determined that recorded interactive webinars may be just as beneficial as live interactive webinars.

Citation of Rules Affected by this Order: Amending WAC 246-817-440.

Statutory Authority for Adoption: RCW 18.32.0357, 18.32.0365, and 18.32.180.

Adopted under notice filed as WSR 21-18-073 on August 26, 2021.

A final cost-benefit analysis is available by contacting Bruce Bronoske, Jr., P.O. Box 47852, Olympia, WA 98504, phone 360-236-4843, fax 360-236-2901, TTY 711, email bruce.bronoske@doh.wa.gov, website www.doh.wa.gov, dental@doh.wa.gov.

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

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 1, 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: October 22, 2021.

David L. Carsten, DDS, Chairperson
Dental Quality Assurance Commission

OTS-3190.1

AMENDATORY SECTION (Amending WSR 18-12-116, filed 6/6/18, effective 1/1/19)

WAC 246-817-440 Dentist continuing education requirements. The goal of continuing education is to encourage the lifetime professional development of the licensed dentist, and to enhance the clinical and overall skills needed to protect the health and safety of all patients.

(1) A licensed dentist shall complete a minimum of sixty-three hours of continuing education every three years.

(a) The three-year continuing education reporting period for a dentist licensed in Washington before 2019 begins January 1, 2019, and verification of completion of continuing education hours will be due on the dentist's annual license renewal date in 2022, and every three years thereafter. The three-year continuing education reporting period for a dentist initially licensed in Washington in 2019 or later begins upon date of licensure.

(b) A licensed dentist shall attest to the completion of sixty-three hours of continuing education every three years as a part of their license renewal requirement.

(c) The dental quality assurance commission (commission) may randomly audit up to twenty-five percent of licensed dentists every three years for compliance after the license is renewed as allowed by chapter 246-12 WAC, Part 7.

(d) A licensed dentist shall comply with the requirements of chapter 246-12 WAC, Part 7.

(e) The commission will not authorize or approve specific continuing education courses.

(2) A licensed dentist shall complete the commission approved dental jurisprudence examination once every three years. One hour of continuing education will be granted toward the sixty-three hour requirement.

(3) Continuing education must contribute to the professional knowledge and development of the licensed dentist or enhance services provided to patients. Continuing education must be completed in one or more of the following subject categories:

(a) Education courses relating to the practice of dentistry;

(b) Emergency management, advanced cardiac life support (ACLS), and pediatric advanced life support (PALS);

(c) Health care provider basic life support (BLS). BLS certification is required in WAC 246-817-720. One hour of continuing education for each BLS certification course will be granted. A licensed dentist may not count more than three hours every three years in this category;

(d) Infection control, federal/state safety standards, and radiation protection;

(e) Pharmacology, prescribing practices, and pain management;

(f) Ethics;

(g) Patient care related education including risk management, methods of health delivery, multicultural, and suicide prevention education;

(h) Washington state dentistry law;

(i) Practice management and billing practices. A licensed dentist may not count more than twenty-one hours every three years in this category.

(4) Continuing education in subject categories identified in subsection (3) of this section may be completed using any of the following activities or methods:

(a) Attendance at local, state, national, or international continuing education courses, live interactive webinars, dental study clubs, postdoctoral education, and dental residencies;

(b) Self-study by various means, relevant to dentistry, without an instructor physically present.

(i) Self-study can be continuing education provided online or through the mail provided by a continuing education provider. Thirty minutes will count for every one hour completed for this activity, except for live or recorded interactive webinars;

(ii) Self-study can be reading a book that contributes to the professional knowledge and development of the licensed dentist, or enhance services provided to patients. A two-page synopsis of what was learned written by the licensed dentist is required. Two hours of continuing education for each book and synopsis will be granted. A licensed dentist may not count more than six hours every three years for this activity.

(c) Teaching, presenting, or lecturing in a course, only if the presentation or lecture is created or authored by the dentist claiming the continuing education hours. A licensed dentist may not count more than twenty-one hours every three years in this activity;

(d) Direct clinical supervision of dental students and dental residents. A licensed dentist may not count more than twenty-one hours every three years in this activity;

(e) Publishing a paper in a peer review journal. A licensed dentist may count fifteen hours the year the paper is published and may not count more than a total of thirty hours every three years in this activity. A copy of the publication is required;

(f) Reading and critically evaluating any hypothesis-driven scientific journal article on a topic that has relevance to dentistry and is published in a peer-reviewed journal devoted to dentistry, medicine, or useful to dentistry. A licensed dentist may not count more than twenty-one hours every three years.

(i) Before completing this activity, the licensed dentist must complete at least four hours of education in evidence-based dentistry or medicine that includes journal article evaluation. The four-hour education may count toward the required sixty-three hour requirement. The four-hour education is a one-time requirement. A licensed dentist may not count more than four hours every three years.

(ii) A licensed dentist may count one hour for each article that the dentist completes a "Critical Evaluation of a Journal Article" questionnaire. The questionnaire may be obtained from the commission. The completed questionnaire is required;

(g) Volunteer dental patient care. A licensed dentist may not count more than twenty-one hours every three years; and

(h) The commission will accept a current certification or recertification from any specialty board approved and recognized by the American Dental Association (ADA), the American Board of Dental Specialties (ABDS), or other specialty board certification or recertification approved by the commission as sixty-two hours of continuing education. The commission will also accept the award of Fellow of the Academy of General Dentistry, Master of the Academy of General Dentistry, or the Lifelong Learning and Service Recognition Award as sixty-two hours of continuing education. The certification, recertification, or award must be obtained in the three-year reporting period.

(5) Proof of continuing education is a certificate of completion, letter, or other documentation verifying or confirming attendance or completion of continuing education hours. Documentation must be from the organization that provided the activity, except in subsection (4)(b)(ii), (e), and (f)(ii) of this section, and must contain at least the following:

- (a) Date of attendance or completion;
- (b) Hours earned; and
- (c) Course title or subject.

[Statutory Authority: RCW 18.32.002 and 18.32.0365. WSR 18-12-116, § 246-817-440, filed 6/6/18, effective 1/1/19. Statutory Authority: Chapter 18.350 RCW, RCW 18.32.0365, 18.32.640, 18.130.050(14), and 18.260.120. WSR 13-15-144, § 246-817-440, filed 7/23/13, effective 8/23/13. Statutory Authority: RCW 18.32.002 and 18.32.0365. WSR 06-07-036, § 246-817-440, filed 3/8/06, effective 4/8/06. Statutory Authority: RCW 18.32.0365. WSR 01-16-007, § 246-817-440, filed 7/19/01, effective 8/19/01.]

WSR 22-02-023

PERMANENT RULES

DEPARTMENT OF HEALTH

(Dental Quality Assurance Commission)

[Filed December 28, 2021, 9:15 a.m., effective January 28, 2022]

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

Purpose: WAC 246-817-230 Dental retired active. The dental quality assurance commission (commission) adopted amendments to WAC 246-817-230 to incorporate requirements from WAC 246-817-440 Dentist continuing education, and to update reference of chapter 246-12 WAC, Part 5, to specific WAC citations.

In 2019, WAC 246-817-440 was changed from 21 continuing education hours annually to 63 continuing education hours every three years. WAC 246-817-230 currently references 21 continuing education hours annually. The adopted amendment is necessary to meet current standard of 63 continuing education hours every three years. Additionally, the adopted amendment is necessary to list specific rules rather than general reference of chapter 246-12 WAC, Part 5.

The commission is mandated under RCW 18.32.002 to regulate the competency and quality of professional health care providers, including but not limited to continuing education. RCW 18.32.0357 authorizes the commission to establish continuing dental education requirements. RCW 18.130.250 allows the commission to set continuing education requirements for renewal. Amending WAC 246-817-230 to incorporate reference of WAC 246-817-440 is the best approach to ensure dentists with retired active status have clear continuing education requirements. RCW 18.32.002 states in relevant part, "The legislature further finds that requiring continuing dental education for all licensed dentists in the state is an important component of providing high quality dentistry for the people of this state."

Citation of Rules Affected by this Order: Amending WAC 246-817-230.

Statutory Authority for Adoption: RCW 18.32.0365, 18.32.0357, and 18.130.250.

Other Authority: RCW 18.32.002.

Adopted under notice filed as WSR 21-18-074 on August 26, 2021.

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 1, Repealed 0.

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

Date Adopted: October 22, 2021.

David L. Carsten, DDS, Chairperson
Dental Quality Assurance Commission

OTS-3243.1

AMENDATORY SECTION (Amending WSR 15-12-092, filed 6/2/15, effective 7/3/15)

WAC 246-817-230 Dentist retired active status. (1) To obtain a retired active status license, a licensed dentist must comply with ~~((chapter 246-12 WAC, Part 5))~~ WAC 246-12-120, 246-12-130, and 246-12-140, excluding WAC 246-12-120 (2)(c) and (d).

(2) A licensed dentist with a retired active status license may practice under the following conditions:

(a) In emergent circumstances calling for immediate action; or

(b) In intermittent circumstances on a nonpermanent basis.

(3) A licensed dentist with a retired active license may not receive compensation for dental services.

(4) A licensed dentist with a retired active status license must renew every year on or before the practitioner's birthday according to WAC 246-12-130 and 246-817-990 and must complete ~~((twenty-one))~~ sixty-three hours of continuing education as required in WAC 246-817-440 every three years ~~((with renewal))~~.

[Statutory Authority: RCW 18.32.065 and 18.130.250. WSR 15-12-092, § 246-817-230, filed 6/2/15, effective 7/3/15.]

WSR 22-02-025

PERMANENT RULES

HEALTH CARE AUTHORITY

[Filed December 28, 2021, 10:21 a.m., effective February 1, 2022]

Effective Date of Rule: February 1, 2022.

Purpose: The agency amended this rule to add the HPV vaccine as a covered service under the family planning only program.

Citation of Rules Affected by this Order: Amending WAC 182-532-530.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Adopted under notice filed as WSR 21-22-062 on October 28, 2021.

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 1, Repealed 0.

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

Date Adopted: December 28, 2021.

Wendy Barcus
Rules Coordinator

OTS-3334.1

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

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) Contraception, including:

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

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

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

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

(a) Pregnancy testing;

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

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

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

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

(5) Human papillomavirus (HPV) vaccines.

[Statutory Authority: RCW 41.05.021, 41.05.160 and section 1115(a) of the Social Security Act. WSR 19-18-024, § 182-532-530, filed 8/28/19, effective 10/1/19. Statutory Authority: RCW 41.05.021, 74.09.520, 74.09.657, 74.09.659, and 74.09.800. WSR 13-16-008, § 182-532-530, filed 7/25/13, effective 9/1/13. WSR 11-14-075, recodified as § 182-532-530, filed 6/30/11, effective 7/1/11. Statutory Authority: RCW 74.08.090 and 74.09.800. WSR 08-11-031, § 388-532-530, filed 5/13/08, effective 6/13/08. Statutory Authority: RCW 74.08.090, 74.09.520, and 74.09.800. WSR 05-24-032, § 388-532-530, filed 11/30/05, effective 12/31/05; WSR 04-05-011, § 388-532-530, filed 2/6/04, effective 3/8/04.]

WSR 22-02-028

PERMANENT RULES

DEPARTMENT OF AGRICULTURE

[Filed December 29, 2021, 6:23 a.m., effective January 29, 2022]

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

Purpose: This rule-making order amends chapter 16-303 WAC, Seed assessment, fees for seed services and seed certification by:

- Increasing fees for certification and testing to ensure the financial stability of the seed inspection program.
- Establishing new testing and certification fees for services not previously identified in the rule.
- Restructuring the fee schedule to clarify and allow for easier interpretation of the fees.
- Creating WAC 16-303-117 Seed program testing categories, to standardize the seed testing categories and associated crop kinds referenced in WAC 16-303-200 and 16-303-210. This change is also being made to clarify inconsistencies in these sections.
- Creating WAC 16-303-350 Seed tagging fees, to capture all of the seed tagging fees in one place.
- Updating the footnote characters in all tables of this chapter to provide clarity.
- Repealing WAC 16-303-317 to clarify the rule language by ensuring that all quarantine inspections are handled in the same manner.

Citation of Rules Affected by this Order: New WAC 16-303-117 and 16-303-350; repealing WAC 16-303-317; and amending WAC 16-303-020, 16-303-105, 16-303-200, 16-303-210, 16-303-230, 16-303-240, 16-303-250, 16-303-300, 16-303-310, 16-303-315, and 16-303-320.

Statutory Authority for Adoption: RCW 15.49.005, [15.49].310, and [15.49].370.

Adopted under notice filed as WSR 21-21-114 on October 20, 2021.

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 2, Amended 11, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 2, Amended 11, Repealed 1.

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, 2021.

Derek I. Sandison
Director

OTS-3383.3

AMENDATORY SECTION (Amending WSR 12-19-065, filed 9/17/12, effective 10/18/12)

WAC 16-303-020 Schedule of charges—Billing policies and procedures. (1) Accounts.

(a) All billable services provided for under chapter 15.49 RCW are due and payable upon billing by the department. For the convenience of established accounts and in accord with good business practices, the department provides a monthly billing service. Accounts not paid in full within (~~(thirty)~~) 30 days of billing are considered delinquent.

(b) (~~(On all debts due and payable after July 28, 1991,)~~) All delinquent accounts are assessed a late charge equal to two percent per month, or portion of a month, on the unpaid balance.

(c) Except for established accounts where there is a reasonable expectation of additional charges during a calendar month, the minimum billable amount through the monthly billing system is (~~(twenty dollars)~~) \$20. All billable services of less than (~~(twenty dollars)~~) \$20 are due and payable on the date that service is rendered.

(d) No person with an account (~~(ninety)~~) 90 days or more in arrears may receive service except on the basis of payment in full at the time service is rendered. Accounts in arrears may be subject to legal action for collection and are not restored to monthly billing status until all past due amounts are paid-in-full.

(e) Accounts that become (~~(ninety)~~) 90 or more days in arrears twice within a five-year period may be subject to a permanent requirement for payment in full at the time service is provided.

(2) Unless otherwise provided for in rule, requests for refund fees or assessments must be submitted to the department by June 30th of the year following payment of the fee or assessment.

(3) Fees for services not listed in rule are set on the basis of the actual cost to the department of agriculture, or the most appropriate fee established by rule.

[Statutory Authority: RCW 15.49.310, chapter 34.05 RCW, and 2012 2nd sp.s. c 7. WSR 12-19-065, § 16-303-020, filed 9/17/12, effective 10/18/12. Statutory Authority: 2003 1st sp.s. c 25 § 309(2), RCW 15.49.310, 15.49.370(3) and chapter 34.05 RCW. WSR 05-12-053, § 16-303-020, filed 5/26/05, effective 6/26/05. Statutory Authority: RCW 15.49.005, 15.49.081, 15.49.310, 15.49.370(3) and chapter 17.24 RCW. WSR 01-01-015, § 16-303-020, filed 12/6/00, effective 1/6/01.]

AMENDATORY SECTION (Amending WSR 12-19-065, filed 9/17/12, effective 10/18/12)

WAC 16-303-105 Annual seed inspection charge. (1) Each person required to obtain a seed labeling permit, pursuant to RCW 15.49.400, of the Washington State Seed Act, must also, pursuant to RCW 15.49.310 and 15.49.370, pay a general seed inspection charge annually to the department in the amount of (~~(eleven)~~) 28 cents per (~~(one hundred dollars)~~) \$100 gross annual dollar sales in excess of (~~(ten thousand dollars)~~) \$10,000 of agricultural and/or vegetable seed distributed in this state during the preceding fiscal year, except that no assessment shall be collected on:

(a) Seed for which the assessment has been previously collected, except when such seed is relabeled;

(b) Agricultural or vegetable seed distributed out-of-state;

(c) Seed distributed in containers of four ounces or less;

(d) Stock seed; (~~and~~) or

(e) Seed distributed by governmental agencies (~~(r)~~) such as, but not limited to, the United States Department of Agriculture national foundation seed project. Agricultural and/or vegetable seeds distributed under bailment contract are valued at the producer-conditioner agreement rate in lieu of sale.

(2) The seed assessment fees for the fiscal period beginning July 1st through June 30th are payable on February 1st of the following calendar year.

(3) The seed assessment (~~(may)~~) will accompany the annual application for the seed labeling permit. A penalty of (~~(fifteen)~~) 25 percent of the assessment fee or a minimum of (~~(twenty dollars)~~) \$28, whichever is greater, is added to all assessments not paid by February 1st.

(4) The annual (~~(seed-labeling)~~) seed labeling permit (~~(may)~~) will not be issued until all seed assessments and penalties are satisfied.

[Statutory Authority: RCW 15.49.310, chapter 34.05 RCW, and 2012 2nd sp.s. c 7. WSR 12-19-065, § 16-303-105, filed 9/17/12, effective 10/18/12. Statutory Authority: RCW 15.49.005, 15.49.081, 15.49.310, 15.49.370(3) and chapter 17.24 RCW. WSR 01-01-015, § 16-303-105, filed 12/6/00, effective 1/6/01.]

NEW SECTION

WAC 16-303-117 Seed program testing categories. (1) Seed testing categories and associated crop kinds for WAC 16-303-200 and 16-303-210 are as follows:

Category	Crop Kind	Additional Crops in each Category *1
1	Alfalfa and Clover	Alfalfa, Black Medic, Clover, Milkvetch, Sainfoin, Trefoil
2	Bean	Bean
3	Beet	Beet
4	Bentgrass, Redtop	Bentgrass, Redtop
5	Bluegrass	Bluegrass, all types except Native and Reclamation
6	Brassica Species	Brassica Species, Camelina
7	Brome	Brome: Mountain, Smooth, Meadow
8	Fescue	Fescue: Tall and Meadow
9	Fescue, all others	Fescue: Arizona, Blue, Blue Hard, Chewings, Creeping, Hard, Idaho, Red, Sheep
10	Flax	Flax, all types
11	Hemp	Hemp, all types
12	Orchardgrass	Orchardgrass
13	Peas and other large seeded legumes	Peas, Chickpeas, Lentil, Lupine, Vetch
14	Ryegrass (perennial or annual)	Ryegrass (perennial or annual)
15	Sudangrass	Sudangrass

Category	Crop Kind	Additional Crops in each Category *1
16	Timothy	Timothy
17	Fruit and Vegetable	Fruit and Vegetables: Arugula, Asparagus, Any Berries, Cantaloupe, Carrot, Celery, Corn, Coriander, Cucumber, Dill, Eggplant, Endive, Leek, Lettuce, Okra, Onion, Parsley, Parsnip, Pepper, Pumpkin, Radish, Swiss chard, Spinach, Squash, Tomato, Watermelon
18	Grain (500 g. or 1000 g.)	Wheat, Triticale, Sunflower, Sorghum, Safflower, Rye, Rice, Millet, Buckwheat, Barley, Oats, Emmer, Spelt
19	Other native species and flowers (test requires 400 seed TZ according to AOSA rules)	Green needlegrass, Needle and Thread, Penstemon
20	Native and Reclamation Grass	Bluestem, Buffalograss, Lovegrass, Sand dropseed, Sideoats, Squirreltail, Wheatgrass (Crested, Intermediate, Pubescent, Siberian, Slender, Tall, Thickspike, and Western), Wildrye, Indian ricegrass, Junegrass, Oatgrass, Native and Reclamation bluegrass
21	Woody Plants and Forbs (natives)	Bitterbrush, Echinacea, Kochia, Yarrow, Sagebrush, Rabbitbrush, Native buckwheat, Native clover

*1 Crops not listed in the above table will be charged by the category that they best fit into.

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AMENDATORY SECTION (Amending WSR 17-08-090, filed 4/5/17, effective 5/6/17)

WAC 16-303-200 Seed program testing fees. (1) Seed testing fees are as follows:

Category	Crop kind	PURITY	GERM/A	TZ	Additional Crops in each Category/2
1	Agricultural Grasses	40.00	25.00	45.00	Alkaligrass, Bermudagrass, Canarygrass, Foxtail, Switchgrass, Timothy, Zoysia
2	Alfalfa & Clover	31.00	27.00	45.00	Alfalfa, Black Medic, Clover, Lupine, Milkvetch, Sainfoin, Trefoil
3	Beans	29.00	27.00	45.00	Beans
4	Beets	42.00	47.00	45.00	Beets, Swiss chard, Spinach
5	Bentgrass, redtop	72.00	38.00	45.00	Bentgrass, Redtop
6	Bluegrass	49.00	33.00	45.00	Bluegrass, all types
7	Brassica Species	75.00	38.00	45.00	Brassica Species
8	Brome	51.00	27.00	45.00	Brome: Mountain, Smooth, Meadow
9	Fescue	40.00	27.00	45.00	Fescue: Tall and Meadow
10	Fescue, all others	49.00	27.00	45.00	Fescue: Arizona, Blue, Blue Hard, Chewings, Creeping, Hard, Idaho, Red, Sheep
11	Flax	31.00	27.00	45.00	Lewis flax
12	Industrial hemp	50.00	40.00	45.00	
13	Orchardgrass	55.00	29.00	45.00	Orchardgrass
14	Peas and other large seeded legumes	31.00	27.00	45.00	Peas, Chickpeas, Lentil, Vetch

Category	Crop kind	PURITY	GERM ¹	TZ	Additional Crops in each Category ²
15	Primrose	31.00	27.00	45.00	Primrose
16	Ryegrass	49.00	25.00	45.00	Ryegrass, (Perennial or Annual)
17	Small burnet	31.00	27.00	45.00	Small burnet
18	Sudangrass	31.00	27.00	45.00	Sudangrass
19	Vegetables	31.00	27.00	49.00	Vegetables: Arugula, Asparagus, Cantaloupe, Carrot, Celery, Corn, Coriander, Cucumber, Dill, Eggplant, Endive, Leek, Lettuce, Okra, Onion, Parsley, Parsnip, Pepper, Pumpkin, Radish, Squash, Tomato, Watermelon
20	Grains	31.00	27.00	45.00	Wheat, Triticale, Sunflower, Sorghum, Safflower, Rye, Rice, Millet, Buckwheat, Barley, Oats, Emmer, Spelt
21	Wheatgrass, Wildrye, other native species Group A	84.00	33.00	45.00	Bluestem, Buffalograss, Lovegrass, Penstemon, Sand dropseed, Sidecoats, Squirreltail; Intermediate, Pubescent, Tall, Thickspike, Slender, and Western wheatgrasses; Small-seeded wildrye
22	Wheatgrass, Wildrye, other native species and flowers Group B	75.00	33.00	45.00	Bitterbrush, Echinacea, Indian ricegrass, Junegrass, Kochia, Oatgrass, Indian ricegrass, Blue and other large-seeded wildrye, Crested and Siberian wheatgrasses
23	Wheatgrass, Wildrye, other native species and flowers Group C	75.00	123.00/3	45.00	Green-needlegrass, Needle & Thread, Penstemon

/1 Standard 400 seed germination test.

/2 Crops not listed in the above table will be charged by the category that they fit into.

/3 Germination requires 400 seed TZ according to AOSA rules.)

Category	Purity W/ Noxious	GERM ^{*1}	TZ	Sample Processing per request	Manual Sample Processing per request
1	\$76.00	\$60.00	\$101.00	\$8.00	\$13.00
2	\$68.00	\$60.00	\$101.00	\$8.00	\$13.00
3 *2	\$70.00	\$60.00	\$101.00	\$8.00	\$13.00
4	\$153.00	\$60.00	\$101.00	\$8.00	\$13.00
5	\$118.00	\$70.00	\$101.00	\$8.00	\$13.00
6	\$117.00	\$60.00	\$101.00	\$8.00	\$13.00
7	\$106.00	\$70.00	\$101.00	\$8.00	\$13.00
8	\$106.00	\$76.00	\$101.00	\$8.00	\$13.00
9	\$106.00	\$76.00	\$101.00	\$8.00	\$13.00
10	\$76.00	\$70.00	\$101.00	\$8.00	\$13.00
11	\$70.00	\$60.00	\$101.00	\$8.00	\$13.00
12	\$76.00	\$70.00	\$101.00	\$8.00	\$13.00
13	\$68.00	\$60.00	\$101.00	\$8.00	\$13.00
14	\$117.00	\$60.00	\$101.00	\$8.00	\$13.00
15	\$76.00	\$60.00	\$101.00	\$8.00	\$13.00
16	\$76.00	\$70.00	\$101.00	\$8.00	\$13.00
17	\$68.00	\$60.00	\$101.00	\$8.00	\$13.00

Category	Purity W/ Noxious	GERM ^{*1}	TZ	Sample Processing per request	Manual Sample Processing per request
18 ^{*3}	500 g. \$68.00	\$60.00	\$101.00	\$8.00	\$13.00
	1000 g. \$136.00				
19	\$90.00	\$146.00 ^{*4}	\$202.00 ^{*5}	\$8.00	\$13.00
20	\$90.00	\$70.00	\$101.00	\$8.00	\$13.00
21	\$90.00	\$82.00	\$101.00	\$8.00	\$13.00

^{*1} Standard 400 seed germination test.
^{*2} Additional sprout counts incur hourly charge.
^{*3} Includes sodium hydroxide test.
^{*4} Germ includes dormant TZ count.
^{*5} Test requires 400 seed TZ according to AOSA rules.

(2) There will be no refund on completed tests. Work will be billed proportional to the amount completed at the time of cancellation. Minimum billed will be one quarter of the hourly rate.

(3) Additional billing will be in 15-minute increments with a minimum of one quarter of the hourly rate for dirty or heavy inert samples which require hand picking for purity analysis.

(4) Additional requests will incur another sample processing check-in fee.

[Statutory Authority: RCW 15.120.030(3), 15.49.021, 15.49.310, and chapter 34.05 RCW. WSR 17-08-090, § 16-303-200, filed 4/5/17, effective 5/6/17. Statutory Authority: RCW 15.49.310, chapter 34.05 RCW, and 2012 2nd sp.s. c 7. WSR 12-19-065, § 16-303-200, filed 9/17/12, effective 10/18/12. Statutory Authority: RCW 15.49.310 and chapter 34.05 RCW. WSR 07-21-060, § 16-303-200, filed 10/12/07, effective 12/1/07. Statutory Authority: 2003 1st sp.s. c 25 § 309(2), RCW 15.49.310, 15.49.370(3) and chapter 34.05 RCW. WSR 05-12-053, § 16-303-200, filed 5/26/05, effective 6/26/05. Statutory Authority: Chapters 15.49 and 34.05 RCW, 2003 c 308. WSR 03-18-071, § 16-303-200, filed 8/29/03, effective 9/29/03. Statutory Authority: RCW 15.49.370(3), 15.49.310, and chapter 34.05 RCW. WSR 03-08-005, § 16-303-200, filed 3/20/03, effective 4/20/03. Statutory Authority: Chapters 15.49 and 34.05 RCW. WSR 02-12-061, § 16-303-200, filed 5/30/02, effective 6/30/02. Statutory Authority: RCW 15.49.005, 15.49.081, 15.49.310, 15.49.370(3) and chapter 17.24 RCW. WSR 01-01-015, § 16-303-200, filed 12/6/00, effective 1/6/01.]

AMENDATORY SECTION (Amending WSR 12-19-065, filed 9/17/12, effective 10/18/12)

WAC 16-303-210 Fees for special seed tests.

(Test	Fee	Additional Information
(1) All states noxious weed examination	\$36.00	
(2) Dormant Seed Test	\$45.00	
(a) For crops requiring a 400 seed TZ as required in the AOSA rules	\$90.00	
(b) This fee also applies to paired tests when required by AOSA rules		
(3) Cold (vigor) test for wheat	\$70.00	

((Test	Fee	Additional Information						
(4) Crop or weed exam		Standard noxious amount from AOSA rules						
(a) Turf type and other small seeded grasses	\$41.00	Kentucky bluegrass, timothy, alkaligrass, fine-leaved fescues						
(b) Small seeded legumes and medium seeded crops	\$47.00	Brassicacs, ryegrass, tall fescue						
(c) Wheatgrass and native species	\$54.00							
(d) Grains and large seeded legumes	\$24.00							
(5) Fescue seed ammonia test	\$33.00	Required on all certified Blue, Hard, and Sheep fescues						
(6) Fluorescence test (400 seed test)	\$29.00	Required on all Perennial and Annual ryegrass samples						
(7) Miscellaneous services, samples requiring extra time, field run samples, etc.	\$40.00/hour							
(8) Pest and disease (phyto exam) and/or soil exam	\$39.00							
(9) Quarantine tests on seed								
Bluegrass and Bentgrass	\$20.00/5 grams							
Other grasses	\$20.00/10 grams							
(10) Rules test — Canadian	PURITY	GERMINATION						
Alfalfa, clover, peas, lentils	\$35.00	\$27.00						
Kentucky bluegrass	\$53.00	\$33.00						
Bentgrass	\$78.00	\$38.00						
(11) Rules test — I.S.T.A.	PURITY	GERMINATION						
Alfalfa, clover, peas, lentils	\$35.00	\$33.00						
Kentucky bluegrass	\$53.00	\$33.00						
(12) Moisture test	\$33.00							
(13) Seed Count								
(a) Large seed	\$10.00							
(b) Small seed	\$13.00							
(14) Sod seed analysis	<table border="1" style="display: inline-table; vertical-align: top;"> <tr> <td style="padding: 2px;">Bluegrass</td> <td style="padding: 2px;">\$81.00</td> </tr> <tr> <td style="padding: 2px;">Fescue</td> <td style="padding: 2px;">\$56.00</td> </tr> <tr> <td style="padding: 2px;">Ryegrass</td> <td style="padding: 2px;">\$45.00</td> </tr> </table>	Bluegrass	\$81.00	Fescue	\$56.00	Ryegrass	\$45.00	
Bluegrass	\$81.00							
Fescue	\$56.00							
Ryegrass	\$45.00							
(15) Sodium Hydroxide test for presence of red and/or white wheat	\$23.00							
(16) Undesirable grass species test (includes an all states noxious test) examination (UGS test)	\$76.00							
(17) Germination test in soil	\$54.00							
(18) Wheat bioassay test	\$54.00							
(19) Germination on mixtures Germination requiring embryo excision	\$40.00 per hour for separation of kinds or preparation time	This is in addition to the established germination fee))						

Miscellaneous lab testing fees are as follows:

Miscellaneous Lab Fees - Part A											
Category	Sod or quality seed analysis *1	Undesirable grass species test, no other purity requested	Paired tests or 400 TZ when required by AOSA (from section 200)	Crop or weed exam standard AOSA working amount (in addition to other tests requested)	Quarantine tests on seed			Rules test-Canadian (No grade report)		Rules test-ISTA (No orange certificate)	
					Bluegrass (25 gram test)	Bentgrass and redtop (10 gram test)	Other seed stock (25 gram test)	Purity	Germ	Purity	Germ
1	N/A	N/A	\$202.00	\$76.00	N/A	N/A	N/A	\$76.00	\$59.00	\$76.00	\$59.00
2	N/A	N/A	\$202.00	\$76.00	N/A	N/A	N/A	\$68.00	\$59.00	\$68.00	\$59.00
3 *2	N/A	N/A	\$202.00	\$76.00	N/A	N/A	N/A	\$70.00	\$68.00	\$70.00	\$68.00
4	N/A	\$114.00	\$202.00	\$76.00	N/A	\$86.00	N/A	\$153.00	\$70.00	\$153.00	\$70.00
5	\$126.00	\$114.00	\$202.00	\$76.00	\$139.00	N/A	N/A	\$117.00	\$70.00	\$117.00	\$70.00
6	N/A	N/A	\$202.00	\$76.00	N/A	N/A	N/A	\$117.00	\$60.00	\$117.00	\$60.00
7	N/A	N/A	\$202.00	\$76.00	N/A	N/A	N/A	\$106.00	\$70.00	\$106.00	\$70.00
8	\$126.00	\$114.00	\$202.00	\$76.00	N/A	N/A	\$88.00	\$106.00	\$70.00	\$106.00	\$70.00
9	\$126.00	\$114.00	\$202.00	\$76.00	N/A	N/A	\$95.00	\$106.00	\$76.00	\$106.00	\$76.00
10	N/A	N/A	\$202.00	\$76.00	N/A	N/A	N/A	\$106.00	\$70.00	\$106.00	\$70.00
11	N/A	N/A	\$202.00	\$76.00	N/A	N/A	N/A	\$70.00	\$60.00	\$70.00	\$60.00
12	\$126.00	N/A	\$202.00	\$76.00	N/A	N/A	N/A	\$76.00	\$70.00	\$76.00	\$70.00
13	N/A	N/A	\$202.00	\$76.00	N/A	N/A	N/A	\$68.00	\$59.00	\$68.00	\$59.00
14	\$126.00	\$114.00	\$202.00	\$76.00	N/A	N/A	N/A	\$117.00	\$76.00	\$117.00	\$76.00
15	N/A	N/A	\$202.00	\$76.00	N/A	N/A	N/A	\$106.00	\$70.00	\$106.00	\$70.00
16	\$126.00	N/A	\$202.00	\$76.00	N/A	N/A	N/A	\$76.00	\$70.00	\$76.00	\$70.00
17	N/A	N/A	\$202.00	\$76.00	N/A	N/A	N/A	\$68.00	\$60.00	\$68.00	\$60.00
18	N/A	N/A	\$202.00	\$76.00	N/A	N/A	N/A	\$68.00	\$60.00	\$68.00	\$60.00
	N/A	N/A	\$202.00	\$76.00	N/A	N/A	N/A	\$139.00	\$60.00	\$139.00	\$60.00
19	N/A	N/A	\$202.00	\$76.00	N/A	N/A	N/A	\$70.00	\$70.00	\$70.00	\$70.00
20	N/A	N/A	\$202.00	\$76.00	N/A	N/A	N/A	\$125.00 *1	\$70.00	\$125.00 *1	\$70.00
21	N/A	N/A	\$202.00	\$76.00	N/A	N/A	N/A	\$125.00 *1	\$82.00	\$125.00 *1	\$82.00

*1 Minimum one hour, then billed in 15 minute increments.

*2 Additional sprout counts incur hourly charge.

Miscellaneous Lab Fee - Part B	
Additional sodium hydroxide exam (wheat only)	\$47
Ammonia test (required for Fescue certification)	\$46
Bioassay (variety specific)	\$96
Broomrape (Orobanche minor) in red clover and other species (dry method)	\$110
Canadian seed grade report (Canadian test required)	\$45
Cold (vigor) test for wheat with Palouse soil	\$107
Cold test without soil	\$57
Cold test with soil - Specify soil type *1	\$65/hour
Dust like species exam (dry method) including broomrape (Orobanche minor)	\$152
Dodder exam	\$90
EC norms conversion from AOSA report	\$45
Electrical conductivity (EC)	\$158
Fluorescent test (all perennial and annual ryegrass)	\$40
Germination test in soil *1	\$65/hour
Hourly charge (applies to especially contaminated or extraordinary samples, e.g., sample prep for coated seed; also used for custom work such as sample preparation, special bulk searches). *1	\$65/hour
Mill check *1	\$65/hour
Miscellaneous service, in dirt samples, field run samples, cleaning inert *1	\$65/hour

<u>Miscellaneous Lab Fee - Part B</u>	
<u>Moisture test (oven) *1</u>	<u>\$65/hour</u>
<u>Moisture test/Dickey-John test</u>	<u>\$63</u>
<u>Noxious weed conversion fee</u>	<u>\$45</u>
<u>Noxious weed search in animal feed pellets, bird seed or organic matter *1</u>	<u>\$65/hour</u>
<u>Pest and disease (phytosanitary exam) and/or soil exam including sclerotinia, ergot, smut</u>	<u>\$95</u>
<u>Potassium iodine/iodide test *1</u>	<u>\$65/hour</u>
<u>Preliminary germination percent via email</u>	<u>\$15</u>
<u>Preclean quality grain exam</u>	<u>\$139</u>
<u>Seed coat dehull for TZ (Sanfoin/oat) *1</u>	<u>\$65/hour</u>
<u>Seed count, manual *1</u>	<u>\$65/hour</u>
<u>Seed count, mechanical</u>	<u>\$24</u>
<u>Seed mixture purity exam, each crop component</u>	<u>\$76</u>
<u>Species or veskof exam</u>	<u>\$222</u>
<u>Stress germination exam *1</u>	<u>\$65/hour</u>
<u>TKW 1000 seed count (total kernel weight/1000 seed)</u>	<u>\$56</u>
<u>Wheat species exam *1</u>	<u>\$65/hour</u>

*1 Billing in 15-minute increments with a minimum of one quarter of the hourly rate.

[Statutory Authority: RCW 15.49.310, chapter 34.05 RCW, and 2012 2nd sp.s. c 7. WSR 12-19-065, § 16-303-210, filed 9/17/12, effective 10/18/12. Statutory Authority: RCW 15.49.310 and chapter 34.05 RCW. WSR 07-21-060, § 16-303-210, filed 10/12/07, effective 12/1/07. Statutory Authority: 2003 1st sp.s. c 25 § 309(2), RCW 15.49.310, 15.49.370(3) and chapter 34.05 RCW. WSR 05-12-053, § 16-303-210, filed 5/26/05, effective 6/26/05. Statutory Authority: Chapters 15.49 and 34.05 RCW, 2003 c 308. WSR 03-18-071, § 16-303-210, filed 8/29/03, effective 9/29/03. Statutory Authority: RCW 15.49.370(3), 15.49.310, and chapter 34.05 RCW. WSR 03-08-005, § 16-303-210, filed 3/20/03, effective 4/20/03. Statutory Authority: Chapters 15.49 and 34.05 RCW. WSR 02-12-061, § 16-303-210, filed 5/30/02, effective 6/30/02. Statutory Authority: RCW 15.49.005, 15.49.081, 15.49.310, 15.49.370(3) and chapter 17.24 RCW. WSR 01-01-015, § 16-303-210, filed 12/6/00, effective 1/6/01.]

AMENDATORY SECTION (Amending WSR 12-19-065, filed 9/17/12, effective 10/18/12)

WAC 16-303-230 Official seed sampling or similar service. Seed lots for official sampling must be made available to the inspector upon arrival to avoid assessment of additional fees for standby-time. Standby-time when the inspector is on-site while samples are prepared for official sampling will be billed in 15-minute increments at a minimum of one quarter of the hourly rate.

Fees for official sampling are in addition to travel time and mileage.

((Crop	Fee	Minimum charge
Peas, beans, small grains or seeds of similar size	Standard sampling \$0.09 per cwt.	\$40.00
	I.S.T.A. sampling \$0.11 per cwt. plus \$9.00 per lot	\$40.00 plus \$9.00 per lot
For all other kinds	Standard sampling \$0.20 per cwt.	\$40.00
	I.S.T.A. sampling \$0.24 per cwt. plus \$9.00 per lot	\$40.00 plus \$9.00 per lot))

Crop	Test	Fee	Minimum charge
<u>Peas, beans, small grains or seeds of similar size</u>	<u>Standard sampling</u>	<u>\$0.13 per cwt.</u>	<u>\$90</u>
<u>Peas, beans, small grains or seeds of similar size</u>	<u>I.S.T.A. sampling</u>	<u>\$0.21 per cwt. plus \$13.00 per lot</u>	<u>\$90</u>
<u>For all other kinds</u>	<u>Standard sampling</u>	<u>\$0.28 per cwt.</u>	<u>\$90</u>
<u>For all other kinds</u>	<u>I.S.T.A. sampling</u>	<u>\$0.33 per cwt. plus \$13.00 per lot</u>	<u>\$90</u>

[Statutory Authority: RCW 15.49.310, chapter 34.05 RCW, and 2012 2nd sp.s. c 7. WSR 12-19-065, § 16-303-230, filed 9/17/12, effective 10/18/12. Statutory Authority: RCW 15.49.310 and chapter 34.05 RCW. WSR 07-21-060 and 07-24-082, § 16-303-230, filed 10/12/07 and 12/5/07, effective 12/1/07 and 1/5/08. Statutory Authority: Chapters 15.49 and 34.05 RCW, 2003 c 308. WSR 03-18-071, § 16-303-230, filed 8/29/03, effective 9/29/03. Statutory Authority: RCW 15.49.370(3), 15.49.310, and chapter 34.05 RCW. WSR 03-08-005, § 16-303-230, filed 3/20/03, effective 4/20/03. Statutory Authority: Chapters 15.49 and 34.05 RCW. WSR 02-12-061, § 16-303-230, filed 5/30/02, effective 6/30/02. Statutory Authority: RCW 15.49.005, 15.49.081, 15.49.310, 15.49.370(3) and chapter 17.24 RCW. WSR 01-01-015, § 16-303-230, filed 12/6/00, effective 1/6/01.]

AMENDATORY SECTION (Amending WSR 12-19-065, filed 9/17/12, effective 10/18/12)

WAC 16-303-240 Fees for blending seed. (1) Blending fee is not applicable to salvage blends.

((Grass option B*	Washington origin seed	\$1.10 per cwt.
Grass option B*	Out-of-state origin	\$0.66 per cwt.
Grass option A and all other blends of other crops		\$0.10 per cwt.
*See WAC 16-303-320, footnote 6 for information on option A and option B.))		

(2) Blending fees are as follows:

<u>Seed Origin</u>	<u>Fee</u>
<u>Washington origin certified seed</u>	<u>\$17.00 Application plus cost of tag</u>
<u>Out-of-state origin certified seed</u>	<u>\$17.00 Application plus cost of tag</u>

(3) See WAC 16-303-350 for tagging fees.

(4) A blend data sheet is filled out with the certifying agency and must be presented at the time of application and maintained by the seed conditioner. Blend data sheet forms can be obtained from the department.

[Statutory Authority: RCW 15.49.310, chapter 34.05 RCW, and 2012 2nd sp.s. c 7. WSR 12-19-065, § 16-303-240, filed 9/17/12, effective 10/18/12. Statutory Authority: RCW 15.49.310 and chapter 34.05 RCW. WSR 07-21-060, § 16-303-240, filed 10/12/07, effective 12/1/07. Statutory Authority: Chapters 15.49 and 34.05 RCW, 2003 c 308. WSR 03-18-071, § 16-303-240, filed 8/29/03, effective 9/29/03. Statutory Authority: RCW 15.49.005, 15.49.081, 15.49.310, 15.49.370(3) and chapter 17.24 RCW. WSR 01-01-015, § 16-303-240, filed 12/6/00, effective 1/6/01.]

AMENDATORY SECTION (Amending WSR 12-19-065, filed 9/17/12, effective 10/18/12)

WAC 16-303-250 Miscellaneous charges for seed services. Fees for miscellaneous department seed services are as follows:

<u>(Service</u>	<u>Fee</u>
<u>Rush samples (including phone or FAX report if requested at time sample is submitted)</u>	<u>\$16.00</u>
<u>High priority sample - Purity result completed before the end of the next business day. (Special circumstances only. Call ahead for availability.)</u>	<u>\$160.00</u>
<u>Additional mailing of report</u>	<u>\$6.00 each destination</u>
<u>Additional copies of reports</u>	<u>\$3.00 minimum fee</u>
<u>Revised reports</u>	<u>\$11.00 minimum (hourly fee when applicable)</u>
<u>Fee for special shipping and handling service, for example Federal Express, Air Parcel or air freight</u>	<u>\$5.00 plus exact shipping cost</u>
<u>Fee for facsimile transmission of documents</u>	<u>\$1.00 per document</u>

((Service		Fee
Mileage - Additional or special requested trips		As established by the Washington State Office of Financial Management
Stand-by time - Or travel time	\$40.00/hour	Travel time to be charged when special trip is requested.))

Service	Fee
<u>Rush sample (purity started in 48 hours, including phone report if requested at time sample is submitted)</u>	\$136.00
<u>Super rush sample - Purity result completed before the end of the next business day. (Based upon availability with a limit per day, call ahead for availability.)</u>	\$204.00
<u>Paper documents: Additional copies-digital</u>	\$8.00
<u>Paper documents: Additional copies-registered mail</u>	\$8.00 plus exact shipping cost
<u>Samples: Fee for special shipping/packaging for seed samples, plant health samples (live plants) by Federal Express, air parcel or air freight</u>	\$20.00 plus exact shipping cost
<u>All other shipping and handling</u>	\$8.00 plus exact shipping cost
<u>Revised reports</u>	\$15.00 minimum (hourly fee when applicable)
<u>Combined reports</u>	\$15.00 minimum (hourly fee when applicable)
<u>Drive time and mileage for additional or special requested trips</u>	Drive time at hourly rate plus mileage - OFM rate
<u>Field staff stand-by time at warehouse *1 *2</u>	\$65/hour
<u>Split seed sample for outsourcing</u>	\$50.00
<u>Digital photo</u>	\$11.00/photo
<u>Washington Wilderness Hay and Mulch (WWHAM) certification, if conducted at time of seed certification inspection</u>	\$90.00
<u>Washington Wilderness Hay and Mulch (WWHAM) certification, if not conducted at time of seed certification inspection</u>	\$90.00 plus drive time at hourly rate plus mileage - OFM rate
<u>Cancellation of seed test *1</u>	Proportional to work completed prior to cancellation-hourly rate for a minimum of 15 minutes
<u>Hourly rate</u>	\$65/hour

*1 No refund on completed tests or work. Work will be billed proportional to amount completed at the time of request.

*2 Minimum billed will be one quarter of the hourly rate.

[Statutory Authority: RCW 15.49.310, chapter 34.05 RCW, and 2012 2nd sp.s. c 7. WSR 12-19-065, § 16-303-250, filed 9/17/12, effective 10/18/12. Statutory Authority: RCW 15.49.310 and chapter 34.05 RCW. WSR 07-21-060, § 16-303-250, filed 10/12/07, effective 12/1/07. Statutory Authority: 2003 1st sp.s. c 25 § 309(2), RCW 15.49.310, 15.49.370(3) and chapter 34.05 RCW. WSR 05-12-053, § 16-303-250, filed 5/26/05, effective 6/26/05. Statutory Authority: Chapters 15.49 and 34.05 RCW, 2003 c 308. WSR 03-18-071, § 16-303-250, filed 8/29/03, effective 9/29/03. Statutory Authority: RCW 15.49.370(3), 15.49.310, and chapter 34.05 RCW. WSR 03-08-005, § 16-303-250, filed 3/20/03, effective 4/20/03. Statutory Authority: Chapters 15.49 and 34.05 RCW. WSR 02-12-061, § 16-303-250, filed 5/30/02, effective 6/30/02. Statutory Authority: RCW 15.49.005, 15.49.081, 15.49.310, 15.49.370(3) and chap-

ter 17.24 RCW. WSR 01-01-015, § 16-303-250, filed 12/6/00, effective 1/6/01.]

AMENDATORY SECTION (Amending WSR 12-19-065, filed 9/17/12, effective 10/18/12)

WAC 16-303-300 Phytosanitary certification of seed—Fees.

<u>Service</u>	<u>Fee</u>	<u>Additional Information</u>
Federal Phytosanitary certificate	\$50.00	
State Phytosanitary certificate	\$45.00	
Field inspection—All seed except wheat seed (for each required inspection)	\$5.83 per acre, per required inspection	\$55.00 minimum fee, per inspection
Field inspection—Wheat seed only	\$2.33 per acre or fraction thereof	\$55.00 minimum fee, per inspection
Area inspection	\$0.60 per acre	
Late fee—Per application	\$50.00))	

<u>Service</u>	<u>Fee</u>	<u>Additional Information</u>
<u>Federal phytosanitary certificate</u>	<u>\$70.00</u>	<u>Additional hourly fee may apply for consultation and billed at one quarter of the hourly rate</u>
<u>State phytosanitary certificate</u>	<u>\$63.00</u>	<u>Additional hourly fee may apply for consultation and billed at one quarter of the hourly rate</u>
<u>Certificate of origin</u>	<u>\$55.00</u>	<u>Additional hourly fee may apply for consultation and billed at one quarter of the hourly rate</u>
<u>Resignature</u>	<u>\$4.00</u>	<u>Resignature of expired visual ^{*1}</u>
<u>Verification</u>	<u>\$4.00</u>	<u>Reexport phytosanitary verification</u>
<u>Phytosanitary field application ^{*2}</u>	<u>\$45.00</u>	<u>No refund after processing</u>
<u>Phytosanitary field inspection - All seed (for each required inspection) ^{*2 *3}</u>	<u>\$8.00 per acre, per required inspection</u>	<u>\$90 minimum fee, per inspection. No refund after inspection is completed</u>
<u>Area inspection ^{*2 *3}</u>	<u>\$3.11 per acre, per required inspection</u>	<u>Plus travel time and mileage</u>
<u>Late fee - Per field application</u>	<u>\$139.00</u>	<u>Based on scheduling may also include travel time and mileage. After application due date, application may be rejected</u>
<u>Nematode soil sample</u>	<u>\$33.00</u>	<u>Flat fee per sample</u>

Phytosanitary field application due dates are found in WAC 16-301-220.
^{*1} Prior departmental authorization required in advance and site must meet specific criteria to qualify.
^{*2} No refund on rejected fields due to findings or results. To be eligible for a refund of the per acre fee, the seed crop application must be withdrawn prior to field inspection.
^{*3} An outsourced plant health analysis or laboratory exam may be applicable to assess field health and may result in costs separate from the inspection application and acreage fee.

[Statutory Authority: RCW 15.49.310, chapter 34.05 RCW, and 2012 2nd sp.s. c 7. WSR 12-19-065, § 16-303-300, filed 9/17/12, effective 10/18/12. Statutory Authority: RCW 15.49.310 and chapter 34.05 RCW. WSR 07-21-060, § 16-303-300, filed 10/12/07, effective 12/1/07. Statutory Authority: Chapters 15.49 and 34.05 RCW, 2003 c 308. WSR

03-18-071, § 16-303-300, filed 8/29/03, effective 9/29/03. Statutory Authority: RCW 15.49.370(3), 15.49.310, and chapter 34.05 RCW. WSR 03-08-005, § 16-303-300, filed 3/20/03, effective 4/20/03. Statutory Authority: Chapters 15.49 and 34.05 RCW. WSR 02-12-061, § 16-303-300, filed 5/30/02, effective 6/30/02. Statutory Authority: RCW 15.49.005, 15.49.081, 15.49.310, 15.49.370(3) and chapter 17.24 RCW. WSR 01-01-015, § 16-303-300, filed 12/6/00, effective 1/6/01.]

AMENDATORY SECTION (Amending WSR 12-19-065, filed 9/17/12, effective 10/18/12)

WAC 16-303-310 Organization for economic cooperation and development scheme for varietal certification (O.E.C.D.) fees. In addition to fees required by applicable Washington certification rules, the following fees shall apply to all seed tagged O.E.C.D. and is payable by the person requesting O.E.C.D. certificate. The certifying agency may require fees paid in advance:

((Service	Fee	Additional Information
O.E.C.D. certificate	\$17.00 each	
O.E.C.D. grow out test	\$72.00 each entry	No charge for control entry
O.E.C.D. assessment	cost to program	This is a pass-through fee to USDA
O.E.C.D. tagging fee*	\$0.91/ewt.	All grasses except tall fescue
	\$0.55/ewt.	Tall fescue
	\$0.57/ewt.	All other crops

* Minimum tagging fee is \$13.00.)

Service	Fee
<u>O.E.C.D. assessment</u> *1	<u>Actual cost to program. This is a pass through fee to USDA</u>
<u>O.E.C.D. certificate</u> *2	<u>\$40.00 each</u>
<u>O.E.C.D. reissued certificate</u>	<u>See Section 250 for additional document copies</u>
<u>O.E.C.D. grow out test</u> *3	<u>\$100.00 each entry</u>
<u>O.E.C.D. tagging fee</u> *4	<u>\$17.00 Application plus tag fee cost</u>

*1 An additional O.E.C.D. assessment will be billed on each O.E.C.D. seed lot assessed by USDA-O.E.C.D. authorities.

These charges will be billed in addition to other listed fees.

*2 O.E.C.D. certificate fee does not include required field application, inspection, laboratory fees or tagging.

*3 No charge for control entry.

*4 See WAC 16-303-350 for tagging fee.

[Statutory Authority: RCW 15.49.310, chapter 34.05 RCW, and 2012 2nd sp.s. c 7. WSR 12-19-065, § 16-303-310, filed 9/17/12, effective 10/18/12. Statutory Authority: RCW 15.49.310 and chapter 34.05 RCW. WSR 07-21-060, § 16-303-310, filed 10/12/07, effective 12/1/07. Statutory Authority: 2003 1st sp.s. c 25 § 309(2), RCW 15.49.310, 15.49.370(3) and chapter 34.05 RCW. WSR 05-12-053, § 16-303-310, filed 5/26/05, effective 6/26/05. Statutory Authority: Chapters 15.49 and 34.05 RCW, 2003 c 308. WSR 03-18-071, § 16-303-310, filed 8/29/03, ef-

fective 9/29/03. Statutory Authority: RCW 15.49.370(3), 15.49.310, and chapter 34.05 RCW. WSR 03-08-005, § 16-303-310, filed 3/20/03, effective 4/20/03. Statutory Authority: Chapters 15.49 and 34.05 RCW. WSR 02-12-061, § 16-303-310, filed 5/30/02, effective 6/30/02. Statutory Authority: RCW 15.49.005, 15.49.081, 15.49.310, 15.49.370(3) and chapter 17.24 RCW. WSR 01-01-015, § 16-303-310, filed 12/6/00, effective 1/6/01.]

AMENDATORY SECTION (Amending WSR 12-19-065, filed 9/17/12, effective 10/18/12)

WAC 16-303-315 ((Service fee for sod)) Quality seed ((tags and)) tagging. (1) Service fee for ((sod)) quality seed tags and tagging shall be \$0.25 per cwt. ((Minimum tagging fee is \$13.00.))

Service	Fee
Quality Sod tag	\$17.00 Application plus \$0.25 cwt and tag fee
Quality Timothy tag	\$17.00 Application plus tag fee
Quality Orchardgrass tag	\$17.00 Application plus tag fee

(2) Seed lots which meet the field and seed standards will be tagged with a "quality seed" tag per WAC 16-302-395 through 16-302-410 or WAC 16-302-740 through 16-302-756.

(3) Tag fees are specified in WAC 16-303-350.

(4) Quality tagging does not include required field inspection or laboratory analysis.

[Statutory Authority: RCW 15.49.310, chapter 34.05 RCW, and 2012 2nd sp.s. c 7. WSR 12-19-065, § 16-303-315, filed 9/17/12, effective 10/18/12. Statutory Authority: RCW 15.49.310 and chapter 34.05 RCW. WSR 07-21-060, § 16-303-315, filed 10/12/07, effective 12/1/07. Statutory Authority: Chapters 15.49 and 34.05 RCW, 2003 c 308. WSR 03-18-071, § 16-303-315, filed 8/29/03, effective 9/29/03. Statutory Authority: RCW 15.49.005, 15.49.081, 15.49.310, 15.49.370(3) and chapter 17.24 RCW. WSR 01-01-015, § 16-303-315, filed 12/6/00, effective 1/6/01.]

AMENDATORY SECTION (Amending WSR 17-08-090, filed 4/5/17, effective 5/6/17)

WAC 16-303-320 Certification fees for seed certified by the department. Seed certification fees apply to seed classes identified in WAC 16-302-015, as follows:

(1) Fees apply to both new and renewal applications.

(2) Seed certification application due dates are specified in WAC 16-302-050.

(3) The ((seed processor)) applicant for seed certification is responsible for seed certification fees including sampling, testing, ((production)) tagging and final certification fees, and may accept responsibility for any other additional fees associated with certifi-

ation. Fees for services such as O.E.C.D. and ((sød)) quality exams, etc., are in addition to the fees listed in this section.

((Seed	Application Fee 1/	Seedling field inspection fee	Seedling producing or field inspection Fee 2/	Late Application Penalty Fee	Reinspection Fee (other than isolation)	Production Fee (includes tagging) 7/10/11/	Seed shipped Out-of-State (uncleaned)
Alfalfa, Red clover, White clover and Trefoil	\$32.25 per variety per grower	\$54.00 per field	\$2.00 per acre	\$50.00	\$58.00 per field	\$0.57/cwt. 5/	\$0.22/cwt.
Annual grasses	\$32.25 per field	N/A	\$2.00 per acre	\$50.00 per field	\$58.00 per field	\$0.45/cwt.	\$0.22
Bean	\$32.25 per variety per grower	N/A	\$2.00 per acre 3/ (one inspection) \$4.00 per acre 4/ (two inspections)	\$50.00	\$58.00 per field	\$0.57/cwt.	\$0.22/cwt.
Corn	\$32.25 per field	N/A	\$55.00 first acre \$12.00 ea. additional acre except hybrid corn \$5.35 ea. additional acre	\$50.00	—	\$0.15 per tag issued	\$4.00 per document
Industrial hemp	\$32.25 per field	N/A	Hourly rate, travel time and mileage as established in WAC 16-303-250	\$50.00	Additional inspections: Hourly rate, travel time and mileage as established in WAC 16-303-250	\$0.15 per tag issued; \$15.00 minimum fee	N/A
Perennial Grasses 6/	\$32.25 per field	\$54.00 per field	\$54.00 per field	\$50.00	\$58.00 per field	Option A \$0.91/cwt. for all grass except tall fescue \$0.55/cwt. tall fescue Option B \$1.26/cwt. (min. \$12.54)	\$0.34
Rapeseed, Canola, and Mustard	\$32.25 per variety per grower	N/A	\$2.00 per acre (one inspection)	\$50.00 per grower	\$58.00 per field	\$0.57/cwt.	\$0.22
Turnip, Rutabaga, Kale	\$32.25 per field	N/A	\$4.00 per acre (two inspections)	\$50.00	\$58.00 per field	\$0.57/cwt.	\$0.22

- 1/ Seed certification application due dates can be found in WAC 16-302-050.
- 2/ Seedling producing or field inspection fees are refundable if the acreage is withdrawn before the inspection is completed. In the case of bean seed, fees are required of seedling fields to be harvested for certification the year of planting.
- 3/ One inspection is required for Great Northern Red Mexican, pinto, pink, and small white bean.
- 4/ Includes windrow inspection which is required for certification of snap beans, kidney beans, and eligibility for shipment into the state of Idaho.
- 5/ Production fees are billed at completion of laboratory analysis tests. If no seed is tagged, \$0.10 of the \$0.57 per cwt. production fee is refundable.
- 6/ Option A: Inspection and final certification fees are based on pounds sampled and billed upon completion of required laboratory tests.

~~Option B: Inspection and final certification fees are based on pounds tagged after required laboratory tests are completed. Those dealers requesting sampling and tagging privileges and/or participation in Option B must sign a memorandum of agreement that shall expire on June 30 of each year. The memorandum may be terminated by the director if the conditioner violates certification standards or requirements of memorandum.~~

- ~~7/ Does not include shipping and handling charge for tags.~~
- ~~8/ Service inspection of seed fields
Service inspection will be charged the established hourly rate inclusive of travel time and inspection time. This excludes the seedling inspection which is charged according to the above chart.
Service inspections will be charged a mileage fee based upon the OFM mileage rate.~~
- ~~9/ Hybrid inspections (pollen counts)
All crops except corn and industrial hemp:
(a) \$48.50 per inspection if done at the time of the certification inspection.
(b) \$135.00 per inspection if not conducted at the time of the certification inspection.~~
- ~~10/ Minimum tagging fee is \$13.00.~~
- ~~11/ For seed lots in packages of less than 25 lbs., tags are \$0.15 per tag in addition to the production fee.~~

~~(2) Other fees associated with grass seed certification:
Out-of-state origin seed tagged with interagency certification tags.~~

Grass Option A:	\$0.33 per cwt.
Grass Option B:	\$0.73 per cwt.

~~(3) Reissuance of certification tags is \$0.15 per tag or a minimum fee of \$13.00.)~~

~~(4) Certification fees for seed certified by the department are as follows:~~

Crop	Application Fee	Seedling Field Inspection Fee	Seedling Producing or Field Inspection Fee	Late Application Penalty Fee	Reinspection Fee (other than isolation)	Seed Shipped Out-of-State (uncleaned) Document Fee
<u>Alfalfa, Red clover, White clover and Trefoil</u>	<u>\$45 per field</u>	<u>\$3.90 per acre, per required inspection</u>	<u>\$3.90 per acre, per required inspection</u>	<u>\$139 fee per late application</u>	<u>hourly rate plus drive time and mileage</u>	<u>\$7 each document</u>
<u>Annual grass</u>	<u>\$45 per field</u>	<u>N/A</u>	<u>\$3.90 per acre, per required inspection</u>	<u>\$139 fee per late application</u>	<u>hourly rate plus drive time and mileage</u>	<u>\$7 each document</u>
<u>Bean *1 *2</u>	<u>\$45 per field</u>	<u>N/A</u>	<u>\$3.90 per acre, per required inspection</u>	<u>\$139 fee per late application</u>	<u>hourly rate plus drive time and mileage</u>	<u>\$7 each document</u>
<u>Camelina</u>	<u>\$45 per field</u>	<u>N/A</u>	<u>\$3.90 per acre, per required inspection</u>	<u>\$139 fee per late application</u>	<u>hourly rate plus drive time and mileage</u>	<u>\$7 each document</u>

Crop	Application Fee	Seedling Field Inspection Fee	Seedling Producing or Field Inspection Fee	Late Application Penalty Fee	Reinspection Fee (other than isolation)	Seed Shipped Out-of-State (uncleaned) Document Fee
Corn (Hybrid and nonhybrid) ^{*3}	\$45 per field	N/A	\$76.00 first acre, \$17 each additional acre	\$139 fee per late application	hourly rate plus drive time and mileage	\$8 each document
Hemp	\$45 per field	N/A	\$3.90 per acre, per required inspection	\$139 fee per late application	hourly rate plus drive time and mileage	\$7 each document
Perennial grass	\$45 per field	\$3.90 per acre, per required inspection	\$3.90 per acre, per required inspection	\$139 fee per late application	hourly rate plus drive time and mileage	\$7 each document
Radish	\$45 per field	N/A	\$3.90 per acre, per required inspection	\$139 fee per late application	hourly rate plus drive time and mileage	\$7 each document
Rapeseed, Canola, and Mustard	\$45 per field	\$3.90 per acre, per required inspection	\$3.90 per acre, per required inspection Hybrid rapeseed, canola and mustard \$7.00 per acre, per required inspection	\$139 fee per late application	hourly rate plus drive time and mileage	\$7 each document
Sunflower	\$45 per field	N/A	\$3.90 per acre, per required inspection Hybrid sunflower \$7.00 per acre, per required inspection	\$139 fee per late application	hourly rate plus drive time and mileage	\$7 each document
Turnip, Rutabaga, Kale	\$45 per field	N/A	\$3.90 per acre, per required inspection	\$139 fee per late application	hourly rate plus drive time and mileage	\$7 each document
Woody Plants and Forbs	\$45 per field	N/A	\$3.90 per acre, per required inspection	\$139 fee per late application	hourly rate plus drive time and mileage	\$7 each document
Service Inspections excluding hybrid	\$45 per field	\$3.90 per acre, per required inspection	\$3.90 per acre, per required inspection	N/A	N/A	N/A
Annual and Rough Bluegrass Quarantine	\$45 per field	\$87.60 per acre plus time and mileage including travel time	\$87.60 per acre plus time and mileage including travel time	N/A	N/A	N/A

*1 One inspection is required for Great Northern, Red Mexican, pinto, pink, and small white bean.

*2 Includes windrow inspection which is required for certification of snap beans, kidney beans, and eligibility for shipment into the state of Idaho.

*3 Corn bin inspection billed at 45 minutes of the hourly rate per inspection.

(5) Crop acreage fee does not include required laboratory fees or tagging. Minimum tagging fee is \$17.00 per application. Tagging fees are specified in WAC 16-303-350. This does not include the shipping and handling charge for tags.

(6) (a) Crop hybrid pollen count:

(b) All crops except corn and hemp:

(i) \$67.42 per inspection if done at the time of the certification inspection.

(ii) \$187.00 per inspection is not conducted at the time of the certification inspection.

(7) No refund on rejected fields due to findings or results. To be eligible for a refund of the per acre fees, the seed crop application must be withdrawn prior to the field inspection.

(8) Seed stock class (foundation/prebasic, registered/basic) of all crops for certification \$32.50 per field plus per acre fee.

(9) Seedling field inspection and seedling producing or field inspection fee is \$90 minimum fee, per inspection.

(10) Seedling field inspection and seedling producing or field inspection fees are refundable if the acreage is withdrawn before the inspection is completed. In the case of bean seed, fees are required of seedling fields to be harvested for certification the year of planting.

(11) Late application penalty fee is based on scheduling and may also include travel time and mileage. After application due date, application may be rejected.

(12) Reinspection fee mileage will be charged at the current OFM mileage rate.

[Statutory Authority: RCW 15.120.030(3), 15.49.021, 15.49.310, and chapter 34.05 RCW. WSR 17-08-090, § 16-303-320, filed 4/5/17, effective 5/6/17. Statutory Authority: RCW 15.49.310, chapter 34.05 RCW, and 2012 2nd sp.s. c 7. WSR 12-19-065, § 16-303-320, filed 9/17/12, effective 10/18/12. Statutory Authority: RCW 15.49.310 and chapter 34.05 RCW. WSR 07-21-060, § 16-303-320, filed 10/12/07, effective 12/1/07. Statutory Authority: 2003 1st sp.s. c 25 § 309(2), RCW 15.49.310, 15.49.370(3) and chapter 34.05 RCW. WSR 05-12-053, § 16-303-320, filed 5/26/05, effective 6/26/05. Statutory Authority: Chapters 15.49 and 34.05 RCW, 2003 c 308. WSR 03-18-071, § 16-303-320, filed 8/29/03, effective 9/29/03. Statutory Authority: RCW 15.49.370(3), 15.49.310, and chapter 34.05 RCW. WSR 03-08-005, § 16-303-320, filed 3/20/03, effective 4/20/03. Statutory Authority: Chapters 15.49 and 34.05 RCW. WSR 02-12-061, § 16-303-320, filed 5/30/02, effective 6/30/02. Statutory Authority: RCW 15.49.005, 15.49.081, 15.49.310, 15.49.370(3) and chapter 17.24 RCW. WSR 01-01-015, § 16-303-320, filed 12/6/00, effective 1/6/01.]

NEW SECTION

WAC 16-303-350 Seed tagging fees. (1) Seed tagging fees for certification, O.E.C.D., crucifer and specialty tags are as follows:

Certified Tags	
Card stock 4x3: Sod quality, Quality Timothy, Quality Orchard grass, Foundation, Registered, Certified, Experimental, Select, Source Identified	\$0.03/tag
Certified substandard class	\$0.13/tag

Certified Tags	
Certified adhesive 4x3	\$0.06/tag
Registered adhesive	\$0.09/tag
OECD Tags	
OECD 4x3 1st Gen tag	\$0.08/tag
OECD 4x3 Prebasic, Basic	\$0.31/tag
OECD 4-5/8 x 2-7/8 adhesive	\$0.08/label
Crucifer Tags	
1.5x1 Crucifer adhesive label	\$0.19/label
1x3 Crucifer adhesive label	\$0.19/label
4x1 Crucifer adhesive label	\$0.10/label
4x3 Crucifer card stock	\$0.13/tag
4x8 Crucifer adhesive label	\$0.10/label
4x8 Crucifer card stock	\$0.13/tag
Specialty Tags	
Zip tie and all other specialty tags	\$2.22 each

(2) Reissuance of certification tags requires an application fee of \$17.00 plus price of tags.

[]

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 16-303-317 Annual and rough bluegrass quarantine fees.

**WSR 22-02-034
PERMANENT RULES
HEALTH CARE AUTHORITY**

[Filed December 29, 2021, 2:44 p.m., effective February 1, 2022]

Effective Date of Rule: February 1, 2022.

Purpose: To comply with 3SSB 5164, chapter 136, Laws of 2020, the health care authority is amending these rules to include eligibility for persons covered under the survivors of certain crimes program.

Citation of Rules Affected by this Order: Amending WAC 182-508-0005 and 182-508-0150.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160; and 3SSB 5164, chapter 136, Laws of 2020.

Adopted under notice filed as WSR 21-22-063 on October 28, 2021.

Changes Other than Editing from Proposed to Adopted Version:

Proposed/Adopted	WAC Subsection	Reason
WAC 182-508-0005 (1)(a)		
Proposed	(iii) The survivors of certain crimes (SCC) program, as described in WAC 388-424-0035, including victims of human trafficking; and	To include a reference to RCW 74.04.005, which defines victims of human trafficking.
Adopted	(iii) The survivors of certain crimes (SCC) program, as described in WAC 388-424-0035, including victims of human trafficking as described in RCW 74.04.005; and	
WAC 182-508-0150 (4)(d)		
Proposed	(iii) The survivors of certain crimes (SCC) program, as described in WAC 388-424-0035, including victims of human trafficking.	To include a reference to RCW 74.04.005, which defines victims of human trafficking.
Adopted	(iii) The survivors of certain crimes (SCC) program, as described in WAC 388-424-0035, including victims of human trafficking as described in RCW 74.04.005.	

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

Number of Sections Adopted at 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 29, 2021.

Wendy Barcus
Rules Coordinator

OTS-3230.6

AMENDATORY SECTION (Amending WSR 14-16-019, filed 7/24/14, effective 8/24/14)

WAC 182-508-0005 ((Eligibility for)) Washington apple health medical care services—Eligibility and scope of coverage.

(1) A person is eligible for state-funded Washington apple health ~~((WAH))~~ medical care services (MCS) coverage to the extent of available funds if the person is:

(a) Determined by the department of social and health services to be eligible for benefits under ~~((either))~~:

(i) The aged, blind, or disabled program as described in WAC 388-400-0060 ~~((or))~~;

(ii) The housing and essential needs referral program as described in WAC 388-400-0070; or

(iii) The survivors of certain crimes (SCC) program, as described in WAC 388-424-0035, which includes victims of human trafficking as described in RCW 74.04.005; and

(b) Not eligible for another federally funded categorically needy (CN) (as defined in WAC 182-500-0020) or alternative benefits plan (ABP) (as defined in WAC 182-500-0010) ~~((WAH))~~ Washington apple health program.

(2) If an enrollment cap exists under WAC 182-508-0150, a waiting list of ~~((persons))~~ people may be established.

(3) A person's period of eligibility for MCS is the same as ~~((either))~~ the person's period of eligibility for:

(a) The aged, blind, or disabled program as described in WAC 388-449-0150 ~~((or))~~;

(b) The person's incapacity authorization period for the housing and essential needs referral program as described in WAC 388-447-0110; or

(c) The person's period of eligibility for the SCC program as described in WAC 388-424-0035.

(4) The MCS program covers only the medically necessary services defined in WAC 182-501-0060.

(5) The MCS program does not cover medical services received outside the state of Washington unless the medical services are provided in a border city listed in WAC 182-501-0175.

[Statutory Authority: RCW 41.05.021, 41.05.160, Public Law 111-148, 42 C.F.R. § 431, 435, and 457, and 45 C.F.R. § 155. WSR 14-16-019, § 182-508-0005, filed 7/24/14, effective 8/24/14. Statutory Authority: RCW 41.05.021, 74.09.035, and 2011 1st sp.s. c 36. WSR 12-19-051, § 182-508-0005, filed 9/13/12, effective 10/14/12.]

AMENDATORY SECTION (Amending WSR 14-16-019, filed 7/24/14, effective 8/24/14)

WAC 182-508-0150 Enrollment cap for medical care services (MCS).

(1) Enrollment in medical care services (MCS) coverage is subject to available funds.

(2) The medicaid agency may limit enrollment into MCS coverage by implementing an enrollment cap and wait list.

(3) If a person is denied MCS coverage due to an enrollment cap:

(a) The person is added to the MCS wait list based on the date the person applied.

(b) Applicants with the oldest application date will be the first to receive an opportunity for enrollment when MCS coverage is available as long as the person remains on the MCS wait list.

(4) A person is exempted from the enrollment cap and wait list rules when:

(a) MCS was terminated due to agency error;

(b) The person is in the (~~(thirty-day)~~) 30-day reconsideration period for incapacity reviews under WAC 388-447-0110(4);

(c) The person is being terminated from a categorically needy (CN) medical program and was receiving and eligible for CN coverage prior to the date a wait list was implemented and at the time their CN coverage ended, the person met eligibility criteria to receive benefits under either the aged, blind, or disabled program as described in WAC 388-400-0060 or the housing and essential needs referral program as described in WAC 388-400-0070; or

(d) The person applied for a determination by the department of social and health services (DSHS) to be eligible for benefits under (~~(either)~~) one of the following programs, but the determination was not completed before the enrollment cap effective date:

(i) The aged, blind, or disabled program as described in WAC 388-400-0060 (~~(or)~~);

(ii) The housing and essential needs referral program as described in WAC 388-400-0070 (~~(, but the determination was not completed prior to the enrollment cap effective date)~~); or

(iii) The survivors of certain crimes (SCC) program, as described in WAC 388-424-0035, which includes victims of human trafficking as described in RCW 74.04.005.

(5) The person is removed from the MCS wait list if the person:

(a) Is not a Washington resident;

(b) Is deceased;

(c) Requests removal from the wait list;

(d) Is found eligible for categorically or medically needy coverage; or

(e) Is no longer determined by DSHS to be eligible for benefits under (~~(either)~~):

(i) The aged, blind, or disabled program as described in WAC 388-400-0060 (~~(or)~~);

(ii) The housing and essential needs referral program as described in WAC 388-400-0070; or

(iii) The SCC program as described in WAC 388-424-0035.

[Statutory Authority: RCW 41.05.021, 41.05.160, Public Law 111-148, 42 C.F.R. § 431, 435, and 457, and 45 C.F.R. § 155. WSR 14-16-019, § 182-508-0150, filed 7/24/14, effective 8/24/14. Statutory Authority: RCW 41.05.021, 74.09.035, and 2011 1st sp.s. c 36. WSR 12-19-051, § 182-508-0150, filed 9/13/12, effective 10/14/12.]

WSR 22-02-047

PERMANENT RULES

HORSE RACING COMMISSION

[Filed January 3, 2022, 7:37 a.m., effective February 3, 2022]

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

Purpose: To amend the distribution of source market fee.

Citation of Rules Affected by this Order: Amending WAC 260-49-070
Distribution of source market fee.

Statutory Authority for Adoption: RCW 67.16.020.

Adopted under notice filed as WSR 21-21-055 on October 15, 2021.

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 1, Repealed 0.

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

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

Date Adopted: January 3, 2022.

Douglas L. Moore
Executive Secretary

OTS-3333.1

AMENDATORY SECTION (Amending WSR 20-19-062, filed 9/11/20, effective 10/12/20)

WAC 260-49-070 Distribution of source market fee. (1) A source market fee shall be paid monthly, unless otherwise directed by the commission, for the source market fee area on all accounts that have Washington as the principal residence address.

(2) The authorized advance deposit wagering service provider shall, at least monthly, unless otherwise directed by the commission, distribute the total source market fee as follows:

(a) (~~(Ninety)~~) One hundred percent of the total source market fee directly to the class 1 racing association (~~(and the remaining ten percent directly to the commission)~~).

(b) The class 1 racing association shall submit monthly (~~(two and one-half)~~) eight percent of the total source market fee to the commission of which two and one-half percent to be deposited into the Washington bred owners' bonus fund and five and one-half percent to be deposited into the commission's operating account.

(c) The class 1 racing association shall distribute two and one-half percent of the total source market fee to the Washington bred breeder award account as provided in RCW 67.16.175.

(d) The class 1 racing association and the recognized horsemen's organization shall negotiate a separate agreement for contributions to

the purse account from the source market fee and submit the agreement for review and approval by the commission. The class 1 racing association shall distribute the horsemen's share of the source market fee in accordance with the horseman's agreement.

(3) The commission shall annually review the distribution of the source market fee. Any changes to the distribution shall be adopted by rule.

[Statutory Authority: RCW 67.16.020. WSR 20-19-062, § 260-49-070, filed 9/11/20, effective 10/12/20; WSR 11-17-056, § 260-49-070, filed 8/15/11, effective 9/15/11. Statutory Authority: RCW 67.16.020 and 67.16.040. WSR 09-21-015, § 260-49-070, filed 10/9/09, effective 11/9/09; WSR 05-19-015, § 260-49-070, filed 9/9/05, effective 10/10/05. Statutory Authority: RCW 67.16.020. WSR 04-21-053, § 260-49-070, filed 10/18/04, effective 11/18/04.]

WSR 22-02-056

PERMANENT RULES

DEPARTMENT OF LICENSING

[Filed January 4, 2022, 9:31 a.m., effective February 4, 2022]

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

Purpose: To update WAC 308-56A-460 to reflect a new market value threshold, as required by RCW 46.12.600.

Subsection (3) should read: "The current market value threshold amount is eight thousand two hundred thirty dollars [\$8,230]."

Citation of Rules Affected by this Order: Amending WAC 308-56A-460.

Statutory Authority for Adoption: RCW 46.12.600.

Adopted under notice filed as WSR 21-22-096 on November 2, 2021.

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 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: January 4, 2022.

Ellis Starrett
Rules and Policy Manager

OTS-3428.1

AMENDATORY SECTION (Amending WSR 20-19-113, filed 9/21/20, effective 10/22/20)

WAC 308-56A-460 Destroyed or wrecked vehicle—Reporting—Rebuilt.

(1) **What are total loss, destroyed, salvage, and wrecked vehicles?** For the purposes of this section:

(a) A total loss vehicle is one whose destruction has been reported to the department as described in RCW 46.12.600 by an insurer (insurance companies and self-insurers as described in RCW 46.29.630);

(b) A destroyed vehicle is one whose destruction has been reported to the department as described in RCW 46.12.600 by the vehicle's owner;

(c) A salvage vehicle as defined in RCW 46.04.514;

Note: When used in this section, the terms "destroyed" and "destroyed vehicle" include total loss, destroyed, and salvage vehicles.

(d) A wrecked vehicle as defined in RCW 46.80.010(6).

Note: A vehicle may be considered destroyed or wrecked when the evidence of ownership is a salvage certificate/title, insurance company bill of sale, or wrecker bill of sale from any jurisdiction, or when the evidence of ownership indicates the vehicle may be a destroyed vehicle not reported to the department.

(2) **How are vehicles reported to the department as total loss, destroyed, salvage, or wrecked?**

(a) Insurers may report total loss vehicles to the department:

(i) Electronically through the department's online reporting system. Insurers must destroy ownership documents for a vehicle reported this way; or

(ii) By submitting the certificate of title or affidavit in lieu of title indicating the vehicle is "DESTROYED"; or

(iii) By submitting a completed total loss claim settlement form.

Note: Reports of total loss vehicles must include the insurer's name, address, and the date of loss.

(b) Registered or legal owners report a vehicle as destroyed by submitting the certificate of title or affidavit in lieu of title indicating the vehicle is "DESTROYED," and must include the registered owner's name, address, and date of loss.

(c) Licensed wreckers report wrecked vehicles as required in RCW 46.80.090.

(d) For vehicles six through (~~twenty~~) 20 years old a statement whether or not the vehicle meets the market value threshold amount as defined in RCW 46.12.600 is also required.

(3) **What is the current market value threshold amount?** The current market value threshold amount is (~~eight thousand ten dollars~~) \$8,230.

(4) **How is the market value threshold amount determined?** Using the current market value threshold amount described in RCW 46.12.600 each year the department will add the increased value if the increase is equal to or greater than (~~fifty dollars~~) \$50.

(5) **What if the "market value threshold amount" is not provided as required?** If the market value threshold amount is not provided when required, the department would treat the report of destruction as if the market value threshold as described in RCW 46.12.600 has been met. The certificate of title will be branded according to WAC 308-56A-530.

(6) **What documentation is required to obtain a certificate of title after a vehicle is destroyed?** After a vehicle has been reported destroyed or wrecked and is rebuilt, you must submit the following documentation to the department in order to obtain a new certificate of title:

(a) Application for certificate of title as described in RCW 46.12.530;

(b) Certificate of vehicle inspection as described in WAC 308-56A-150;

(c) Bill of sale from the insurer, owner, or wrecker who reported the vehicle's destruction to the department.

(i) Bills of sale from insurers must include a representative's signature and title of office;

(ii) Bills of sale from insurers and wreckers do not need to be notarized;

(iii) Bills of sale from owners shown on department records must be notarized or certified;

(iv) A bill of sale is not required when owners shown on department records retain a destroyed vehicle and apply for a new certificate of ownership;

(v) Releases of interest from lien holder(s) or proof of payment such as a canceled check bearing a notation that it has been paid by the bank on which it was drawn or a notarized statement on a receipt from the legal owner that the debt is satisfied are required when the vehicle is retained by the registered owner(s).

(d) Odometer disclosure statement, if applicable.

(7) **What is required of a Washington licensed vehicle dealer prior to selling a destroyed or wrecked vehicle?** Except as permitted by RCW 46.70.101 (1)(b)(viii), before a dealer may sell a destroyed or wrecked vehicle under their Washington vehicle dealer license, the dealer must:

(a) Rebuild the vehicle to standards set by the state of Washington or the federal government pertaining to the construction and safety of vehicles; and

(b) Obtain a vehicle inspection by the Washington state patrol; and

(c) Apply for and receive a certificate of ownership for the vehicle, issued in the name of the vehicle dealer.

(8) **Once a destroyed or wrecked vehicle is rebuilt, do the license plates remain with the vehicle?** Whether or not the license plates remain with the vehicle depends on the circumstance:

(a) Standard issue license plates may remain with a destroyed vehicle unless they are severely damaged or the vehicle was issued a department temporary permit described in WAC 308-56A-140;

(b) Replacement license plates are required for wrecked vehicles since Washington licensed wreckers are required by WAC 308-63-070 to remove them;

(c) Special license plates may remain with or be transferred to a destroyed or wrecked vehicle;

(d) Applicants may retain the current license plate number as provided for in RCW 46.16A.200, unless the vehicle was issued a department temporary permit as described in WAC 308-56A-140.

(9) **Will the certificate of ownership or registration certificate indicate "WA REBUILT"?** Salvage or wrecked vehicles meeting the criteria described in WAC 308-56A-530 will be branded "WA REBUILT."

[Statutory Authority: RCW 46.12.600. WSR 20-19-113, § 308-56A-460, filed 9/21/20, effective 10/22/20; WSR 19-13-008, § 308-56A-460, filed 6/6/19, effective 7/7/19. Statutory Authority: RCW 46.01.110 and 46.12.600. WSR 12-20-032, § 308-56A-460, filed 9/27/12, effective 10/28/12; WSR 11-22-034, § 308-56A-460, filed 10/26/11, effective 11/26/11. Statutory Authority: RCW 46.01.110. WSR 10-19-045, § 308-56A-460, filed 9/13/10, effective 10/14/10. Statutory Authority: RCW 46.12.005 and 46.01.110. WSR 09-19-113, § 308-56A-460, filed 9/22/09, effective 10/23/09. Statutory Authority: RCW 46.01.110. WSR 04-08-080, § 308-56A-460, filed 4/6/04, effective 5/7/04; WSR 02-19-016, § 308-56A-460, filed 9/9/02, effective 10/10/02; WSR 01-20-010, § 308-56A-460, filed 9/20/01, effective 10/21/01. Statutory Authority: RCW 46.01.110 and 46.12.070. WSR 00-06-025, § 308-56A-460, filed 2/23/00, effective 3/25/00. Statutory Authority: RCW 46.01.110. WSR 92-15-024, § 308-56A-460, filed 7/6/92, effective 8/6/92. Statutory Authority: RCW 46.01.110 and 46.12.070. WSR 91-04-025, § 308-56A-460, filed 1/29/91, effective 3/1/91; Order MV 208, § 308-56A-460, filed 7/31/74.]

WSR 22-02-063
PERMANENT RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

(Division of Child Support)

[Filed January 4, 2022, 12:09 p.m., effective February 4, 2022]

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

Purpose: This proposal implements incarceration abatement and modification request/hearing notification service as enacted in SHB 2302 (chapter 227, Laws of 2020). Establishes the process by which qualifying incarcerated individuals have their child support obligations abated. Also clarifies under WAC 388-14A-3925 that the office of administrative hearings, not the division of child support, serves copies of requests for modification and notice of hearings.

Citation of Rules Affected by this Order: New WAC 388-14A-3935, 388-14A-3940, 388-14A-3945, 388-14A-3950, 388-14A-3955, 388-14A-3960, 388-14A-3965, 388-14A-3970 and 388-14A-3975; and amending WAC 388-14A-1020, 388-14A-3800, 388-14A-3900, 388-14A-3901, 388-14A-3903, 388-14A-3925, and 388-14A-6100.

Statutory Authority for Adoption: RCW 26.09.916, 74.08.090, 74.20A.055.

Adopted under notice filed as WSR 21-22-071 on October 29, 2021.

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 9, Amended 7, 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 9, Amended 7, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 9, Amended 7, 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 9, Amended 7, Repealed 0.

Date Adopted: December 29, 2021.

Katherine I. Vasquez
Rules Coordinator

SHS-4852.4

AMENDATORY SECTION (Amending WSR 19-02-017, filed 12/21/18, effective 1/21/19)

WAC 388-14A-1020 What definitions apply to the rules regarding child support enforcement? For purposes of this chapter, the following definitions apply:

"Abatement" means the temporary reduction of child support obligations of an incarcerated person who is required to pay support.

"Absence of a court order" means that there is no court order either setting a support obligation for the noncustodial parent (NCP),

or specifically relieving the NCP of a support obligation, for a particular child.

"Absent parent" is a term used for a noncustodial parent.

"Accessible coverage" means health care coverage which provides primary care services to the children with reasonable effort by the custodial parent.

"Accrued debt" means past-due child support which has not been paid.

"Acknowledged father" means a man who has established a father-child relationship by:

(1) Signing a valid acknowledgment of paternity under RCW 26.26.300 through 26.26.375 prior to January 1, 2019;

(2) Signing a valid acknowledgment of parentage under RCW 26.26A.200 through 26.26A.265 on or after January 1, 2019; or

(3) Signing a valid acknowledgment of paternity or parentage under another jurisdiction's laws.

"Acknowledged parent" means an individual who, after January 1, 2019, has established a parent-child relationship by signing a valid acknowledgment of parentage under RCW 26.26A.200 through 26.26A.265.

"Adjudicated parent" means a person who has been adjudicated by a court of competent jurisdiction to be the parent of a child.

"Administrative order" means a determination, finding, decree or order for support issued under RCW 74.20A.055, 74.20A.056, or 74.20A.059 or by the agency of an Indian tribe or another state or country's agency under an administrative process, establishing the existence of a support obligation (including medical support) and ordering the payment of a set or determinable amount of money for current support and/or a support debt. Administrative orders include:

(1) An order entered under chapter 34.05 RCW;

(2) An agreed settlement or consent order entered under WAC 388-14A-3600; and

(3) A support establishment notice which has become final by operation of law.

"Agency" means the Title IV-D provider of a state or tribe, or the central authority of another country. For the state of Washington, the Title IV-D provider is the division of child support (DCS) within the department of social and health services (DSHS).

"Agreed settlement" is an administrative order that reflects the agreement of the noncustodial parent, the custodial parent and the division of child support. An agreed settlement does not require the approval of an administrative law judge.

"Aid" or "public assistance" means cash assistance under the temporary assistance for needy families (TANF) program, the aid to families with dependent children (AFDC) program, federally funded or state-funded foster care, and includes day care benefits and medical benefits provided to families as an alternative or supplement to TANF.

"Alternate recipient" means a child of the employee or retiree named within a support order as being entitled to coverage under an employer's group health plan.

"Annual fee" means the fee charged on never-assistance cases based on the amount of collections between October 1 and September 30 each year, required by the Federal Deficit Reduction Act of 2005 and RCW 74.20.040.

"Applicant/custodian" means a person who applies for nonassistance support enforcement services on behalf of a child or children residing in their household.

"Applicant/recipient," "applicant," and "recipient" means a person who receives public assistance on behalf of a child or children residing in their household.

"Arrears" means the debt amount owed for a period of time before the current month.

"Assistance" means cash assistance under the state program funded under Title IV-A of the federal Social Security Act.

"Assistance unit" means a cash assistance unit as defined in WAC 388-408-0005. An assistance unit is the group of people who live together and whose income or resources the department counts to decide eligibility for benefits and the amount of benefits.

"Birth costs" means medical expenses incurred by the custodial parent or the state, tribe, or country for the birth of a child.

"Cash medical support" means a combination of:

(1) A parent's monthly payment toward the premium paid for coverage provided by a public entity or by another parent, which represents the obligated parent's proportionate share of the premium paid, but this amount is limited to no more than twenty-five percent of the obligated parent's basic support obligation; and

(2) A parent's proportionate share of uninsured medical expenses.

"Central authority" means the agency designated by a government to facilitate support enforcement with a foreign reciprocating country (FRC) pursuant to section 459A of the federal Social Security Act.

"Child," for the purposes of this chapter, means:

(a) An individual for whom a child support obligation is being established or enforced; or

(b) A dependent child as defined in RCW 74.20A.020(3); and

(c) Unless the context or the facts of a particular case clearly requires otherwise, "child" may be used interchangeably with the term "children."

"Children," for the purpose of this chapter, means more than one child, unless the context or the facts of a particular case clearly requires the term to refer to only one child.

"Conditionally assigned arrears" means those temporarily assigned arrears remaining on a case after the period of public assistance ends.

"Conference board" means a method used by the division of child support for resolving complaints regarding DCS cases and for granting exceptional or extraordinary relief from debt.

"Consent order" means a support order that reflects the agreement of the noncustodial parent, the custodial parent and the division of child support. A consent order requires the approval of an administrative law judge.

"Controlling order" means the only order issued or, where multiple orders exist, the order determined by a tribunal to control prospective current support pursuant to the Uniform Interstate Family Support Act (UIFSA), chapter 26.21A RCW.

"Controlling order state" means the state in which the only order was issued or, where multiple orders exist, the state in which the order determined by a tribunal to control prospective current support pursuant to the UIFSA was issued.

"Country" means a foreign country (or a political subdivision thereof) declared to be a Foreign Reciprocating Country (FRC) under 42 U.S.C. 659A and any foreign country (or political subdivision thereof) with which the state has entered into a reciprocal arrangement for the establishment and enforcement of support obligations to the extent consistent with federal law pursuant to 42 U.S.C. 659A.

"Court order" means a judgment, decree or order of a Washington state superior court, or a court of comparable jurisdiction of an Indian tribe or another state or country.

"Current support" or **"current and future support"** means the amount of child support which is owed for each month.

"Custodial parent or CP" means the person, whether a parent or not, with whom a dependent child resides the majority of the time period for which the division of child support seeks to establish or enforce a support obligation.

"Date the state assumes responsibility for the support of a dependent child on whose behalf support is sought" means the date that the TANF or AFDC program grant is effective. For purposes of this chapter, the state remains responsible for the support of a dependent child until public assistance terminates, or support enforcement services end, whichever occurs later.

"Delinquency" means failure to pay current child support when due.

"Department" means the Washington state department of social and health services (DSHS).

"Dependent child" means a person:

(1) Seventeen years of age or younger who is not self-supporting, married, or a member of the United States armed forces;

(2) Eighteen years of age or older for whom a court order requires support payments past age eighteen;

(3) Eighteen years of age or older, but under nineteen years of age, for whom an administrative support order exists if the child is participating full-time in a secondary school program or the same level of vocational or technical training.

"Determination of parentage" means the establishment of the parent-child relationship by:

(1) A judicial proceeding;

(2) The signing of a valid acknowledgment of paternity under:

(a) RCW 26.26.300 through 26.26.375 prior to January 1, 2019; or

(b) Another jurisdiction's laws dealing with the acknowledgment or affidavit of paternity or the acknowledgment of parentage; or

(3) The signing of a valid acknowledgment of parentage under RCW 26.26A.200 through 26.26A.265 on or after January 1, 2019.

"Differentiated support amount" means an amount of child support that represents a parent's support obligation for more than one child and may justifiably be divided into "per child" amounts for each child covered by the support order, based on information contained in the support order.

"Differentiated support order" means a child support order which provides a monthly amount of child support for two or more children, and either provides a specific support obligation for each child or provides enough information in the order so that the monthly amount may justifiably be divided into a "per child" amount for each child covered by the support order.

"Disbursement" means the amount of child support distributed to a case that is paid to the family, state, other child support enforcement agency in another state or foreign country, Indian tribe, or person or entity making the payment.

"Disposable earnings" means the amount of earnings remaining after the deduction of amounts required by law to be withheld.

"Distribution" means how a collection is allocated or split within a case or among multiple cases.

"Domestic partner" means a state registered domestic partner as defined in chapter 26.60 RCW.

"Earnings" means compensation paid or payable for personal service. Earnings include:

- (1) Wages or salary;
- (2) Commissions and bonuses;
- (3) Periodic payments under pension plans, retirement programs, and insurance policies of any type;
- (4) Disability payments under Title 51 RCW;
- (5) Unemployment compensation under RCW 50.40.020, 50.40.050 and Title 74 RCW;
- (6) Benefits under the family and medical leave insurance program under Title 50A RCW;
- (7) Gains from capital, labor, or a combination of the two; and
- (8) The fair value of nonmonetary compensation received in exchange for personal services.

"Employee" means a person to whom an employer is paying, owes, or anticipates paying earnings in exchange for services performed for the employer.

"Employer" means any person or organization having an employment relationship with any person. This includes:

- (1) Partnerships and associations;
- (2) Trusts and estates;
- (3) Joint stock companies and insurance companies;
- (4) Domestic and foreign corporations;
- (5) The receiver or trustee in bankruptcy; and
- (6) The trustee or legal representative of a deceased person.

"Employment" means personal services of whatever nature, including service in interstate commerce, performed for earnings or under any contract for personal services. Such a contract may be written or oral, express or implied.

"Family" means the person or persons on whose behalf support is sought, which may include a custodial parent and one or more children, or one or more children in foster care placement. The family is sometimes called the assistance unit.

"Family arrears" means the amount of past-due support owed to the family, which has not been conditionally, temporarily or permanently assigned to a state. Also called "nonassistance arrears."

"Family member" means the caretaker relative, the child or children, and any other person whose needs are considered in determining eligibility for assistance.

"Foreign order" means a court or administrative order entered by a tribunal other than one in the state of Washington, including an order entered by a tribunal in an Indian tribe or another state or country.

"Foreign reciprocating country" or FRC means a country which the federal government has declared to be a foreign reciprocating country, which means that the foreign country has established, or undertakes to establish, procedures for the establishment and enforcement of duties of support owed to custodial parents who are residents of the United States, and that such procedures are substantially in conformity with the standards prescribed under title IV-D of the federal Social Security Act.

"Foster care case" means a case referred to the Title IV-D agency by the Title IV-E agency, which is the department of children, youth, and families (DCYF).

"Fraud," for the purposes of vacating an agreed settlement or consent order, means:

- (1) The representation of the existence or the nonexistence of a fact;
- (2) The representation's materiality;
- (3) The representation's falsity;
- (4) The speaker's knowledge that the representation is false;
- (5) The speaker's intent that the representation should be acted on by the person to whom it is made;
- (6) Ignorance of the falsity on the part of the person to whom it is made;
- (7) The latter's:
 - (a) Reliance on the truth of the representation;
 - (b) Right to rely on it; and
 - (c) Subsequent damage.

"Full support enforcement services" means the entire range of services available in a Title IV-D case.

"Good cause" for the purposes of late hearing requests and petitions to vacate orders on default means a substantial reason or legal justification for delay, including but not limited to the grounds listed in civil rule 60. The time periods used in civil rule 60 apply to good cause determinations in this chapter.

"Head of household" means the parent or parents with whom the dependent child or children were residing at the time of placement in foster care.

"Health care costs" means medical expenses. Certain statutes in chapter 26.19 RCW refer to medical expenses as health care costs.

"Health care coverage" means fee for service, health maintenance organization, preferred provider organization, and other types of private health insurance and public health care coverage under which medical services could be provided to a dependent child or children. These services include, but are not limited to: Medical/surgical (inpatient, outpatient, physician) care, medical equipment (crutches, wheel chairs, prosthesis, etc.), pharmacy products, optometric care, dental care, orthodontic care, preventive care, mental health care, and physical therapy. The term "health care coverage" includes, but is not limited to, health insurance coverage.

"Health insurance" or **"health insurance coverage"** is included in the definition of "health care coverage." Health insurance coverage includes any coverage under which medical services are provided by an employer or a union whether that coverage is provided through a self-insurance program, under the employee retirement income security act of 1974, a commercial insurer pursuant to chapters 48.20 and 48.21 RCW, a health care service contractor pursuant to chapter 48.44 RCW, or a health maintenance organization pursuant to chapter 48.46 RCW, and the state through chapter 41.05 RCW.

"Hearing" means an adjudicative proceeding authorized by this chapter, or chapters 26.23, 74.20 and 74.20A RCW, conducted under chapter 388-02 WAC and chapter 34.05 RCW.

"I/me" means the person asking the question which appears as the title of a rule.

"Incarcerated person" for purposes of abatement means a person who is totally or partially confined in a jail, prison, or correctional facility for at least six months or is serving a sentence of at least six months in a jail, prison, or correctional facility.

"Income" includes:

- (1) All gains in real or personal property;

(2) Net proceeds from the sale or exchange of real or personal property;

(3) Earnings;

(4) Interest and dividends;

(5) Proceeds of insurance policies;

(6) Other periodic entitlement to money from any source; and

(7) Any other property subject to withholding for support under the laws of this state.

"Income withholding action" includes all withholding actions which DCS is authorized to take, and includes but is not limited to the following actions:

(1) Asserting liens under RCW 74.20A.060;

(2) Serving and enforcing liens under chapter 74.20A RCW;

(3) Issuing orders to withhold and deliver under chapter 74.20A RCW;

(4) Issuing notices of payroll deduction under chapter 26.23 RCW; and

(5) Obtaining wage assignment orders under RCW 26.18.080.

"Initiating agency" or **"initiating jurisdiction"** means a state or Tribal IV-D agency or the central authority of another country, as defined in this rule, in which an individual has applied for or is receiving services.

"Intergovernmental IV-D case" means a IV-D case in which the non-custodial parent lives and/or works in a different jurisdiction than the custodial parent and children that has been referred by an initiating agency to a responding agency for services. An intergovernmental IV-D case may include any combination of referrals between states, tribes, and countries. An intergovernmental IV-D case also may include cases in which a state agency is seeking only to collect support arrearages, whether owed to the family or assigned to the state.

"Locate" can mean efforts to obtain service of a support establishment notice in the manner prescribed by WAC 388-14A-3105.

"Medical assistance" means medical benefits under Title XIX of the federal Social Security Act provided to families as an alternative or supplement to TANF. This term includes public health care coverage, which is called apple health in Washington state.

"Medical expenses," for the purpose of establishing support obligations under RCW 26.09.105, 74.20A.055 and 74.20A.056, or for the purpose of enforcement action under chapters 26.18, 26.23, 74.20 and 74.20A RCW, including the notice of support debt and the notice of support owed, means medical costs incurred on behalf of a child, which include:

- Medical services related to an individual's general health and well-being, including but not limited to, medical/surgical care, preventive care, mental health care and physical therapy; and
- Prescribed medical equipment and prescribed pharmacy products;
- Health care coverage, such as coverage under a health insurance plan, including the cost of premiums for coverage of a child;
- Dental, orthodontic, and optometrical costs incurred on behalf of a child; and
- Copayments and/or deductibles incurred on behalf of a child.

Medical expenses are sometimes also called health care costs or medical costs.

"Medical support" consists of:

(1) Health care coverage, which may be health insurance coverage or public health care coverage; and

(2) Cash medical support, which consists of:

(a) A parent's monthly payment toward the premium paid for coverage provided by a public entity or by another parent, which represents the obligated parent's proportionate share of the premium paid, but no more than twenty-five percent of the obligated parent's basic support obligation; and

(b) A parent's proportionate share of uninsured medical expenses.

"Monthly payment toward the premium" means a parent's contribution toward premiums paid for coverage provided by a public entity or by another parent, which is based on the obligated parent's proportionate share of the premium paid, but is limited to no more than twenty-five percent of the obligated parent's basic support obligation.

"National Medical Support Notice" or **"NMSN"** is a federally mandated form that DCS uses to enforce a health insurance support obligation; the NMSN is a notice of enrollment as described in RCW 26.18.170.

"Noncustodial parent or NCP" means the natural or biological parent, adoptive parent, adjudicated parent, presumed parent, responsible stepparent or person who signed and filed an affidavit acknowledging paternity or parentage, from whom the state seeks support for a dependent child. A parent is considered to be an NCP when for the majority of the time during the period for which support is sought, the dependent child resided somewhere other than with that parent.

"Nonmedical expenses" means amounts incurred on behalf of a child which are not medical expenses as defined in this chapter. Nonmedical expenses include, but are not limited to, day care or other special childrearing expenses such as tuition and long-distance transportation costs to and from the parents for visitation purposes.

"Obligated parent" means a parent who is required under a child support order to provide medical support, which could include health care coverage or to reimburse the other parent for his or her share of uninsured medical expenses for a dependent child. The obligated parent could be either the NCP or the CP.

"Other ordinary expense" means an expense incurred by a parent which:

- (1) Directly benefits the dependent child; and
- (2) Relates to the parent's residential time or visitation with the child.

"Parent" means an individual who has established a parent-child relationship under:

- (1) RCW 26.26.101 prior to January 1, 2019;
- (2) RCW 26.26A.100 on or after January 1, 2019; or
- (3) Under the laws of another jurisdiction.

"Parent-child relationship" means the legal relationship between a child and a parent of the child. The term includes the mother-child relationship and the father-child relationship.

"Participant" means an employee or retiree who is eligible for coverage under an employer group health plan.

"Pass-through" means the portion of a support collection distributed to assigned support that the state pays to a family currently receiving TANF.

"Past support" means support arrears.

"Paternity testing" means blood testing or genetic tests of blood, tissue or bodily fluids. This is also called genetic testing.

"Payment services only" or **"PSO"** means a case on which the division of child support's activities are limited to recording and dis-

tributing child support payments, and maintaining case records. A PSO case is not a IV-D case.

"Permanently assigned arrears" means those arrears which the state may collect and retain up to the amount of unreimbursed assistance.

"Physical custodian" means custodial parent (CP).

"Plan administrator" means the person or entity which performs those duties specified under 29 U.S.C. 1002 (16) (A) for a health plan. If no plan administrator is specifically so designated by the plan's organizational documents, the plan's sponsor is the administrator of the plan. Sometimes an employer acts as its own plan administrator.

"Premium" means the amount paid for coverage provided by a public entity or by another parent for a child covered by a child support order. This term may also mean "cost of coverage."

"Presumed parent" means a person who, by operation of law under RCW 26.26.116, is recognized as the parent of a child until that status is rebutted or confirmed in a judicial proceeding.

"Private insurance" is a term used in this chapter to refer to accessible health insurance for a child provided by a parent without the need for service of a national medical support notice, and does not include public health care coverage provided by the state.

"Proportionate share" or **"proportional share"** means an amount equal to a parent's percentage share of the combined monthly net income of both parents as computed on the worksheets when determining a parent's child support obligation under chapter 26.19 RCW.

"Public health care coverage," sometimes called "state purchased health care," means state-financed or federally financed medical coverage, whether or not there is an assignment of rights. For children residing in Washington state, public health care coverage is called apple health; this includes coverage through the department of social and health services or the health care authority, except for coverage under chapter 41.05 RCW. For children residing outside of Washington, this includes coverage through another state's agencies that administer state purchased health care programs.

"Putative father" includes all men who may possibly be the father of the child or children on whose behalf the application for assistance or support enforcement services is made.

"Reasonable efforts to locate" means any of the following actions performed by the division of child support:

- (1) Mailing a support establishment notice to the noncustodial parent in the manner described in WAC 388-14A-3105;
- (2) Referral to a sheriff or other server of process, or to a locate service or department employee for locate activities;
- (3) Tracing activity such as:
 - (a) Checking local telephone directories and attempts by telephone or mail to contact the custodial parent, relatives of the non-custodial parent, past or present employers, or the post office;
 - (b) Contacting state agencies, unions, financial institutions or fraternal organizations;
 - (c) Searching periodically for identification information recorded by other state agencies, federal agencies, credit bureaus, or other record-keeping agencies or entities; or
 - (d) Maintaining a case in the division of child support's automated locate program, which is a continuous search process.
- (4) Referral to the state or federal parent locator service;

(5) Referral to the attorney general, prosecuting attorney, the IV-D agency of another state, or the Department of the Treasury for specific legal or collection action;

(6) Attempting to confirm the existence of and to obtain a copy of a paternity acknowledgment; or

(7) Conducting other actions reasonably calculated to produce information regarding the NCP's whereabouts.

"Required support obligation for the current month" means the amount set by a superior court order, tribal court order, or administrative order for support which is due in the month in question.

"Resident" means a person physically present in the state of Washington who intends to make their home in this state. A temporary absence from the state does not destroy residency once it is established.

"Residential care" means foster care, either state or federally funded.

"Residential parent" means the custodial parent (CP), or the person with whom the child resides that majority of the time.

"Responding agency" or **"responding jurisdiction"** means the agency that is providing services in response to a referral from an initiating agency in an intergovernmental IV-D case.

"Responsible parent" is a term sometimes used for a noncustodial parent.

"Responsible stepparent" means a stepparent who has established an in loco parentis relationship with the dependent child.

"Retained support," depending on the context in which it is used, can mean one of the following:

(1) An amount paid directly to the custodial parent by the non-custodial parent during a time when there is an open TANF grant, which the custodial parent does not immediately report or turn over to the department;

(2) A debt owed to the division of child support by anyone other than a noncustodial parent; or

(3) Amounts collected and retained by the division of child support which are applied to current or past due child support obligations which have been assigned to the state.

"Satisfaction of judgment" means payment in full of a court-ordered support obligation, or a determination that such an obligation is no longer enforceable.

"Secretary" means the secretary of the department of social and health services or the secretary's designee.

"Self-support reserve" or **"self support reserve"** means an amount equal to one hundred twenty-five percent of the federal poverty guideline for a one-person family.

"State" means a state or political subdivision, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a federally recognized Indian tribe or a foreign country.

"Superior court order" means a judgment, decree or order of a Washington state superior court, or of a court of comparable jurisdiction in an Indian tribe or another state or country.

"Support debt" means support which was due under a support order but has not been paid. This includes:

(1) Delinquent support;

(2) A debt for the payment of expenses for the reasonable or necessary care, support and maintenance including uninsured medical ex-

penses, birth costs, child care costs, and special child rearing expenses of a dependent child or other person;

(3) A debt under RCW 74.20A.100 or 74.20A.270; or

(4) Accrued interest, fees, or penalties charged on a support debt, and attorney's fees and other litigation costs awarded in an action under Title IV-D to establish or enforce a support obligation.

"Support enforcement services" means all actions the Title IV-D agency is required to perform under Title IV-D of the Social Security Act and state law.

"Support establishment notice" means a notice and finding of financial responsibility under WAC 388-14A-3115, a notice and finding of parental responsibility under WAC 388-14A-3120, or a notice and finding of medical responsibility under WAC 388-14A-3125.

"Support money" means money paid to satisfy a support obligation, whether it is called child support, spousal support, alimony, maintenance, reimbursement for uninsured medical expenses, health care coverage, or birth costs.

"Support obligation" means the obligation to provide for the necessary care, support and maintenance of a dependent child or other person as required by law, including health care coverage, uninsured medical expenses, birth costs, and child care or special child rearing expenses.

"Support order" means a court order, administrative order or tribal court order which contains a determination, finding, decree or order that sets a child support obligation (including medical support) and orders either the payment of a set or determinable amount of money for current support and/or a support debt, or the provision of medical support, or both. For purposes of abatement under this chapter, a support order includes the child support obligation and the obligations based on the terms of the basic child support order, such as those determined by notices of support owed.

"Temporarily assigned arrears" means those arrears which accrue prior to the family receiving assistance, for assistance applications dated on or after October 1, 1997, but before October 1, 2008. After the family terminates assistance, temporarily assigned arrears become conditionally assigned arrears.

"Temporary assistance for needy families," or "TANF" means cash assistance under the temporary assistance for needy families (TANF) program under Title IV-A of the Social Security Act.

"Title IV-A" means Title IV-A of the Social Security Act established under Title XX of the Social Security amendments and as incorporated in Title 42 U.S.C.

"Title IV-A agency" means the part of the department of social and health services which carries out the state's responsibilities under the temporary assistance for needy families (TANF) program (and the aid for dependent children (AFDC) program when it existed).

"Title IV-D" means Title IV-D of the Social Security Act established under Title XX of the Social Security amendments and as incorporated in Title 42 U.S.C.

"Title IV-D agency" or "IV-D agency" means the agency responsible for carrying out the Title IV-D plan in a state or tribe. For the state of Washington, this is the division of child support (DCS) within the department of social and health services (DSHS).

"Title IV-D case" is a case in which the division of child support provides services which qualifies for funding under the Title IV-D plan.

"Title IV-D plan" means the plan established under the conditions of Title IV-D and approved by the secretary, Department of Health and Human Services.

"Title IV-E" means Title IV-E of the Social Security Act established under Title XX of the Social Security amendments and as incorporated in Title 42 U.S.C.

"Title IV-E case" means a foster care case.

"Tribal TANF" means a temporary assistance for needy families (TANF) program run by a tribe.

"Tribunal" means a state court, tribal court, administrative agency, or quasi-judicial entity authorized to establish, enforce or modify support orders or to determine parentage, and includes such courts, agencies or entities in other states or countries.

"Underlying order" means an existing child support order for which DCS serves a notice of support owed under RCW 26.23.110 to determine a sum certain support obligation.

"Undifferentiated support amount" means an amount of child support that represents a parent's support obligation for more than one child which cannot justifiably be divided into "per child" amounts for each child covered by the support order.

"Undifferentiated support order" means a child support order which provides a monthly amount of child support for two or more children, but does not provide a specific support obligation for each child or does not contain enough information in either the order or the worksheets associated with the order to justify dividing the monthly amount into "per child" amounts for each child covered by the support order.

"Uninsured medical expenses," for the purpose of establishing or enforcing support obligations, means:

(1) Medical expenses not paid by insurance for medical, dental, orthodontic, prescription, and optometrical costs incurred on behalf of a child; and

(2) Premiums, copayments, or deductibles incurred on behalf of a child.

"Unreimbursed assistance" means the cumulative amount of assistance which was paid to the family and which has not been reimbursed by assigned support collections.

"Unreimbursed medical expenses" means any amounts paid by one parent for uninsured medical expenses, which that parent claims the obligated parent owes under a child support order, which percentage share is stated in the child support order itself, not just in the worksheets.

"Washington State Support Registry" or "WSSR" is the entity created under RCW 26.23.030 within the division of child support (DCS) which, among other duties, contains a central unit for the collection, accounting and disbursement of support payments.

"We" means the division of child support, part of the department of social and health services of the state of Washington.

"You" means the reader of the rules, a member of the public, or a recipient of support enforcement services.

[Statutory Authority: Part I of 2018 c 150 and RCW 26.09.105, 26.18.170, 26.23.050, 34.05.220 (1)(a), 34.05.350(1), 74.08.090, and 74.20.040(9). WSR 19-02-017, § 388-14A-1020, filed 12/21/18, effective 1/21/19. Statutory Authority: RCW 26.23.120, 34.05.350 (1)(b), 43.20A.550, 74.04.055, 74.08.090, 74.20.040(9), 74.20A.310 and 45 C.F.R. Parts 301.1, 302.36, 303.7, 303.11, 305.63, and 308.2. WSR

13-01-075, § 388-14A-1020, filed 12/18/12, effective 1/18/13. Statutory Authority: 2011 c 283, RCW 34.05.220, 43.20A.550, 74.04.055, 74.04.057, 74.08.090, 74.20A.055, 74.20A.056, and 74.20A.310. WSR 12-01-002, § 388-14A-1020, filed 12/7/11, effective 1/7/12. Statutory Authority: RCW 26.09.105(17), 26.18.170(19), 26.23.050(8), 26.23.110(14), 34.05.020, 34.05.060, 34.05.220, 74.08.090, 74.20.040, 74.20A.055(9), and 74.20A.056(11). WSR 11-12-006, § 388-14A-1020, filed 5/19/11, effective 6/19/11. Statutory Authority: RCW 26.18.170, 26.23.035, 26.23.050, [26.23.]110, 74.20.040, 74.20A.030, [74.20A.]055, [74.20A.]056, and 74.20A.310. WSR 09-02-059, § 388-14A-1020, filed 1/5/09, effective 1/27/09. Statutory Authority: 2007 c 143, §§ 1, 2, 3, 4, 5, 7, 8, and 9. WSR 08-12-029, § 388-14A-1020, filed 5/29/08, effective 7/1/08. Statutory Authority: RCW 74.20A.310, 45 C.F.R. 302.31 and 302.33. WSR 06-03-120, § 388-14A-1020, filed 1/17/06, effective 2/17/06. Statutory Authority: RCW 34.05.220(1), 74.08.090, 74.20A.055, 74.20A.056, 74.20A.310. WSR 05-14-101, § 388-14A-1020, filed 6/30/05, effective 7/31/05. Statutory Authority: RCW 74.08.090, 74.20A.310, and 26.18.170, 42 U.S.C. 666 (a)(19), Child Support Performance and Incentives Act of 1998, 45 C.F.R. 303.31, and 45 C.F.R. 303.32. WSR 04-17-119, § 388-14A-1020, filed 8/17/04, effective 9/17/04. Statutory Authority: RCW 74.08.090, 26.23.035, 34.05.220(1), 74.20A.055, 74.20A.056. WSR 01-03-089, § 388-14A-1020, filed 1/17/01, effective 2/17/01. Formerly WAC 388-11-011 and 388-14-020.]

AMENDATORY SECTION (Amending WSR 13-01-075, filed 12/18/12, effective 1/18/13)

WAC 388-14A-3800 Once a support order is entered, can it be changed? (1) A support order entered by a superior court may only be modified by a superior court or a court of comparable jurisdiction of an Indian tribe or another state or country. The Uniform Interstate Family Support Act (UIFSA, adopted in Washington as chapter 26.21A RCW) determines which state, tribe or country may modify the order.

(2) If the order specifically states how the amount of support may be adjusted, the division of child support (DCS) may bring an administrative action under RCW 26.23.110 and WAC 388-14A-3310.

(3) As provided in WAC 388-14A-3900, DCS may review any support order to determine whether DCS should petition to modify the support provisions of the order.

(4) Either DCS, the CP or the NCP may petition to modify an administrative order under WAC 388-14A-3925. Acting as a responding jurisdiction, DCS may petition to modify an administrative order at the request of the initiating jurisdiction.

(5) Under appropriate circumstances, an administrative support order may be vacated. See WAC 388-14A-3700.

(6) Child support orders may be changed under WAC 388-14A-3940 to include abatement language for purposes of abatement as required by this chapter.

[Statutory Authority: RCW 26.23.120, 34.05.350 (1)(b), 43.20A.550, 74.04.055, 74.08.090, 74.20.040(9), 74.20A.310 and 45 C.F.R. Parts 301.1, 302.36, 303.7, 303.11, 305.63, and 308.2. WSR 13-01-075, § 388-14A-3800, filed 12/18/12, effective 1/18/13. Statutory Authority: RCW 74.08.090, 34.05.310 (4)(d), chapter 26.19 RCW, RCW 34.05.220(1),

74.20A.055, 74.20A.056. WSR 03-20-072, § 388-14A-3800, filed 9/29/03, effective 10/30/03. Statutory Authority: RCW 74.08.090, chapter 26.19 RCW, 34.05.220(1), 74.20A.055, 74.20A.056. WSR 01-03-089, § 388-14A-3800, filed 1/17/01, effective 2/17/01. Formerly WAC 388-11-140.]

AMENDATORY SECTION (Amending WSR 13-01-075, filed 12/18/12, effective 1/18/13)

WAC 388-14A-3900 Does DCS review my support order to see if it should be modified? (1) When the division of child support (DCS) is providing support enforcement services under Title IV-D of the Social Security Act, DCS must:

(a) Review a superior court or administrative order for child support to determine whether DCS will petition to modify the child support provisions of the order; or

(b) Evaluate an intergovernmental case to determine whether to refer the case to an Indian tribe or another state or country for review of the support order for modification.

(2) Recipients of payment services only under WAC 388-14A-2000(1) are not eligible for a review of their support order under this section until they have submitted an application for support enforcement services.

(3) DCS reviews a child support order for the limited purpose of referring the order to the appropriate tribunal to add abatement language under WAC 388-14A-3940.

[Statutory Authority: RCW 26.23.120, 34.05.350 (1)(b), 43.20A.550, 74.04.055, 74.08.090, 74.20.040(9), 74.20A.310 and 45 C.F.R. Parts 301.1, 302.36, 303.7, 303.11, 305.63, and 308.2. WSR 13-01-075, § 388-14A-3900, filed 12/18/12, effective 1/18/13. Statutory Authority: RCW 74.08.090, 45 C.F.R. 302.70, 45 C.F.R. 303.7, 45 C.F.R. 303.8. WSR 01-03-089, § 388-14A-3900, filed 1/17/01, effective 2/17/01. Formerly WAC 388-11-143.]

AMENDATORY SECTION (Amending WSR 13-01-075, filed 12/18/12, effective 1/18/13)

WAC 388-14A-3901 Under what circumstances does DCS review a support order for modification? (1) The division of child support (DCS) reviews child support orders under WAC 388-14A-3900 when DCS has enough locate information to obtain personal service on both parties to the order; and:

(a) The department is paying public assistance or has determined that the children are eligible for medical assistance, and thirty-five months have passed since:

(i) DCS last reviewed the order under this section;

(ii) The order was last modified; or

(iii) The order was entered; or

(b) A party to the order, the IV-D agency of a tribe or another state, or the central authority of another country, submits a request for review to DCS and thirty-five months have passed since:

(i) DCS or another state or tribe's IV-D agency last reviewed the order under this section;

(ii) The order was last modified; or

(iii) The order was entered.

(2) DCS may refer a request for review to another state or tribe's IV-D agency for action.

(3) DCS reviews a child support order for the limited purpose of referring the order to the appropriate tribunal to add abatement language under WAC 388-14A-3940. A review under this subsection does not impact reviews conducted under subsections (1) or (2) of this section.

[Statutory Authority: RCW 26.23.120, 34.05.350 (1)(b), 43.20A.550, 74.04.055, 74.08.090, 74.20.040(9), 74.20A.310 and 45 C.F.R. Parts 301.1, 302.36, 303.7, 303.11, 305.63, and 308.2. WSR 13-01-075, § 388-14A-3901, filed 12/18/12, effective 1/18/13. Statutory Authority: RCW 74.08.090, 45 C.F.R. 302.70, 45 C.F.R. 303.7, 45 C.F.R. 303.8. WSR 01-03-089, § 388-14A-3901, filed 1/17/01, effective 2/17/01. Formerly WAC 388-11-143.]

AMENDATORY SECTION (Amending WSR 20-04-032, filed 1/28/20, effective 2/28/20)

WAC 388-14A-3903 How does DCS decide whether to petition for modification of a support order?

(1) The division of child support (DCS) petitions to modify a support order when DCS finds during the review that each of the following conditions are present:

(a) The proposed change in child support based on the Washington state child support schedule:

(i) Is at least fifteen percent above or below the current support obligation;

(ii) Is at least one hundred dollars per month above or below the current support obligation; and

(iii) Is at least a two thousand four hundred dollar change over the remaining life of the support order; or

(iv) Will provide enough income to:

(A) Make the family ineligible for public assistance if the non-custodial parent (NCP) pays the full amount due under the proposed order; or

(B) Allow a family, otherwise eligible for public assistance, to remain off of assistance.

(b) The case meets the legal requirements for modification under RCW 26.09.170, 74.20A.059, or WAC 388-14A-3925.

(2) DCS may petition to modify the order without regard to subsection (1)(a)(i) of this section if the reason DCS reviewed the order is the noncustodial parent's incarceration.

(3) DCS may petition to modify the order without regard to subsection (1)(a) of this section when:

(a) The order does not require the NCP to provide health insurance coverage for the children; and

(b) Health insurance coverage is available through the NCP's employer or union at a reasonable cost; or

(c) Both parties agree to an order modifying the support amount;
or

(d) DCS learns that an NCP is incarcerated and qualifies for abatement under this chapter and the child support order does not include abatement language.

[Statutory Authority: 2019 c 275 §§ 2 and 3, RCW 26.09.170, 74.20A.059, 26.09.105, 26.18.170, 74.04.055, 74.08.090, 74.20.040(9), and 74.20A.310. WSR 20-04-032, § 388-14A-3903, filed 1/28/20, effective 2/28/20. Statutory Authority: RCW 74.08.090, 45 C.F.R. 302.70, 45 C.F.R. 303.7, 45 C.F.R. 303.8. WSR 01-03-089, § 388-14A-3903, filed 1/17/01, effective 2/17/01. Formerly WAC 388-11-143.]

AMENDATORY SECTION (Amending WSR 19-02-017, filed 12/21/18, effective 1/21/19)

WAC 388-14A-3925 Who can ask to modify an administrative support order? (1) The division of child support (DCS), the custodial parent (CP) or the noncustodial parent (NCP) may file a petition and request a hearing to prospectively modify an administrative order for child support. The request must be in writing and must state:

- (a) Any circumstances that have changed;
- (b) Any relief requested; and
- (c) The proposed new support amount.

(2) The petitioning party must file the request for modification with DCS.

(3) Acting as a responding jurisdiction, DCS may file a petition to prospectively modify an administrative order for child support on behalf of an initiating jurisdiction in an intergovernmental case.

(4) ((DCS)) Office of Administrative Hearings serves a copy of the request for modification and notice of hearing on all other parties by ((first-class)) regular mail at their last known address ((last known to DCS)).

(5) DCS((7)) or the administrative law judge (ALJ)((, or the department review judge)):

(a) Prospectively modifies orders according to the terms of chapter 26.19 RCW and RCW 74.20A.059; and

(b) May only modify an order issued by a tribunal in another state according to the terms of RCW 26.21A.550.

(6) A request to add a requirement for the custodial parent (CP) to provide health care coverage, or to add a provision in the order to include the CP's share of uninsured medical expenses, is not by itself a sufficient basis for modification of the order.

(7) If the nonpetitioning party fails to appear at the hearing, the ALJ issues a default order based on the Washington state child support schedule and the worksheets submitted by the parties, considering the terms set out in the request for modification.

(8) If the petitioning party fails to appear at the hearing, the ALJ enters an order dismissing the petition for modification.

(9) If the petition for modification does not comply with the requirements of subsection (1)(a) and (b) of this section, the ALJ may:

(a) Dismiss the petition; or

(b) Continue the hearing to give the petitioning party time to amend according to WAC 388-14A-3275 or to complete the petition.

(10) The ALJ may set the effective date of modification as the date the order is issued, the date the request was made, or any time

in between. If an effective date is not set in the order, the effective date is the date the modification order is entered.

(11) For purposes of abatement under this chapter, DCS, the CP, or the NCP may seek changes to a child support order to add abatement language under WAC 388-14A-3940.

[Statutory Authority: Part I of 2018 c 150 and RCW 26.09.105, 26.18.170, 26.23.050, 34.05.220 (1) (a), 34.05.350(1), 74.08.090, and 74.20.040(9). WSR 19-02-017, § 388-14A-3925, filed 12/21/18, effective 1/21/19. Statutory Authority: RCW 26.23.120, 34.05.350 (1) (b), 43.20A.550, 74.04.055, 74.08.090, 74.20.040(9), 74.20A.310 and 45 C.F.R. Parts 301.1, 302.36, 303.7, 303.11, 305.63, and 308.2. WSR 13-01-075, § 388-14A-3925, filed 12/18/12, effective 1/18/13. Statutory Authority: 2007 c 143, §§ 1, 2, 3, 4, 5, 7, 8, and 9. WSR 08-12-029, § 388-14A-3925, filed 5/29/08, effective 7/1/08. Statutory Authority: RCW 34.05.220(2), 43.20A.550, 74.04.055, 74.08.090, 74.20.040, 74.20A.310. WSR 07-08-055, § 388-14A-3925, filed 3/29/07, effective 4/29/07. Statutory Authority: RCW 34.05.220(1), 74.08.090, 74.20A.055, 74.20A.056. WSR 02-06-098, § 388-14A-3925, filed 3/4/02, effective 4/4/02. Statutory Authority: RCW 74.08.090, 26.23.050, 74.20A.055, 74.20A.059. WSR 01-03-089, § 388-14A-3925, filed 1/17/01, effective 2/17/01. Formerly WAC 388-11-140.]

NEW SECTION

WAC 388-14A-3935 What does DCS do with respect to abatement when it learns the noncustodial parent is an incarcerated parent? (1) If the child support order contains abatement language, the division of child support (DCS) administers the abatement under WAC 388-14A-3945.

(2) If the child support order was entered in Washington state and does not contain abatement language, DCS refers the child support order to the appropriate tribunal for the limited purpose of adding abatement language under WAC 388-14A-3940, except as provided in subsection (3) of this section.

(3) DCS may review for modification under WAC 388-14A-3901 when the child support order does not contain abatement language and the department is paying public assistance for the child or children.

[]

NEW SECTION

WAC 388-14A-3940 Who can ask to add abatement language to an administrative support order? (1) The division of child support (DCS), the custodial parent (CP), or the noncustodial parent (NCP) may file a petition and request a hearing under chapter 26.09 RCW for the limited purpose of adding abatement language to an administrative order for child support.

(2) The petitioning party must submit the request to add abatement language to DCS.

(3) Acting as a responding jurisdiction, DCS may file a petition for the limited purposes of adding abatement language to an adminis-

trative order for child support on behalf of an initiating jurisdiction in an intergovernmental case.

(4) OAH serves a copy of the request to add abatement language and notice of hearing on all other parties by regular mail at their last known address.

(5) A hearing under this section:

(a) Is for the limited purpose of determining whether statutorily required abatement language under RCW 26.09.335 should be added to the administrative support order;

(b) Is separate from the administration of the abatement by DCS under WAC 388-14A-3945;

(c) Does not otherwise modify or adjust the administrative support order; and

(d) Does not impact DCS's or any party's right to request a prospective modification of the administrative support order under WAC 388-14A-3925.

(e) Does not impact when DCS reviews a support order for modification under WAC 388-14A-3901.

(6) DCS may enter into an agreed settlement or consent order with the parties under WAC 388-14A-3600 to add abatement language to an administrative support order.

(7) If the nonpetitioning party fails to appear at the hearing, the ALJ issues a default order against that party.

(8) If the petitioning party fails to appear at the hearing, the ALJ enters an order dismissing the petition.

[]

NEW SECTION

WAC 388-14A-3945 How does DCS administer abatement of an incarcerated person's child support order? (1) The division of child support (DCS) abates a noncustodial parent's (NCP's) child support order under this chapter when it learns that the NCP is an incarcerated person and all of the following are true:

(a) The NCP is incarcerated for or begins serving a sentence of at least six months in confinement;

(b) The child support order contains abatement language; and

(c) DCS has reviewed its records and determines the NCP has no access to or possession of income or assets to pay child support while incarcerated.

(2) There is a rebuttable presumption that an incarcerated person has no access to or possession of income or assets to pay child support while incarcerated. DCS may assert it has rebutted the presumption. See WAC 388-14A-3955.

(3) When the requirements of subsection (1) of this section are met, the child support order is abated to ten dollars per month without regard to the number of children covered by that order.

(4) The first month support is abated is the date the NCP became confined or February 1, 2021, whichever is later.

(5) The abatement ends on the last day of the third full month following the NCP's release from confinement, unless an order entered in the court or administrative forum specifies a different date.

- (6) DCS sends a notice of abatement to notify the custodial parent (CP) by regular mail to their last known address, with a copy to the NCP, that the abatement has been applied.
- (7) If the CP disagrees with the notice of abatement, the CP may:
- (a) Request a timely hearing within twenty days of the date of the notice of abatement (see WAC 388-14A-3965);
 - (b) Request an untimely hearing within one year of the date of the notice of abatement (see WAC 388-14A-3965); or
 - (c) Request in writing to terminate or reverse the abatement at any time during the period of abatement (see WAC 388-14A-3970).
- (8) If the NCP disagrees with the notice of abatement, the NCP may request in writing to terminate or reverse the abatement at any time during the period of abatement (see WAC 388-14A-3960).
- (9) If the abatement results in an overpayment by the NCP:
- (a) Neither DCS nor the CP is required to refund any support collections or payments received by DCS prior to the date on which DCS learned of the incarceration; and
 - (b) The NCP is not entitled to a refund of any support collections or payments received by DCS prior to the date on which DCS learned of the incarceration.
- (10) Abatement of a child support obligation of an incarcerated person does not constitute modification or adjustment of the order.

[]

NEW SECTION

WAC 388-14A-3950 What does DCS do to reinstate the support order when the NCP is released from confinement? (1) Unless otherwise specified in a court or administrative order, the support order is automatically reinstated as follows:

- (a) Effective the first day of the fourth full month after the NCP is released from confinement, support is reinstated at fifty percent of the support amount provided in the underlying order, but not less than the presumed minimum obligation of \$50 per month per child; and
 - (b) Effective one year after release from confinement, support is reinstated at one hundred percent of the support amount provided in the underlying order.
- (2) DCS informs the parties in writing at their last known address when reinstating support at fifty percent and one hundred percent.
- (3) If the support order is modified under RCW 26.09.170 or RCW 74.20A.059 during the period of abatement, this provision regarding reinstatement of support at fifty percent in subsection (1) of this section does not apply. DCS enforces the modified support obligation.

[]

NEW SECTION

WAC 388-14A-3955 What does DCS do when it determines an incarcerated person's support order should not be abated? (1) If DCS re-

views its records and determines the NCP has access to or possession of income or assets to pay child support while incarcerated, DCS sends a notice regarding non-abatement of child support, sometimes called the notice regarding non-abatement, to the NCP and a copy to the custodial parent (CP).

(a) There is a rebuttable presumption that an incarcerated person has no access to or possession of income or assets available to pay child support while incarcerated.

(b) The notice regarding non-abatement includes the reason or reasons DCS believes it has rebutted the presumption that the NCP is unable to pay their child support obligation while incarcerated.

(2) The parties may request an adjudicative proceeding if they disagree with the notice regarding non-abatement.

(a) The parties may request a timely hearing within twenty days of the date of the notice regarding non-abatement.

(b) The parties may request an untimely hearing within one year of the date of the notice regarding non-abatement.

(c) The parties may request a late hearing one year or more after the after the date of the notice regarding non-abatement but must demonstrate good cause.

(3) For purposes of this chapter, correctional industries compensation does not count as income or assets to pay child support.

[]

NEW SECTION

WAC 388-14A-3960 What happens at a hearing on a notice regarding non-abatement of child support? (1) The noncustodial parent (NCP) or custodial parent (CP) may request a hearing on a notice regarding non-abatement of child support, sometimes called the notice regarding non-abatement.

(2) The purpose of the hearing is for the administrative law judge (ALJ) to determine whether DCS's notice is upheld or dismissed.

(3) The ALJ must allow DCS to orally amend the notice regarding non-abatement at the hearing to conform to the evidence. The ALJ may grant a continuance, if necessary, to allow the parties additional time to present evidence or argument in response to the amendment.

(4) The administrative law judge issues an order:

(a) Upholding DCS's determination that support should not be abated because the NCP has access to or possession of income or assets to pay child support while incarcerated; or

(b) Dismissing the notice regarding non-abatement because the NCP does not have access to or possession of income or assets to pay child support while incarcerated.

(5) If the order says child support should be abated, DCS abates and sends a notice of abatement to the parties. See WAC 388-14A-3940.

[]

NEW SECTION

WAC 388-14A-3965 What happens at a hearing on a notice of abatement? (1) The custodial parent (CP) has the burden of proof to demonstrate to the administrative law judge (ALJ) that the NCP has access to or possession of income or assets to pay child support while incarcerated.

(2) Any party to the hearing may show good cause why the abatement should end and support reinstated at a date other than what is specified in WAC 388-14A-3945.

(3) The ALJ must allow DCS to orally amend the notice of abatement at the hearing to conform to the evidence. The ALJ may grant a continuance, if necessary, to allow the parties additional time to present evidence or argument in response to the amendment.

(4) The administrative law judge issues an order:

(a) Upholding the notice of abatement;

(b) Upholding the notice of abatement and, upon a finding of good cause, specifying the date abatement ends; or

(c) Dismissing the notice of abatement because the objecting party met the burden of proof to show that NCP has access to or possession of income or assets to pay child support while incarcerated.

[]

NEW SECTION

WAC 388-14A-3970 Who may request to terminate or reverse an abatement? (1) The division of child support (DCS), the custodial parent (CP), or the noncustodial parent (NCP) may submit a request to terminate or reverse an abatement at any time during the period of abatement. The request must be in writing.

(a) If DCS or the CP is the requesting party, they must include documents or other evidence demonstrating that the NCP has access to or possession of income or assets to pay child support while incarcerated.

(b) If the NCP is the requesting party, no supporting documents are required.

(2) The requesting party must file the request to terminate or reverse the abatement with DCS or the office of administrative hearings (OAH).

(3) Acting as a responding jurisdiction, DCS may file a request to terminate or reverse an abatement on behalf of an initiating jurisdiction in an intergovernmental case.

[]

NEW SECTION

WAC 388-14A-3975 What happens at a hearing to terminate or reverse an abatement? (1) If the requesting party was required to submit supporting documents and did not do so, any other party may file a motion to dismiss. The requesting party may ask for a continuance to provide supporting documents.

(2) If the hearing is dismissed because supporting documents were not submitted, the requesting party may file a petition to vacate the dismissal.

(3) If a hearing is held, the ALJ may reverse the abatement or terminate the abatement on a specific date upon a finding that the NCP has access to or possession of assets or income to provide support while incarcerated.

(4) If the requesting party fails to appear after being sent a notice of hearing, the request must be dismissed.

(5) Depending on the type of evidence provided at the hearing, the ALJ may order that the abatement of the support order be:

(a) Reversed, meaning that the determination that support should be abated is vacated and all amounts owed under the support order are reinstated; or

(b) Terminated, meaning that the abatement of support ends as of the date specified in the order.

[]

AMENDATORY SECTION (Amending WSR 07-08-055, filed 3/29/07, effective 4/29/07)

WAC 388-14A-6100 The division of child support accepts oral requests for hearing or conference board. (1) Except for the instances listed in subsections (8) and (9), the division of child support (DCS) accepts either a written or an oral request for hearing or conference board, even though other sections of this chapter or the relevant statutes may provide that objections and hearing requests should be in writing.

(2) The subject matter of the objection determines whether the matter is set as a conference board or hearing, unless there is a specific request for an administrative hearing under chapter 34.05 RCW.

(3) DCS processes oral and written requests for hearing in the same manner.

(4) An oral request for hearing is complete if it contains enough information to identify the person making the request, the DCS action, and the case or cases involved in the hearing request.

(5) The effective date of an oral request for hearing is the date that someone makes a complete oral request for hearing, to any DCS representative in person or by leaving a message on the automated voice mail system of any DCS field office.

(6) When making an oral request, you do not need to specify whether you want a hearing under chapter 34.05 RCW or a conference board under WAC 388-14A-6400.

(7) You can make an oral request for hearing or conference board on behalf of another person, if you have written authorization to act on their behalf. The effective date of an oral request for hearing or conference board made on behalf of another person is the later of the date of the complete oral request for hearing or the date that DCS receives the written authorization.

(8) There are ~~((two))~~ three types of hearing requests which must be in writing:

(a) A petition for prospective modification under WAC 388-14A-3925; ~~((and))~~

(b) A petition for reimbursement for day care expenses under WAC 388-14A-4300; and

(c) A request to terminate or reverse an abatement under WAC 388-14A-3960.

(9) You must also make the following requests in writing:

(a) A request for a determination of controlling order under the Uniform Interstate Family Support Act (UIFSA), chapter 26.21A RCW, as described in WAC 388-14A-7305; and

(b) An objection to the determination of controlling order contained in a notice of support debt and registration issued by DCS under WAC 388-14A-7325. WAC 388-14A-7335 describes how to make this objection.

[Statutory Authority: RCW 34.05.220(2), 43.20A.550, 74.04.055, 74.08.090, 74.20.040, 74.20A.310. WSR 07-08-055, § 388-14A-6100, filed 3/29/07, effective 4/29/07. Statutory Authority: RCW 74.08.090, 34.05.220. WSR 01-03-089, § 388-14A-6100, filed 1/17/01, effective 2/17/01. Formerly WAC 388-14-500.]

WSR 22-02-071
PERMANENT RULES
LIQUOR AND CANNABIS
BOARD

[Filed January 5, 2022, 11:06 a.m., effective February 5, 2022]

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

Purpose: New WAC 314-55-560 Evaluation of additives, solvents, ingredients, or compounds used in the production of marijuana products. The Washington state liquor and cannabis board (WSLCB) has adopted a new rule section that would allow WSLCB to evaluate additives, solvents, ingredients, or compounds used in the production and processing of marijuana products other than delta-9 tetrahydrocannabinol (THC), as well as CBD, hemp, or both converted to delta-8 THC, delta-9 THC, or any other marijuana compound that is not currently identified or defined in RCW, WAC, or both, to determine whether such substances pose a risk to public health or youth access.

Citation of Rules Affected by this Order: New WAC 314-55-560.

Statutory Authority for Adoption: RCW 69.50.342 (1)(m), 69.50.345.

Adopted under notice filed as WSR 21-21-041 on October 13, 2021.

A final cost-benefit analysis is available by contacting Katherine Hoffman, Policy and Rules Manager, 1025 Union Avenue S.E., Olympia, WA 98501, phone 360-664-1622, fax 360-664-3208, email rules@lcb.wa.gov, website www.lcb.wa.gov.

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

Number of Sections Adopted at the Request of a 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: January 5, 2022.

David Postman
Chair

OTS-3331.2

NEW SECTION

WAC 314-55-560 Evaluation of additives, solvents, ingredients or compounds used in the production of marijuana products. (1) Purpose and scope. The purpose of this section is to establish a procedure for the board to evaluate additives, solvents, ingredients or compounds used in the production of marijuana products, as those products are defined in chapter 69.50 RCW.

(2) **Definitions.** For purposes of this chapter, the following definitions apply unless the context clearly states otherwise:

(a) "Additive" means any substance the use of which results or may reasonably be expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of any marijuana product;

(b) "Compound" means a chemical substance composed from more than one separate chemical element;

(c) "Ingredient" means something that enters into a mixture or is a component part of any combination or mixture;

(d) "Nonmarijuana additive" means a substance or a group of substances that are derived from a source other than marijuana.

(i) "Nonmarijuana additive" includes, but is not limited to, purified compounds, essential oils, oleoresins, essences, or extractives, protein hydrolysates, distillates, or isolates;

(ii) "Nonmarijuana additive" does not include plant material that is in the whole, broken, or ground form.

(e) "Solvent" means a substance capable of being used in dissolving a solute with the exception of water.

(3) **Procedure.**

(a) The board may prohibit the use of any additive, solvent, ingredient or compound in the production of marijuana products that may pose a risk to public health or youth access including, but not limited to:

(i) Verifiable case report data;

(ii) Other local, state and federal agency findings, reports, etc.;

(iii) A product or substance that is the subject of a recall under WAC 314-55-225;

(iv) Any other information sourced and confirmed from reliable entities.

(b) The board may prohibit the use of a product or substance by adoption of emergency or permanent rules. The board will provide notices of rule making consistent with the requirements of chapter 34.05 RCW.

(c) The board will maintain a list of prohibited substances prohibited by emergency or permanent rules on its website.

(d) The list of prohibited substances will be reviewed on at least an annual basis.

(e) Prohibited substances may be removed from the list of prohibited substances if the board determines, after a review consistent with (a)(i) through (iv) of this subsection, that it no longer poses a risk to public health or youth access.

[]