

WSR 23-12-078
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Developmental Disabilities Administration)
[Filed June 6, 2023, 1:12 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 22-18-073.

Title of Rule and Other Identifying Information: WAC 388-845-0001
Definitions, 388-845-0005 What are home and community based services (HCBS) waivers?, 388-845-0010 What is the purpose of HCBS waivers?, 388-845-0030 Do I meet criteria for HCBS waiver-funded services?, 388-845-0041 What is DDA's responsibility to provide your services under the DDA HCBS waivers administered by DDA?, 388-845-0045 When there is capacity to add people to a waiver, how does DDA determine who will be enrolled?, 388-845-0050 How do I request to be enrolled in a waiver?, 388-845-0070 What determines if I need ICF/IID level of care?, 388-845-0100 What determines which waiver I am assigned to?, 388-845-0105 What criteria determine assignment to the community protection waiver?, 388-845-0110 What are the limits to the waiver services you may receive?, 388-845-0111 Are there limitations regarding who can provide services?, 388-845-0113 When may I receive waiver services through teleservice?, 388-845-0210 What services are available under the basic plus waiver?, 388-845-0215 What services are available under the core waiver?, 388-845-0220 What services are available under the community protection waiver?, 388-845-0225 What services are available under the children's intensive in-home behavioral support (CIIBS) waiver?, 388-845-0230 What services are available under the individual and family services (IFS) waiver?, 388-845-0415 What is assistive technology?, 388-845-0425 Are there limits to the assistive technology you may receive?, 388-845-0500 What is positive behavior support and consultation?, 388-845-0501 What is included in positive behavior support and consultation for the children's intensive in-home behavioral support (CIIBS) waiver?, 388-845-0505 Who is a qualified provider of positive behavior support and consultation?, 388-845-0506 Who is a qualified provider of positive behavior support and consultation for the children's intensive in-home behavioral support (CIIBS) waiver?, 388-845-0510 Are there limits to the positive behavior support and consultation you may receive?, 388-845-0515 What is extermination of bedbugs?, 388-845-0525 Are there limits to the extermination of bedbugs services I may receive?, 388-845-0650 What is community engagement?, 388-845-0660 Are there limits to the community engagement you may receive?, 388-845-0800 What is emergency assistance funding?, 388-845-0805 Who is a qualified provider of emergency assistance funding?, 388-845-0810 How do I qualify for emergency assistance funding?, 388-845-0820 Are there limits to your use of emergency assistance funding?, 388-845-0900 What are environmental adaptations?, 388-845-0910 What limits apply to environmental adaptations?, 388-845-0940 Are there limits to the equine therapy I may receive?, 388-845-0945 What is remote support?, 388-845-0950 Who are qualified providers of remote support?, 388-845-0955 Are there limits to the remote support I may receive?, 388-845-1030 What are individualized technical assistance services?, 388-845-1040 Are there limits to the individualized technical assistance services you may receive?, 388-845-1163 Are there limits to the music therapy I may receive?, 388-845-1190 What is peer mentoring?, 388-845-1192 What limits apply

to peer mentoring?, 388-845-1195 What is person-centered plan facilitation?, 388-845-1197 What are the limits for person-centered plan facilitation?, 388-845-1600 What is respite care?, 388-845-1607 Can someone who lives with you be your respite provider?, 388-845-1620 Are there limits to the respite care you may receive?, 388-845-1660 Are there limits to the risk assessment you may receive?, 388-845-1800 What are specialized equipment and supplies?, 388-845-1805 Who are the qualified providers of specialized equipment and supplies[?], 388-845-1810 Are there limits to the specialized equipment and supplies you may receive?, 388-845-1865 Are there limits to your receipt of specialized clothing?, 388-845-1870 What are specialized habilitation services?, 388-845-1880 Who are qualified providers of specialized habilitation services?, 388-845-1890 Are there limits to the specialized habilitation I may receive?, 388-845-2000 What is staff and family consultation?, 388-845-2005 Who is a qualified provider of staff and family consultation?, 388-845-2010 Are there limits to the staff and family consultation you may receive?, 388-845-2130 What are supported parenting services?, 388-845-2141 What is specialized evaluation and consultation?, 388-845-2142 Who are qualified providers of specialized evaluation and consultation services?, 388-845-2143 What are the limits to specialized evaluation and consultation services?, 388-845-2150 Who is a qualified provider of therapeutic adaptations?, 388-845-2155 Are there limits to the therapeutic adaptations I may receive?, 388-845-2200 What are transportation services?, 388-845-2205 Who is qualified to provide transportation services?, 388-845-2210 Are there limitations to the transportation services you can receive?, 388-845-2260 What are vehicle modifications?, 388-845-2270 Are there limits to your receipt of vehicle modification services?, 388-845-2283 How are my wellness educational materials selected?, 388-845-2285 Are there limits to wellness education?, 388-845-2290 Who are qualified providers of wellness education?, 388-845-3055 What is a person-centered service plan?, 388-845-3056 What if you need assistance to understand your person-centered service plan?, 388-845-3065 How long is your plan effective?, 388-845-3075 What if your needs change?, 388-845-3080 What if my needs exceed the maximum yearly funding limit or the scope of services under the basic plus waiver?, 388-845-4000 What are my appeal rights under the waiver?, and 388-845-4005 Can I appeal a denial of my request to be enrolled in a waiver?

Hearing Location(s): On August 8, 2023, at 10:00 a.m., virtually via [Microsoft] Teams or call in. Hearings are being held virtually. Please see the department of social and health services (DSHS) website for the most current information.

Date of Intended Adoption: Not earlier than August 9, 2023.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAURulesCoordinator@dshs.wa.gov, fax 360-664-6085, by 5:00 p.m. on August 8, 2023.

Assistance for Persons with Disabilities: Contact Shelley Tencza, rules coordinator, phone 360-664-6036, fax 360-664-6085, TTY 711 relay service, email shelley.tencza@dshs.wa.gov, by 5:00 p.m. on July 25, 2023.

Reasons Supporting Proposal: These changes to chapter 388-845 WAC are necessary to implement amendments to the developmental disabilities administration's (DDA) home and community-based services (HCBS) waivers as approved by the federal Centers for Medicare and Medicaid Services (CMS). Major changes to the chapter: Adjust the yearly limits applicable to certain waivers; add assistive technology to multiple waivers; remove the positive behavior support and consultation service

from all waivers except the community protection waiver; amend the definition of the specialized evaluation and consultation service; amend the definition of community engagement; add teleservice as a service delivery method; add remote supports to multiple waivers; and make other changes necessary to implement amendments to DDA's HCBS waivers as approved by CMS.

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

Statute Being Implemented: RCW 71A.12.290.

Rule is necessary because of federal law, 42 C.F.R. 441.301

(c) (6).

Name of Agency Personnel Responsible for Drafting: Chantelle Diaz, P.O. Box 45310, Olympia, WA 98504-5310, 360-790-4732; Implementation and Enforcement: Ann Vasilev, P.O. Box 45310, Olympia, WA 98504-5310, 360-407-1551.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Chantelle Diaz, P.O. Box 45310, Olympia, WA 98504-5310, phone 360-790-4732, email chantelle.diaz@dshs.wa.gov.

Scope of exemption for rule proposal from Regulatory Fairness Act requirements:

Is not exempt.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. For businesses delivering services under chapter 388-845 WAC, common costs by rule amendments would be the result of changed provider qualifications, such as requiring a license or training. No new trainings or licenses are required.

Former positive behavior support providers who choose to deliver behavioral health services through fee-for-service medicaid or managed care organizations may incur costs associated with contracting and billing for those separate state plan benefits. The contracting and billing costs are not required by the amendments to this chapter. Thus, providers should incur no costs in complying with these amendments.

May 31, 2023

Katherine I. Vasquez
Rules Coordinator

SHS-4942.10

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-0001 Definitions. "Aggregate services" means a combination of services subject to the dollar limits in the basic plus waiver and CIIBS waiver.

"Allocation" means the amount of individual and family services (IFS) waiver funding available to a client for a maximum of ~~((twelve))~~ 12 months.

"Behavior support plan" means a plan written by a professionally trained behavioral health or similar provider to address behavioral health intervention needs.

"CARE" means comprehensive assessment and reporting evaluation.

"Client" means a person who has a developmental disability under RCW 71A.10.020(5) and has been determined eligible to receive services from the administration under chapter 71A.16 RCW.

"DDA" means the developmental disabilities administration, of the department of social and health services.

"DDA assessment" refers to the standardized assessment tool under chapter 388-828 WAC, used by DDA to measure the support needs of people with developmental disabilities.

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

"Evidence-based treatment" means the use of physical, mental, and behavioral health interventions for which systematic, empirical research has provided evidence of statistically significant effectiveness as treatments for specific conditions. Alternate terms with the same meaning are evidence-based practice (EBP) and empirically supported treatment (EST).

"Family" means one or more of the following relatives: Spouse or registered domestic partner; natural, adoptive or step(-)parent; grandparent; child; stepchild; sibling; stepsibling; uncle; aunt; first cousin; niece; or nephew.

"Family home" means the residence where you and your family live.

"Gainful employment" means employment that reflects achievement of or progress towards a living wage.

"General utility" describes something used by people in the absence of illness, injury, or disability.

"HCBS waiver" is a home and community based services waiver program under section 1915(c) of the Social Security Act.

"Home" means present place of long-term residence.

"ICF/IID" means an intermediate care facility for individuals with intellectual disabilities.

"Integrated business settings" means a setting that enables participants to either work alongside or interact with individuals who do not have disabilities, or both.

"Integrated ((settings)) setting" ((mean)) means a typical community ((settings)) setting in compliance with 42 C.F.R. 441.301 (c)(4), not designed specifically for ((individuals)) people with disabilities, in which the majority of ((persons)) people employed and participating are ((individuals)) people without disabilities.

"Legal representative" means a parent of a person who is under ((eighteen)) 18 years of age, a person's legal guardian, a person's limited guardian when the subject matter is within the scope of limited guardianship, a person's attorney-at-law, a person's attorney-in-fact, or any other person who is authorized by law to act for another person.

"Living wage" means the amount of earned wages needed to enable an individual to meet or exceed his or her living expenses.

"Necessary supplemental accommodation representative" means an individual who receives copies of DDA planned action notices (PANs) and other department correspondence in order to help a client understand the documents and exercise the client's rights. A necessary supplemental accommodation representative is identified by a client of DDA when the client does not have a legal guardian and the client is requesting or receiving DDA services.

"Participant" means a client who is enrolled in a home and community based services waiver program.

"Person-centered service plan" is a document that identifies your goals and assessed health and welfare needs. Your person-centered service plan also indicates the paid services and natural supports that will assist you to achieve your goals and address your assessed needs.

"Primary caregiver" means the person who provides the majority of your care and supervision.

"Provider" means an individual or agency who meets the provider qualifications and is contracted with DSHS to provide services to you.

"Respite assessment" means an algorithm within the DDA assessment that determines the number of hours of respite care you may receive per year if you are enrolled in the basic plus, children's intensive in-home behavioral support, or core waiver.

"SSI" means supplemental security income, an assistance program administered by the federal Social Security Administration for blind, disabled, and aged individuals.

"SSP" means state supplementary payment program, a state-paid cash assistance program for certain clients of the developmental disabilities administration.

"State-funded services" means services that are funded entirely with state dollars.

"You" means the client or participant.

"Waiver year" means the ~~((twelve))~~ 12-month period starting from the initial or annual plan effective date in the client's person-centered service plan.

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 21-19-108, § 388-845-0001, filed 9/20/21, effective 10/21/21. Statutory Authority: RCW 71A.12.030, 71A.12.120, 42 C.F.R. 441 Subpart G. WSR 18-14-001, § 388-845-0001, filed 6/20/18, effective 7/21/18. Statutory Authority: 2014 c 139, 2014 c 166, 2015 3rd sp.s. c 4, RCW 71A.12.030, and 71A.12.120. WSR 16-17-009, § 388-845-0001, filed 8/4/16, effective 9/4/16. Statutory Authority: RCW 71A.12.030 and 2012 c 49. WSR 13-24-045, § 388-845-0001, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 74.08.090, 74.09.520, and 2012 c 49. WSR 12-16-095, § 388-845-0001, filed 8/1/12, effective 9/1/12. Statutory Authority: RCW 71A.12.030, 71A.12.120, 2009 c 194, and 2008 c 329 § 205 (1)(i), and Title 71A RCW. WSR 10-22-088, § 388-845-0001, filed 11/1/10, effective 12/2/10. Statutory Authority: RCW 71A.12.030, 71A.12.120 and Title 71A RCW. WSR 08-20-033, § 388-845-0001, filed 9/22/08, effective 10/23/08; WSR 07-20-050, § 388-845-0001, filed 9/26/07, effective 10/27/07. Statutory Authority: RCW 71A.12.030, 71A.12.12 [71A.12.120] and chapter 71A.12 RCW. WSR 06-01-024, § 388-845-0001, filed 12/13/05, effective 1/13/06.]

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

AMENDATORY SECTION (Amending WSR 13-04-005, filed 1/24/13, effective 2/24/13)

WAC 388-845-0005 What are home and community based services (HCBS) waivers? (1) Home and community based services (HCBS) waivers

are services approved by the Centers for Medicare and Medicaid Services (CMS) under section 1915(c) of the Social Security Act as an alternative to intermediate care facility for ~~(the)~~ individuals with intellectual disabilities (ICF/IID).

(2) Certain federal regulations are "waived" enabling the provision of services in the home and community to individuals who would otherwise require the services provided in an ICF/IID as defined in chapters 388-835 and 388-837 WAC.

[Statutory Authority: RCW 71A.12.030, 74.08.090 and 2012 c 49. WSR 13-04-005, § 388-845-0005, filed 1/24/13, effective 2/24/13. Statutory Authority: RCW 71A.12.030, 71A.12.12 [71A.12.120] and chapter 71A.12 RCW. WSR 06-01-024, § 388-845-0005, filed 12/13/05, effective 1/13/06.]

AMENDATORY SECTION (Amending WSR 13-04-005, filed 1/24/13, effective 2/24/13)

WAC 388-845-0010 What is the purpose of HCBS waivers? The purpose of HCBS waivers is to provide services in the community to individuals with ICF/IID level of need to prevent their placement in an ICF/IID.

[Statutory Authority: RCW 71A.12.030, 74.08.090 and 2012 c 49. WSR 13-04-005, § 388-845-0010, filed 1/24/13, effective 2/24/13. Statutory Authority: RCW 71A.12.030, 71A.12.12 [71A.12.120] and chapter 71A.12 RCW. WSR 06-01-024, § 388-845-0010, filed 12/13/05, effective 1/13/06.]

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-0030 Do I meet criteria for HCBS waiver-funded services? (1) You meet criteria for DDA HCBS waiver-funded services if you meet all of the following:

(a) You have been determined eligible for DDA services per RCW 71A.10.020.

(b) You have been determined to meet ICF/IID level of care per WAC 388-845-0070, 388-828-3060, and 388-828-3080.

(c) You meet disability criteria established in the Social Security Act.

(d) You meet financial eligibility requirements as defined in WAC 182-515-1510.

(e) You choose to receive services in the community rather than in an ICF/IID facility.

(f) You have a need for monthly waiver services or monthly monitoring as identified in your person-centered service plan.

(g) You are not residing in hospital, jail, prison, nursing facility, ICF/IID, or other institution.

(2) For the individual and family services waiver, you must meet the criteria in subsection (1) of this section and live in your family home.

~~((h))~~ (3) ~~((Additionally,))~~ For the children's intensive in-home behavioral ((support)) supports (CIIBS) waiver ~~((funded services))~~, in addition to meeting criteria in subsection (1) of this section:

(a) You must:

~~((i))~~ (i) ~~((You are))~~ Be age eight or older and under the age of ~~((eighteen))~~ 18 for initial enrollment and under age ~~((twenty-one))~~ 21 for continued enrollment;

~~((ii))~~ (ii) ~~((You have been))~~ Be determined to meet CIIBS program eligibility per chapter 388-828 WAC prior to initial enrollment only; and

~~((iii))~~ (iii) ~~((You))~~ Live with your family ~~((and))~~.

~~((iv))~~ (b) Your parent ~~((or))~~ or guardian ~~((or))~~, and primary caregiver ~~((or))~~ if other than your parent ~~((or))~~ or guardian ~~((or))~~, ~~((have))~~ must sign ~~((signed))~~ the participation agreement.

~~((2))~~ For the individual and family services waiver, you must meet the criteria in subsection (1) of this section and also live in your family home.

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 21-19-108, § 388-845-0030, filed 9/20/21, effective 10/21/21; WSR 20-05-080, § 388-845-0030, filed 2/18/20, effective 3/20/20. Statutory Authority: 2014 c 139, 2014 c 166, 2015 3rd sp.s. c 4, RCW 71A.12.030, and 71A.12.120. WSR 16-17-009, § 388-845-0030, filed 8/4/16, effective 9/4/16. Statutory Authority: RCW 71A.12.030 and 2012 c 49. WSR 13-24-045, § 388-845-0030, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 71A.12.030, 74.08.090 and 2012 c 49. WSR 13-04-005, § 388-845-0030, filed 1/24/13, effective 2/24/13. Statutory Authority: RCW 71A.12.030, 71A.12.120, 2009 c 194, and 2008 c 329 § 205 (1)(i), and Title 71A RCW. WSR 10-22-088, § 388-845-0030, filed 11/1/10, effective 12/2/10. Statutory Authority: RCW 71A.12.030, 71A.12.120 and Title 71A RCW. WSR 07-20-050, § 388-845-0030, filed 9/26/07, effective 10/27/07. Statutory Authority: RCW 71A.12.030, 71A.12.12 [71A.12.120] and chapter 71A.12 RCW. WSR 06-01-024, § 388-845-0030, filed 12/13/05, effective 1/13/06.]

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-0041 What is DDA's responsibility to provide your services under the DDA HCBS waivers administered by DDA? If you are enrolled in an HCBS waiver administered by DDA ~~((or))~~ :

(1) DDA will provide an annual comprehensive assessment to evaluate your health and welfare needs. Your person-centered service plan, as specified in WAC 388-845-3055, will document:

(a) Your identified health and welfare needs; and

(b) Your HCBS waiver services and nonwaiver services authorized to meet your assessed need.

(2) You have access to DDA paid services that are provided within the scope of your waiver, subject to the limitations in WAC 388-845-0110 and 388-845-0115.

(3) DDA will provide waiver services you need and qualify for within your waiver.

(4) DDA will not deny or limit, based on lack of funding, the number of waiver services for which you are eligible.

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 21-19-108, § 388-845-0041, filed 9/20/21, effective 10/21/21. Statutory Authority: 2014 c 139, 2014 c 166, 2015 3rd sp.s. c 4, RCW 71A.12.030, and 71A.12.120. WSR 16-17-009, § 388-845-0041, filed 8/4/16, effective 9/4/16. Statutory Authority: RCW 71A.12.030 and 2012 c 49. WSR 13-24-045, § 388-845-0041, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 74.08.090, 74.09.520, and 2012 c 49. WSR 12-16-095, § 388-845-0041, filed 8/1/12, effective 9/1/12. Statutory Authority: RCW 71A.12.030, 71A.12.120, 2009 c 194, and 2008 c 329 § 205 (1)(i), and Title 71A RCW. WSR 10-22-088, § 388-845-0041, filed 11/1/10, effective 12/2/10. Statutory Authority: RCW 71A.12.030, 71A.12.120 and Title 71A RCW. WSR 07-20-050, § 388-845-0041, filed 9/26/07, effective 10/27/07. Statutory Authority: RCW 71A.12.030, 71A.12.12 [71A.12.120] and chapter 71A.12 RCW. WSR 06-01-024, § 388-845-0041, filed 12/13/05, effective 1/13/06.]

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-0045 When there is capacity to add people to a waiver, how does DDA determine who will be enrolled? When there is capacity on a waiver (~~and available funding for new waiver participants~~), DDA may enroll people from the statewide database in a waiver based on the following priority considerations:

(1) First priority will be given to current waiver participants assessed to require a different waiver because their identified health and welfare needs have increased and these needs cannot be met within the scope of their current waiver.

(2) DDA may also consider any of the following populations in any order:

(a) Priority populations as identified and funded by the legislature.

(b) Persons DDA has determined to be in immediate risk of ICF/IID admission due to unmet health and welfare needs.

(c) Persons identified as a risk to the safety of the community.

(d) Persons currently receiving services through state-only funds.

(e) Persons on an HCBS waiver that provides services in excess of what is needed to meet their identified health and welfare needs.

(f) Persons who were previously on an HCBS waiver since April 2004 and lost waiver eligibility per WAC 388-845-0060 (1)(k).

(3) DDA may consider persons who need the waiver services available in the basic plus or IFS waivers to maintain them in their family's home or in their own home.

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 21-19-108, § 388-845-0045, filed 9/20/21, effective 10/21/21. Statutory Authority: 2014 c 139, 2014 c 166, 2015 3rd sp.s. c 4, RCW 71A.12.030, and 71A.12.120. WSR 16-17-009, § 388-845-0045, filed 8/4/16, effective 9/4/16. Statutory Authority: RCW 71A.12.030 and 2012 c 49. WSR 13-24-045, § 388-845-0045, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 71A.12.030, 74.08.090 and 2012 c 49. WSR 13-04-005, § 388-845-0045, filed 1/24/13, effective 2/24/13. Statutory Authority: RCW 71A.12.030, 71A.12.120, 2009 c 194, and 2008 c 329 § 205 (1)(i),

and Title 71A RCW. WSR 10-22-088, § 388-845-0045, filed 11/1/10, effective 12/2/10. Statutory Authority: RCW 71A.12.030, 71A.12.120 and Title 71A RCW. WSR 08-20-033, § 388-845-0045, filed 9/22/08, effective 10/23/08; WSR 07-20-050, § 388-845-0045, filed 9/26/07, effective 10/27/07. Statutory Authority: RCW 71A.12.030, 71A.12.12 [71A.12.120] and chapter 71A.12 RCW. WSR 06-01-024, § 388-845-0045, filed 12/13/05, effective 1/13/06.]

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-0050 How do I request to be enrolled in a waiver?

(1) You can contact DDA and request to be enrolled in a waiver or to enroll in a different waiver at any time.

(2) If you are assessed as meeting ICF/IID level of care as defined in WAC 388-845-0070 and chapter 388-828 WAC, your request for waiver enrollment will be documented by DDA in a statewide database.

(3) For the children's intensive in-home behavioral support (CIIBS) waiver only, if you are assessed as meeting both ICF/IID level of care and CIIBS eligibility as defined in WAC 388-845-0030 and chapter 388-828 WAC, your request for waiver enrollment will be documented by DDA in a statewide database.

[Statutory Authority: RCW 71A.12.030 and 2012 c 49. WSR 13-24-045, § 388-845-0050, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 71A.12.030, 74.08.090 and 2012 c 49. WSR 13-04-005, § 388-845-0050, filed 1/24/13, effective 2/24/13. Statutory Authority: RCW 71A.12.030, 71A.12.120, 2009 c 194, and 2008 c 329 § 205 (1)(i), and Title 71A RCW. WSR 10-22-088, § 388-845-0050, filed 11/1/10, effective 12/2/10. Statutory Authority: RCW 71A.12.030, 71A.12.120 and Title 71A RCW. WSR 07-20-050, § 388-845-0050, filed 9/26/07, effective 10/27/07. Statutory Authority: RCW 71A.12.030, 71A.12.12 [71A.12.120] and chapter 71A.12 RCW. WSR 06-01-024, § 388-845-0050, filed 12/13/05, effective 1/13/06.]

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-0070 What determines if I need ICF/IID level of

care? DDA determines if you need ICF/IID level of care based on your need for waiver services. To reach this decision, DDA uses the DDA assessment as specified in chapter 388-828 WAC.

[Statutory Authority: RCW 71A.12.030 and 2012 c 49. WSR 13-24-045, § 388-845-0070, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 71A.12.030, 74.08.090 and 2012 c 49. WSR 13-04-005, § 388-845-0070, filed 1/24/13, effective 2/24/13. Statutory Authority: RCW 71A.12.030, 71A.12.120 and Title 71A RCW. WSR 07-20-050, § 388-845-0070, filed 9/26/07, effective 10/27/07. Statutory Authority: RCW 71A.12.030, 71A.12.12 [71A.12.120] and chapter 71A.12 RCW. WSR 06-01-024, § 388-845-0070, filed 12/13/05, effective 1/13/06.]

AMENDATORY SECTION (Amending WSR 20-05-080, filed 2/18/20, effective 3/20/20)

WAC 388-845-0100 What determines which waiver I am assigned to?

DDA will assign you to the waiver with the minimum service package necessary to meet your health and welfare needs, based on its evaluation of your DDA assessment as described in chapter 388-828 WAC and the following criteria:

- (1) For the individual and family services waiver, you:
 - (a) Live in your family home; and
 - (b) Are assessed to need a waiver service to remain in the family home.
- (2) For the basic plus waiver your health and welfare needs require a waiver service to remain in the community.
- (3) For the core waiver:
 - (a) You are at immediate risk of out-of-home placement; or
 - (b) You have an identified health and welfare need for residential services that cannot be met by the basic plus waiver.
- (4) For the community protection waiver, refer to WAC 388-845-0105 and chapter 388-831 WAC.
- (5) For the children's intensive in-home behavioral support waiver, you:
 - (a) Are age eight or older but under age ((eighteen)) 18;
 - (b) Live with your family;
 - (c) Are assessed at high or severe risk of out-of-home placement due to challenging behavior per chapter 388-828 WAC; and
 - (d) Have a signed family participation agreement from your parent or guardian and primary caregiver, if other than parent or guardian.

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 20-05-080, § 388-845-0100, filed 2/18/20, effective 3/20/20. Statutory Authority: 2014 c 139, 2014 c 166, 2015 3rd sp.s. c 4, RCW 71A.12.030, and 71A.12.120. WSR 16-17-009, § 388-845-0100, filed 8/4/16, effective 9/4/16. Statutory Authority: RCW 71A.12.030 and 2012 c 49. WSR 13-24-045, § 388-845-0100, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 71A.12.030, 71A.12.120, 2009 c 194, and 2008 c 329 § 205 (1)(i), and Title 71A RCW. WSR 10-22-088, § 388-845-0100, filed 11/1/10, effective 12/2/10. Statutory Authority: RCW 71A.12.030, 71A.12.120 and Title 71A RCW. WSR 07-20-050, § 388-845-0100, filed 9/26/07, effective 10/27/07. Statutory Authority: RCW 71A.12.030, 71A.12.12 [71A.12.120] and chapter 71A.12 RCW. WSR 06-01-024, § 388-845-0100, filed 12/13/05, effective 1/13/06.]

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-0105 What criteria determine assignment to the community protection waiver? DDA may assign you to the community protection waiver only if you are at least ((eighteen)) 18 years of age, not currently residing in a hospital, jail or other institution, and ((meet the following criteria)):

- (1) You have been identified by DDA as a person who meets one or more of the following:
 - (a) You have been ((convicted of or charged)) charged or convicted with a crime of sexual violence as defined in chapter 71.09 RCW;

(b) You have been (~~convicted of or charged~~) charged or convicted with acts directed towards strangers or individuals with whom a relationship has been established or promoted for the primary purpose of victimization, or persons of casual acquaintance with whom no substantial personal relationship exists;

(c) You have been (~~convicted of or charged~~) charged or convicted with a sexually violent offense, or (~~and~~) or a predatory act, or both, and may constitute a future danger as determined by a qualified professional;

(d) You have not been (~~convicted and/or charged~~) charged or convicted, but you have a history of stalking, violent, sexually violent, predatory, or (~~and~~) or opportunistic behavior which demonstrates a likelihood to commit a sexually violent (~~and~~) or predatory act based on current behaviors that may escalate to violence, as determined by a qualified professional; or

(e) You have committed one or more violent offense, as defined in RCW 9.94A.030;

(2) You receive or agree to receive residential services from certified residential community protection provider-intensive supported living services (CP-ISLS); and

(3) You (~~comply with~~) agree to follow the specialized supports and restrictions in one or more of the following:

(a) Your person-centered service plan (PCSP);

(b) Your individual instruction and support plan (IISP); or

(c) Your treatment plan provided by DDA approved certified individuals and agencies.

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 21-19-108, § 388-845-0105, filed 9/20/21, effective 10/21/21. Statutory Authority: 2014 c 139, 2014 c 166, 2015 3rd sp.s. c 4, RCW 71A.12.030, and 71A.12.120. WSR 16-17-009, § 388-845-0105, filed 8/4/16, effective 9/4/16. Statutory Authority: RCW 71A.12.030 and 2012 c 49. WSR 13-24-045, § 388-845-0105, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 71A.12.030, 74.08.090 and 2012 c 49. WSR 13-04-005, § 388-845-0105, filed 1/24/13, effective 2/24/13. Statutory Authority: RCW 71A.12.030, 71A.12.120 and Title 71A RCW. WSR 07-20-050, § 388-845-0105, filed 9/26/07, effective 10/27/07. Statutory Authority: RCW 71A.12.030, 71A.12.12 [71A.12.120] and chapter 71A.12 RCW. WSR 06-01-024, § 388-845-0105, filed 12/13/05, effective 1/13/06.]

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-0110 What are the limits to the waiver services you may receive? The following limits apply to the waiver services you may receive:

(1) A service must be available in your waiver and address an unmet need identified in your DDA assessment and person-centered service plan.

(2) Stabilization services may be added to your person-centered service plan after the services have been provided.

(3) Waiver services are limited to services required to prevent placement in an intermediate care facility for individuals with intellectual disabilities (ICF/IID).

(4) The daily cost of your waiver services must not exceed the average daily cost of care in an ICF/IID.

(5) Waiver services must not replace or duplicate other available paid or unpaid supports or services. Before DDA will cover a service through waiver services, you must first request and be denied all applicable covered benefits through private insurance, medicare, the medicaid state plan, and other resources.

(6) Waiver funding must not be authorized for treatments determined by DSHS to be experimental or investigational under WAC 182-531-0050.

(7) For the individual and family services (IFS) waiver, basic plus waiver, and children's intensive in-home behavioral support waiver, services must not exceed the yearly limits specified in these programs for specific services or combinations of services.

(8) Your choice of qualified providers and services is limited to the most cost-effective option that meets your unmet need identified in your DDA assessment and person-centered service plan.

(9) Services, with the exception of respite care, must be provided in integrated settings.

~~((9))~~ (10) Services provided out-of-state, other than in recognized bordering cities, are limited to respite care ~~((and personal care))~~ during vacations of not more than ~~((thirty))~~ 30 consecutive days.

~~((10))~~ (11) You may receive services in a recognized out-of-state bordering city under WAC 182-501-0175.

~~((11))~~ (12) Other out-of-state waiver services require an approved exception to rule before DDA will authorize payment.

~~((12))~~ (13) Waiver services do not cover:

- (a) Copays;
- (b) Deductibles;
- (c) Dues;
- (d) Membership fees; or
- (e) Subscriptions.

~~((13))~~ (14) Waiver services do not cover a product unless the product is:

(a) The most basic model of the product available that can meet your health and safety need related to your intellectual or developmental disability;

(b) The least restrictive means for meeting that need; and

(c) Requested by you.

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 21-19-108, § 388-845-0110, filed 9/20/21, effective 10/21/21. Statutory Authority: RCW 71A.12.030, 71A.12.120, 42 C.F.R. 441 Subpart G. WSR 18-14-001, § 388-845-0110, filed 6/20/18, effective 7/21/18. Statutory Authority: 2014 c 139, 2014 c 166, 2015 3rd sp.s. c 4, RCW 71A.12.030, and 71A.12.120. WSR 16-17-009, § 388-845-0110, filed 8/4/16, effective 9/4/16. Statutory Authority: RCW 71A.12.030 and 2012 c 49. WSR 13-24-045, § 388-845-0110, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 71A.12.030, 71A.12.120 and Title 71A RCW. WSR 07-20-050, § 388-845-0110, filed 9/26/07, effective 10/27/07. Statutory Authority: RCW 71A.12.030, 71A.12.12 [71A.12.120] and chapter 71A.12 RCW. WSR 06-01-024, § 388-845-0110, filed 12/13/05, effective 1/13/06.]

AMENDATORY SECTION (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

WAC 388-845-0111 Are there limitations regarding who can provide services? The following limitations apply to providers for waiver services:

- (1) Your spouse must not be your paid provider for any waiver service.
- (2) If you are under age (~~(eighteen)~~) 18, your natural, step, or adoptive parent must not be your paid provider for any waiver service.
- (3) If you are age (~~(eighteen)~~) 18 or older, your natural, step, or adoptive parent must not be your paid provider for any waiver service with the exception of:
 - ~~((a) Personal care;))~~
 - ~~((b))~~ (a) Transportation to and from a waiver service per WAC 388-845-2200 through 388-845-2210;
 - ~~((e))~~ (b) Residential habilitation services per WAC 388-845-1510 if your parent is certified as a residential agency per chapter 388-101 WAC; or
 - ~~((d))~~ (c) Respite care if you and the parent who provides the respite care live in separate homes.
- (4) If you receive CIIBS waiver services, your legal representative or family member per WAC 388-845-0001 must not be your paid provider for any waiver service with the exception of:
 - (a) Transportation to and from a waiver service per WAC 388-845-2200 through 388-845-2210; and
 - (b) Respite per WAC 388-845-1605 through 388-845-1620.

[Statutory Authority: 2014 c 139, 2014 c 166, 2015 3rd sp.s. c 4, RCW 71A.12.030, and 71A.12.120. WSR 16-17-009, § 388-845-0111, filed 8/4/16, effective 9/4/16. Statutory Authority: RCW 71A.12.030, 71A.12.120, 2009 c 194, and 2008 c 329 § 205 (1)(i), and Title 71A RCW. WSR 10-22-088, § 388-845-0111, filed 11/1/10, effective 12/2/10. Statutory Authority: RCW 71A.12.030, 71A.12.120 and Title 71A RCW. WSR 07-20-050, § 388-845-0111, filed 9/26/07, effective 10/27/07.]

NEW SECTION

WAC 388-845-0113 When may I receive waiver services through teleservice? (1) Teleservice is a remote service delivery method that uses a HIPAA-compliant technology system approved by DDA.

- (2) The following services may be delivered through teleservice:
 - (a) Assistive technology;
 - (b) Community engagement;
 - (c) Individualized technical assistance;
 - (d) Music therapy;
 - (e) Occupational therapy;
 - (f) Peer mentoring;
 - (g) Person-centered plan facilitation;
 - (h) Physical therapy;
 - (i) Positive behavior support and consultation until August 31, 2023;
 - (j) Specialized evaluation and consultation;
 - (k) Specialized habilitation;
 - (l) Speech, hearing, and language services;

- (m) Supported employment;
 - (n) Supported parenting; and
 - (o) Staff and family consultation.
- (3) A waiver service may be delivered through teleservice if:
- (a) The waiver participant chooses that service delivery method;
 - (b) DDA determines through the person-centered planning process that the waiver service can be adequately provided remotely based on the reason for the service request;
 - (c) There is no risk to the waiver participant's health or safety as a result of the waiver service being provided remotely; and
 - (d) The waiver participant's person-centered service plan indicates each waiver service that will be provided through teleservice.
- (4) For each waiver service that occurs regularly over the course of the plan year and is being delivered remotely, the service must be delivered in-person at least one time per plan year.

[]

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-0210 What services are available under the basic plus waiver? The following services are available under the basic plus waiver:

| SERVICE | YEARLY LIMIT |
|--|--|
| AGGREGATE SERVICES: <u>Assistive technology</u> Extermination of cimex lectularius (bedbugs) Community engagement Environmental adaptations Occupational therapy Physical therapy ((Positive behavior support and consultation)) <u>Remote support</u> Skilled nursing Specialized equipment and supplies Specialized habilitation Speech, hearing, and language services Staff and family consultation Transportation Wellness education | Total costs must not exceed ((six thousand one hundred ninety-two dollars)) <u>\$6,192</u> per year per participant |
| Therapeutic adaptations | Limited to a single one-time authorization every five years and limited to funds available in the client's aggregate and emergency funding |

| SERVICE | YEARLY LIMIT |
|--|--|
| EMPLOYMENT SERVICES: Individual technical assistance Supported employment Community inclusion | Limits determined by DDA assessment and employment status Limits determined by the person-centered service plan |
| STABILIZATION SERVICES: Crisis diversion bed Specialized habilitation Staff and family consultation | Limits determined by ((a)) the person-centered service plan |
| Respite care | Limits determined by DDA assessment |
| Risk assessment | Limits determined by DDA |
| Community engagement Environmental adaptations Occupational therapy Physical therapy ((Positive behavior support)) Specialized equipment and supplies Speech, hearing, and language services Skilled nursing Staff and family consultation <u>Therapeutic adaptations</u> Transportation | ((Six thousand dollars)) \$6,000 per year for emergency assistance funding |

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 21-19-108, § 388-845-0210, filed 9/20/21, effective 10/21/21. Statutory Authority: RCW 71A.12.030, 71A.12.120, 42 C.F.R. 441 Subpart G. WSR 18-14-001, § 388-845-0210, filed 6/20/18, effective 7/21/18. Statutory Authority: 2014 c 139, 2014 c 166, 2015 3rd sp.s. c 4, RCW 71A.12.030, and 71A.12.120. WSR 16-17-009, § 388-845-0210, filed 8/4/16, effective 9/4/16. Statutory Authority: RCW 71A.12.030 and 2012 c 49. WSR 13-24-045, § 388-845-0210, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 71A.12.030, 71A.12.120 and Title 71A RCW. WSR 08-20-033, § 388-845-0210, filed 9/22/08, effective 10/23/08; WSR 07-20-050, § 388-845-0210, filed 9/26/07, effective 10/27/07. Statutory Authority: RCW 71A.12.030, 71A.12.120. WSR 07-05-014, § 388-845-0210, filed 2/9/07, effective 3/12/07. Statutory Authority: RCW 71A.12.030, 71A.12.12 [71A.12.120] and chapter 71A.12 RCW. WSR 06-01-024, § 388-845-0210, filed 12/13/05, effective 1/13/06.]

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-0215 What services are available under the core waiver? (1) The following services are available under the core waiver:

| SERVICE | YEARLY LIMIT |
|---|---|
| <u>Assistive technology</u> Extermination of cimex lectularius (bedbugs) Community engagement Community transition Environmental adaptations Occupational therapy Physical therapy ((Positive behavior support and consultation)) <u>Remote support</u> Residential habilitation Risk assessment Skilled nursing Specialized equipment and supplies <u>Specialized habilitation</u> Speech, hearing, and language services Staff and family consultation <u>Supported parenting</u> Transportation Wellness education | Determined by the person-centered service plan |
| ((Specialized habilitation | Limited to four thousand dollars per waiver year)) |
| EMPLOYMENT SERVICES: Individualized technical assistance Supported employment | Limits determined by DDA assessment and employment status |
| Community inclusion | Limits determined by the person-centered service plan |
| STABILIZATION SERVICES: Crisis diversion bed Specialized habilitation Staff and family consultation | Limits determined by the person-centered service plan |
| Respite care | Limits determined by DDA assessment |

(2) A participant's core waiver services are subject to additional limits under this chapter.

(3) The total cost of a participant's core waiver services must not exceed the average cost of care at an intermediate care facility for individuals with intellectual disabilities (ICF/IID).

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 21-19-108, § 388-845-0215, filed 9/20/21, effective 10/21/21. Statutory Authority: RCW 71A.12.030, 71A.12.120, 42 C.F.R. 441 Subpart G. WSR 18-14-001, § 388-845-0215, filed 6/20/18, effective 7/21/18. Statutory Authority: 2014 c 139, 2014 c 166, 2015 3rd sp.s. c 4, RCW 71A.12.030, and 71A.12.120. WSR 16-17-009, § 388-845-0215, filed 8/4/16, effective 9/4/16. Statutory Authority: RCW 71A.12.030 and 2012 c 49. WSR 13-24-045, § 388-845-0215, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 71A.12.030, 71A.12.120 and Title 71A RCW. WSR 07-20-050, § 388-845-0215, filed 9/26/07, effective 10/27/07. Statutory Authority: RCW 71A.12.030, 71A.12.12 [71A.12.120] and chapter 71A.12 RCW. WSR 06-01-024, § 388-845-0215, filed 12/13/05, effective 1/13/06.]

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-0220 What services are available under the community protection waiver? (1) The following services are available under the community protection waiver:

| SERVICE | YEARLY LIMIT |
|--|---|
| Assistive technology Extermination of cimex lectularius (bedbugs) Community transition Environmental adaptations Occupational therapy Physical therapy Positive behavior support and consultation Residential habilitation Risk assessment Skilled nursing Specialized equipment and supplies <u>Specialized evaluation and consultation</u> Speech, hearing, and language services Staff and family consultation Transportation | Determined by the person-centered service plan |
| EMPLOYMENT SERVICES: Individual technical assistance Supported employment | Limits determined by DDA assessment and employment status |

| SERVICE | YEARLY LIMIT |
|--|---|
| STABILIZATION SERVICES: Crisis diversion bed Specialized habilitation Staff and family consultation | Limits determined by the person-centered service plan |

(2) A participant's community protection waiver services are subject to additional limits under this chapter.

(3) The total cost of a participant's community protection waiver services must not exceed the average cost of care at an intermediate care facility for individuals with intellectual disabilities (ICF/IID).

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 21-19-108, § 388-845-0220, filed 9/20/21, effective 10/21/21. Statutory Authority: RCW 71A.12.030, 71A.12.120, 42 C.F.R. 441 Subpart G. WSR 18-14-001, § 388-845-0220, filed 6/20/18, effective 7/21/18. Statutory Authority: 2014 c 139, 2014 c 166, 2015 3rd sp.s. c 4, RCW 71A.12.030, and 71A.12.120. WSR 16-17-009, § 388-845-0220, filed 8/4/16, effective 9/4/16. Statutory Authority: RCW 71A.12.030 and 2012 c 49. WSR 13-24-045, § 388-845-0220, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 71A.12.030, 71A.12.120 and Title 71A RCW. WSR 07-20-050, § 388-845-0220, filed 9/26/07, effective 10/27/07. Statutory Authority: RCW 71A.12.030, 71A.12.12 [71A.12.120] and chapter 71A.12 RCW. WSR 06-01-024, § 388-845-0220, filed 12/13/05, effective 1/13/06.]

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-0225 What services are available under the children's intensive in-home behavioral support (CIIBS) waiver? (1) The following services are available under the children's intensive in-home behavioral support (CIIBS) waiver:

| SERVICE | YEARLY LIMIT |
|---|---|
| Assistive technology Environmental adaptations Nurse delegation Specialized clothing Specialized equipment and supplies Specialized habilitation Staff and family consultation Transportation Vehicle modifications | ((Fifteen thousand dollars)) \$15,000 per year for any combination of services |
| Respite care | Limits determined by the DDA assessment. |

| SERVICE | YEARLY LIMIT |
|---|--|
| STABILIZATION SERVICES: Crisis diversion bed Specialized habilitation Staff and family consultation | Limits determined by the person-centered service plan |
| Risk assessment ((Positive behavior support)) | Limits determined by DDA |
| Environmental adaptations (Accessibility and repairs) Specialized habilitation Staff and family consultation Vehicle modifications | ((Six thousand dollars)) \$6,000 per year for emergency assistance funding |
| Equine therapy Music therapy ((Equine therapy)) Peer mentoring Person-centered plan facilitation | ((Five thousand dollars)) \$5,000 per year for any combination of services |
| Therapeutic adaptations | Limited to a single, one-time authorization not to exceed ((fifteen thousand dollars)) \$15,000 every five waiver years |

(2) A participant's CIIBS waiver services are subject to additional limits under this chapter.

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 21-19-108, § 388-845-0225, filed 9/20/21, effective 10/21/21. Statutory Authority: RCW 71A.12.030, 71A.12.120, 42 C.F.R. 441 Subpart G. WSR 18-14-001, § 388-845-0225, filed 6/20/18, effective 7/21/18. Statutory Authority: 2014 c 139, 2014 c 166, 2015 3rd sp.s. c 4, RCW 71A.12.030, and 71A.12.120. WSR 16-17-009, § 388-845-0225, filed 8/4/16, effective 9/4/16. Statutory Authority: RCW 71A.12.030 and 2012 c 49. WSR 13-24-045, § 388-845-0225, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 71A.12.030, 71A.12.120, 2009 c 194, and 2008 c 329 § 205 (1)(i), and Title 71A RCW. WSR 10-22-088, § 388-845-0225, filed 11/1/10, effective 12/2/10.]

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-0230 What services are available under the individual and family services (IFS) waiver? (1) The following services are available under the individual and family services (IFS) waiver:

| SERVICE | YEARLY LIMIT |
|--|--|
| Assistive technology Community engagement Environmental adaptations <u>Nurse delegation</u> Occupational therapy Peer mentoring Person-centered plan facilitation Physical therapy ((Positive behavior support and consultation)) <u>Remote support</u> Respite care Skilled nursing Specialized clothing Specialized equipment and supplies Specialized habilitation Speech, hearing, and language services Staff and family consultation Supported parenting services Transportation Vehicle modifications Wellness education | Total cost of waiver services must not exceed annual allocation determined by the person-centered service plan |
| Therapeutic adaptations | Limited to a one-time authorization every five years and limited to funds available in the client's ((aggregate and emergency services)) <u>annual allocation</u> |
| Risk assessment | Limits determined by the person-centered service plan. <u>Costs are excluded from the annual allocation.</u> |
| STABILIZATION SERVICES: Crisis diversion bed Specialized habilitation Staff and family consultation | Limits determined by the person-centered service plan. Costs are excluded from the annual allocation. |

(2) Your IFS waiver services annual allocation is based upon the DDA assessment under chapter 388-828 WAC. The DDA assessment determines your service level and annual allocation based on your assessed need. Annual allocations are as follows:

- (a) Level 1 = ~~((one thousand two hundred dollars))~~ \$1,560;
- (b) Level 2 = ~~((one thousand eight hundred dollars))~~ \$2,340;
- (c) Level 3 = ~~((two thousand four hundred dollars))~~ \$3,120; or

(d) Level 4 = (~~three thousand six hundred dollars~~) \$4,680.

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 21-19-108, § 388-845-0230, filed 9/20/21, effective 10/21/21; WSR 20-05-080, § 388-845-0230, filed 2/18/20, effective 3/20/20. Statutory Authority: RCW 71A.12.030, 71A.12.120, 42 C.F.R. 441 Subpart G. WSR 18-14-001, § 388-845-0230, filed 6/20/18, effective 7/21/18. Statutory Authority: 2014 c 139, 2014 c 166, 2015 3rd sp.s. c 4, RCW 71A.12.030, and 71A.12.120. WSR 16-17-009, § 388-845-0230, filed 8/4/16, effective 9/4/16.]

AMENDATORY SECTION (Amending WSR 20-05-080, filed 2/18/20, effective 3/20/20)

WAC 388-845-0415 What is assistive technology? (1) Assistive technology consists of items, equipment, or product systems, not related to a client's physical health, that are used to directly support the client to:

~~((1))~~ (a) Increase, maintain, or improve functional capabilities; ~~((of waiver participants,))~~

(b) Improve client safety; or

~~((c))~~ (c) Increase social engagement in the community. ~~((as well as supports to directly assist the participant to select, acquire, and use the technology.))~~

(2) Assistive technology also includes supports to directly assist the client to select, acquire, and use the technology.

(3) Assistive technology is available ~~((in the CIIBS and IFS))~~ on all DDA HCBS waivers, and includes the following:

~~((1))~~ (a) The evaluation of the client's needs ~~((of the waiver participant)),~~ including a functional evaluation of the ~~((participant))~~ client in the ~~((participant's))~~ client's customary environment;

~~((2))~~ (b) Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices;

~~((3))~~ (c) Selecting, designing, fitting, customizing, adapting, applying, retaining, repairing, or replacing assistive technology devices;

~~((4))~~ (d) Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

~~((5))~~ (e) Training or technical assistance for the ~~((participant))~~ client and ~~((or))~~ if appropriate, the ~~((participant's))~~ client's family; and

~~((6))~~ (f) Training or technical assistance for professionals, including ~~((individuals))~~ people providing education and rehabilitation services, employers, or other ~~((individuals))~~ people who provide services to, employ, or are otherwise involved in the assistive technology related life functions of ~~((individuals))~~ people with disabilities.

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 20-05-080, § 388-845-0415, filed 2/18/20, effective 3/20/20. Statutory Authority: 2014 c 139, 2014 c 166, 2015 3rd sp.s. c 4, RCW 71A.12.030, and 71A.12.120. WSR 16-17-009, § 388-845-0415, filed 8/4/16, effective 9/4/16. Statutory Authority: RCW 71A.12.030, 71A.12.120, 2009 c 194,

and 2008 c 329 § 205 (1)(i), and Title 71A RCW. WSR 10-22-088, § 388-845-0415, filed 11/1/10, effective 12/2/10.]

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-0425 Are there limits to the assistive technology you may receive? The assistive technology you may receive has the following limits:

(1) Assistive technology is limited to additional services not otherwise covered under the medicaid state plan, including EPSDT, but consistent with waiver objectives of avoiding institutionalization.

(2) Clinical and support needs for assistive technology must be identified in your DDA assessment and documented in the person-centered service plan.

(3) DDA requires a (~~treating~~) professional's written recommendation regarding your need for the technology. This recommendation must take into account that:

(a) The (~~treating~~) professional has personal knowledge of and experience with the requested assistive technology; and

(b) The (~~treating~~) professional has recently (~~examined~~) evaluated you, reviewed your medical records, and conducted (~~a functional~~) an evaluation of (~~your use of~~) the equipment and determined its effectiveness in meeting your identified need.

(4) If the technology is related to expressive or receptive communication or other complex support needs, the recommendation under subsection (3) of this section must be from a credentialed professional evaluating your needs within their scope of practice.

(~~(4)~~) (5) Assistive technology exceeding \$550 requires prior approval by the DDA regional administrator or designee.

(~~(5)~~) (6) DDA may require a written second opinion from a DDA-selected professional.

(~~(6)~~) (7) The dollar amounts for your individual and family services (IFS) waiver annual allocation limit the amount of assistive technology you are authorized to receive.

(~~(7)~~) (8) Assistive technology excludes any item that is for recreational, leisure, or diversion purposes such as a television, cable, bicycle, or DVD player.

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 21-19-108, § 388-845-0425, filed 9/20/21, effective 10/21/21; WSR 20-05-080, § 388-845-0425, filed 2/18/20, effective 3/20/20. Statutory Authority: RCW 71A.12.030, 71A.12.120, 42 C.F.R. 441 Subpart G. WSR 18-14-001, § 388-845-0425, filed 6/20/18, effective 7/21/18. Statutory Authority: 2014 c 139, 2014 c 166, 2015 3rd sp.s. c 4, RCW 71A.12.030, and 71A.12.120. WSR 16-17-009, § 388-845-0425, filed 8/4/16, effective 9/4/16. Statutory Authority: RCW 71A.12.030 and 2012 c 49. WSR 13-24-045, § 388-845-0425, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 71A.12.030, 71A.12.120, 2009 c 194, and 2008 c 329 § 205 (1)(i), and Title 71A RCW. WSR 10-22-088, § 388-845-0425, filed 11/1/10, effective 12/2/10.]

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-0500 What is positive behavior support and consultation? (1) Positive behavior support and consultation is ~~((available on all of the DDA HCBS waivers. A participant is eligible for positive behavior support and consultation if the participant is:~~

~~(a) Under age 21 and currently authorized to receive positive behavior support and consultation for the support of behavioral health or autism treatment when unable to access through the medicaid state plan; or~~

~~(b) On the community protection waiver and requires behavior support to address sexual aggression, arson, or assaultive behaviors which make the client eligible for the community protection waiver)) a service available only on the community protection waiver. Effective September 1, 2022, this service is no longer available on any other waiver.~~

(2) Positive behavior support and consultation includes the development and implementation of programs designed to support waiver participants using:

(a) Individualized strategies for effectively relating to caregivers and other people in the waiver participant's life; and

(b) Direct interventions with the person to decrease aggressive, destructive, and sexually inappropriate or other behaviors that compromise their ability to remain in the community (i.e., training, specialized cognitive counseling, conducting a functional assessment, and development and implementation of a positive behavior support plan).

(3) Effective September 1, 2022, positive behavior support and consultation is available to a community protection waiver participant if the participant:

(a) Is currently authorized to receive positive behavior support and consultation; and

(b) Is receiving positive behavior support and consultation for the sexual aggression, arson, or assaultive behaviors that make the participant eligible for the community protection waiver.

(4) Effective September 1, 2022, a community protection participant currently receiving positive behavior support and consultation shall only be eligible for that service until the end of their waiver year.

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 21-19-108, § 388-845-0500, filed 9/20/21, effective 10/21/21. Statutory Authority: RCW 71A.12.030, 71A.12.120, 42 C.F.R. 441 Subpart G. WSR 18-14-001, § 388-845-0500, filed 6/20/18, effective 7/21/18. Statutory Authority: RCW 71A.12.030 and 2012 c 49. WSR 13-24-045, § 388-845-0500, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 71A.12.030, 74.08.090 and 2012 c 49. WSR 13-04-005, § 388-845-0500, filed 1/24/13, effective 2/24/13. Statutory Authority: RCW 71A.12.030, 71A.12.120, 2009 c 194, and 2008 c 329 § 205 (1)(i), and Title 71A RCW. WSR 10-22-088, § 388-845-0500, filed 11/1/10, effective 12/2/10. Statutory Authority: RCW 71A.12.030, 71A.12.12 [71A.12.120] and chapter 71A.12 RCW. WSR 06-01-024, § 388-845-0500, filed 12/13/05, effective 1/13/06.]

AMENDATORY SECTION (Amending WSR 18-14-001, filed 6/20/18, effective 7/21/18)

WAC 388-845-0505 Who is a qualified provider of positive behavior support and consultation? Under the ~~((basic plus, core,))~~ community protection (CP) waiver, ~~((and individual and family services (IFS) waivers,))~~ the provider of positive behavior support and consultation must be one of the following professionals contracted with DDA and duly licensed, registered, or certified as a:

- (1) Marriage and family therapist;
- (2) Mental health counselor;
- (3) Psychologist;
- (4) Sex offender treatment provider;
- (5) Social worker;
- (6) Registered nurse (RN) or licensed practical nurse (LPN);
- (7) Psychiatrist;
- (8) Psychiatric advanced registered nurse practitioner (ARNP);
- (9) Physician assistant working under the supervision of a psychiatrist;
- (10) Counselor registered or certified under chapter 18.19 RCW; ~~((11) Polygrapher;))~~ or ~~((12))~~ (11) State-operated positive behavior support agency qualified to provide behavioral health stabilization services.

[Statutory Authority: RCW 71A.12.030, 71A.12.120, 42 C.F.R. 441 Subpart G. WSR 18-14-001, § 388-845-0505, filed 6/20/18, effective 7/21/18. Statutory Authority: 2014 c 139, 2014 c 166, 2015 3rd sp.s. c 4, RCW 71A.12.030, and 71A.12.120. WSR 16-17-009, § 388-845-0505, filed 8/4/16, effective 9/4/16. Statutory Authority: RCW 71A.12.030 and 2012 c 49. WSR 13-24-045, § 388-845-0505, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 71A.12.030, 71A.12.120, 2009 c 194, and 2008 c 329 § 205 (1)(i), and Title 71A RCW. WSR 10-22-088, § 388-845-0505, filed 11/1/10, effective 12/2/10. Statutory Authority: RCW 71A.12.030, 71A.12.12 [71A.12.120] and chapter 71A.12 RCW. WSR 06-01-024, § 388-845-0505, filed 12/13/05, effective 1/13/06.]

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-0510 Are there limits to the positive behavior support and consultation you may receive? (1) Clinical and support needs for positive behavior support and consultation must be identified in your DDA assessment and documented in the person-centered service plan.

(2) DDA determines the amount of positive behavior support and consultation you may receive based on your needs and information from your treating professional.

(3) ~~((The dollar amounts for aggregate services in your basic plus waiver or the dollar amounts in the annual allocation for the individual and family services (IFS) waiver limit the amount of service unless provided as a stabilization service.))~~ Positive behavior support and consultation is closed to new enrollment effective September 1, 2022.

(4) DDA must not authorize positive behavior support and consultation for service dates on or after September 1, 2023.

(5) Effective September 1, 2022, a community protection participant currently receiving positive behavior support and consultation shall only be eligible for that service until the end of their waiver year.

~~((4)) (6) DDA may require a second opinion from a DDA-selected provider.~~

~~((5) Positive behavior support and consultation requires prior approval by the DDA regional administrator or designee for the following waivers:~~

~~(a) Basic plus;~~

~~(b) Core;~~

~~(c) Children's intensive in-home behavior support (CIIBS); and~~

~~(d) IFS.)~~

~~((6) Positive behavior support and consultation services are limited to services:~~

~~(a) Consistent with waiver objectives of avoiding institutionalization; and~~

~~(b) That are not a covered benefit under the medicaid state plan.)~~

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 21-19-108, § 388-845-0510, filed 9/20/21, effective 10/21/21. Statutory Authority: RCW 71A.12.030, 71A.12.120, 42 C.F.R. 441 Subpart G. WSR 18-14-001, § 388-845-0510, filed 6/20/18, effective 7/21/18. Statutory Authority: 2014 c 139, 2014 c 166, 2015 3rd sp.s. c 4, RCW 71A.12.030, and 71A.12.120. WSR 16-17-009, § 388-845-0510, filed 8/4/16, effective 9/4/16. Statutory Authority: RCW 71A.12.030 and 2012 c 49. WSR 13-24-045, § 388-845-0510, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 71A.12.030, 74.08.090 and 2012 c 49. WSR 13-04-005, § 388-845-0510, filed 1/24/13, effective 2/24/13. Statutory Authority: RCW 71A.12.030, 71A.12.120 and Title 71A RCW. WSR 07-20-050, § 388-845-0510, filed 9/26/07, effective 10/27/07. Statutory Authority: RCW 71A.12.030, 71A.12.12 [71A.12.120] and chapter 71A.12 RCW. WSR 06-01-024, § 388-845-0510, filed 12/13/05, effective 1/13/06.]

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-0515 What is extermination of bedbugs? (1) Extermination of cimex lectularius (bedbugs) is professional extermination of bedbugs.

(2) DDA covers professional extermination of bedbugs in your primary residence if you:

(a) ~~((Receive residential habilitation services))~~ Live with a non-relative primary caregiver; or

(b) Live in a private house or apartment for which you are financially responsible.

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 21-19-108, § 388-845-0515, filed 9/20/21, effective 10/21/21. Statutory Authority: RCW 71A.12.030, 71A.12.120, 42 C.F.R. 441 Subpart G. WSR 18-14-001, § 388-845-0515, filed 6/20/18, effective 7/21/18.]

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-0525 Are there limits to the extermination of bedbugs services I may receive? (1) Extermination of bedbugs is available on the following waivers:

- (a) Core;
- (b) Basic plus; and
- (c) Community protection.

~~((1))~~ (2) Extermination of bedbugs services covers only:

- (a) The assessment or inspection by the qualified provider;
- (b) The application of chemical-based pesticide or heat treatment; and
- (c) One follow-up visit.

~~((2))~~ (3) Extermination of bedbugs is limited to two (treatments) treatment cycles per plan year.

~~((3))~~ (4) Extermination of bedbugs excludes:

- (a) Lodging during the extermination process; and
- (b) Preparatory housework associated with the extermination process.

~~((4))~~ (5) DDA does not cover extermination of bedbugs for a participant who lives:

- (a) With their family; or
- (b) In an adult family home, assisted living, group home, group training home, licensed staffed residential home, or other facility contractually obligated to provide housing.

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 21-19-108, § 388-845-0525, filed 9/20/21, effective 10/21/21. Statutory Authority: RCW 71A.12.030, 71A.12.120, 42 C.F.R. 441 Subpart G. WSR 18-14-001, § 388-845-0525, filed 6/20/18, effective 7/21/18.]

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-0650 What is community engagement? (1) Community engagement (is designed to increase a waiver participant's connection to and engagement in formal and informal community supports by connecting the participant to community resources) connects a waiver participant to activities, resources, events, and services in the community that the participant is interested in exploring. It is intended to assist the participant with fully accessing their community and reducing isolation.

~~(2) (Community engagement is designed to develop creative, flexible, and supportive community resources and relationships for individuals with developmental disabilities.~~

~~(3) Waiver participants are introduced to the community resources and supports that are available in their area.~~

~~(4) Participants are supported to develop identified skills that will facilitate integration into their community as described in the person-centered service plan.~~

~~(5))~~ This service is available on the:

- (a) IFS waiver;
- (b) Basic plus waiver; and

(c) Core waiver when the participant is not receiving residential habilitation services.

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 21-19-108, § 388-845-0650, filed 9/20/21, effective 10/21/21. Statutory Authority: 2014 c 139, 2014 c 166, 2015 3rd sp.s. c 4, RCW 71A.12.030, and 71A.12.120. WSR 16-17-009, § 388-845-0650, filed 8/4/16, effective 9/4/16.]

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-0660 Are there limits to the community engagement you may receive? (1) Community engagement is limited to the support needs identified in your DDA assessment and documented in your person-centered service plan.

(2) The dollar amounts in the annual allocation for the individual and family services waiver limit the amount of community engagement you may receive.

(3) ~~((Community engagement is limited to the community where you live.~~

~~(4))~~ Community engagement does not cover:

- (a) Membership fees or dues;
- (b) Equipment related to activities; or
- (c) The cost of any activities.

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 21-19-108, § 388-845-0660, filed 9/20/21, effective 10/21/21. Statutory Authority: RCW 71A.12.030, 71A.12.120, 42 C.F.R. 441 Subpart G. WSR 18-14-001, § 388-845-0660, filed 6/20/18, effective 7/21/18. Statutory Authority: 2014 c 139, 2014 c 166, 2015 3rd sp.s. c 4, RCW 71A.12.030, and 71A.12.120. WSR 16-17-009, § 388-845-0660, filed 8/4/16, effective 9/4/16.]

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-0800 What is emergency assistance funding? Emergency assistance funding is a temporary increase of ~~((ninety))~~ 90 days or less to the yearly basic plus or CIIBS waiver aggregate dollar limit when additional waiver aggregate services under WAC 388-845-0820 are required to avoid placement in an intermediate care facility for individuals with intellectual disabilities (ICF/IID).

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 21-19-108, § 388-845-0800, filed 9/20/21, effective 10/21/21. Statutory Authority: RCW 71A.12.030, 71A.12.120, 42 C.F.R. 441 Subpart G. WSR 18-14-001, § 388-845-0800, filed 6/20/18, effective 7/21/18. Statutory Authority: RCW 71A.12.030 and 2012 c 49. WSR 13-24-045, § 388-845-0800, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 71A.12.030, 71A.12.120 and Title 71A RCW. WSR 07-20-050, § 388-845-0800, filed 9/26/07, effective 10/27/07. Statutory Authority: RCW 71A.12.030,

71A.12.12 [71A.12.120] and chapter 71A.12 RCW. WSR 06-01-024, § 388-845-0800, filed 12/13/05, effective 1/13/06.]

AMENDATORY SECTION (Amending WSR 06-01-024, filed 12/13/05, effective 1/13/06)

WAC 388-845-0805 Who is a qualified provider of emergency assistance funding? The provider of the service you need to meet your emergency must meet the provider qualifications for that service.

[Statutory Authority: RCW 71A.12.030, 71A.12.12 [71A.12.120] and chapter 71A.12 RCW. WSR 06-01-024, § 388-845-0805, filed 12/13/05, effective 1/13/06.]

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-0810 How do I qualify for emergency assistance funding? You qualify for emergency assistance funding only if you have used all of your CIIBS or basic plus aggregate funding and your current situation meets one of the following criteria:

- (1) You involuntarily lose your present residence for any reason either temporary or permanent;
- (2) You lose your present caregiver for any reason, including death;
- (3) There are changes in your caregiver's mental or physical status resulting in the caregiver's inability to perform effectively for the individual; or
- (4) There are significant changes in your emotional or physical condition that requires a temporary increase in the amount of a waiver service.

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 21-19-108, § 388-845-0810, filed 9/20/21, effective 10/21/21. Statutory Authority: RCW 71A.12.030 and 2012 c 49. WSR 13-24-045, § 388-845-0810, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 71A.12.030, 71A.12.12 [71A.12.120] and chapter 71A.12 RCW. WSR 06-01-024, § 388-845-0810, filed 12/13/05, effective 1/13/06.]

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-0820 Are there limits to your use of emergency assistance funding? All of the following limits apply to the emergency assistance funding you may receive.

- (1) Prior approval by the DDA regional administrator or designee is required based on a reassessment of your person-centered service plan to determine the need for emergency assistance.
- (2) Payment authorizations are reviewed every (~~thirty~~) 30 days and must not exceed (~~six thousand dollars~~) \$6,000 per (~~twelve~~) 12

months based on the effective date of your current person-centered service plan.

(3) Emergency assistance funding is limited to the following aggregate services when on the basic plus waiver:

- (a) Community engagement;
- (b) Environmental adaptations;
- (c) Occupational therapy;
- (d) Physical therapy;
- (e) (~~Positive behavior support and consultation;~~) Remote support;
- (f) Skilled nursing;
- (g) Specialized equipment and supplies;
- (h) Speech, hearing, and language services;
- (i) Staff and family consultation, which excludes individual and family counseling;
- (j) Transportation; and
- (k) Therapeutic adaptations.

(4) Emergency assistance funding is limited to the following services when on the CIIBS waiver:

- (a) Environmental adaptations;
- (b) Specialized habilitation;
- (c) Staff and family consultation; and
- (d) Vehicle modifications.

(5) Emergency assistance funding may be used for interim services until:

- (a) The emergency situation has been resolved;
- (b) You are transferred to alternative supports that meet your assessed needs; or
- (c) You are transferred to an alternate waiver that provides the service you need.

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 21-19-108, § 388-845-0820, filed 9/20/21, effective 10/21/21. Statutory Authority: RCW 71A.12.030, 71A.12.120, 42 C.F.R. 441 Subpart G. WSR 18-14-001, § 388-845-0820, filed 6/20/18, effective 7/21/18. Statutory Authority: 2014 c 139, 2014 c 166, 2015 3rd sp.s. c 4, RCW 71A.12.030, and 71A.12.120. WSR 16-17-009, § 388-845-0820, filed 8/4/16, effective 9/4/16. Statutory Authority: RCW 71A.12.030 and 2012 c 49. WSR 13-24-045, § 388-845-0820, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 71A.12.030, 71A.12.120 and Title 71A RCW. WSR 07-20-050, § 388-845-0820, filed 9/26/07, effective 10/27/07. Statutory Authority: RCW 71A.12.030, 71A.12.12 [71A.12.120] and chapter 71A.12 RCW. WSR 06-01-024, § 388-845-0820, filed 12/13/05, effective 1/13/06.]

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-0900 What are environmental adaptations? (1) Environmental adaptations provide minimum necessary physical adaptations to the existing home and existing rooms within the home required by the individual's person-centered service plan needed to:

- (a) Ensure the health, welfare, and safety of the individual;
- (b) Enable the individual who would otherwise require institutionalization to function with greater independence in the home; and

(c) Increase the individual's independence inside or outside the home to allow the individual to physically enter and move within the home.

(2) Examples of environmental adaptations include installing stair lifts, installing ramps and grab bars, widening doorways, modifying the individual's primary bathroom, or installing specialized electrical or plumbing systems necessary to accommodate the medical equipment and supplies that are necessary for the welfare of the individual.

(3) Environmental adaptations are available in all of the DDA HCBS waivers.

(4) ~~((Only the children's intensive in-home behavioral support (CIIBS) and individual and family services waivers may include))~~ Adaptations to the home necessary to prevent or repair damage to the structure of the home caused by the participant's behavior, as addressed in the participant's behavior support plan, are available on the children's intensive in-home behavioral support, individual and family services, core, and community protection waivers.

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 21-19-108, § 388-845-0900, filed 9/20/21, effective 10/21/21; WSR 20-05-080, § 388-845-0900, filed 2/18/20, effective 3/20/20. Statutory Authority: RCW 71A.12.030, 71A.12.120, 42 C.F.R. 441 Subpart G. WSR 18-14-001, § 388-845-0900, filed 6/20/18, effective 7/21/18. Statutory Authority: 2014 c 139, 2014 c 166, 2015 3rd sp.s. c 4, RCW 71A.12.030, and 71A.12.120. WSR 16-17-009, § 388-845-0900, filed 8/4/16, effective 9/4/16. Statutory Authority: RCW 71A.12.030 and 2012 c 49. WSR 13-24-045, § 388-845-0900, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 71A.12.030, 74.08.090 and 2012 c 49. WSR 13-04-005, § 388-845-0900, filed 1/24/13, effective 2/24/13. Statutory Authority: RCW 71A.12.030, 71A.12.120, 2009 c 194, and 2008 c 329 § 205 (1)(i), and Title 71A RCW. WSR 10-22-088, § 388-845-0900, filed 11/1/10, effective 12/2/10. Statutory Authority: RCW 71A.12.030, 71A.12.120 and Title 71A RCW. WSR 07-20-050, § 388-845-0900, filed 9/26/07, effective 10/27/07. Statutory Authority: RCW 71A.12.030, 71A.12.12 [71A.12.120] and chapter 71A.12 RCW. WSR 06-01-024, § 388-845-0900, filed 12/13/05, effective 1/13/06.]

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-0910 What limits apply to environmental adaptations?

The following service limits apply to environmental adaptations:

(1) Clinical and support needs for an environmental adaptation must be identified in the waiver participant's DDA assessment and documented in the person-centered service plan.

(2) Environmental adaptations require prior approval by the DDA regional administrator or designee.

(3) Environmental adaptations ((and)) must be supported by itemized and written bids from licensed contractors. For an adaptation that costs:

(a) ~~((One thousand five hundred dollars))~~ \$1,500 or less, one bid is required;

(b) More than ~~((one thousand five hundred dollars))~~ \$1,500 and equal to or less than ~~((five thousand dollars))~~ \$5,000, two bids are required; or

(c) More than ~~((five thousand dollars))~~ \$5,000, three bids are required.

~~((3))~~ (4) All bids must include:

(a) The cost of all required permits and sales tax; and

(b) An itemized and clearly outlined scope of work.

~~((4))~~ (5) DDA may require an occupational therapist, physical therapist, or other professional to review and recommend an appropriate environmental adaptation statement of work prior to the waiver participant soliciting bids or purchasing adaptive equipment.

~~((5))~~ (6) Environmental adaptations to the home are excluded if they are of general utility without direct benefit to the individual as related to the individual's developmental disability, such as cosmetic improvements to the home, or general home improvements, such as carpeting, roof repair, or central air conditioning.

~~((6))~~ (7) Environmental adaptations must meet all local and state building codes. Evidence of any required completed inspections must be submitted to DDA prior to final payment for work.

~~((7))~~ (8) Environmental adaptations must not be performed while other adaptations or remodeling projects are in process.

~~((8))~~ (9) Environmental adaptations must not be approved if the existing residence condition is impacted by hazardous mold, asbestos, or home dilapidation.

~~((9))~~ (10) Location of the home in a flood plain, landslide zone, or other hazardous area may limit or prevent any environmental adaptations at the discretion of DDA.

~~((10))~~ (11) Written consent from the home's landlord is required prior to starting any environmental adaptations for a rental property. The landlord must not require removal of the environmental adaptations at the end of the waiver participant's tenancy as a condition of the landlord approving the environmental adaptation to the waiver participant's home.

~~((11))~~ (12) Environmental adaptations must not add to the total square footage of the home, convert nonliving space to living space, or create a new room.

~~((12))~~ (13) The amount of service you may receive is limited to the dollar amounts for aggregate services in your basic plus waiver, CIIBS waiver, or the dollar amount of your annual IFS waiver allocation.

~~((13))~~ (14) For core and community protection waivers, annual environmental adaptation costs must not exceed ~~((twelve thousand one hundred ninety-two dollars))~~ \$12,192.

~~((14))~~ (15) Damage prevention and repairs under the CIIBS, ~~((and))~~ IFS, core, and CP waivers are subject to the following restrictions:

(a) Limited to the cost of restoration to the original function;

~~((b) Limited to the dollar amounts of the participant's annual allocation;)~~

~~((e))~~ (b) Behaviors of waiver participants that resulted in damage to the home must be addressed in a ~~((positive))~~ behavior support plan prior to the repair of damages;

~~((d))~~ (c) Repairs to personal property such as furniture and appliances are excluded; and

~~((e))~~ (d) Repairs due to normal wear and tear are excluded.

~~((15))~~ (16) Noncovered environmental adaptations include:

(a) Building fences and fence repairs;

(b) Carpet or carpet replacement;

(c) Air conditioning, heat pumps, generators, or ceiling fans;

(d) Roof repair or siding;

(e) Deck construction or repair; and

(f) Jetted tubs or saunas.

~~((16))~~ (17) Environmental adaptations are limited to additional services not otherwise covered under the medicaid state plan, including EPSDT, but consistent with waiver objectives of avoiding institutionalization.

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 21-19-108, § 388-845-0910, filed 9/20/21, effective 10/21/21; WSR 20-05-080, § 388-845-0910, filed 2/18/20, effective 3/20/20. Statutory Authority: RCW 71A.12.030, 71A.12.120, 42 C.F.R. 441 Subpart G. WSR 18-14-001, § 388-845-0910, filed 6/20/18, effective 7/21/18. Statutory Authority: 2014 c 139, 2014 c 166, 2015 3rd sp.s. c 4, RCW 71A.12.030, and 71A.12.120. WSR 16-17-009, § 388-845-0910, filed 8/4/16, effective 9/4/16. Statutory Authority: RCW 71A.12.030 and 2012 c 49. WSR 13-24-045, § 388-845-0910, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 71A.12.030, 71A.12.120, 2009 c 194, and 2008 c 329 § 205 (1)(i), and Title 71A RCW. WSR 10-22-088, § 388-845-0910, filed 11/1/10, effective 12/2/10. Statutory Authority: RCW 71A.12.030, 71A.12.120 and Title 71A RCW. WSR 07-20-050, § 388-845-0910, filed 9/26/07, effective 10/27/07. Statutory Authority: RCW 71A.12.030, 71A.12.12 [71A.12.120] and chapter 71A.12 RCW. WSR 06-01-024, § 388-845-0910, filed 12/13/05, effective 1/13/06.]

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-0940 Are there limits to the equine therapy I may receive? The following limits apply to your receipt of equine therapy:

(1) Support needs for equine therapy are limited to those identified in your DDA assessment and documented in the person-centered service plan.

(2) The department requires ~~((you#))~~ a written recommendation from a ((behavior)) behavioral health or related provider. The recommendation must include a description of ((specialist's written recommendation regarding)) your need for the service((. This recommendation must)) and take into account that the service is expected to complement the existing ~~((behavior))~~ behavioral health support plan ~~((to address behavior support needs))~~.

~~((3))~~ Equine therapy requires prior approval by the DDA regional administrator or designee.)

~~((4))~~ (3) DDA may require a second opinion by the department-selected provider.

~~((5))~~ (4) Equine therapy services must not exceed the CIIBS combined specialized-hourly services allocation of ~~((five thousand dollars))~~ \$5,000 per ~~((plan))~~ waiver year.

~~((6))~~ (5) Equine therapy services must not be used to provide hippotherapy, which is an occupational therapy service.

((+7)) (6) The department reserves the right to terminate the authorization for equine therapy services if there is not a demonstrable improvement in behavior as documented by the contracted equine therapist or other treatment provider.

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 21-19-108, § 388-845-0940, filed 9/20/21, effective 10/21/21.]

NEW SECTION

WAC 388-845-0945 What is remote support? (1) Remote support is supervision, coaching, and consultation from a contracted remote support provider to a waiver participant from a distant location.

(2) The provider uses HIPAA-compliant technology and secure data storage to support the waiver participant to increase their independence and safety in their home and community when not engaged in other DDA-paid services or informal supports.

(3) Remote support includes equipment as needed to deliver the supervision, coaching, and consultation. Equipment may include one or more of the following components:

- (a) Motion-sensing system;
- (b) Radio frequency identification;
- (c) Video calling via assistive technology;
- (d) Live audio feed; and
- (e) Web-based monitoring systems.

[]

NEW SECTION

WAC 388-845-0950 Who are qualified providers of remote support?

(1) The provider of remote support must be an entity contracted with DDA to provide remote support.

(2) A guardian, legal representative, parent, or other family member cannot provide remote support to a waiver participant.

[]

NEW SECTION

WAC 388-845-0955 Are there limits to the remote support I may receive? The following limits apply to your receipt of remote support:

(1) Remote support must never be used to restrict people from their home, community, or body autonomy.

(2) Before DDA authorizes remote support, a safety plan must be established and documented in the waiver participant's person-centered service plan.

(3) The need for remote support must be identified in the waiver participant's person-centered service plan.

- (4) Remote support cannot pay for internet, data plans, or wi-fi access.
- (5) Remote support requires prior approval by the regional administrator or designee.
- (6) For basic plus, remote support is limited to the aggregate budget.
- (7) For IFS, remote support is limited to the annual allocation.
- (8) Remote support must not replace, duplicate, or be the delivery method for other available paid or unpaid supports or services.
- (9) Remote support must not be authorized to waiver participants receiving residential habilitation.

[]

AMENDATORY SECTION (Amending WSR 18-03-174, filed 1/23/18, effective 2/23/18)

WAC 388-845-1030 What are individualized technical assistance services? Individualized technical assistance services:

- (1) Provide short-term, professional expertise to identify and address barriers to employment services or community inclusion; and
- (2) Are available in addition to supports received through supported employment services and community inclusion for an individual who has not yet achieved his or her goal.

[Statutory Authority: RCW 71A.12.030, 71A.12.040, 2015 3rd sp.s. c 4, and 42 C.F.R. § 441.301 (c) (4)-(5). WSR 18-03-174, § 388-845-1030, filed 1/23/18, effective 2/23/18. Statutory Authority: RCW 71A.12.030 and 2012 c 49. WSR 13-24-045, § 388-845-1030, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 74.08.090, 74.09.520, and 2012 c 49. WSR 12-16-095, § 388-845-1030, filed 8/1/12, effective 9/1/12.]

AMENDATORY SECTION (Amending WSR 18-03-174, filed 1/23/18, effective 2/23/18)

WAC 388-845-1040 Are there limits to the individualized technical assistance services you may receive? (1) The developmental disabilities administration (DDA) may authorize a maximum of (~~three~~) six months of individualized technical assistance services at a time, not to exceed six months in the (~~plan~~) waiver year.

(2) Individualized technical assistance services are available on the basic plus, core, and community protection waivers.

(3) Individualized technical assistance services are available only to (~~individuals~~) clients who are receiving supported employment or community inclusion services, unless approved by the regional administrator or his or her designee.

(4) Individualized technical assistance services are limited to additional hours under WAC 388-828-9355 and 388-828-9360.

[Statutory Authority: RCW 71A.12.030, 71A.12.040, 2015 3rd sp.s. c 4, and 42 C.F.R. § 441.301 (c) (4)-(5). WSR 18-03-174, § 388-845-1040, filed 1/23/18, effective 2/23/18. Statutory Authority: 2014 c 139, 2014 c 166, 2015 3rd sp.s. c 4, RCW 71A.12.030, and 71A.12.120. WSR

16-17-009, § 388-845-1040, filed 8/4/16, effective 9/4/16. Statutory Authority: RCW 71A.12.030 and 2012 c 49. WSR 13-24-045, § 388-845-1040, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 74.08.090, 74.09.520, and 2012 c 49. WSR 12-16-095, § 388-845-1040, filed 8/1/12, effective 9/1/12.]

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-1163 Are there limits to the music therapy I may receive? The following limits apply to your receipt of music therapy:

(1) Support needs for music therapy are limited to those identified in your DDA assessment and documented in the person-centered service plan.

(2) The department requires ~~((your behavior specialist's))~~ a written recommendation ~~((regarding your need for the service))~~ from a behavioral health or related provider. ~~((This))~~ The recommendation must include a description of your need for the services and take into account that music therapy is expected to complement the existing ~~((behavior))~~ behavioral health ~~((support))~~ plan ~~((to address behavior support needs))~~.

~~((3))~~ Music therapy requires prior approval by the DDA regional administrator or designee.)

~~((4))~~ (3) DDA may require a second opinion by a department-selected provider.

~~((5))~~ (4) Music therapy must not exceed the CIIBS combined specialized-hourly services allocation of ~~((five thousand dollars))~~ \$5,000 per year.

~~((6))~~ (5) The department reserves the right to terminate the service authorization for music therapy if there is not a demonstrable improvement in behavior as documented by the certified music therapist or other treatment provider.

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 21-19-108, § 388-845-1163, filed 9/20/21, effective 10/21/21.]

AMENDATORY SECTION (Amending WSR 20-05-080, filed 2/18/20, effective 3/20/20)

WAC 388-845-1190 What is peer mentoring? (1) Peer mentoring is a form of mentorship that takes place between a person who has lived through an experience (peer mentor) and a person who is new to that experience (mentee). Peer mentors use their experience to inform, support, and train mentees to successfully navigate new experiences related to or impacted by their disability.

(2) A peer mentor may provide support and guidance to a ~~((waiver participant and))~~ client, the ~~((participant's))~~ client's family, or both.

(3) A peer mentor may connect a waiver participant to local community services, programs, and resources and answer participant questions or suggest other sources of support.

(4) Peer mentoring is available in the IFS and CIIBS ~~((waiver))~~ waivers.

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 20-05-080, § 388-845-1190, filed 2/18/20, effective 3/20/20. Statutory Authority: 2014 c 139, 2014 c 166, 2015 3rd sp.s. c 4, RCW 71A.12.030, and 71A.12.120. WSR 16-17-009, § 388-845-1190, filed 8/4/16, effective 9/4/16.]

AMENDATORY SECTION (Amending WSR 20-05-080, filed 2/18/20, effective 3/20/20)

WAC 388-845-1192 What limits apply to peer mentoring? (1) Support needs for peer mentoring are limited to those identified in the waiver participant's DDA assessment and documented in the person-centered service plan.

(2) DDA does not contract with a peer mentor to mentor a member of the mentor's own family.

(3) ((A)) An IFS waiver participant's peer mentoring services are limited to the participant's annual IFS waiver allocation.

(4) A CIIBS waiver participant's peer mentoring services must not exceed the CIIBS combined specialized hourly services allocation of \$5,000 per year.

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 20-05-080, § 388-845-1192, filed 2/18/20, effective 3/20/20. Statutory Authority: 2014 c 139, 2014 c 166, 2015 3rd sp.s. c 4, RCW 71A.12.030, and 71A.12.120. WSR 16-17-009, § 388-845-1192, filed 8/4/16, effective 9/4/16.]

AMENDATORY SECTION (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

WAC 388-845-1195 What is person-centered plan facilitation? (1) Person-centered plan facilitation is an approach to forming life plans that is centered on the individual. It is used as a life planning process to enable individuals with disabilities to increase personal self-determination. Person-centered plan facilitation is available in the IFS (~~waiver~~) and CIIBS waivers.

(2) Person-centered plan facilitation typically includes:

(a) Identifying and developing a potential circle of people who know and care about the individual;

(b) Exploring what matters to the waiver participant by listening to and learning from the person;

(c) Developing a vision for a meaningful life, as defined by the waiver participant, which may include goals for education, employment, housing, relationships, and recreation;

(d) Discovering capacities and assets of the waiver participant, and his or her family, neighborhood, and support network;

(e) Generating an action plan; and

(f) Facilitating follow-up meetings to track progress toward goals.

[Statutory Authority: 2014 c 139, 2014 c 166, 2015 3rd sp.s. c 4, RCW 71A.12.030, and 71A.12.120. WSR 16-17-009, § 388-845-1195, filed 8/4/16, effective 9/4/16.]

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-1197 What ((limitations are there)) are the limits for person-centered plan facilitation? (1) Support needs for person-centered planning facilitation are limited to those identified in the waiver participant's DDA assessment and documented in the person-centered service plan.

(2) Person-centered plan facilitation may include follow up contacts with the waiver participant and his or her family to consult on plan implementation.

(3) ~~((The dollar amounts for the waiver participants' annual allocation in the IFS waiver limit the amount of person-centered plan facilitation service the individual is authorized to receive.))~~ An IFS waiver participant's person-centered plan facilitation is limited to the participant's annual allocation.

(4) A CIIBS waiver participant's person-centered plan facilitation must not exceed the CIIBS combined specialized hourly services allocation of \$5,000 per year.

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 21-19-108, § 388-845-1197, filed 9/20/21, effective 10/21/21. Statutory Authority: 2014 c 139, 2014 c 166, 2015 3rd sp.s. c 4, RCW 71A.12.030, and 71A.12.120. WSR 16-17-009, § 388-845-1197, filed 8/4/16, effective 9/4/16.]

AMENDATORY SECTION (Amending WSR 18-14-001, filed 6/20/18, effective 7/21/18)

WAC 388-845-1600 What is respite care? (1) Respite care is short-term intermittent care to provide relief for a person who lives with you, is your primary care provider, and is:

(a) Your family member and your paid or unpaid care provider;
 (b) A nonfamily member who is not paid to provide care for you;
 (c) A contracted companion home provider paid by DDA to provide support to you; or

(d) A licensed children's foster home provider paid by DDA to provide support to you.

(2) Respite care is available in the:

(a) Basic plus waiver;
 (b) Children's intensive in-home behavioral support (CIIBS) waiver;

(c) Core waiver; and

(d) Individual and family services (IFS) waiver.

[Statutory Authority: RCW 71A.12.030, 71A.12.120, 42 C.F.R. 441 Subpart G. WSR 18-14-001, § 388-845-1600, filed 6/20/18, effective 7/21/18. Statutory Authority: 2014 c 139, 2014 c 166, 2015 3rd sp.s. c

4, RCW 71A.12.030, and 71A.12.120. WSR 16-17-009, § 388-845-1600, filed 8/4/16, effective 9/4/16. Statutory Authority: RCW 71A.12.030 and 2012 c 49. WSR 13-24-045, § 388-845-1600, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 71A.12.030, 74.08.090 and 2012 c 49. WSR 13-04-005, § 388-845-1600, filed 1/24/13, effective 2/24/13. Statutory Authority: RCW 71A.12.030, 71A.12.120, 2009 c 194, and 2008 c 329 § 205 (1)(i), and Title 71A RCW. WSR 10-22-088, § 388-845-1600, filed 11/1/10, effective 12/2/10. Statutory Authority: RCW 71A.12.030, 71A.12.120 and Title 71A RCW. WSR 08-20-033, § 388-845-1600, filed 9/22/08, effective 10/23/08. Statutory Authority: RCW 71A.12.030, 71A.12.12 [71A.12.120] and chapter 71A.12 RCW. WSR 06-01-024, § 388-845-1600, filed 12/13/05, effective 1/13/06.]

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-1607 Can someone who lives with you be your respite provider? A person who lives with you (~~(must not)~~) may be your respite care provider if the person is not:

- (1) Your primary care provider;
- (2) Providing any other DSHS paid service to you in the month that person provides respite care to you; or
- (3) (~~(Unqualified to provide waiver)~~) Excluded from providing services based on the limits (~~(listed in)~~) under WAC 388-845-0111.

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 21-19-108, § 388-845-1607, filed 9/20/21, effective 10/21/21. Statutory Authority: 2014 c 139, 2014 c 166, 2015 3rd sp.s. c 4, RCW 71A.12.030, and 71A.12.120. WSR 16-17-009, § 388-845-1607, filed 8/4/16, effective 9/4/16. Statutory Authority: RCW 71A.12.030 and 2012 c 49. WSR 13-24-045, § 388-845-1607, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 71A.12.030, 74.08.090 and 2012 c 49. WSR 13-04-005, § 388-845-1607, filed 1/24/13, effective 2/24/13.]

AMENDATORY SECTION (Amending WSR 18-14-001, filed 6/20/18, effective 7/21/18)

WAC 388-845-1620 Are there limits to the respite care you may receive? The following limits apply to the respite care you may receive:

- (1) For basic plus, core, and the children's intensive in-home behavioral support (CIIBS) waivers, the developmental disabilities administration (DDA) assessment will determine how much respite you may receive under chapter 388-828 WAC.
- (2) For the individual and family services (IFS) waiver, the dollar amount for your annual allocation in your IFS waiver limits the amount of respite care you may receive.
- (3) Respite must not replace:
 - (a) Day care while your parent or guardian is at work; or
 - (b) Personal care hours available to you.
- (4) If you receive respite in a private home, the home must be licensed to provide respite care unless the home is:
 - (a) Your private home; or

- (b) The home of a relative under WAC 388-825-345.
- (5) If you receive respite from a provider who requires licensure, the respite services are limited to activities and age-specific criteria contained in the provider's license.
- (6) Your individual respite provider must not provide:
- (a) Other DDA services for you during your respite care hours; or
- (b) DDA paid services to other persons during your respite care hours.
- (7) Your primary caregivers must not provide other DDA services for you during your respite care hours.
- (8) If your personal care provider is your parent and you live in your parent's adult family home you must not receive respite.
- (9) DDA must not pay for fees - such as a membership or insurance fee - associated with your respite care.
- (10) If you require respite care from a licensed practical nurse (LPN) or a registered nurse (RN), respite services may be authorized using an LPN or RN. Respite services are limited to the assessed respite care hours identified in your person-centered service plan. Respite provided by an LPN or RN requires a prior approval by the regional administrator or designee.

[Statutory Authority: RCW 71A.12.030, 71A.12.120, 42 C.F.R. 441 Subpart G. WSR 18-14-001, § 388-845-1620, filed 6/20/18, effective 7/21/18. Statutory Authority: 2014 c 139, 2014 c 166, 2015 3rd sp.s. c 4, RCW 71A.12.030, and 71A.12.120. WSR 16-17-009, § 388-845-1620, filed 8/4/16, effective 9/4/16. Statutory Authority: RCW 71A.12.030 and 2012 c 49. WSR 13-24-045, § 388-845-1620, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 71A.12.030, 74.08.090 and 2012 c 49. WSR 13-04-005, § 388-845-1620, filed 1/24/13, effective 2/24/13. Statutory Authority: RCW 71A.12.030, 71A.12.120, 2009 c 194, and 2008 c 329 § 205 (1)(i), and Title 71A RCW. WSR 10-22-088, § 388-845-1620, filed 11/1/10, effective 12/2/10. Statutory Authority: RCW 71A.12.030, 71A.12.120 and Title 71A RCW. WSR 08-20-033, § 388-845-1620, filed 9/22/08, effective 10/23/08; WSR 07-20-050, § 388-845-1620, filed 9/26/07, effective 10/27/07. Statutory Authority: RCW 71A.12.030, 71A.12.12 [71A.12.120] and chapter 71A.12 RCW. WSR 06-01-024, § 388-845-1620, filed 12/13/05, effective 1/13/06.]

AMENDATORY SECTION (Amending WSR 18-14-001, filed 6/20/18, effective 7/21/18)

WAC 388-845-1660 Are there limits to the risk assessment you may receive? (1) Clinical and support needs for a risk assessment are limited to those identified in your DDA assessment and documented in your person-centered service plan.

(2) A risk assessment must meet requirements under WAC ((246-930-320)) 388-831-0060.

(3) A risk assessment requires prior approval by the DDA regional administrator or designee.

(4) The cost of a risk assessment does not count toward the:

- (a) Dollar limit for aggregate services in the basic plus waiver;
- (b) Annual allocation in the individual and family services waiver; or

(c) ((Monthly average cost limit)) Aggregate budget amounts available in the children's intensive in-home behavior support waiver.

[Statutory Authority: RCW 71A.12.030, 71A.12.120, 42 C.F.R. 441 Subpart G. WSR 18-14-001, § 388-845-1660, filed 6/20/18, effective 7/21/18. Statutory Authority: 2014 c 139, 2014 c 166, 2015 3rd sp.s. c 4, RCW 71A.12.030, and 71A.12.120. WSR 16-17-009, § 388-845-1660, filed 8/4/16, effective 9/4/16. Statutory Authority: RCW 71A.12.030 and 2012 c 49. WSR 13-24-045, § 388-845-1660, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 71A.12.030, 71A.12.120 and Title 71A RCW. WSR 08-20-033, § 388-845-1660, filed 9/22/08, effective 10/23/08; WSR 07-20-050, § 388-845-1660, filed 9/26/07, effective 10/27/07. Statutory Authority: RCW 71A.12.030, 71A.12.12 [71A.12.120] and chapter 71A.12 RCW. WSR 06-01-024, § 388-845-1660, filed 12/13/05, effective 1/13/06.]

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-1800 What are specialized equipment and supplies?

(1) Specialized equipment and supplies are ~~((durable and nondurable medical equipment, or nonmedical equipment))~~ specialized items necessary to prevent institutionalization((,)) that are not ((available)) covered, or are in excess of what is covered, through the medicaid state plan. ~~((or are in excess of what is available through the medicaid state plan benefit, which enables individuals:))~~ Types of specialized equipment and supplies include:

(a) Durable medical equipment;

(b) Nondurable medical equipment designed to directly improve an activity of daily living or instrumental activity of daily living need; and

(c) Nonmedical, specialized equipment designed to directly assist an individual in tasks affected by a functionally limiting disability.

(2) An item purchased under specialized equipment and supplies must directly enable a client to:

~~((a))~~ (a) Increase their abilities to perform their activities of daily living;

~~((b))~~ (b) Perceive, control, or communicate with the environment in which they live; or

~~((c))~~ (c) Improve daily functioning through sensory integration identified in a written therapeutic plan by the current treating professional.

~~((2))~~ (3) Specialized equipment and supplies are available in all DDA HCBS waivers.

~~((3))~~ (4) Durable medical equipment and medical supplies are defined in WAC 182-543-1000 and 182-543-5500, respectively.

~~((4))~~ (5) Also included in specialized equipment and supplies are items necessary for life support and ancillary supplies and equipment necessary to the proper functioning of the equipment and supplies described in subsection (1) of this section.

~~((5))~~ (6) Specialized equipment and supplies include the maintenance and repair of specialized equipment not covered through the medicaid state plan.

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 21-19-108, § 388-845-1800, filed 9/20/21, effective 10/21/21; WSR 20-05-080, § 388-845-1800, filed 2/18/20, effective 3/20/20. Statutory Authority:

2014 c 139, 2014 c 166, 2015 3rd sp.s. c 4, RCW 71A.12.030, and 71A.12.120. WSR 16-17-009, § 388-845-1800, filed 8/4/16, effective 9/4/16. Statutory Authority: RCW 71A.12.030 and 2012 c 49. WSR 13-24-045, § 388-845-1800, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 71A.12.030, 74.08.090 and 2012 c 49. WSR 13-04-005, § 388-845-1800, filed 1/24/13, effective 2/24/13. Statutory Authority: RCW 71A.12.030, 71A.12.120, 2009 c 194, and 2008 c 329 § 205 (1)(i), and Title 71A RCW. WSR 10-22-088, § 388-845-1800, filed 11/1/10, effective 12/2/10. Statutory Authority: RCW 71A.12.030, 71A.12.120 and Title 71A RCW. WSR 07-20-050, § 388-845-1800, filed 9/26/07, effective 10/27/07. Statutory Authority: RCW 71A.12.030, 71A.12.12 [71A.12.120] and chapter 71A.12 RCW. WSR 06-01-024, § 388-845-1800, filed 12/13/05, effective 1/13/06.]

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-1805 Who are the qualified providers of specialized equipment and supplies? (1) To be a qualified provider of specialized durable or nondurable medical equipment, the provider must be a medical equipment supplier currently contracted:

- (a) With DDA as a specialized equipment and supplies vendor; and
- (b) As a Title XIX vendor.

(2) The provider of specialized nonmedical equipment (~~(may)~~) must be a provider contracted with DDA as (~~(a)~~):

- (a) A purchasing goods and services (~~(shopper)~~) vendor;
- (b) A specialized equipment and supplies vendor; or
- (c) (~~(a provider)~~) A vendor who satisfies the requirements of

(~~(WAC 388-845-1805(1))~~) subsection (1) of this section.

(3) (~~(The provider of)~~) To provide specialized equipment and supplies under WAC 388-845-1800 (~~((1))~~) (2) (c) (~~(may be contracted with DDA as)~~), a provider (~~(of)~~) may hold a specialized goods and services (~~(or specialized equipment and supplies for IFS and CIIBS waiver clients only)~~) contract.

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 21-19-108, § 388-845-1805, filed 9/20/21, effective 10/21/21; WSR 20-05-080, § 388-845-1805, filed 2/18/20, effective 3/20/20. Statutory Authority: RCW 71A.12.030 and 2012 c 49. WSR 13-24-045, § 388-845-1805, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 71A.12.030, 71A.12.12 [71A.12.120] and chapter 71A.12 RCW. WSR 06-01-024, § 388-845-1805, filed 12/13/05, effective 1/13/06.]

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-1810 Are there limits to the specialized equipment and supplies you may receive? The following limits apply to the specialized equipment and supplies you may receive:

(1) Habilitative support needs for specialized equipment and supplies are limited to those identified in your DDA person-centered assessment and documented in your person-centered service plan.

(2) Specialized equipment and supplies over \$550 require prior approval by the DDA regional administrator or designee (~~for each authorization~~).

(3) When your medical professional recommends specialized equipment and supplies for you, DDA may require a second opinion by a DDA-selected provider.

(4) Items must be of direct medical or remedial benefit to you or required to prevent institutionalization and necessary as a result of your disability.

(5) Items requested to address a sensory integration need must have an accompanying therapeutic plan written by a current treating professional.

~~((5))~~ (6) Medications, first aid supplies, antiseptic supplies, personal hygiene products, supplements, and vitamins are excluded.

~~((6))~~ (7) The dollar amounts for aggregate services in your basic plus or CIIBS waiver limit the amount of service you may receive.

~~((7))~~ (8) The dollar amounts for your annual allocation in your individual and family services (IFS) waiver limit the amount of service you may receive.

~~((8))~~ (9) Items excluded from specialized equipment and supplies include:

(a) Items of general utility;

(b) Items that do not directly support the client as described in WAC 388-845-1800; and

~~((b))~~ (c) Nonspecialized recreational or exercise equipment, including but not limited to trampolines, treadmills, swing sets, and hot tubs.

~~((9))~~ (10) Specialized equipment and supplies are limited to additional services not otherwise covered under the medicaid state plan, including EPSDT, but consistent with waiver objectives of avoiding institutionalization.

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 21-19-108, § 388-845-1810, filed 9/20/21, effective 10/21/21; WSR 20-05-080, § 388-845-1810, filed 2/18/20, effective 3/20/20. Statutory Authority: RCW 71A.12.030, 71A.12.120, 42 C.F.R. 441 Subpart G. WSR 18-14-001, § 388-845-1810, filed 6/20/18, effective 7/21/18. Statutory Authority: 2014 c 139, 2014 c 166, 2015 3rd sp.s. c 4, RCW 71A.12.030, and 71A.12.120. WSR 16-17-009, § 388-845-1810, filed 8/4/16, effective 9/4/16. Statutory Authority: RCW 71A.12.030 and 2012 c 49. WSR 13-24-045, § 388-845-1810, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 71A.12.030, 71A.12.120 and Title 71A RCW. WSR 07-20-050, § 388-845-1810, filed 9/26/07, effective 10/27/07. Statutory Authority: RCW 71A.12.030, 71A.12.12 [71A.12.120] and chapter 71A.12 RCW. WSR 06-01-024, § 388-845-1810, filed 12/13/05, effective 1/13/06.]

AMENDATORY SECTION (Amending WSR 18-14-001, filed 6/20/18, effective 7/21/18)

WAC 388-845-1865 Are there limits to your receipt of specialized clothing? (1) The following limits apply to specialized clothing you may receive:

(a) Clinical and support needs for specialized clothing are limited to those identified in your DDA assessment and documented in your person-centered service plan.

(b) DDA requires written documentation from an appropriate health professional regarding your need for the service. This recommendation must take into account that the health professional has recently examined you, reviewed your medical records, and conducted an assessment.

(c) DDA may require a second opinion from a DDA-selected provider.

(2) For the IFS waiver, the dollar amount for your annual allocation limits the amount of service you may receive.

(3) For the CIIBS waiver, the dollar amount for your aggregate services limits the amount of service you may receive.

~~((3))~~ (4) You must receive prior approval from the DDA regional administrator or designee to receive specialized clothing.

[Statutory Authority: RCW 71A.12.030, 71A.12.120, 42 C.F.R. 441 Subpart G. WSR 18-14-001, § 388-845-1865, filed 6/20/18, effective 7/21/18. Statutory Authority: 2014 c 139, 2014 c 166, 2015 3rd sp.s. c 4, RCW 71A.12.030, and 71A.12.120. WSR 16-17-009, § 388-845-1865, filed 8/4/16, effective 9/4/16.]

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-1870 What are specialized habilitation services?

(1) Specialized habilitation services provide community-based and individualized support with the intent of reaching an identified habilitative goal in the person-centered service plan.

(2) Service must assist a client to learn or maintain skills in ~~((the category))~~ categories of:

(a) Self-empowerment((τ));

(b) Safety awareness((τ)) and self-advocacy((τ));

(c) Interpersonal effectiveness((τ)) and effective social communication((τ));

(d) ((appropriate)) Coping strategies for everyday life changes((τ)); and

(e) Managing daily tasks((τ-øτ)) and acquiring adaptive skills.

(3) Specialized habilitation must promote inclusion in the community.

(4) Specialized habilitation services are available on the basic plus, IFS, core, and CIIBS waivers.

(5) Specialized habilitation, when authorized as a stabilization service, is available on all five HCBS waivers.

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 21-19-108, § 388-845-1870, filed 9/20/21, effective 10/21/21.]

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-1880 Who are qualified providers of specialized habilitation services? To provide specialized habilitation services, a

provider must be contracted with DDA for this service, have one year of experience working with people with a developmental or intellectual disability, and be one of the following:

- (1) A certified life skills coach;
- (2) An individual with a bachelor's, master's, or doctoral degree in social work, sociology, psychology, education, child development, gerontology, nursing, or other related field; or
- (3) An individual enrolled and supervised in a university internship program for social work, sociology, psychology, education, child development, gerontology, sociology, or nursing.

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 21-19-108, § 388-845-1880, filed 9/20/21, effective 10/21/21.]

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-1890 Are there limits to the specialized habilitation I may receive? The following limits apply to your receipt of specialized habilitation:

- (1) Specialized habilitation is limited to address a maximum of three goals at a time.
- (2) Specialized habilitation support needs must be identified in your DDA assessment and specialized habilitation must be documented in your person-centered service plan.
- (3) Specialized habilitation must not exceed:
 - (a) ~~((Four thousand dollars of your basic plus aggregate funding))~~ \$6,192 within your total basic plus aggregate budget;
 - (b) Your IFS annual allocation in combination with other waiver services; or
 - (c) ~~((Fifteen thousand dollars))~~ \$15,000 within your total CIIBS aggregate budget and ~~((six thousand dollars))~~ \$6,000 emergency assistance funding when eligible per WAC 388-845-0800 and 388-845-0820.
- (4) Specialized habilitation does not cover education, vocational, skills acquisition training through community first choice, behavioral health, ABA, skilled nursing, occupational therapy, physical therapy, or speech, language, and hearing services that are covered benefits through the medicaid state plan, including early and periodic screening, diagnosis, and treatment, and part B special education services.
- (5) Specialized habilitation must not be authorized ~~((to clients enrolled in))~~ for a client receiving residential habilitation, unless the client is receiving the service from a companion home provider.
- (6) Habilitation plans must be documented as formal plans as outlined in the provider's contract.
- (7) Specialized habilitation, not provided as a stabilization service, requires prior approval by the DDA regional administrator or designee.

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 21-19-108, § 388-845-1890, filed 9/20/21, effective 10/21/21.]

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-2000 What is staff and family consultation? (1)

Staff and family consultation is assistance, not covered by the medic-aid state plan, to families or direct service providers to help them meet the individualized and specific needs of a participant as outlined in the participant's person-centered service plan and necessary to improve the participant's independence and inclusion in their community.

(2) Staff and family consultation is available in all DDA HCBS waivers.

(3) Staff and family consultation is consultation and guidance to a staff member or family member about one or more of the following:

(a) Health and medication monitoring to track and report to healthcare provider;

(b) Positioning and transfer;

(c) Basic and advanced instructional techniques;

(d) Consultation with potential referral resources;

(e) Augmentative communication systems;

(f) Diet and nutritional guidance;

(g) Disability information and education;

(h) Strategies for effectively and therapeutically interacting with the participant;

(i) Environmental consultation;

(j) Assistive technology safety;

(k) (~~An existing plan of care~~) Parenting skills; and

(l) For the basic plus, IFS, and CIIBS waivers only, individual and family counseling.

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 21-19-108, § 388-845-2000, filed 9/20/21, effective 10/21/21; WSR 20-05-080, § 388-845-2000, filed 2/18/20, effective 3/20/20. Statutory Authority: RCW 71A.12.030, 71A.12.120, 42 C.F.R. 441 Subpart G. WSR 18-14-001, § 388-845-2000, filed 6/20/18, effective 7/21/18. Statutory Authority: 2014 c 139, 2014 c 166, 2015 3rd sp.s. c 4, RCW 71A.12.030, and 71A.12.120. WSR 16-17-009, § 388-845-2000, filed 8/4/16, effective 9/4/16. Statutory Authority: RCW 71A.12.030 and 2012 c 49. WSR 13-24-045, § 388-845-2000, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 71A.12.030, 74.08.090 and 2012 c 49. WSR 13-04-005, § 388-845-2000, filed 1/24/13, effective 2/24/13. Statutory Authority: RCW 71A.12.030, 71A.12.120, 2009 c 194, and 2008 c 329 § 205 (1)(i), and Title 71A RCW. WSR 10-22-088, § 388-845-2000, filed 11/1/10, effective 12/2/10. Statutory Authority: RCW 71A.12.030, 71A.12.120 and Title 71A RCW. WSR 07-20-050, § 388-845-2000, filed 9/26/07, effective 10/27/07. Statutory Authority: RCW 71A.12.030, 71A.12.12 [71A.12.120] and chapter 71A.12 RCW. WSR 06-01-024, § 388-845-2000, filed 12/13/05, effective 1/13/06.]

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-2005 Who is a qualified provider of staff and family consultation? To provide staff and family consultation, a provider

must be contracted with DDA and be one of the following licensed, registered, or certified professionals:

- (1) Audiologist;
- (2) Licensed practical nurse;
- (3) Marriage and family therapist;
- (4) Mental health counselor;
- (5) Occupational therapist;
- (6) Physical therapist;
- (7) Registered nurse;
- (8) Sex offender treatment provider;
- (9) Speech-language pathologist;
- (10) Social worker;
- (11) Psychologist;
- (12) Certified American Sign Language instructor;
- (13) Nutritionist;
- (14) Counselors registered or certified in accordance with chapter 18.19 RCW;
- (15) Certified dietician;
- (16) Recreation therapist registered in Washington and certified by the national council for therapeutic recreation;
- (17) ~~((Providers listed in WAC 388-845-0506 and contracted with DDA to provide CIIBS intensive services;~~
- ~~(18))~~ Certified music therapist (for CIIBS only);
- ~~((19))~~ (18) Psychiatrist;
- ~~((20))~~ (19) Professional advocacy organization;
- (20) DDA-contracted specialized habilitation provider; or
- (21) Teacher certified under chapter 181-79A WAC.

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 21-19-108, § 388-845-2005, filed 9/20/21, effective 10/21/21; WSR 20-05-080, § 388-845-2005, filed 2/18/20, effective 3/20/20. Statutory Authority: 2014 c 139, 2014 c 166, 2015 3rd sp.s. c 4, RCW 71A.12.030, and 71A.12.120. WSR 16-17-009, § 388-845-2005, filed 8/4/16, effective 9/4/16. Statutory Authority: RCW 71A.12.030 and 2012 c 49. WSR 13-24-045, § 388-845-2005, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 74.08.090, 74.09.520, and 2012 c 49. WSR 12-16-095, § 388-845-2005, filed 8/1/12, effective 9/1/12. Statutory Authority: RCW 71A.12.030, 71A.12.120, 2009 c 194, and 2008 c 329 § 205 (1) (i), and Title 71A RCW. WSR 10-22-088, § 388-845-2005, filed 11/1/10, effective 12/2/10. Statutory Authority: RCW 71A.12.030, 71A.12.120 and Title 71A RCW. WSR 07-20-050, § 388-845-2005, filed 9/26/07, effective 10/27/07. Statutory Authority: RCW 71A.12.030, 71A.12.12 [71A.12.120] and chapter 71A.12 RCW. WSR 06-01-024, § 388-845-2005, filed 12/13/05, effective 1/13/06.]

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-2010 Are there limits to the staff and family consultation you may receive? (1) Staff and family consultation are limited to supports identified in your DDA assessment and documented in the person-centered service plan.

(2) Expenses to the family or provider for room and board or attendance, including registration, at conferences are excluded as a service under staff and family consultation.

(3) The dollar amounts for aggregate service in your basic plus or CIIBS waiver or the dollar amount of the annual allocation in your individual and family services (IFS) waiver limit the amount of staff and family consultation you may receive.

(4) (~~Under the basic plus waiver,~~) Individual and family counseling is limited to family members who:

(a) Live with the participant; and

(b) Have been assaulted by the participant and the assaultive behavior was:

(i) Documented in the participant's DDA assessment and person-centered service plan; and

(ii) Addressed in the participant's positive behavior support plan or therapeutic plan.

(5) Staff and family consultation does not provide training or consultation necessary to meet a provider's or staff's contractual licensing or certification requirements or to complete the necessary functions of their job.

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 21-19-108, § 388-845-2010, filed 9/20/21, effective 10/21/21; WSR 20-05-080, § 388-845-2010, filed 2/18/20, effective 3/20/20. Statutory Authority: RCW 71A.12.030, 71A.12.120, 42 C.F.R. 441 Subpart G. WSR 18-14-001, § 388-845-2010, filed 6/20/18, effective 7/21/18. Statutory Authority: 2014 c 139, 2014 c 166, 2015 3rd sp.s. c 4, RCW 71A.12.030, and 71A.12.120. WSR 16-17-009, § 388-845-2010, filed 8/4/16, effective 9/4/16. Statutory Authority: RCW 71A.12.030 and 2012 c 49. WSR 13-24-045, § 388-845-2010, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 71A.12.030, 71A.12.120 and Title 71A RCW. WSR 07-20-050, § 388-845-2010, filed 9/26/07, effective 10/27/07. Statutory Authority: RCW 71A.12.030, 71A.12.12 [71A.12.120] and chapter 71A.12 RCW. WSR 06-01-024, § 388-845-2010, filed 12/13/05, effective 1/13/06.]

AMENDATORY SECTION (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

WAC 388-845-2130 What are supported parenting services? (1)

Supported parenting services are professional services offered to (~~participants~~) DDA clients who are parents or expectant parents.

(2) Services may include teaching, parent coaching, and other supportive strategies in areas critical to parenting, including child development, nutrition and health, safety, child care, money management, time and household management, and housing.

(3) Supported parenting services are designed to build parental skills and understanding around (~~the~~) a child's developmental domains of cognition, language, motor, social-emotional, and self-help.

(4) Supported parenting services are offered in the Core and IFS (~~waiver~~) waivers.

[Statutory Authority: 2014 c 139, 2014 c 166, 2015 3rd sp.s. c 4, RCW 71A.12.030, and 71A.12.120. WSR 16-17-009, § 388-845-2130, filed 8/4/16, effective 9/4/16.]

NEW SECTION

WAC 388-845-2141 What is specialized evaluation and consultation? (1) Specialized evaluation and consultation is direct, individualized, rehabilitative skill building support in the areas of sex education, fire safety, social skills training, and understandings of laws, rights, and responsibilities.

(2) Supports are provided in order to support a client to reduce the likelihood of:

(a) Fire setting; or

(b) Sexual or physical assault in the home and community.

(3) Supports must be used to promote safe engagement and participation in the community.

(4) Supports may be provided in an individual or group setting and includes a special needs evaluation to identify client goals and the specific support needs in order to reach those goals.

(5) Services must assist a client to learn to maintain skills using individual or group supports, treatment team participation, and plan writing.

(6) Specialized evaluation and consultation is available on the community protection waiver.

[]

NEW SECTION

WAC 388-845-2142 Who are qualified providers of specialized evaluation and consultation services? All specialized evaluation and consultation providers must be contracted with DDA and:

(1) Be licensed, registered, or certified in Washington state according to the standards of their approved profession in Title 18 RCW and Title 246 WAC; or

(2) Have a bachelor's degree or higher in social services and at least three years of prior experience working with individuals with developmental disabilities who engage in challenging behaviors.

[]

NEW SECTION

WAC 388-845-2143 What are the limits to specialized evaluation and consultation services? The following limits apply to your receipt of specialized evaluation and consultation:

(1) You must be enrolled on the community protection waiver.

(2) Specialized evaluation and consultation support needs must be identified in your DDA assessment and must be documented in your person-centered service plan.

(3) Specialized evaluation and consultation is limited to services that are:

(a) Consistent with waiver objectives of avoiding institutionalization; and

(b) Not a covered benefit under the medicaid state plan.

(4) This service must not replace one-on-one, group, or other treatments to address a mental health condition which are covered by the medicaid state plan.

[]

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-2150 Who is a qualified provider of therapeutic adaptations? (1) A qualified provider of therapeutic adaptations in-stallation is ~~((a person))~~ an entity who is contracted with DDA ~~((and:))~~ as an environmental adaptations vendor.

~~((a) A registered contractor per chapter 18.27 RCW and licensed and bonded to perform the specific type of work they are providing; or~~

~~(b) A medical equipment supplier with a state contract as a Title XIX vendor.~~

~~(2) A qualified provider of therapeutic adaptations may also be someone who is contracted with DDA as:~~

~~(a) A purchasing goods and services contractor; or~~

~~(b) A CIIBS goods and services contractor.)~~

(2) A qualified provider of therapeutic adaptation items and supplies is an entity contracted with DDA as:

(a) A specialized equipment and supplies vendor;

(b) A purchasing goods and services vendor;

(c) A specialized goods and services vendor; or

(d) An environmental adaptations vendor.

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 21-19-108, § 388-845-2150, filed 9/20/21, effective 10/21/21.]

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-2155 Are there limits to the therapeutic adaptations I may receive? The following limits apply to your receipt of therapeutic adaptations:

(1) Therapeutic adaptations are limited to one adaptation request every five waiver years.

(2) Funding is limited to the aggregate budget in the basic plus and IFS waiver or ~~((fifteen thousand dollars))~~ \$15,000 on the CIIBS waiver.

(3) Modifications may not add square footage to the home or convert nonliving space into living space.

(4) The department requires a written recommendation by a behavioral health provider, occupational therapist, or physical therapist within the waiver participant's current therapeutic plan.

(5) Therapeutic adaptations are limited to items not otherwise covered under the state plan, including EPSDT, but consistent with waiver objectives of avoiding institutionalization.

(6) Therapeutic adaptations require prior approval by the DDA regional administrator or designee.

(7) Therapeutic adaptations are limited to those identified in the client's person-centered service plan.

(8) Written consent from the home's landlord is required before starting any therapeutic adaptation for a rental property. The landlord must not require removal of the therapeutic adaptation at the end of the waiver participant's tenancy as a condition of the landlord approving the therapeutic adaptation to the waiver participant's home.

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 21-19-108, § 388-845-2155, filed 9/20/21, effective 10/21/21.]

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-2200 What are transportation services? Transportation services provide reimbursement to a provider when the transportation is required and specified in the (~~waiver~~) person-centered service plan. This service is available in all DDA HCBS waivers if the cost and responsibility for transportation is not already included in your provider's contract and payment.

(1) Transportation provides you access to waiver services, specified by your person-centered service plan.

(2) Whenever possible, you must use family, neighbors, friends, or community agencies that can provide this service without charge.

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 21-19-108, § 388-845-2200, filed 9/20/21, effective 10/21/21. Statutory Authority: RCW 71A.12.030 and 2012 c 49. WSR 13-24-045, § 388-845-2200, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 71A.12.030, 74.08.090 and 2012 c 49. WSR 13-04-005, § 388-845-2200, filed 1/24/13, effective 2/24/13. Statutory Authority: RCW 71A.12.030, 71A.12.120, 2009 c 194, and 2008 c 329 § 205 (1)(i), and Title 71A RCW. WSR 10-22-088, § 388-845-2200, filed 11/1/10, effective 12/2/10. Statutory Authority: RCW 71A.12.030, 71A.12.120 and Title 71A RCW. WSR 07-20-050, § 388-845-2200, filed 9/26/07, effective 10/27/07. Statutory Authority: RCW 71A.12.030, 71A.12.12 [71A.12.120] and chapter 71A.12 RCW. WSR 06-01-024, § 388-845-2200, filed 12/13/05, effective 1/13/06.]

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-2205 Who is qualified to provide transportation services? (~~(+1)~~) The provider of transportation services can be an individual or agency contracted with DDA whose contract includes transportation in the statement of work.

[Statutory Authority: RCW 71A.12.030 and 2012 c 49. WSR 13-24-045, § 388-845-2205, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 71A.12.030, 71A.12.12 [71A.12.120] and chapter 71A.12 RCW. WSR 06-01-024, § 388-845-2205, filed 12/13/05, effective 1/13/06.]

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-2210 Are there limitations to the transportation services you can receive? The following limitations apply to transportation services:

(1) Support needs for transportation services are limited to those identified in your DDA assessment and documented in your person-centered service plan.

(2) Transportation is limited to travel to and from a waiver service. When the waiver service is supported employment, transportation is limited to days when you receive employment support services.

(3) Transportation does not include the purchase of a bus pass.

(4) Reimbursement for provider mileage requires prior authorization by DDA and is paid according to contract.

(5) This service does not cover the purchase or lease of vehicles.

(6) Reimbursement for provider travel time is not included in this service.

(7) Reimbursement to the provider is limited to transportation that occurs when you are with the provider.

(8) You are not eligible for transportation services if the cost and responsibility for transportation is already included in your provider's contract and payment.

(9) The dollar limitations for aggregate services in your basic plus waiver or the dollar amount of your annual allocation in the IFS waiver limit the amount of service you may receive.

~~((10) If your individual waiver personal care provider uses his or her own vehicle to provide transportation to you for essential shopping and medical appointments as a part of your personal care service, your provider may receive up to one hundred miles per month in mileage reimbursement. If you work with more than one individual personal care provider, your limit is still a total of one hundred miles per month. This cost is not counted toward the dollar limitation for aggregate services in the basic plus waiver.))~~

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 21-19-108, § 388-845-2210, filed 9/20/21, effective 10/21/21. Statutory Authority: 2014 c 139, 2014 c 166, 2015 3rd sp.s. c 4, RCW 71A.12.030, and 71A.12.120. WSR 16-17-009, § 388-845-2210, filed 8/4/16, effective 9/4/16. Statutory Authority: RCW 71A.12.030 and 2012 c 49. WSR 13-24-045, § 388-845-2210, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 71A.12.030, 71A.12.120 and Title 71A RCW. WSR 08-20-033, § 388-845-2210, filed 9/22/08, effective 10/23/08; WSR 07-20-050, § 388-845-2210, filed 9/26/07, effective 10/27/07. Statutory Authority: RCW 71A.12.030, 71A.12.12 [71A.12.120] and chapter 71A.12 RCW. WSR 06-01-024, § 388-845-2210, filed 12/13/05, effective 1/13/06.]

AMENDATORY SECTION (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

WAC 388-845-2260 What are vehicle modifications? (1) Vehicle modifications are adaptations or alterations to a vehicle required in order to accommodate the unique needs of the participant, enable full

integration into the community, and ensure the health, welfare, and safety of the participant or the safety of a caregiver.

(2) Vehicle modifications require prior approval from the DDA regional administrator or designee.

(3) Examples of vehicle modifications include:

- (a) Manual hitch-mounted carrier and hitch for all wheelchair types;
- (b) Wheelchair cover;
- (c) Wheelchair strap-downs;
- (d) Portable wheelchair ramp;
- (e) Accessible running boards and steps;
- (f) Assist poles and grab handles ~~((-))~~;
- (g) Power activated carrier for all wheelchair types;
- (h) Permanently installed wheelchair ramps;
- (i) Repairs and maintenance to vehicular modifications as needed for client safety; and
- (j) Other access modifications.

[Statutory Authority: 2014 c 139, 2014 c 166, 2015 3rd sp.s. c 4, RCW 71A.12.030, and 71A.12.120. WSR 16-17-009, § 388-845-2260, filed 8/4/16, effective 9/4/16. Statutory Authority: RCW 71A.12.030, 71A.12.120, 2009 c 194, and 2008 c 329 § 205 (1)(i), and Title 71A RCW. WSR 10-22-088, § 388-845-2260, filed 11/1/10, effective 12/2/10.]

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-2270 Are there ~~((limitations))~~ limits to your receipt of vehicle modification services? Vehicle modification services are only available on the CIIBS or IFS waiver. The following ~~((limitations))~~ limits apply:

(1) Vehicle modifications require prior approval from the DDA regional administrator or designee, except for repairs to existing vehicle modifications.

~~((1))~~ (2) Clinical and support needs for vehicle modification services are limited to those identified in your DDA assessment and documented in the person-centered service plan.

~~((2))~~ (3) Vehicle modifications are excluded if they are of general utility without direct medical or remedial benefit to you.

~~((3))~~ (4) If you are eligible for or enrolled with division of vocational rehabilitation (DVR) you must pursue this benefit through DVR first.

~~((4))~~ (5) Vehicle modifications must be the most cost-effective modification based upon a comparison of contractor bids as determined by DDA.

~~((5))~~ (6) Modifications will only be approved for a vehicle that serves as your primary means of transportation and is owned by you, your family, or both.

~~((6))~~ (7) DDA requires your treating professional's written recommendation regarding your need for the service. This recommendation must take into account that the treating professional has recently examined you, reviewed your medical records, and conducted a functional evaluation.

~~((7))~~ (8) The department may require a second opinion from a department selected provider that meets the same criteria as subsection ~~((6))~~ (7) of this section.

~~((8))~~ (9) The dollar amount for your annual allocation in your IFS waiver limits the amount of vehicle modification service you are authorized to receive.

(10) The amount of vehicle modification service you are authorized to receive is limited to the dollar amount for your CIIBS waiver aggregate budget under WAC 388-845-0225.

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 21-19-108, § 388-845-2270, filed 9/20/21, effective 10/21/21. Statutory Authority: 2014 c 139, 2014 c 166, 2015 3rd sp.s. c 4, RCW 71A.12.030, and 71A.12.120. WSR 16-17-009, § 388-845-2270, filed 8/4/16, effective 9/4/16. Statutory Authority: RCW 71A.12.030 and 2012 c 49. WSR 13-24-045, § 388-845-2270, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 71A.12.030, 71A.12.120, 2009 c 194, and 2008 c 329 § 205 (1)(i), and Title 71A RCW. WSR 10-22-088, § 388-845-2270, filed 11/1/10, effective 12/2/10.]

AMENDATORY SECTION (Amending WSR 16-05-053, filed 2/11/16, effective 3/13/16)

WAC 388-845-2283 How are my wellness educational materials selected? Individualized educational materials are selected for you by the wellness education provider's algorithm and are based on your DDA assessment. Goals, diagnoses, treatments, conditions, and other factors identified in your DDA assessment provide the basis for the algorithm to select educational materials for you. These goals, diagnoses, treatments, conditions, and other factors may include, but are not limited to the following:

- (1) Diabetes - IDDM;
- (2) Diabetes - NIDDM;
- (3) COPD;
- (4) Cardiovascular disease;
- (5) Rheumatoid arthritis;
- (6) Traumatic brain injury;
- (7) Cerebral palsy;
- (8) Alzheimer's disease;
- (9) Anxiety disorder;
- (10) Asthma;
- (11) Autism;
- (12) Stroke;
- (13) Congestive heart failure;
- (14) Decubitus ulcer;
- (15) Depression;
- (16) Emphysema;
- (17) GERD;
- (18) Hypertension;
- (19) Hypotension;
- (20) Down's syndrome;
- (21) Fragile X syndrome;
- (22) Prader-Willi;
- (23) ADD;
- (24) ADHD;

- (25) Post-traumatic stress disorder;
- (26) Asperger's syndrome;
- (27) Hepatitis;
- (28) Paraplegia;
- (29) Quadriplegia;
- (30) Fetal alcohol syndrome/fetal alcohol effect;
- (31) Epilepsy;
- (32) Seizure disorder;
- (33) Sleep apnea;
- (34) Urinary tract infection;
- (35) Multiple sclerosis;
- (36) Falls;
- (37) Smoking;
- (38) Alcohol abuse;
- (39) Substance abuse;
- (40) Bowel incontinence;
- (41) Bladder incontinence;
- (42) Diabetic foot care;
- (43) Pain daily;
- (44) Sleep issues;
- (45) BMI = or greater than 25;
- (46) BMI less than 18.5;
- (47) Skin care (pressure ulcers, abrasions, burns, rashes);
- (48) Seasonal allergies;
- (49) Edema;
- (50) Poor balance;
- (51) Recent loss/grieving;
- (52) Conflict management;
- (53) Importance of regular dental visits;
- (54) ADA diet;
- (55) Cardiac diet;
- (56) Celiac diet;
- (57) Low sodium diet;
- (58) Goals; and
- (59) Parkinson's disease.

[Statutory Authority: RCW 71A.12.030. WSR 16-05-053, § 388-845-2283, filed 2/11/16, effective 3/13/16.]

AMENDATORY SECTION (Amending WSR 16-19-031, filed 9/13/16, effective 10/14/16)

WAC 388-845-2285 Are there limits to wellness education? (1)

Wellness education is a once-a-month service.

(2) In the basic plus waiver, you are limited to the aggregate service expenditure limits defined in WAC 388-845-0210.

(3) The dollar amount for your individual and family services (IFS) waiver annual allocation defined in WAC 388-845-0230 limits the amount of service you may receive.

[Statutory Authority: RCW 71A.12.030 and CMS. WSR 16-19-031, § 388-845-2285, filed 9/13/16, effective 10/14/16. Statutory Authority: RCW 71A.12.030. WSR 16-05-053, § 388-845-2285, filed 2/11/16, effective 3/13/16.]

AMENDATORY SECTION (Amending WSR 16-05-053, filed 2/11/16, effective 3/13/16)

WAC 388-845-2290 Who are qualified providers of wellness education? The wellness education provider must have the ability and resources to:

- (1) Receive and manage client data in compliance with all applicable federal ((HIPAA)) HIPAA regulations, state law and rules, and ensure client confidentiality and privacy;
- (2) Translate materials into the preferred language of the participant;
- (3) Ensure that materials are targeted to the participant's assessment and person-centered service plan;
- (4) Manage content sent to participants to prevent duplication of materials;
- (5) Deliver newsletters and identify any undeliverable client/representative addresses prior to each monthly mailing and manage any returned mail in a manner that ensures participants receive the monthly information; and
- (6) Contract with AL TSA or DDA to provide this service.

[Statutory Authority: RCW 71A.12.030. WSR 16-05-053, § 388-845-2290, filed 2/11/16, effective 3/13/16.]

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-3055 What is a ((waiver)) person-centered service plan? (1) The person-centered service plan is the primary tool DDA uses to determine and document your needs and to identify the services to meet those needs.

- (2) Your person-centered service plan must include:
 - (a) Your identified health and welfare needs;
 - (b) Both paid and unpaid services and supports approved to meet your identified health and welfare needs as identified in WAC 388-828-8040 and 388-828-8060; and
 - (c) How often you will receive each waiver service, how long you will need it, and who will provide it.
- (3) For any person-centered service plan, you or your legal representative must sign the plan indicating your agreement to the receipt of services.
- (4) You may choose any qualified provider for the service, who meets all of the following:
 - (a) Is able to meet your needs within the scope of their contract, licensure, and certification;
 - (b) Is reasonably available;
 - (c) Meets provider qualifications in chapters 388-845 and 388-825 WAC for contracting; and
 - (d) Agrees to provide the service at department rates.

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 21-19-108, § 388-845-3055, filed 9/20/21, effective 10/21/21. Statutory Authority: 2014 c 139, 2014 c 166, 2015 3rd sp.s. c 4, RCW 71A.12.030, and 71A.12.120. WSR 16-17-009, § 388-845-3055, filed 8/4/16, effective 9/4/16. Statutory Authority: RCW 71A.12.030 and 2012 c 49. WSR

13-24-045, § 388-845-3055, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 71A.12.030, 74.08.090 and 2012 c 49. WSR 13-04-005, § 388-845-3055, filed 1/24/13, effective 2/24/13. Statutory Authority: RCW 71A.12.030, 71A.12.120 and Title 71A RCW. WSR 07-20-050, § 388-845-3055, filed 9/26/07, effective 10/27/07. Statutory Authority: RCW 71A.12.030, 71A.12.12 [71A.12.120] and chapter 71A.12 RCW. WSR 06-01-024, § 388-845-3055, filed 12/13/05, effective 1/13/06.]

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-3056 What if you need assistance to understand your person-centered service plan? If you are unable to understand your person-centered service plan and the individual who has agreed to provide assistance to you as your necessary supplemental accommodation representative is unable to assist you with understanding your person-centered service plan, DDA will take the following steps:

- (1) Consult with the office of the attorney general to determine if you require a legal representative or guardian to assist you with your person-centered service plan;
- (2) Continue your current waiver services; and
- (3) If the office of the attorney general or a court determines that you do not need a legal representative, DDA will continue to try to provide necessary supplemental accommodations in order to help you understand your person-centered service plan.

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 21-19-108, § 388-845-3056, filed 9/20/21, effective 10/21/21. Statutory Authority: 2014 c 139, 2014 c 166, 2015 3rd sp.s. c 4, RCW 71A.12.030, and 71A.12.120. WSR 16-17-009, § 388-845-3056, filed 8/4/16, effective 9/4/16. Statutory Authority: RCW 71A.12.030 and 2012 c 49. WSR 13-24-045, § 388-845-3056, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 71A.12.030, 74.08.090 and 2012 c 49. WSR 13-04-005, § 388-845-3056, filed 1/24/13, effective 2/24/13. Statutory Authority: RCW 71A.12.030, 71A.12.120 and Title 71A RCW. WSR 07-20-050, § 388-845-3056, filed 9/26/07, effective 10/27/07.]

Reviser's note: The section above was filed as an amendatory section; however, there were no amendments made. Pursuant to the requirements of RCW 34.08.040 it is published in the same form as filed by the agency.

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-3065 How long is your plan effective? Your person-centered service plan is effective through the last day of the (~~twelfth~~) 12th month following the effective date or until another person-centered service plan is completed, whichever occurs sooner.

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 21-19-108, § 388-845-3065, filed 9/20/21, effective 10/21/21. Statutory Authority: 2014 c 139, 2014 c 166, 2015 3rd sp.s. c 4, RCW 71A.12.030, and 71A.12.120. WSR 16-17-009, § 388-845-3065, filed 8/4/16, effective 9/4/16. Statutory Authority: RCW 71A.12.030, 74.08.090 and 2012 c 49.]

WSR 13-04-005, § 388-845-3065, filed 1/24/13, effective 2/24/13. Statutory Authority: RCW 71A.12.030, 71A.12.120 and Title 71A RCW. WSR 07-20-050, § 388-845-3065, filed 9/26/07, effective 10/27/07. Statutory Authority: RCW 71A.12.030, 71A.12.12 [71A.12.120] and chapter 71A.12 RCW. WSR 06-01-024, § 388-845-3065, filed 12/13/05, effective 1/13/06.]

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-3075 What if your needs change? (1) You may request a review of your person-centered service plan at any time by calling your case manager.

(2) If there is a significant change in your condition or circumstances, DDA must reassess your person-centered service plan with you and amend the plan to reflect any significant changes.

(3) This reassessment does not affect the end date of your annual person-centered service plan.

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 21-19-108, § 388-845-3075, filed 9/20/21, effective 10/21/21. Statutory Authority: 2014 c 139, 2014 c 166, 2015 3rd sp.s. c 4, RCW 71A.12.030, and 71A.12.120. WSR 16-17-009, § 388-845-3075, filed 8/4/16, effective 9/4/16. Statutory Authority: RCW 71A.12.030 and 2012 c 49. WSR 13-24-045, § 388-845-3075, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 71A.12.030, 74.08.090 and 2012 c 49. WSR 13-04-005, § 388-845-3075, filed 1/24/13, effective 2/24/13. Statutory Authority: RCW 71A.12.030, 71A.12.120 and Title 71A RCW. WSR 07-20-050, § 388-845-3075, filed 9/26/07, effective 10/27/07. Statutory Authority: RCW 71A.12.030, 71A.12.12 [71A.12.120] and chapter 71A.12 RCW. WSR 06-01-024, § 388-845-3075, filed 12/13/05, effective 1/13/06.]

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-3080 What if my needs exceed the maximum yearly funding limit or the scope of services under the basic plus waiver?

(1) If you are on the basic plus waiver and your assessed need for services exceeds the maximum permitted, DDA will make the following efforts to meet your health and welfare needs:

(a) Identify more available natural supports;

(b) Initiate an exception to rule to access available nonwaiver services not included in the basic plus waiver other than natural supports;

(c) Authorize emergency assistance funding up to ((~~six thousand dollars~~)) \$6,000 per year if your needs meet the definition of emergency assistance funding in WAC 388-845-0800.

(2) If emergency assistance funding and other efforts are not sufficient to meet your needs, you will be offered:

(a) An opportunity to apply for an alternate waiver that has the services you need;

(b) Priority for placement on the alternative waiver when there is capacity to add people to that waiver;

(c) Placement in an ICF/IID.

(3) If none of the options in subsections (1) and (2) ((above)) in this section is successful in meeting your health and welfare needs, DDA may terminate your waiver eligibility.

(4) If you are terminated from a waiver, you will remain eligible for nonwaiver DDA services but access to state-only funded DDA services is limited by availability of funding.

[Statutory Authority: RCW 71A.12.030 and 2012 c 49. WSR 13-24-045, § 388-845-3080, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 71A.12.030, 74.08.090 and 2012 c 49. WSR 13-04-005, § 388-845-3080, filed 1/24/13, effective 2/24/13. Statutory Authority: RCW 71A.12.030, 71A.12.12 [71A.12.120] and chapter 71A.12 RCW. WSR 06-01-024, § 388-845-3080, filed 12/13/05, effective 1/13/06.]

AMENDATORY SECTION (Amending WSR 13-04-005, filed 1/24/13, effective 2/24/13)

WAC 388-845-4000 What are my appeal rights under the waiver? In addition to your appeal rights under WAC 388-825-120, you have the right to appeal the following decisions:

(1) Disenrollment from a waiver under WAC 388-845-0060, including a disenrollment from a waiver and enrollment in a different waiver.

(2) A denial of your request to receive ICF/IID services instead of waiver services; or

(3) A denial of your request to be enrolled in a waiver, subject to the limitations described in WAC 388-845-4005.

[Statutory Authority: RCW 71A.12.030, 74.08.090 and 2012 c 49. WSR 13-04-005, § 388-845-4000, filed 1/24/13, effective 2/24/13. Statutory Authority: RCW 71A.12.030, 71A.12.120 and Title 71A RCW. WSR 07-20-050, § 388-845-4000, filed 9/26/07, effective 10/27/07. Statutory Authority: RCW 71A.12.030, 71A.12.12 [71A.12.120] and chapter 71A.12 RCW. WSR 06-01-024, § 388-845-4000, filed 12/13/05, effective 1/13/06.]

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-4005 Can I appeal a denial of my request to be enrolled in a waiver? (1) If you are not enrolled in a waiver and your request to be enrolled in a waiver is denied, your appeal rights are limited to the decision that you are not eligible to have your request documented in a statewide database due to the following:

(a) You do not need ICF/IID level of care per WAC 388-845-0070, 388-828-8040, and 388-828-8060; or

(b) You requested enrollment in the CIIBS waiver and do not meet CIIBS eligibility per WAC 388-828-8500 through 388-828-8520.

(2) If you are enrolled in a waiver and your request to be enrolled in a different waiver is denied, your appeal rights are limited to the following:

(a) DDA's decision that the services contained in a different waiver are not necessary to meet your health and welfare needs and

that the services available on your current waiver can meet your health and welfare needs; or

(b) DDA's decision that you are not eligible to have your request documented in a statewide database because you requested enrollment in the CIIBS waiver and do not meet CIIBS eligibility per WAC 388-828-8500 through 388-828-8520.

(3) If DDA determines that the services offered in a different waiver are necessary to meet your health and welfare needs, but there is not capacity on the different waiver, you do not have the right to appeal any denial of enrollment on a different waiver when DDA determines there is not capacity to enroll you on a different waiver.

[Statutory Authority: RCW 71A.12.030 and 2012 c 49. WSR 13-24-045, § 388-845-4005, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 71A.12.030, 74.08.090 and 2012 c 49. WSR 13-04-005, § 388-845-4005, filed 1/24/13, effective 2/24/13. Statutory Authority: RCW 71A.12.030, 71A.12.120, 2009 c 194, and 2008 c 329 § 205 (1)(i), and Title 71A RCW. WSR 10-22-088, § 388-845-4005, filed 11/1/10, effective 12/2/10. Statutory Authority: RCW 71A.12.030, 71A.12.120 and Title 71A RCW. WSR 07-20-050, § 388-845-4005, filed 9/26/07, effective 10/27/07. Statutory Authority: RCW 71A.12.030, 71A.12.12 [71A.12.120] and chapter 71A.12 RCW. WSR 06-01-024, § 388-845-4005, filed 12/13/05, effective 1/13/06.]

REPEALER

The following sections of the Washington Administrative Code are repealed:

- | | |
|------------------|---|
| WAC 388-845-0501 | What is included in positive behavior support and consultation for the children's intensive in-home behavioral support (CIIBS) waiver? |
| WAC 388-845-0506 | Who is a qualified provider of positive behavior support and consultation for the children's intensive in-home behavioral support (CIIBS) waiver? |

WSR 23-14-001
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Developmental Disabilities Administration)
[Filed June 21, 2023, 2:18 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-05-065.

Title of Rule and Other Identifying Information: WAC 388-845-0603 Who is eligible to receive community inclusion services?, 388-845-0610 Are there limits to community inclusion services you may receive?, and 388-845-2110 Are there limits to the supported employment services you may receive?

Hearing Location(s): On August 8, 2023, at 10:00 a.m., virtual via [Microsoft] Teams or call in. Hearings are being held virtually. Please see the department of social and health (DSHS) website for the most up-to-date information.

Date of Intended Adoption: Not earlier than August 9, 2023.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504-5850, email DSHSRPAURulesCoordinator@dshs.wa.gov, fax 360-664-6185, by 5:00 p.m. on August 8, 2023.

Assistance for Persons with Disabilities: Contact Shelley Tencza, rules consultant, phone 360-664-6036, fax 360-664-6185, TTY 711 relay service, email shelley.tencza@dshs.wa.gov, by 5:00 p.m. on July 25, 2023.

Reasons Supporting Proposal: These changes to chapter 388-845 WAC are necessary to implement amendments to the developmental disabilities administration's home and community-based services waivers as approved by the federal Centers for Medicare and Medicaid Services (CMS). Substantive changes remove the prohibition to receive employment services and community inclusion services concurrently and remove "consecutive" to align with RCW 71A.12.200.

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

Statute Being Implemented: RCW 71A.12.290.

Rule is necessary because of federal law, 42 C.F.R. 441.301

(c) (6) .

Name of Agency Personnel Responsible for Drafting: Chantelle Diaz, P.O. Box 45310, Olympia, WA 98504-5310, 360-790-4732; Implementation and Enforcement: Branda Matson, P.O. Box 45310, Olympia, WA 98504-5310, 360-407-1522.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Chantelle Diaz, P.O. Box 45310, Olympia, WA 98504-5310, phone 360-790-4732, email chantelle.diaz@dshs.wa.gov.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rule content is explicitly and specifically dictated by statute.

Scope of exemption for rule proposal:

Is partially exempt:

Explanation of partial exemptions: Removing the word "consecutive" aligns WAC 388-845-0603 with statute and is exempt. The other amendments clarify language and

align with waiver amendments approved by CMS and are not exempt.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. For businesses delivering services under chapter 388-845 WAC, common costs by rule amendments would be the result of changed provider qualifications, such as requiring a license or training. No new trainings or licenses are required. Providers, in other words small businesses, should incur no costs by complying with these amendments.

June 21, 2023
Katherine I. Vasquez
Rules Coordinator

SHS-4958.3

AMENDATORY SECTION (Amending WSR 18-14-001, filed 6/20/18, effective 7/21/18)

WAC 388-845-0603 Who is eligible to receive community inclusion services? You are eligible for community inclusion services if you are enrolled in the basic plus or core waivers and:

- (1) You are (~~sixty-two~~) 62 or older; or
- (2) You meet age requirements under WAC 388-845-2110(1) and:
 - (a) You have participated in developmental disabilities administration (DDA) supported employment services for at least nine (~~consecutive~~) months; or
 - (b) DDA has determined that you are exempt from the nine-month DDA supported employment service requirement because:
 - (i) Your medical or behavioral health records document a condition that prevents you from completing nine (~~consecutive~~) months of DDA supported employment services; or
 - (ii) You were referred to and were available for DDA supported employment services, but the service was not delivered within (~~nine~~) 90 days of the referral.

[Statutory Authority: RCW 71A.12.030, 71A.12.120, 42 C.F.R. 441 Subpart G. WSR 18-14-001, § 388-845-0603, filed 6/20/18, effective 7/21/18. Statutory Authority: RCW 71A.12.030. WSR 17-12-002, § 388-845-0603, filed 5/24/17, effective 6/24/17. Statutory Authority: RCW 71A.12.030 and 2012 c 49. WSR 13-24-045, § 388-845-0603, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 74.08.090, 74.09.520, and 2012 c 49. WSR 12-16-095, § 388-845-0603, filed 8/1/12, effective 9/1/12.]

AMENDATORY SECTION (Amending WSR 20-05-080, filed 2/18/20, effective 3/20/20)

WAC 388-845-0610 Are there limits to community inclusion services you may receive? (~~((1) You must not receive community inclusion~~

~~services if you are receiving prevocational or supported employment services.~~

~~(2))~~ The maximum hours of community inclusion services you may receive are determined by the developmental disabilities administration (~~((DDA))~~) assessment under WAC 388-828-9310.

[Statutory Authority: RCW 71A.12.030 and 71A.12.120. WSR 20-05-080, § 388-845-0610, filed 2/18/20, effective 3/20/20. Statutory Authority: RCW 71A.12.030, 71A.12.040, 2015 3rd sp.s. c 4, and 42 C.F.R. § 441.301 (c) (4)-(5). WSR 18-03-174, § 388-845-0610, filed 1/23/18, effective 2/23/18. Statutory Authority: RCW 71A.12.030 and 2012 c 49. WSR 13-24-045, § 388-845-0610, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 74.08.090, 74.09.520, and 2012 c 49. WSR 12-16-095, § 388-845-0610, filed 8/1/12, effective 9/1/12. Statutory Authority: RCW 71A.12.030, 71A.12.120 and Title 71A RCW. WSR 08-20-033, § 388-845-0610, filed 9/22/08, effective 10/23/08. Statutory Authority: RCW 71A.12.030, 71A.12.12 [71A.12.120] and chapter 71A.12 RCW. WSR 06-01-024, § 388-845-0610, filed 12/13/05, effective 1/13/06.]

AMENDATORY SECTION (Amending WSR 22-01-216, filed 12/22/21, effective 1/22/22)

WAC 388-845-2110 Are there limits to the supported employment services you may receive? The following limits apply to your receipt of supported employment services:

- (1) To receive supported employment services, you must be age:
 - (a) (~~((Twenty))~~) 20 and graduating from high school before your July or August (~~((twenty-first))~~) 21st birthday(~~((+))~~);
 - (b) (~~((Twenty-one))~~) 21 and no longer eligible to enroll in high school; or
 - (c) (~~((Twenty-two))~~) 22 or older.
- (2) Payment for (~~((individual))~~) supported employment services excludes the supervisory activities rendered as a normal part of the business setting.
- (3) (~~((You will not be authorized to receive supported employment services in addition to community inclusion services.~~
- ~~(4))~~ Your service hours are determined by the assistance you need to reach your employment outcomes as described in WAC 388-828-9325 and might not equal the number of hours you spend on the job or in job related activities.

[Statutory Authority: RCW 71A.12.030 and 71A.12.040. WSR 22-01-216, § 388-845-2110, filed 12/22/21, effective 1/22/22. Statutory Authority: RCW 71A.12.030, 71A.12.040, 2015 3rd sp.s. c 4, and 42 C.F.R. § 441.301 (c) (4)-(5). WSR 18-03-174, § 388-845-2110, filed 1/23/18, effective 2/23/18. Statutory Authority: RCW 71A.12.030 and 2012 c 49. WSR 13-24-045, § 388-845-2110, filed 11/26/13, effective 1/1/14. Statutory Authority: RCW 71A.12.030, 71A.12.120 and Title 71A RCW. WSR 08-20-033, § 388-845-2110, filed 9/22/08, effective 10/23/08. Statutory Authority: RCW 71A.12.030, 71A.12.12 [71A.12.120] and chapter 71A.12 RCW. WSR 06-01-024, § 388-845-2110, filed 12/13/05, effective 1/13/06.]

WSR 23-14-047

PROPOSED RULES

TRANSPORTATION COMMISSION

[Filed June 27, 2023, 12:02 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-08-042.

Title of Rule and Other Identifying Information: State ferries and toll bridges; WAC 468-300-010, 468-300-020, 468-300-040, and 468-300-080.

To meet legislative budget requirements, the transportation commission (commission) is proposing adjustments to ferry fares in October 2023 and October 2024. Proposed revisions to WAC 468-300-010, 468-300-020, and 468-300-040 increase passenger and vehicle fares by 4.25 percent, effective on October 1, 2023; and increase passenger and vehicle fares by an additional 4.25 percent, effective on October 1, 2024.

The commission also proposes an increase to the discount for multi-ride fares by one percent, effective October 1, 2023, and expiring September 30, 2025.

In addition, the commission also proposes changes to WAC 468-300-080 related to the ferry fare fuel surcharge to require a review and approval from the commission before any fuel surcharge can be implemented, in alignment with legislative direction.

Hearing Location(s): On August 10, 2023, at 9:00 a.m., at Puget Sound Regional Council, Board Room, 1011 Western Avenue, Seattle, WA 98104. Virtual attendance will be available. Meeting link to join will be available on the commission's web page at www.wstc.wa.gov.

Date of Intended Adoption: August 10, 2023.

Submit Written Comments to: Washington State Transportation Commission, P.O. Box 47307, Olympia, WA 98504, email TransC@wstc.wa.gov, fax 360-705-6802, by July 30, 2023.

Assistance for Persons with Disabilities: Contact Doreen Maasjo, phone 360-705-7070, fax 360-705-6802, TTY 711 connect to 360-705-7070, email TransC@wstc.wa.gov, by July 30, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this proposal is to: (1) Increase ferry fares to meet legislative financial requirements; (2) increase the discount for multiride fares by one percent; and (3) adopt changes to the ferry fare fuel surcharge rule to require a review and approval from the commission before any fuel surcharge can be implemented.

Reasons Supporting Proposal: The proposed fare changes are to meet requirements in state law, including adjustments to ferry fares to meet the fare revenue target established in the 2023/2025 transportation budget.

Statutory Authority for Adoption: RCW 47.56.030 and 47.60.315.

Statute Being Implemented: RCW 47.56.030 and 47.60.315.

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

Name of Proponent: Washington state department of transportation, ferries division, governmental.

Name of Agency Personnel Responsible for Drafting: Aaron Halbert, Transportation Commission, 2404 Chandler Court S.W., Suite 270, Olympia, WA 98501, 360-705-7118; Implementation and Enforcement: Todd Lamphere, Washington State Ferries, 2901 Third Avenue, Suite 500, Seattle, WA 98121, 206-743-1503.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 requires a cost-benefit analysis be conducted prior to a significant legislative rule being passed by certain agencies listed in RCW 34.05.328 (5) (a) (i). Because the commission is not one of the agencies listed in that subsection, RCW 34.05.328 does not apply here.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules set or adjust fees under the authority of RCW 19.02.075 or that set or adjust fees or rates pursuant to legislative standards, including fees set or adjusted under the authority of RCW 19.80.045.

Scope of exemption for rule proposal:

Is fully exempt.

June 23, 2023
 Reema Griffith
 Executive Director

OTS-4692.2

AMENDATORY SECTION (Amending WSR 22-18-017, filed 8/26/22, effective 10/1/22)

WAC 468-300-010 Ferry passenger tolls.

EFFECTIVE 03:00 A.M. October 1, ((2021)) 2023

| ROUTES | Full Fare ⁹ | Senior/ Disabled((5 Youth)) ⁹ | Multiride Media ((20 Rides)) <u>10 Round Trips</u> ^{1, 9} | Monthly Pass ^{5, 9} | Bicycle Surcharge ² |
|--|------------------------|--|--|------------------------------|-----------------------------------|
| Via Auto Ferry | ((7.20)) | ((3.60)) | ((58.60)) | ((93.80)) | |
| *Fauntleroy-Southworth | <u>7.70</u> | <u>3.85</u> | <u>61.90</u> | <u>99.05</u> | 1.00 |
| *Seattle-Bremerton | | | | | |
| *Seattle-Bainbridge Island | ((9.25)) | ((4.60)) | ((75.00)) | ((120.00)) | |
| *Edmonds-Kingston | <u>9.85</u> | <u>4.90</u> | <u>78.85</u> | <u>126.15</u> | 1.00 |
| Port Townsend-Coupeville | ((3.85)) | ((1.90)) | ((63.60)) | ((101.80)) | |
| | <u>4.10</u> | <u>2.05</u> | <u>66.90</u> | <u>107.05</u> | 0.50 |
| *Fauntleroy-Vashon | | | | | |
| *Southworth-Vashon | ((6.10)) | ((3.05)) | ((49.80)) | ((79.70)) | |
| *Pt. Defiance-Tahlequah | <u>6.50</u> | <u>3.25</u> | <u>52.40</u> | <u>83.85</u> | 1.00 |
| *Mukilteo-Clinton | ((5.65)) | ((2.80)) | ((46.20)) | ((73.95)) | |
| | <u>6.00</u> | <u>3.00</u> | <u>48.45</u> | <u>77.50</u> | 1.00 |
| *Anacortes to Lopez, Shaw, Orcas or Friday Harbor | ((14.85)) | ((7.40)) | ((98.30)) | N/A | 2.00 ⁶ |
| | <u>15.85</u> | <u>7.90</u> | <u>103.25</u> | | |
| Between Lopez, Shaw, Orcas and Friday Harbor ⁴ | N/C | N/C | N/C | N/A | N/C |
| Anacortes to Sidney and Sidney to all destinations | ((21.80)) | ((10.90)) | N/A | N/A | 4.00 ⁷ |
| | <u>23.30</u> | <u>11.65</u> | | | |
| From Lopez, Shaw, Orcas and Friday Harbor to Sidney | ((13.70)) | ((6.85)) | N/A | N/A | 2.00 ⁸ |
| | <u>14.65</u> | <u>7.30</u> | | | |
| Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) ³ | ((26.90)) | ((13.20)) | N/A | N/A | 4.00 ⁷ |
| | <u>28.80</u> | <u>14.10</u> | | | |

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

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

¹MULTIRIDE MEDIA - A multiride pass provides 10 round-trip rides on all routes except Port Townsend/Coupeville, in which case the multiride pass is valid for 20 round-trip rides. A multiride pass shall be valid only for 90 days from date of purchase after which time the tickets shall not be accepted for passage. Remaining value will not be eligible for refund or exchange. There shall be no commercial resale of this fare media. For mail order deliveries, WSF may add additional days to allow for delivery times. Multiride media provides a 20% discount off of the full fare for all routes except for Anacortes to Lopez, Shaw, Orcas, or Friday Harbor. For Anacortes to Lopez, Shaw, Orcas, or Friday Harbor, multiride media provides a 35% discount off the full fare. For all routes, the multiride media prices listed above also include an additional 1% discount, expiring on September 30, 2025.

²BICYCLE SURCHARGE - Is an addition to the appropriate passenger fare. Customers using multiride media and monthly passes are exempt from the bicycle surcharge. On all routes except Anacortes/San Juan Islands/Sidney, B.C., customers paying with the ePurse or the ORCA card are exempt from the bicycle surcharge. Children/youth passengers 18 years and under are exempt from the bicycle surcharge. For the purposes of WSF fares determination, the bicycle fare category shall include both bicycles as defined by RCW 46.04.071 and electric-assisted bicycles as defined by RCW 46.04.169. Bicycles towing a kayak or canoe are to be charged the motorcycle/driver (stowage) rate in WAC 468-300-020. This rate includes the fare for the walk on passenger with the bicycle, and the kayak or canoe being towed by the bicycle. This requirement shall not apply to interisland travel in the San Juan Islands. All other bicycles towing trailers are charged the applicable bicycle surcharge.

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

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

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

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

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

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

⁷BICYCLE SURCHARGE - This becomes \$6.00 during peak season (May 1 through September 30).

⁸BICYCLE SURCHARGE - This becomes \$3.00 during peak season (May 1 through September 30).

⁹CAPITAL SURCHARGE - Included is a \$0.50 capital surcharge on each single passenger fare collected. On all multiride cards except for Port Townsend/Coupeville, the included capital surcharge is \$5.00. For Port Townsend/Coupeville, the included capital surcharge is \$10.00 on multiride cards. On all monthly passes except Port Townsend/Coupeville, there is included a \$8.00 capital surcharge. For Port Townsend/Coupeville, the included capital surcharge is \$16.00 on monthly passes. (~~(For passenger half fare on Port Townsend/Coupeville the capital surcharge is \$0.40.)~~)

CHILDREN/YOUTH - (~~(Children under six years of age will be carried free when accompanied by parent or guardian. Children/youths six through 18 years of age will be charged the youth fare, which will be 50% of full fare rounded down to the nearest multiple of \$0.05.)~~) Children/youth passengers 18 years and under will ride free of charge on all system routes.

- SENIOR CITIZENS - Passengers age 65 and over, with proper identification establishing proof of age, may travel at half-fare passenger tolls on any route where passenger fares are collected, which will be rounded down to the nearest multiple of \$0.05.
- PEOPLE WITH DISABILITIES - Any person who has a physical or mental impairment that substantially limits one or more major life activity, upon presentation of a WSF Disability Travel Permit, Regional Reduced Fare Permit, or other identification which establishes a disability may travel at half-fare passenger tolls on any route where passenger fares are collected, which will be rounded down to the nearest multiple of \$0.05. In addition, people with disabilities who require attendant care while traveling on the ferries, and are so certified by their physician, may obtain an endorsement on their WSF Disability Travel Permit and such endorsement shall allow the attendant to travel free as a passenger.
- BUS PASSENGERS - Passengers traveling on public transit buses pay the applicable fare. Passengers traveling in private or commercial buses will be charged the half-fare rate, which will be rounded down to the nearest multiple of \$0.05.
- MEDICARE CARD HOLDERS - Any person holding a medicare card duly issued to that person pursuant to Title II or Title XVIII of the Social Security Act may travel at half-fare passenger tolls, which will be rounded down to the nearest multiple of \$0.05 on any route upon presentation of a WSF Disability Travel Permit or a Regional Reduced Fare Permit at time of travel.
- IN-NEED ORGANIZATIONS - For qualified organizations serving in-need clients by providing tickets for transportation on WSF at no cost to clients, program would offer a monthly discount to approximate appropriate multiride media discount rates. Appointing bodies (those that appoint Ferry Advisory Committees) will nominate to the Washington State Transportation Commission those organizations that meet the criteria of the program. The Commission will review such nominations and certify those organizations that qualify. The following criteria will be used for nominating and certifying in-need organizations: Nongovernmental and not-for-profit organizations whose primary purpose is one or more of the following: Help clients with medical issues; provide clients with low-income social services; help clients suffering from domestic violence; provide clients with employment-seeking services; and/or help clients with Social Security. Travel will be initially charged based on full fare and billed monthly. The credits will be approximately based on the discount rates offered to multiride media users applicable on the date of travel.
- PROMOTIONAL TOLLS - A promotional rate may be established at the discretion of the WSF Assistant Secretary, Executive Director for a specific discount in order to enhance total revenue and effective only at designated times on designated routes. A promotional fare product may also be established to support tourism or other special events. The promotional fare or product may be bundled and sold as part of a multiparty promotional program.
- Special passenger fare rate(s) may be established for a pilot program in conjunction with the Central Puget Sound Regional Fare Integration project on ferry route(s) serving King, Pierce, Snohomish and Kitsap counties. The rate(s) may be established at the discretion of the WSF Assistant Secretary, Executive Director for a specific discount not to exceed 50 percent of full fare.
- SCHOOL GROUPS - Passengers traveling in authorized school groups, including home-school groups, will be charged a flat rate of \$5.00 per walk-on group or per vehicle of students and/or advisors and staff. All school groups require a letter of authorization and prior notification. In the case of home-school groups, in addition to prior notification, a copy of the filed Declaration of Intent (as outlined in RCW 28A.200.010) shall be submitted to the tollbooth at the time of travel. Notification shall be made no less than 72 hours before the scheduled departure and will include the expected number of school-age children and adults that will be traveling to ensure WSF can satisfy U.S. Coast Guard lifesaving equipment requirements. Failure to provide adequate notification may result in delayed travel. Vehicles and drivers will be charged the fare applicable to vehicle size. The special school rate is \$10.00 on routes where one-point toll systems are in effect.

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

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

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

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

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

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

EFFECTIVE 03:00 A.M. October 1, ((2022)) 2024

| ROUTES | Full Fare ⁸ | Senior/ Disabled ⁸ | Multiride Media ((20 Rides)) <u>10 Round Trips</u> ^{1, 8} | Monthly Pass ^{5, 8} | Bicycle Surcharge ² |
|----------------------------|------------------------|----------------------------------|--|------------------------------|-----------------------------------|
| Via Auto Ferry | ((7.40)) | ((3.70)) | ((60.20)) | ((96.35)) | |
| *Fauntleroy-Southworth | <u>8.00</u> | <u>4.00</u> | <u>64.25</u> | <u>102.80</u> | 1.00 |
| *Seattle-Bremerton | ((9.45)) | ((4.70)) | ((76.60)) | ((122.60)) | |
| *Seattle-Bainbridge Island | <u>10.25</u> | <u>5.10</u> | <u>82.05</u> | <u>131.30</u> | 1.00 |
| *Edmonds-Kingston | ((3.95)) | ((1.95)) | ((65.20)) | ((104.35)) | |
| Port Townsend-Coupeville | <u>4.25</u> | <u>2.10</u> | <u>69.25</u> | <u>110.80</u> | 0.50 |

| ROUTES | Full Fare ⁸ | Senior/ Disabled ⁸ | Multiride Media (20 Rides) <u>10 Round Trips^{1, 8}</u> | Monthly Pass ^{5, 8} | Bicycle Surcharge ² |
|--|------------------------|----------------------------------|---|------------------------------|-----------------------------------|
| *Fautleroy-Vashon | ((6.25)) | ((3.10)) | ((51.00)) | ((81.60)) | |
| *Southworth-Vashon | <u>6.75</u> | <u>3.35</u> | <u>54.40</u> | <u>87.05</u> | 1.00 |
| *Pt. Defiance-Tahlequah | ((5.80)) | ((2.90)) | ((47.40)) | ((75.85)) | |
| *Mukilteo-Clinton | <u>6.25</u> | <u>3.10</u> | <u>50.45</u> | <u>80.70</u> | 1.00 |
| *Anacortes to Lopez, Shaw, Orcas or Friday Harbor | ((15.20)) | ((7.60)) | ((100.55)) | N/A | 2.00 ⁶ |
| Between Lopez, Shaw, Orcas and Friday Harbor ⁴ | N/C | N/C | N/C | N/A | N/C |
| Anacortes to Sidney and Sidney to all destinations | ((22.35)) | ((11.15)) | N/A | N/A | 4.00 ⁷ |
| From Lopez, Shaw, Orcas and Friday Harbor to Sidney | ((14.05)) | ((7.00)) | N/A | N/A | 2.00 ⁸ |
| Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) ³ | ((27.60)) | ((13.50)) | N/A | N/A | 4.00 ⁷ |

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

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

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²BICYCLE SURCHARGE - Is an addition to the appropriate passenger fare. Customers using multiride media and monthly passes are exempt from the bicycle surcharge. On all routes except Anacortes/San Juan Islands/Sidney, B.C., customers paying with the ePurse or the ORCA card are exempt from the bicycle surcharge. Children/youth passengers 18 years and under are exempt from the bicycle surcharge. For the purposes of WSF fares determination, the bicycle fare category shall include both bicycles as defined by RCW 46.04.071 and electric-assisted bicycles as defined by RCW 46.04.169. Bicycles towing a kayak or canoe are to be charged the motorcycle/driver (stowage) rate in WAC 468-300-020. This rate includes the fare for the walk on passenger with the bicycle, and the kayak or canoe being towed by the bicycle. This requirement shall not apply to interisland travel in the San Juan Islands. All other bicycles towing trailers are charged the applicable bicycle surcharge.

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

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

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

The monthly pass is valid for a maximum of 31 round trips per month, is nontransferable, is nonreproducible, and is intended for a single user. Monthly passes purchased through

the regional SmartCard program are also nontransferable and intended for a single user, but allow for unlimited usage.

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

⁷BICYCLE SURCHARGE - This becomes \$6.00 during peak season (May 1 through September 30).

⁸BICYCLE SURCHARGE - This becomes \$3.00 during peak season (May 1 through September 30).

⁹CAPITAL SURCHARGE - Included is a \$0.50 capital surcharge on each single passenger fare collected. On all multiride cards except for Port Townsend/Coupeville, the included capital surcharge is \$5.00. For Port Townsend/Coupeville, the included capital surcharge is \$10.00 on multiride cards. On all monthly passes except Port Townsend/Coupeville, there is an included \$8.00 capital surcharge. For Port Townsend/Coupeville, the included capital surcharge is \$16.00 on monthly passes. ((For passenger half fare on Port Townsend/Coupeville the capital surcharge is \$0.40.))

CHILDREN/YOUTH - Children/youth passengers 18 years and under will ride free of charge on all system routes.

SENIOR CITIZENS - Passengers age 65 and over, with proper identification establishing proof of age, may travel at half-fare passenger tolls on any route where passenger fares are collected, which will be rounded down to the nearest multiple of \$0.05.

PEOPLE WITH DISABILITIES - Any person who has a physical or mental impairment that substantially limits one or more major life activity, upon presentation of a WSF Disability Travel Permit, Regional Reduced Fare Permit, or other identification which establishes a disability may travel at half-fare passenger tolls on any route where passenger fares are collected, which will be rounded down to the nearest multiple of \$0.05. In addition, people with disabilities who require attendant care while traveling on the ferries, and are so certified by their physician, may obtain an endorsement on their WSF Disability Travel Permit and such endorsement shall allow the attendant to travel free as a passenger.

BUS PASSENGERS - Passengers traveling on public transit buses pay the applicable fare. Passengers traveling in private or commercial buses will be charged the half-fare rate, which will be rounded down to the nearest multiple of \$0.05.

MEDICARE CARD HOLDERS - Any person holding a medicare card duly issued to that person pursuant to Title II or Title XVIII of the Social Security Act may travel at half-fare passenger tolls, which will be rounded down to the nearest multiple of \$0.05 on any route upon presentation of a WSF Disability Travel Permit or a Regional Reduced Fare Permit at time of travel.

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

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

Special passenger fare rate(s) may be established for a pilot program in conjunction with the Central Puget Sound Regional Fare Integration project on ferry route(s) serving King, Pierce, Snohomish and Kitsap counties. The rate(s) may be established at the discretion of the WSF Assistant Secretary, Executive Director for a specific discount not to exceed 50 percent of full fare.

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

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

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

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

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

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

GOOD TO GO! PILOT - Special ferry toll rate(s) may be established for a pilot program of Good to Go! or similar fare collection infrastructure, technology, or ORCA replacement system on any ferry route. Washington State Ferries Assistant Secretary shall design the program and submit a proposed program and fare schedule to the Washington State Transportation Commis-

sion. The Commission shall review, modify and approve the proposed fare schedule and fare policies before it is implemented. Once implemented, WSF shall provide, at a minimum, updates to the Commission every six months on the pilot. The pilot will conclude no longer than three years from its implementation.

[Statutory Authority: RCW 47.60.840, 47.60.315, and 47.56.030. WSR 22-18-017, § 468-300-010, filed 8/26/22, effective 10/1/22. Statutory Authority: RCW 47.56.030 and 47.60.315. WSR 21-18-069, § 468-300-010, filed 8/26/21, effective 9/26/21. Statutory Authority: RCW 47.56.030, 47.60.315, and 2019 c 431. WSR 19-18-004, § 468-300-010, filed 8/22/19, effective 9/22/19. Statutory Authority: RCW 47.56.030 and 47.60.315. WSR 17-18-018, § 468-300-010, filed 8/25/17, effective 9/25/17; WSR 15-18-002, § 468-300-010, filed 8/19/15, effective 10/1/15; WSR 13-18-019, § 468-300-010, filed 8/26/13, effective 9/26/13; WSR 11-18-034, § 468-300-010, filed 8/30/11, effective 10/1/11 and 5/1/12. Statutory Authority: RCW 47.56.030, 47.60.326. WSR 10-24-028, § 468-300-010, filed 11/19/10, effective 1/1/11; WSR 09-19-044, § 468-300-010, filed 9/10/09, effective 10/11/09; WSR 08-08-070, § 468-300-010, filed 3/31/08, effective 5/1/08; WSR 07-08-064, § 468-300-010, filed 3/29/07, effective 5/1/07; WSR 06-08-036, § 468-300-010, filed 3/29/06, effective 5/1/06; WSR 05-10-041, § 468-300-010, filed 4/28/05, effective 6/1/05; WSR 03-08-072, § 468-300-010, filed 4/1/03, effective 5/2/03; WSR 02-09-010, § 468-300-010, filed 4/5/02, effective 5/6/02; WSR 01-11-010, § 468-300-010, filed 5/3/01, effective 6/3/01; WSR 00-24-050, § 468-300-010, filed 11/30/00, effective 12/31/00; WSR 99-08-066, § 468-300-010, filed 4/5/99, effective 5/6/99; WSR 98-08-051, § 468-300-010, filed 3/27/98, effective 4/27/98; WSR 96-05-046 and 96-05-047 (Orders 79 and 80), § 468-300-010, filed 2/16/96, effective 3/19/96; WSR 94-18-014 (Order 77), § 468-300-010, filed 8/25/94, effective 9/25/94; WSR 94-07-104 (Order 75), § 468-300-010, filed 3/18/94, effective 4/18/94; WSR 93-18-005, § 468-300-010, filed 8/19/93, effective 9/19/93; WSR 92-18-005, § 468-300-010, filed 8/20/92, effective 9/20/92; WSR 91-18-022 (Order 72), § 468-300-010, filed 8/27/91, effective 9/27/91; WSR 89-14-052 (Order 67, Resolution No. 354), § 468-300-010, filed 6/30/89; WSR 89-04-014 (Order 66, Resolution No. 343), § 468-300-010, filed 1/23/89, effective 7/1/89; WSR 87-12-005 (Order 61, Resolution No. 298), § 468-300-010, filed 5/21/87. Statutory Authority: RCW 47.60.290, 47.60.300 and 47.60.326. WSR 86-24-009 (Order 59, Resolution No. 287), § 468-300-010, filed 11/21/86. Statutory Authority: RCW 47.60.326. WSR 86-06-010 (Order 54, Resolution No. 263), § 468-300-010, filed 2/21/86; WSR 85-11-007 (Order 44, Resolution No. 241), § 468-300-010, filed 5/3/85; WSR 84-11-052 (Order 42, Resolution Nos. 221 and 222), § 468-300-010, filed 5/17/84; WSR 84-10-002 (Order 41, Resolution No. 218), § 468-300-010, filed 4/20/84; WSR 83-07-062 (Order 33, Resolution No. 175), § 468-300-010, filed 3/22/83; WSR 82-07-063 (Order 28, Resolution No. 143), § 468-300-010, filed 3/22/82. Statutory Authority: RCW 47.60.325 and 47.56.030. WSR 81-15-099 (Order 23, Resolution No. 117), § 468-300-010, filed 7/22/81. Statutory Authority: RCW 47.60.325. WSR 81-08-044 (Order 17, Resolution No. 104), § 468-300-010, filed 3/31/81; WSR 80-16-012 (Order 16, Resolution No. 90), § 468-300-010, filed 10/27/80; WSR 80-04-104 (Order 15, Resolution No. 72), § 468-300-010, filed 4/1/80; WSR 79-09-136 (Order 11, Resolution No. 57), § 468-300-010, filed 9/5/79; WSR 79-04-047 (Order 6, Resolution No. 44), § 468-300-010,

filed 3/27/79; WSR 78-06-040 (Order 2, Resolution No. 21), § 468-300-010, filed 5/19/78.]

AMENDATORY SECTION (Amending WSR 21-18-069, filed 8/26/21, effective 9/26/21)

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

EFFECTIVE 03:00 A.M. October 1, ((2021)) 2023

| ROUTES | Vehicle Under 14' Incl. Driver One Way ⁷ | Vehicle Under 14' w/Sr Citizen or Disabled Driver ^{4, 7} | Vehicle under 14' Multiride Media 20 Rides ^{2, 7} |
|--|---|---|--|
| Fauntleroy-Southworth Port Townsend/Coupeville | ((10.30)) <u>10.95</u> | ((8.50)) <u>9.00</u> | ((166.80)) <u>175.10</u> |
| Seattle-Bainbridge Island Seattle-Bremerton Edmonds-Kingston | ((13.20)) <u>14.10</u> | ((10.85)) <u>11.60</u> | ((213.20)) <u>224.90</u> |
| *Fauntleroy-Vashon *Southworth-Vashon *Pt. Defiance-Tahlequah | ((16.75)) <u>17.90</u> | ((13.70)) <u>14.65</u> | ((135.00)) <u>142.45</u> |
| Mukilteo-Clinton | ((8.00)) <u>8.50</u> | ((6.55)) <u>7.00</u> | ((130.00)) <u>136.40</u> |
| | 10 Rides - 5 Round Trips | | |
| *Anacortes to Lopez | ((30.25)) <u>32.25</u> | ((22.80)) <u>24.30</u> | ((114.05)) <u>120.00</u> |
| *Anacortes to Shaw, Orcas | ((36.30)) <u>38.70</u> | ((28.85)) <u>30.75</u> | ((136.75)) <u>143.85</u> |
| *Anacortes to Friday Harbor | ((43.00)) <u>45.85</u> | ((35.55)) <u>37.90</u> | ((161.90)) <u>170.30</u> |
| Between Lopez, Shaw, Orcas and Friday Harbor ³ | ((18.05)) <u>19.25</u> | ((18.05)) <u>19.25</u> | ((72.70)) <u>76.55</u> |
| <i>International Travel</i> | | | |
| Anacortes to Sidney and Sidney to all destinations | ((49.35)) <u>52.70</u> | ((38.45)) <u>41.05</u> | N/A |
| Lopez, Shaw, Orcas and Friday Harbor to Sidney | ((30.75)) <u>32.85</u> | ((23.90)) <u>25.50</u> | N/A |
| Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) ⁵ | ((61.00)) <u>65.20</u> | ((47.30)) <u>50.50</u> | N/A |

| ROUTES | Vehicle 14' to Under 22' Incl. Driver One Way ⁷ | Vehicle 14' to Under 22' w/Sr Citizen or Disabled Driver ^{4, 7} | Vehicle 14' to Under 22' Multiride Media 20 Rides ^{2, 7} |
|--|--|--|---|
| Fauntleroy-Southworth Port Townsend/Coupeville | ((13.05)) <u>13.90</u> | ((11.25)) <u>11.95</u> | ((210.80)) <u>221.70</u> |
| Seattle-Bainbridge Island Seattle-Bremerton Edmonds-Kingston | ((16.80)) <u>17.90</u> | ((14.45)) <u>15.40</u> | ((270.80)) <u>284.90</u> |
| *Fauntleroy-Vashon *Southworth-Vashon *Pt. Defiance-Tahlequah | ((21.35)) <u>22.75</u> | ((18.30)) <u>19.50</u> | ((171.80)) <u>180.80</u> |
| Mukilteo-Clinton | ((10.10)) <u>10.75</u> | ((8.65)) <u>9.25</u> | ((163.60)) <u>171.95</u> |
| | 10 Rides - 5 Round Trips | | |
| *Anacortes to Lopez | ((38.00)) <u>40.50</u> | ((30.55)) <u>32.55</u> | ((143.15)) <u>150.50</u> |
| *Anacortes to Shaw, Orcas | ((45.50)) <u>48.50</u> | ((38.05)) <u>40.55</u> | ((171.25)) <u>180.10</u> |
| *Anacortes to Friday Harbor | ((53.95)) <u>57.55</u> | ((46.50)) <u>49.60</u> | ((202.95)) <u>213.60</u> |
| Between Lopez, Shaw, Orcas and Friday Harbor ³ | ((25.60)) <u>27.30</u> | ((25.60)) <u>27.30</u> | ((102.90)) <u>108.35</u> |
| <i>International Travel</i> | | | |
| Anacortes to Sidney and Sidney to all destinations | ((61.15)) <u>65.30</u> | ((50.25)) <u>53.65</u> | N/A |
| Lopez, Shaw, Orcas and Friday Harbor to Sidney | ((38.05)) <u>40.65</u> | ((31.20)) <u>33.30</u> | N/A |
| Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) ⁵ | ((75.60)) <u>80.80</u> | ((61.90)) <u>66.10</u> | N/A |

EFFECTIVE 03:00 A.M. October 1, ((2021)) 2023

| ROUTES | Motorcycle ⁽⁵⁾ Incl. Driver Stowage ^{1, 7} One Way | Motorcycle w/Sr Citizen or Disabled Driver Stowage ^{1, 7} One Way | Motorcycle Frequent User Commuter 20 Rides ^{2, 7} |
|--|--|--|--|
| Fauntleroy-Southworth Port Townsend/Coupeville | ((5.70)) <u>6.05</u> | ((3.90)) <u>4.10</u> | ((93.20)) <u>97.70</u> |

| ROUTES | Motorcycle(⁽²⁾) Incl. Driver Stowage ^{1, 7} One Way | Motorcycle w/Sr Citizen or Disabled Driver Stowage ^{1, 7} One Way | Motorcycle Frequent User Commuter 20 Rides ^{2, 7} |
|--|---|--|--|
| Seattle-Bainbridge Island Seattle-Bremerton Edmonds-Kingston | ((7.30)) 7.70 | ((4.95)) 5.20 | ((18.80)) 123.75 |
| *Fauntleroy-Vashon | | | |
| *Southworth-Vashon | | | |
| *Pt. Defiance-Tahlequah | ((9.15)) 9.75 | ((6.10)) 6.50 | ((74.20)) 78.10 |
| Mukilteo-Clinton | ((4.55)) 4.75 | ((3.10)) 3.25 | ((74.80)) 77.15 |
| *Anacortes to Lopez | ((19.50)) 20.80 | ((12.05)) 12.85 | ((147.50)) 155.20 |
| *Anacortes to Shaw, Orcas | ((21.00)) 22.40 | ((13.55)) 14.45 | ((158.75)) 167.05 |
| *Anacortes to Friday Harbor | ((22.70)) 24.20 | ((15.25)) 16.25 | ((171.50)) 180.40 |
| Between Lopez, Shaw, Orcas and Friday Harbor ³ | ((7.35)) 7.75 | ((7.35)) 7.75 | N/A |
| Anacortes to Sidney and Sidney to all destinations | ((29.70)) 31.70 | ((18.80)) 20.05 | N/A |
| Lopez, Shaw, Orcas and Friday Harbor to Sidney | ((18.55)) 19.85 | ((11.70)) 12.50 | N/A |
| Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) ⁵ | ((36.60)) 39.20 | ((22.90)) 24.50 | N/A |

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

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

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

²MULTIRIDE MEDIA - Shall be valid only for 90 days from date of purchase after which time the media shall not be accepted for passage. Remaining value will not be eligible for refund or exchange. There shall be no commercial resale of this fare media. For mail order deliveries, WSF may add additional days to allow for delivery time. The vehicle/driver multiride card may be used for passage for an attendant driver plus one disabled passenger. Multi-ride media provides a 20% discount off of the full fare for all routes except for Anacortes to Lopez, Shaw, Orcas, or Friday Harbor. For Anacortes to Lopez, Shaw, Orcas, or Friday Harbor, multiride media provides a 25% discount off the full fare. For all routes, the multiride media prices listed above also include an additional 1% discount, expiring on September 30, 2025.

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

⁴SENIOR CITIZENS - Passengers age 65 and over, with proper identification establishing proof of age, may travel at half-fare passenger tolls on any route where passenger fares are collected, which will be rounded down to the nearest multiple of \$0.05. The half-fare discount applies to the driver portion of the vehicle-driver fare. The vehicle portion of the vehicle-driver fare is never further discounted.

PEOPLE WITH DISABILITIES - Any person who has a physical or mental impairment that substantially limits one or more major life activity, upon presentation of a WSF Disability Travel Permit, Reduced Fare Permit, or other identification which establishes a disability, may travel at half-fare passenger tolls on any route where passenger fares are collected, which will be rounded down to the nearest multiple of \$0.05. The half-fare discount applies to driver portion of the vehicle-driver fare. The vehicle portion of the vehicle-driver fare is never discounted. In addition, people with disabilities who require attendant care while traveling on the ferries, and are so certified by their physician, may ob-

tain an endorsement on their WSF Disability Travel Permit and such endorsement shall allow the attendant to travel free.

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

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

⁷CAPITAL SURCHARGE - Included is a \$0.50 capital surcharge on each single vehicle/driver fare collected. On all multiride cards except for routes serving Vashon Island and the San Juan Islands, there is an included capital surcharge of \$10.00. For Vashon Island routes, the included capital surcharge is \$5.00 on multiride cards. For motorcycles in the San Juan Islands, the included capital surcharge on multiride cards is \$5.00. For vehicles under 22' in the San Juan Islands, the included capital surcharge on multiride cards is \$2.50.

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

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

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

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

IN-NEED ORGANIZATIONS - For qualified organizations serving in-need clients by providing tickets for transportation on WSF at no cost to clients, program would offer a monthly discount to approximate appropriate multiride media discount rates (~~((20% off base season rates, except for Anacortes to San Juan Islands where it is 35% off base season end of week~~

rates)). Appointing bodies (those that appoint Ferry Advisory Committees) will nominate to the Washington State Transportation Commission those organizations that meet the criteria of the program. The Commission will review such nominations and certify those organizations that qualify. The following criteria will be used for nominating and certifying in-need organizations: Nongovernmental and not-for-profit organizations whose primary purpose is one or more of the following: Help clients with medical issues; provide clients with low-income social services; help clients suffering from domestic violence; provide clients with employment-seeking services; and/or help clients with Social Security. Travel will be initially charged based on full fare and billed monthly. The credits will be approximate based on the discount rates offered to multiride media users applicable on the date of travel.

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

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

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

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

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

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

EFFECTIVE 03:00 A.M. October 1, ((2022)) 2024

| ROUTES | Vehicle Under 14' Incl. Driver One Way ⁷ | Vehicle Under 14' w/Sr Citizen or Disabled Driver ^{4, 7} | Vehicle Under 14' Multiride Media 20 Rides ^{2, 7} |
|---|---|---|--|
| Fauntleroy-Southworth Port Townsend/Coupeville | ((10.55)) <u>11.45</u> | ((8.70)) <u>9.45</u> | ((170.80)) <u>183.00</u> |
| Seattle-Bainbridge Island Seattle-Bremerton Edmonds-Kingston | ((13.55)) <u>14.65</u> | ((11.15)) <u>12.05</u> | ((218.80)) <u>233.55</u> |
| *Fauntleroy-Vashon *Southworth-Vashon *Pt. Defiance-Tahlequah | ((17.20)) <u>18.65</u> | ((14.05)) <u>15.25</u> | ((138.60)) <u>148.40</u> |
| Mukilteo-Clinton | ((8.20)) <u>8.85</u> | ((6.75)) <u>7.25</u> | ((133.20)) <u>141.95</u> |
| | 10 Rides - 5 Round Trips | | |
| *Anacortes to Lopez | ((31.00)) <u>33.60</u> | ((23.40)) <u>25.35</u> | ((116.90)) <u>124.95</u> |
| *Anacortes to Shaw, Orcas | ((37.20)) <u>40.35</u> | ((29.60)) <u>32.10</u> | ((140.15)) <u>149.95</u> |
| *Anacortes to Friday Harbor | ((44.05)) <u>47.80</u> | ((36.45)) <u>39.55</u> | ((165.80)) <u>177.50</u> |
| Between Lopez, Shaw, Orcas and Friday Harbor ³ | ((18.50)) <u>20.05</u> | ((18.50)) <u>20.05</u> | ((74.50)) <u>79.70</u> |
| <i>International Travel</i> | | | |
| Anacortes to Sidney and Sidney to all destinations | ((50.55)) <u>54.90</u> | ((39.35)) <u>42.75</u> | N/A |

| ROUTES | Vehicle Under 14' Incl. Driver One Way ⁷ | Vehicle Under 14' w/Sr Citizen or Disabled Driver ^{4, 7} | Vehicle Under 14' Multiride Media 20 Rides ^{2, 7} |
|--|---|---|--|
| Lopez, Shaw, Orcas and Friday Harbor to Sidney | ((31.50)) <u>34.20</u> | ((24.45)) <u>26.60</u> | N/A |
| Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) ⁵ | ((62.50)) <u>67.90</u> | ((48.40)) <u>52.70</u> | N/A |

EFFECTIVE 03:00 A.M. October 1, ((2022)) 2024

| ROUTES | Vehicle 14' to Under 22' Incl. Driver One Way ⁷ | Vehicle 14' to Under 22' w/Sr Citizen or Disabled Driver ^{4, 7} | Vehicle 14' to Under 22' Multiride Media 20 Rides ^{2, 7} |
|--|--|--|---|
| Fauntleroy-Southworth Port Townsend/Coupeville ⁶ | ((13.35)) <u>14.50</u> | ((11.50)) <u>12.50</u> | ((215.60)) <u>231.20</u> |
| Seattle-Bainbridge Island Seattle-Bremerton Edmonds-Kingston | ((17.20)) <u>18.65</u> | ((14.80)) <u>16.05</u> | ((277.20)) <u>296.75</u> |
| *Fauntleroy-Vashon *Southworth-Vashon *Pt. Defiance-Tahlequah | ((21.90)) <u>23.75</u> | ((18.75)) <u>20.35</u> | ((176.20)) <u>188.70</u> |
| Mukilteo-Clinton | ((10.35)) <u>11.20</u> | ((8.90)) <u>9.60</u> | ((167.60)) <u>179.05</u> |
| | 10 Rides - 5 Round Trips | | |
| *Anacortes to Lopez ⁶ | ((38.90)) <u>42.25</u> | ((31.30)) <u>34.00</u> | ((146.50)) <u>156.95</u> |
| *Anacortes to Shaw, Orcas ⁶ | ((46.60)) <u>50.60</u> | ((39.00)) <u>42.35</u> | ((175.40)) <u>187.85</u> |
| *Anacortes to Friday Harbor ⁶ | ((55.30)) <u>60.05</u> | ((47.70)) <u>51.80</u> | ((208.00)) <u>222.85</u> |
| Between Lopez, Shaw, Orcas and Friday Harbor ³ | ((26.20)) <u>28.45</u> | ((26.20)) <u>28.45</u> | ((105.30)) <u>112.90</u> |
| <i>International Travel</i> | | | |
| Anacortes to Sidney and Sidney to all destinations ⁶ | ((62.65)) <u>68.05</u> | ((51.45)) <u>55.90</u> | N/A |
| Lopez, Shaw, Orcas and Friday Harbor to Sidney | ((39.00)) <u>42.35</u> | ((31.95)) <u>34.75</u> | N/A |
| Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) ⁶ | ((77.50)) <u>84.20</u> | ((63.40)) <u>69.00</u> | N/A |

EFFECTIVE 03:00 A.M. October 1, ((2022)) 2024

| ROUTES | Motorcycle(²) Incl. Driver Stowage ^{1, 7} One Way | Motorcycle w/Sr Citizen or Disabled Driver Stowage ^{1, 7} One Way | Motorcycle Frequent User Commuter 20 Rides ^{2, 7} |
|--|---|--|--|
| Fauntleroy-Southworth Port Townsend/Coupeville ⁶ | ((5.85)) <u>6.30</u> | ((4.00)) <u>4.30</u> | ((95.60)) <u>101.65</u> |
| Seattle-Bainbridge Island Seattle-Bremerton Edmonds-Kingston | ((7.45)) <u>8.05</u> | ((5.05)) <u>5.45</u> | ((121.20)) <u>129.30</u> |
| *Fauntleroy-Vashon *Southworth-Vashon *Pt. Defiance-Tahlequah | ((9.40)) <u>10.15</u> | ((6.25)) <u>6.75</u> | ((76.20)) <u>81.25</u> |
| Mukilteo-Clinton | ((4.60)) <u>4.95</u> | ((3.15)) <u>3.35</u> | ((75.60)) <u>80.30</u> |
| *Anacortes to Lopez ⁶ | ((19.95)) <u>21.65</u> | ((12.35)) <u>13.40</u> | ((150.90)) <u>161.50</u> |
| *Anacortes to Shaw, Orcas ⁶ | ((21.50)) <u>23.30</u> | ((13.90)) <u>15.05</u> | ((162.50)) <u>173.70</u> |
| *Anacortes to Friday Harbor ⁶ | ((23.25)) <u>25.20</u> | ((15.65)) <u>16.95</u> | ((175.65)) <u>187.80</u> |
| Between Lopez, Shaw, Orcas and Friday Harbor ³ | ((7.50)) <u>8.10</u> | ((7.50)) <u>8.10</u> | N/A |
| Anacortes to Sidney and Sidney to all destinations ⁶ | ((30.45)) <u>33.00</u> | ((19.25)) <u>20.85</u> | N/A |
| Lopez, Shaw, Orcas and Friday Harbor to Sidney | ((19.05)) <u>20.65</u> | ((12.00)) <u>13.05</u> | N/A |
| Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) ⁶ | ((37.60)) <u>40.80</u> | ((23.50)) <u>25.60</u> | N/A |

All fares rounded to the nearest multiple of \$0.05.
*These routes operate as a one-point toll collection system with round trip tolls.

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

considered vehicles for the purposes of vehicle registration, license plate display, and WSF fare determination.

²MULTIRIDE MEDIA - Shall be valid only for 90 days from date of purchase after which time the media shall not be accepted for passage. Remaining value will not be eligible for refund or exchange. There shall be no commercial resale of this fare media. For mail order deliveries, WSF may add additional days to allow for delivery time. The vehicle/driver multiride card may be used for passage for an attendant driver plus one disabled passenger. Multi-ride media provides a 20% discount off of the full fare for all routes except for Anacortes to Lopez, Shaw, Orcas, or Friday Harbor. For Anacortes to Lopez, Shaw, Orcas, or Friday Harbor, multiride media provides a 25% discount off the full fare. For all routes, the multiride media prices listed above also include an additional 1% discount, expiring on September 30, 2025.

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

⁴SENIOR CITIZENS - Passengers age 65 and over, with proper identification establishing proof of age, may travel at half-fare passenger tolls on any route where passenger fares are collected, which will be rounded down to the nearest multiple of \$0.05. The half-fare discount applies to the driver portion of the vehicle-driver fare. The vehicle portion of the vehicle-driver fare is never further discounted.

PEOPLE WITH DISABILITIES - Any person who has a physical or mental impairment that substantially limits one or more major life activity, upon presentation of a WSF Disability Travel Permit, Reduced Fare Permit, or other identification which establishes a disability, may travel at half-fare passenger tolls on any route where passenger fares are collected, which will be rounded down to the nearest multiple of \$0.05. The half-fare discount applies to driver portion of the vehicle-driver fare. The vehicle portion of the vehicle-driver fare is never discounted. In addition, people with disabilities who require attendant care while traveling on the ferries, and are so certified by their physician, may obtain an endorsement on their WSF Disability Travel Permit and such endorsement shall allow the attendant to travel free.

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

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

⁷CAPITAL SURCHARGE - Included is a \$0.50 capital surcharge on each single vehicle/driver fare collected. On all multiride cards except for routes serving Vashon Island and the San Juan Islands, there is an included capital surcharge of \$10.00. For Vashon Island routes, the included capital surcharge is \$5.00 on multiride cards. For motorcycles in the San Juan Islands, the included capital surcharge on multiride cards is \$5.00. For vehicles under 22' in the San Juan Islands, the included capital surcharge on multiride cards is \$2.50.

RIDE SHARE VEHICLES - A commuter ride share vehicle which carries three or more persons on a regular and expense-sharing basis for the purpose of travel to and from work or school and which is certified as such by a local organization approved by the Washington state ferry

system, may purchase for a \$20 fee, a permit valid for one year valid only during the hours shown on the permit. The \$20.00 fee shall include the driver. Remaining passengers shall pay the applicable passenger fare. Except that the minimum total paid for all passengers in the van shall not be less than two times the applicable passenger fare. Carpools of three or more registered in WSF's preferential loading program must also pay a \$20.00 yearly permit fee.

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

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

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

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

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

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

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

SPECIAL EVENTS - In order to increase total revenues, WSF may develop, create or participate in special events that may include, but not be limited to, contributing or packaging discoun-

ted fares in exchange for the opportunity to participate in the income generated by the event.

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

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

[Statutory Authority: RCW 47.56.030 and 47.60.315. WSR 21-18-069, § 468-300-020, filed 8/26/21, effective 9/26/21. Statutory Authority: RCW 47.56.030, 47.60.315, and 2019 c 431. WSR 19-18-004, § 468-300-020, filed 8/22/19, effective 9/22/19. Statutory Authority: RCW 47.56.030 and 47.60.315. WSR 17-18-018, § 468-300-020, filed 8/25/17, effective 9/25/17; WSR 15-18-002, § 468-300-020, filed 8/19/15, effective 10/1/15; WSR 13-18-019, § 468-300-020, filed 8/26/13, effective 9/26/13; WSR 11-18-034, § 468-300-020, filed 8/30/11, effective 10/1/11 and 5/1/12. Statutory Authority: RCW 47.56.030, 47.60.326. WSR 10-24-028, § 468-300-020, filed 11/19/10, effective 1/1/11; WSR 09-19-044, § 468-300-020, filed 9/10/09, effective 10/11/09; WSR 08-08-070, § 468-300-020, filed 3/31/08, effective 5/1/08; WSR 07-08-064, § 468-300-020, filed 3/29/07, effective 5/1/07; WSR 06-08-036, § 468-300-020, filed 3/29/06, effective 5/1/06; WSR 05-10-041, § 468-300-020, filed 4/28/05, effective 6/1/05; WSR 03-08-072, § 468-300-020, filed 4/1/03, effective 5/2/03; WSR 02-09-010, § 468-300-020, filed 4/5/02, effective 5/6/02; WSR 01-11-010, § 468-300-020, filed 5/3/01, effective 6/3/01; WSR 00-24-050, § 468-300-020, filed 11/30/00, effective 12/31/00; WSR 99-08-066, § 468-300-020, filed 4/5/99, effective 5/6/99; WSR 98-08-051, § 468-300-020, filed 3/27/98, effective 4/27/98; WSR 96-19-045 (Order 82), § 468-300-020, filed 9/12/96, effective 10/13/96; WSR 94-18-014 (Order 77), § 468-300-020, filed 8/25/94, effective 9/25/94; WSR 94-07-104 (Order 75), § 468-300-020, filed 3/18/94, effective 4/18/94; WSR 93-18-005, § 468-300-020, filed 8/19/93, effective 9/19/93; WSR 92-18-005, § 468-300-020, filed 8/20/92, effective 9/20/92; WSR 91-18-022 (Order 72), § 468-300-020, filed 8/27/91, effective 9/27/91; WSR 89-14-052 (Order 67, Resolution No. 354), § 468-300-020, filed 6/30/89; WSR 89-04-014 (Order 66, Resolution No. 343), § 468-300-020, filed 1/23/89, effective 7/1/89; WSR 87-12-005 (Order 61, Resolution No. 298), § 468-300-020, filed 5/21/87. Statutory Authority: RCW 47.60.326. WSR 86-06-010 (Order 54, Resolution No. 263), § 468-300-020, filed 2/21/86; WSR 85-11-007 (Order 44, Resolution No. 241), § 468-300-020, filed 5/3/85; WSR 84-11-052 (Order 42, Resolution Nos. 221 and 222), § 468-300-020, filed 5/17/84; WSR 84-10-002 (Order 41, Resolution No. 218), § 468-300-020, filed 4/20/84; WSR 83-07-062 (Order 33, Resolution No. 175), § 468-300-020, filed 3/22/83; WSR 82-07-063 (Order 28, Resolution No. 143), § 468-300-020, filed 3/22/82. Statutory Authority: RCW 47.60.325 and 47.56.030. WSR 81-15-099 (Order 23, Resolution No. 117), § 468-300-020, filed 7/22/81. Statutory Authority: RCW 47.60.325. WSR 81-08-044 (Order 17, Resolution No. 104), § 468-300-020, filed

3/31/81; WSR 80-04-104 (Order 15, Resolution No. 72), § 468-300-020, filed 4/1/80; WSR 79-09-136 (Order 11, Resolution No. 57), § 468-300-020, filed 9/5/79; WSR 79-04-047 (Order 6, Resolution No. 44), § 468-300-020, filed 3/27/79; WSR 78-06-040 (Order 2, Resolution No. 21), § 468-300-020, filed 5/19/78.]

AMENDATORY SECTION (Amending WSR 21-18-069, filed 8/26/21, effective 9/26/21)

WAC 468-300-040 Oversize vehicle ferry tolls.

EFFECTIVE 03:00 A.M. October 1, ((2021)) 2023

| ROUTES | Oversize Vehicle Ferry Tolls ¹ | | | | | | | Cost Per Ft. Over 80' |
|--|---|---|-------------------------------|-------------------------------|-------------------------------|-------------------------------|-------------------------------------|-------------------------|
| | Overall Unit Length - Including Driver | | | | | | | |
| | 22' To Under 30' Under 7'2" High ⁵ | 22' To Under 30' 7'2" High or Over ⁵ | 30' To Under 40' ⁵ | 40' To Under 50' ⁵ | 50' To Under 60' ⁵ | 60' To under 70' ⁵ | 70' To and include 80' ⁵ | |
| Fauntleroy-Southworth Port Townsend/Coupeville | ((19.30)) <u>20.60</u> | ((38.15)) <u>40.70</u> | ((50.70)) <u>54.10</u> | ((63.25)) <u>67.50</u> | ((75.80)) <u>80.90</u> | ((88.35)) <u>94.30</u> | ((100.90)) <u>107.70</u> | ((1.25)) <u>1.35</u> |
| Seattle-Bainbridge Island Seattle/Bremerton Edmonds-Kingston | ((24.95)) <u>26.60</u> | ((49.40)) <u>52.70</u> | ((65.70)) <u>70.10</u> | ((82.00)) <u>87.50</u> | ((98.30)) <u>104.90</u> | ((114.60)) <u>122.30</u> | ((130.90)) <u>139.70</u> | ((1.65)) <u>1.75</u> |
| *Fauntleroy-Vashon *Southworth-Vashon *Pt. Defiance-Tahlequah | ((31.80)) <u>33.90</u> | ((63.10)) <u>67.30</u> | ((83.95)) <u>89.60</u> | ((104.80)) <u>111.85</u> | ((125.70)) <u>134.15</u> | ((146.55)) <u>156.40</u> | ((167.40)) <u>178.70</u> | ((2.10)) <u>2.25</u> |
| Mukilteo-Clinton | ((14.95)) <u>15.90</u> | ((29.35)) <u>31.30</u> | ((38.95)) <u>41.55</u> | ((48.60)) <u>51.85</u> | ((58.20)) <u>62.10</u> | ((67.80)) <u>72.35</u> | ((77.45)) <u>82.65</u> | ((0.95)) <u>1.05</u> |
| *Anacortes to Lopez ² | ((56.75)) <u>60.55</u> | ((112.95)) <u>120.55</u> | ((150.45)) <u>160.60</u> | ((187.95)) <u>200.60</u> | ((225.45)) <u>240.60</u> | ((262.95)) <u>280.65</u> | ((300.40)) <u>320.65</u> | ((3.75)) <u>4.00</u> |
| *Anacortes to Shaw, Orcas ² | ((68.00)) <u>72.55</u> | ((135.45)) <u>144.55</u> | ((180.45)) <u>192.60</u> | ((225.45)) <u>240.60</u> | ((270.45)) <u>288.65</u> | ((315.40)) <u>336.65</u> | ((360.40)) <u>384.70</u> | ((4.50)) <u>4.80</u> |
| *Anacortes to Friday Harbor | ((80.70)) <u>86.10</u> | ((160.90)) <u>171.70</u> | ((214.35)) <u>228.80</u> | ((267.80)) <u>285.85</u> | ((321.30)) <u>342.95</u> | ((374.75)) <u>400.00</u> | ((428.20)) <u>457.10</u> | ((5.35)) <u>5.70</u> |
| Between Lopez, Shaw, Orcas and Friday Harbor ³ | ((38.15)) <u>40.70</u> | ((75.80)) <u>80.90</u> | ((100.90)) <u>107.70</u> | ((126.00)) <u>134.50</u> | ((151.10)) <u>161.30</u> | ((176.20)) <u>188.05</u> | ((201.30)) <u>214.85</u> | N/A |
| <i>International Travel</i> Anacortes to Sidney to all destinations | ((101.50)) <u>108.40</u> | ((101.50)) <u>108.40</u> | ((135.15)) <u>144.35</u> | ((168.80)) <u>180.35</u> | ((202.45)) <u>216.30</u> | ((236.15)) <u>252.25</u> | ((269.80)) <u>288.25</u> | ((3.35)) <u>3.60</u> |
| Lopez, Shaw, Orcas and Friday Harbor to Sidney | ((63.05)) <u>67.30</u> | ((63.05)) <u>67.30</u> | ((83.90)) <u>89.60</u> | ((104.75)) <u>111.85</u> | ((125.60)) <u>134.15</u> | ((146.40)) <u>156.40</u> | ((167.25)) <u>178.65</u> | ((2.10)) <u>2.25</u> |
| Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) ⁴ | ((125.60)) <u>134.10</u> | ((125.60)) <u>134.10</u> | ((167.30)) <u>178.70</u> | ((209.00)) <u>223.20</u> | ((250.70)) <u>267.80</u> | ((292.30)) <u>312.30</u> | ((334.00)) <u>356.80</u> | ((4.20)) <u>4.50</u> |

All fares rounded to the nearest multiple of \$0.05.
*These routes operate as a one-point toll collection system with round trip tolls.

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

²TRANSFERS - Tolls collected westbound only. Oversize vehicles traveling westbound from Anacortes may receive a single intermediate transfer when first purchasing the fare for the furthest

intended point of travel for the trip. The transfer is valid until the end of the service day on the day purchased.

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

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

⁵CAPITAL SURCHARGE - There is included an additional \$0.50 capital surcharge on each single vehicle/driver fare collected.

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

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

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

SENIOR CITIZEN DISCOUNTS - Discounts of 50% for the driver of the above vehicles shall apply. Senior citizen discount is determined by subtracting full-fare passenger rate and adding half-fare passenger rate, which will be rounded down to the nearest multiple of \$0.05. The senior citizen discount shall apply to the driver of an oversize vehicle.

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

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

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

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

FIRE DEPARTMENT AND FIRE DISTRICT FARE CONSIDERATION - At the discretion of the WSF Assistant Secretary, WSF may authorize no-fare or discounted fare passage on scheduled and/or special

ferry sailings for fire departments and fire districts that provide contracted fire protection services for WSF ferry terminals and/or other WSF facilities within their jurisdiction. Such passage shall be considered full and complete consideration for such fire protection services, in lieu of annual payments for such services, to be so noted in such fire protection agreements. The scope of such authorization includes designated fire department and fire district vehicles (see below), drivers and passengers en route to and from an emergency call, on ferry routes with a WSF terminal and/or other WSF facility served by a fire department or fire district pursuant to a WSF fire protection service agreement. Authorized vehicles may include public fire department and fire district medical aid units, fire trucks, incident command and/or other vehicles dispatched to and returning from an emergency call.

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

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

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

EFFECTIVE 03:00 A.M. October 1, ((2022)) 2024

Oversize Vehicle Ferry Tolls¹
Overall Unit Length - Including Driver

| ROUTES | 22' To Under 30' Under 7'2" High ⁵ | 22' To Under 30' 7'2" High or Over ⁵ | 30' To Under 40' ⁵ | 40' To Under 50' ⁵ | 50' To Under 60' ⁵ | 60' To under 70' ⁵ | 70' To and include 80' ⁵ | Cost Per Ft. Over 80' |
|--|---|---|-------------------------------|-------------------------------|-------------------------------|-------------------------------|-------------------------------------|-------------------------|
| Fauntleroy-Southworth Port Townsend/Coupeville | ((19.80)) <u>21.50</u> | ((39.10)) <u>42.45</u> | ((51.95)) <u>56.40</u> | ((64.80)) <u>70.40</u> | ((77.65)) <u>84.35</u> | ((90.50)) <u>98.35</u> | ((103.35)) <u>112.30</u> | ((1.30)) <u>1.40</u> |
| Seattle-Bainbridge Island Seattle/Bremerton Edmonds-Kingston | ((25.55)) <u>27.75</u> | ((50.60)) <u>54.95</u> | ((67.30)) <u>73.10</u> | ((84.00)) <u>91.25</u> | ((100.70)) <u>109.40</u> | ((117.40)) <u>127.55</u> | ((134.10)) <u>145.70</u> | ((1.65)) <u>1.80</u> |
| *Fauntleroy-Vashon *Southworth-Vashon *Pt. Defiance-Tahlequah | ((32.60)) <u>35.35</u> | ((64.65)) <u>70.20</u> | ((86.00)) <u>93.45</u> | ((107.40)) <u>116.65</u> | ((128.75)) <u>139.90</u> | ((150.15)) <u>163.10</u> | ((171.50)) <u>186.35</u> | ((2.15)) <u>2.35</u> |
| Mukilteo-Clinton | ((15.30)) <u>16.55</u> | ((30.05)) <u>32.65</u> | ((39.90)) <u>43.35</u> | ((49.75)) <u>54.05</u> | ((59.60)) <u>64.75</u> | ((69.45)) <u>75.45</u> | ((79.30)) <u>86.15</u> | ((1.00)) <u>1.05</u> |
| *Anacortes to Lopez ² | ((58.15)) <u>63.15</u> | ((115.75)) <u>125.75</u> | ((154.15)) <u>167.50</u> | ((192.55)) <u>209.25</u> | ((230.95)) <u>250.95</u> | ((269.35)) <u>292.70</u> | ((307.80)) <u>334.45</u> | ((3.85)) <u>4.20</u> |
| *Anacortes to Shaw, Orcas ² | ((69.65)) <u>75.65</u> | ((138.80)) <u>150.80</u> | ((184.85)) <u>200.90</u> | ((230.95)) <u>250.95</u> | ((277.05)) <u>301.05</u> | ((323.15)) <u>351.15</u> | ((369.25)) <u>401.25</u> | ((4.60)) <u>5.00</u> |
| *Anacortes to Friday Harbor | ((82.70)) <u>89.80</u> | ((164.85)) <u>179.10</u> | ((219.60)) <u>238.65</u> | ((274.40)) <u>298.15</u> | ((329.15)) <u>357.70</u> | ((383.95)) <u>417.20</u> | ((438.70)) <u>476.75</u> | ((5.45)) <u>5.95</u> |
| Between Lopez, Shaw, Orcas and Friday Harbor ³ | ((39.10)) <u>42.45</u> | ((77.65)) <u>84.35</u> | ((103.35)) <u>112.30</u> | ((129.10)) <u>140.25</u> | ((154.80)) <u>168.20</u> | ((180.55)) <u>196.15</u> | ((206.25)) <u>224.10</u> | N/A |
| International Travel Anacortes to Sidney to all destinations | ((104.00)) <u>113.00</u> | ((104.00)) <u>113.00</u> | ((138.50)) <u>150.45</u> | ((172.95)) <u>187.95</u> | ((207.45)) <u>225.45</u> | ((241.95)) <u>262.95</u> | ((276.45)) <u>300.45</u> | ((3.45)) <u>3.75</u> |
| Lopez, Shaw, Orcas and Friday Harbor to Sidney | ((64.60)) <u>70.15</u> | ((64.60)) <u>70.15</u> | ((85.95)) <u>93.35</u> | ((107.30)) <u>116.60</u> | ((128.65)) <u>139.80</u> | ((150.05)) <u>163.00</u> | ((171.40)) <u>186.25</u> | ((2.15)) <u>2.35</u> |
| Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) ⁴ | ((128.70)) <u>139.80</u> | ((128.70)) <u>139.80</u> | ((171.40)) <u>186.20</u> | ((214.10)) <u>232.70</u> | ((256.80)) <u>279.10</u> | ((299.60)) <u>325.50</u> | ((342.30)) <u>372.00</u> | ((4.30)) <u>4.70</u> |

All fares rounded to the nearest multiple of \$0.05.
*These routes operate as a one-point toll collection system with round trip tolls.

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

²TRANSFERS - Tolls collected westbound only. Oversize vehicles traveling westbound from Anacortes may receive a single intermediate transfer when first purchasing the fare for the furthest intended point of travel for the trip. The transfer is valid until the end of the service day on the day purchased.

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

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

⁵CAPITAL SURCHARGE - There is included an additional \$0.50 capital surcharge on each single vehicle/driver fare collected.

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

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

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

SENIOR CITIZEN DISCOUNTS - Discounts of 50% for the driver of the above vehicles shall apply. Senior citizen discount is determined by subtracting full-fare passenger rate and adding half-fare passenger rate, which will be rounded down to the nearest multiple of \$0.05. The senior citizen discount shall apply to the driver of an oversize vehicle.

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

COMMERCIAL ACCOUNTS - Commercial customers making 12 or more, one-way crossings per week (Sunday through Saturday) will qualify for a 10% discount from the regular ferry tolls. WSF will provide a commercial account program that will be prepaid and offer access to volume dis-

counts based on travel, revenue or other criteria in accordance with WSF business rules. On an annual basis, commercial accounts will pay a \$50 nonrefundable account maintenance fee.

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

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

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

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

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

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

[Statutory Authority: RCW 47.56.030 and 47.60.315. WSR 21-18-069, § 468-300-040, filed 8/26/21, effective 9/26/21. Statutory Authority: RCW 47.56.030, 47.60.315, and 2019 c 431. WSR 19-18-004, § 468-300-040, filed 8/22/19, effective 9/22/19. Statutory Authority: RCW 47.56.030 and 47.60.315. WSR 17-18-018, § 468-300-040, filed 8/25/17, effective 9/25/17; WSR 15-18-002, § 468-300-040, filed 8/19/15, effective 10/1/15; WSR 13-18-019, § 468-300-040, filed 8/26/13, effective 9/26/13. Statutory Authority: RCW 47.56.030, 47.60.315, and 2010 c 247 § 205(1). WSR 12-10-032, § 468-300-040, filed 4/25/12, effective 6/1/12. Statutory Authority: RCW 47.56.030 and 47.60.315. WSR 11-18-034, § 468-300-040, filed 8/30/11, effective 10/1/11 and 5/1/12. Statutory Authority: RCW 47.56.030, 47.60.326. WSR 10-24-028, § 468-300-040, filed 11/19/10, effective 1/1/11; WSR 09-19-044, § 468-300-040, filed 9/10/09, effective 10/11/09; WSR

08-08-070, § 468-300-040, filed 3/31/08, effective 5/1/08; WSR
 07-08-064, § 468-300-040, filed 3/29/07, effective 5/1/07; WSR
 06-08-036, § 468-300-040, filed 3/29/06, effective 5/1/06; WSR
 05-10-041, § 468-300-040, filed 4/28/05, effective 6/1/05; WSR
 03-08-072, § 468-300-040, filed 4/1/03, effective 5/2/03; WSR
 02-09-010, § 468-300-040, filed 4/5/02, effective 5/6/02; WSR
 01-11-010, § 468-300-040, filed 5/3/01, effective 6/3/01; WSR
 00-24-050, § 468-300-040, filed 11/30/00, effective 12/31/00; WSR
 99-08-066, § 468-300-040, filed 4/5/99, effective 5/6/99; WSR
 98-08-051, § 468-300-040, filed 3/27/98, effective 4/27/98; WSR
 96-19-045 (Order 82), § 468-300-040, filed 9/12/96, effective
 10/13/96; WSR 94-18-014 (Order 77), § 468-300-040, filed 8/25/94, ef-
 fective 9/25/94; WSR 94-07-104 (Order 75), § 468-300-040, filed
 3/18/94, effective 4/18/94; WSR 93-18-005, § 468-300-040, filed
 8/19/93, effective 9/19/93; WSR 92-18-005, § 468-300-040, filed
 8/20/92, effective 9/20/92; WSR 91-18-022 (Order 72), § 468-300-040,
 filed 8/27/91, effective 9/27/91; WSR 89-14-052 (Order 67, Resolution
 No. 354), § 468-300-040, filed 6/30/89; WSR 89-04-014 (Order 66, Reso-
 lution No. 343), § 468-300-040, filed 1/23/89, effective 7/1/89; WSR
 87-12-005 (Order 61, Resolution No. 298), § 468-300-040, filed
 5/21/87. Statutory Authority: RCW 47.60.290, 47.60.300 and 47.60.326.
 WSR 86-24-009 (Order 59, Resolution No. 287), § 468-300-040, filed
 11/21/86. Statutory Authority: RCW 47.60.326. WSR 86-06-010 (Order 54,
 Resolution No. 263), § 468-300-040, filed 2/21/86; WSR 85-11-007 (Or-
 der 44, Resolution No. 241), § 468-300-040, filed 5/3/85; WSR
 84-11-052 (Order 42, Resolution Nos. 221 and 222), § 468-300-040,
 filed 5/17/84; WSR 83-07-062 (Order 33, Resolution No. 175), §
 468-300-040, filed 3/22/83; WSR 82-18-009 (Order 29, Resolution No.
 153), § 468-300-040, filed 8/20/82; WSR 82-07-063 (Order 28, Resolu-
 tion No. 143), § 468-300-040, filed 3/22/82. Statutory Authority: RCW
 47.60.325 and 47.56.030. WSR 81-15-099 (Order 23, Resolution No. 117),
 § 468-300-040, filed 7/22/81. Statutory Authority: RCW 47.60.325. WSR
 81-08-044 (Order 17, Resolution No. 104), § 468-300-040, filed
 3/31/81; WSR 80-04-104 (Order 15, Resolution No. 72), § 468-300-040,
 filed 4/1/80; WSR 79-09-136 (Order 11, Resolution No. 57), §
 468-300-040, filed 9/5/79; WSR 79-04-047 (Order 6, Resolution No. 44),
 § 468-300-040, filed 3/27/79; WSR 78-06-040 (Order 2, Resolution No.
 21), § 468-300-040, filed 5/19/78.]

AMENDATORY SECTION (Amending WSR 13-18-019, filed 8/26/13, effective
 9/26/13)

WAC 468-300-080 Fuel surcharge. (1) In order to manage the fi-
 nancial risk associated with fuel price volatility, it is hereby de-
 clared to be the policy of the Washington state transportation commis-
 sion (~~(to)~~) (WSTC) that the WSTC may implement a fuel surcharge as an
 added component to the regular posted fares for passage on vessels op-
 erated by Washington state ferries (WSF) to mitigate the financial im-
 pacts associated with unexpected increases in fuel prices which exceed
 those incorporated in WSF's fuel budget. Upon WSTC approval, the total
ferry fare charged will consist of the base fare plus an (~~(automat-~~
~~ic,~~) incremental, additional surcharge as calculated according to the
formula set forth in this rule.

(2) (~~The method for calculating the fuel surcharge amount shall~~
~~be as follows:~~

~~(a) Determine excess fuel costs for the current quarter by subtracting budgeted fuel costs from actual fuel costs for the quarter. For the purposes of this rule, quarters shall be consistent with the state fiscal year definition of quarters.~~

~~(b) To minimize lags in the application of this rule, the quarter will be closed one month prior to the actual end of the quarter, and an estimate of actual costs will be prepared to account for the third month and any lags in accounting for actual purchases.~~

~~(c) The estimate of costs for the missing month shall be developed as follows:~~

~~(i) Estimated fuel costs for the third month of the quarter will be based on the Oil Price Information Service (OPIS) daily contract average rack prices for ultra low-sulfur dyed diesel fuel for the first fifteen days of the missing month as reported by the Washington state department of general administration's office of state procurement for Tacoma and Anacortes fuel price data as of the cutoff date.~~

~~(ii) Applicable taxes and fees are added to the Anacortes and Tacoma rack prices to derive total estimated cost per gallon for purchases at Anacortes and Tacoma on the missing days.~~

~~(iii) Total price per gallon is multiplied by budgeted gallons of fuel for the missing month in the quarter, where gallons are split into estimated purchases at Anacortes and Tacoma prices based on the year-to-date shares of gallons purchased at Tacoma and Anacortes rack prices.~~

~~(d) Net excess fuel costs for the quarter shall be determined on the basis of the current estimate of the excess fuel costs for the quarter plus an accounting for the following:~~

~~(i) Any necessary reconciliation from the previous quarter's estimate of actual costs once full accounting of actual costs is complete.~~

~~(ii) Any necessary adjustments to ensure actual costs reflect budget assumptions regarding the appropriate share of biodiesel fuel or total diesel gallons to be purchased. Where actual gallons purchased or share of biodiesel vary from the assumptions used to develop the budget, the actual costs shall be reduced by the amount that these variations may have increased costs beyond the amounts assumed in the budget appropriation.~~

~~(iii) Subtracting any fuel surcharge revenues collected in the current quarter.~~

~~(iv) Adding net excess fuel costs from the previous quarter.~~

~~(e) Calculate an excess fuel cost percentage by dividing adjusted excess fuel costs by the current quarter's budgeted fuel costs.~~

~~(f) A fuel surcharge amount is then calculated as follows:~~

~~(i) Multiply the excess fuel cost percentage by the share of budgeted fuel costs to total operating costs for the current biennium (defined as the specific fuel appropriation divided by the total appropriation made to "Program X - Marine" as provided in the current transportation budget and supporting financial plan); then~~

~~(ii) Divide the result by the farebox recovery rate for the current biennium (defined as the fare revenue target divided by total appropriation to "Program X - Marine" as provided in the current transportation budget and supporting financial plan).~~

~~(3) A fuel surcharge shall be determined based on the calculation of the surcharge amount (as defined in subsection (2)(f) of this section) and applied to applicable fares as follows:~~

~~(a) If the surcharge amount is less than 2.5%, then a fuel surcharge shall not be applied.~~

~~(b) If the surcharge amount is equal to or greater than 2.5%, then the surcharge shall be determined as follows:~~

~~(i) Surcharge amount is equal to or greater than 2.5% and less than 5% then the surcharge shall be 2.5% of the applicable fare.~~

~~(ii) Surcharge amount is equal to or greater than 5% and less than 7.5% then the surcharge shall be 5% of the applicable fare.~~

~~(iii) Surcharge amount is equal to or greater than 7.5% and less than 10% then the surcharge shall be 7.5% of the applicable fare.~~

~~(iv) Surcharge amount is 10% or greater, the surcharge shall be 10% of the applicable fare.~~

~~(c) The surcharge shall be applied to all fares, with resulting fares rounded to the nearest nickel.~~

~~(4) WSF shall estimate the need for a fuel surcharge on a quarterly basis, based upon the formula prescribed in this rule, and if))~~
WSF shall estimate the need for a fuel surcharge on a quarterly basis, based upon the standards prescribed in this rule. For the purposes of this rule, quarters shall be consistent with the state fiscal year definition of quarters.

(3) A fuel surcharge may be implemented where the amount appropriated by the legislature for ferry fuel is less than the reasonable fuel costs projected by WSF for that period. Any fuel surcharge implemented under this section must be approved by a vote of the Washington state transportation commission. Any fuel surcharge implemented under this section may not exceed the amount that would be sufficient to cover the difference between WSF's projected fuel costs and the amount appropriated by the legislature for ferry fuel.

(4) If a fuel surcharge is implemented under this section, the WSTC shall re-evaluate the need for the surcharge on at least a quarterly basis, and if the WSTC determines the surcharge is no longer needed to cover fuel costs not paid for by legislative appropriation, the WSTC shall revoke the surcharge.

(5) If the WSTC approves such a surcharge ((is)) to be added or modified, then, the department shall:

(a) Notify ORCA partners and customers of the pending surcharge changes at least ((thirty)) 30 days prior to implementation of said changes.

(b) Make all surcharge changes effective on the first of the month.

~~((5) Excess fuel costs shall be reset to zero at the beginning of the biennium.))~~

(6) The amount of any fuel surcharge shall be shown separately on customer receipts.

(7) WSF shall provide an annual report to the legislature, OFM, and the Washington state transportation commission summarizing its fuel cost mitigation activities, including how the department has managed its costs as well as the application, performance and impact of fuel surcharges pursuant to this authority.

(8) To facilitate understanding on the part of WSF customers and to ensure a transparent process, an explanation of how the surcharge is applied, including a summary of the actual calculation of the surcharge percentage, shall be described on the WSF website.

(9) This rule goes into effect on October 1, 2011.

[Statutory Authority: RCW 47.56.030 and 47.60.315. WSR 13-18-019, § 468-300-080, filed 8/26/13, effective 9/26/13; WSR 11-18-034, § 468-300-080, filed 8/30/11, effective 10/1/11 and 5/1/12.]

WSR 23-14-088
PROPOSED RULES
BOARD OF REGISTRATION
FOR PROFESSIONAL ENGINEERS
AND LAND SURVEYORS

[Filed June 30, 2023, 8:42 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-11-049.

Title of Rule and Other Identifying Information: Chapter 196-33 WAC, Rules of professional practice for licensees designing on-site wastewater treatment systems.

Hearing Location(s): On August 23, 2023, at 1:30 p.m., at Board of Registration for Professional Engineers and Land Surveyors Office, 605 11th Avenue S.E., Suite 201, Olympia, WA 98501; or WebEx meeting <https://brpels.my.webex.com/brpels.my/j.php?MTID=mc78c5c6baf60baadb0f370ce52a9ecc9>. The board of registration for professional engineers and land surveyors (board) is holding this hearing in person at the board's offices in Olympia. The public may also virtually participate in the hearing by accessing the hearing link on the board's rule-making [web] page <https://brpels.wa.gov/about-us/laws-and-rules/rulemaking-activity>.

Date of Intended Adoption: October 19, 2023.

Submit Written Comments to: Shanan Gillespie, P.O. Box 9025, Olympia, WA 98507-9025, email Shanan.Gillespie@brpels.wa.gov, by August 23, 2023.

Assistance for Persons with Disabilities: Contact Mackenzie Wherrett, phone 360-968-4813, TTY 711 or 1-800-835-5388, email Mackenzie.Wherrett@brpels.wa.gov, by August 18, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To amend language for the everyday usage of the stamp/seal by on-site designers, and to make the direct supervision language current so that it mirrors the direct supervision language for professional engineers and land surveyors. These amendments should make it easier for the licensees to understand their responsibilities.

Reasons Supporting Proposal: Changes provide clarification of requirements when stamping a document, as well as provide the types of documents that need to be stamped by the licensee.

Statutory Authority for Adoption: RCW 18.43.035, 18.210.050, 18.21.060.

Statute Being Implemented: Chapter 18.210 RCW.

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

Name of Proponent: Board of registration for professional engineers and land surveyors, governmental.

Name of Agency Personnel Responsible for drafting: Shanan Gillespie, 605 11th Avenue S.E., Suite 201, Olympia, WA 98501, 360-664-1570; Implementation and Enforcement: Ken Fuller, 605 11th Avenue S.E., Suite 201, Olympia, WA 98501, 360-968-4805.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. The board is not one of the agencies to which RCW 34.05.328 applies pursuant to RCW 34.05.328 (5) (a).

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

Is exempt under RCW 19.85.025(4).

Explanation of exemptions: The following rules are exempt per RCW 34.05.310 (4)(d) because the amendments clarify language without changing its effect: WAC 196-33-100 Purpose and definitions, 196-33-200 Fundamental canons and guidelines for professional practice and conduct, 196-33-300 Providing direct supervision, and 196-33-500 Seal and stamp usage.

Scope of exemption for rule proposal:

Is fully exempt.

June 30, 2023

Ken Fuller

Director

OTS-4681.1

AMENDATORY SECTION (Amending WSR 01-11-102, filed 5/21/01, effective 6/21/01)

WAC 196-33-100 Purpose and definitions. (1) The purpose of chapter 196-33 WAC is to provide further guidance to licensees with respect to the accepted professional conduct and standard of practice, as indicated in chapter 18.210 RCW, and generally expected of those practicing professional on-site wastewater treatment system designing. These standards shall apply to all persons authorized to practice on-site wastewater treatment system design services, whether licensed professional designers under chapter 18.210 RCW, or licensed professional engineers under chapter 18.43 RCW. The board recognizes the need to establish standards with which to measure the performance of practitioners. The board further recognizes, as a minimum standard, those standards for the design of on-site wastewater treatment systems required by chapter ((246-272)) 246-272A WAC, promulgated by the state board of health in accordance with their authority granted in RCW 43.20.050. It is the intent of the board to introduce guidance and direction through these rules, together with recommended standards and guidance documents.

(2) The word "licensee" in these rules of professional practice shall mean any person holding a license issued in accordance with chapter 18.210 RCW, or chapter 18.43 RCW, issued by this board.

(3) All licensees are charged with having knowledge of and practicing in accordance with the provisions of these rules of professional practice.

(4) Should there be any conflict in the guidance provided in this chapter and the intent of the language of chapter 18.210 RCW, the intent of the language in chapter 18.210 RCW prevails.

(5) Terms used in this chapter shall have the same definition as provided in chapter 18.210 RCW.

[Statutory Authority: RCW 18.210.050, 18.210.060. WSR 01-11-102, § 196-33-100, filed 5/21/01, effective 6/21/01.]

AMENDATORY SECTION (Amending WSR 07-10-127, filed 5/2/07, effective 6/2/07)

WAC 196-33-200 ((Fundamental[s])) Fundamental canons and guidelines for professional practice and conduct. The specialized and complex knowledge required for on-site wastewater treatment system design makes it imperative that licensees exercise a standard of care that holds paramount the protection of the health, safety, environment, property, and welfare of the public.

(1) Licensees are expected to apply the skill, diligence and judgment required by the professional standard of care, to achieve the goals and objectives agreed with the client or employer, and are expected to promptly inform the client or employer of progress and changes in conditions that may affect the appropriateness or achievability of some or all of the goals and objectives of the client or employer. Licensees are obliged to:

(a) Be honest and fair in their dealings, and to conform to the relevant laws and codes of the jurisdiction in which they practice.

(b) Be able to demonstrate that their final products and work plans adequately consider the primary importance of protecting the safety, health, property, and welfare of the general public.

(c) Approve or seal only documents prepared by them or under their direct supervision.

(d) Inform their clients or employers of the possible consequences, when an overruling or disregarding of the licensee's professional judgment may threaten the safety or health of the public. If in the judgment of the licensee an imminently dangerous situation persists, they shall promptly inform appropriate authorities.

(e) Inform the board in writing, citing specific facts to which the licensee has direct knowledge, if they have knowledge or reason to believe that another person or firm may be in violation of any of the provisions of chapter 18.210 RCW or these rules of professional conduct, and cooperate with the board in furnishing such further information or assistance as may be required.

(2) Licensees shall be competent in the technology, and knowledgeable of the codes, regulations, and guidelines applicable to the services they perform.

(3) Licensees shall be qualified by education and/or experience in the technical area of on-site wastewater treatment system design applicable to services performed and the technologies utilized.

(4) Licensees may accept primary contractual responsibility requiring education and/or experience outside their own area of competence, provided their services are restricted to those phases of the project in which they are qualified.

(5) Licensees shall not affix their signatures or seals to any plan or document dealing with subject matter in which they lack competence by virtue of education and/or experience.

(6) Licensees shall act in professional matters for each employer or client as faithful agents or trustees.

(7) Licensees shall be objective and truthful in professional documents, reports, statements, or testimony. They shall include all relevant and pertinent information in such reports, statements or testimony. They shall not knowingly falsify, misrepresent or conceal a material fact in offering or providing services to a client or employer.

(8) Licensees shall avoid all known or potential conflicts of interest with their employers or clients and shall promptly inform their

employers or clients of any business association, interest, or circumstances, which could influence their judgment, or the quality of their services.

(9) Licensees shall only accept compensation from one party for services on a project, unless the circumstances are fully disclosed to and agreed to, by all interested parties.

(10) Licensees shall not solicit or, accept gratuities, directly or indirectly, from contractors, their agents, or other parties dealing with their clients or employers in connection with work for which they are responsible.

(11) Licensees shall advise their employers or clients when, as a result of their studies, they believe a project will not achieve the goals established with the client.

(12) Licensees shall not use confidential information coming to them in the course of their assignments as a means of making personal profit if such action is adverse to the interests of their clients, employers or the public.

(13) Licensees employed full-time shall not accept professional employment outside of their regular work or interest without the knowledge and consent of their employers.

(14) Licensees shall offer their professional services in a truthful, objective, and professional manner that results in public trust in the integrity of the on-site design profession.

(15) Licensees shall not request, propose or accept professional commissions on a contingent basis under circumstances in which their professional judgments may be compromised.

(16) Licensees shall not offer or accept money, goods or other favors as inducement to receive favorable consideration for a professional assignment or as an inducement to approve, authorize or influence the granting of a professional assignment. This shall not preclude the securing of salaried positions through employment agencies.

(17) Licensees shall negotiate contracts for professional services fairly and on the basis of demonstrated competence and qualifications for the type of professional service required.

(18) Licensees shall not falsify or permit misrepresentation of their academic or professional qualifications or experience.

(19) Licensees shall not advertise professional services in a way that is false or misleading as to the qualification, experience, or capability of the licensee.

(20) Public statements by licensees regarding the practice of on-site wastewater treatment systems design shall be objective and truthful.

(21) Licensees should endeavor to extend the public knowledge of on-site wastewater treatment system design and shall not participate in the dissemination of untrue, unfair, or exaggerated statements regarding the profession.

(22) Professional reports, statements, or testimony made to the public or public entities shall include all relevant and pertinent information to support conclusions or opinions expressed.

(23) Licensees when serving as an expert witness shall express an on-site design opinion only when it is founded upon adequate knowledge of the facts, upon a background of technical competence, and upon honest conviction.

(24) Licensees shall issue no statements, criticisms, or arguments regarding on-site design matters, which are inspired or paid for by interested parties, unless they indicate on whose behalf the statements, are made.

(25) Licensees shall continue their professional development throughout their careers, and shall provide opportunities for the professional development of those individuals under their supervision.

(26) Licensees shall respond to any legal request for information by the board and/or appear before the board in the time frame established by the board or their staff designee.

(27) In addition to the requirements of RCW 18.210.020 and this chapter, the following acts are contrary to the standard of practice for individuals authorized to practice under this chapter and constitute unprofessional conduct in the practice of on-site wastewater treatment system designing:

(a) Duplicating, copying, removing or attempting to remove materials from the custody and control of the board that are exempt from inspection or copying under chapter 42.17 RCW when such duplication, copying or removal was not expressly authorized by the board.

(b) Failure to notify a client or employer that a project could not be completed or was not completed.

(c) Failure to respond to client inquiries under conditions which endanger the health, safety, or welfare of the public or the client or the client's property.

(d) Failure to respond to inquiries from other on-site practitioners or governmental agencies regarding differences in your respective work products, under conditions which endanger the public health, safety, or welfare or the health, safety, or welfare of the client or the client's property.

(e) Any act, statement or behavior that harasses, intimidates or retaliates against anyone who has provided information, assistance or testimony in connection with any board inquiry, investigation, hearing or other proceeding.

(f) Disorderly, discriminatory or abusive behavior or statements which are significantly disruptive to the normal activities of a place of business or public view, where such behavior would give anyone witnessing the act a reasonable belief to be concerned for their safety or well-being.

[Statutory Authority: RCW 18.43.035 and chapter 18.210 RCW. WSR 07-10-127, § 196-33-200, filed 5/2/07, effective 6/2/07. Statutory Authority: RCW 18.210.050, 18.210.060. WSR 01-11-102, § 196-33-200, filed 5/21/01, effective 6/21/01.]

AMENDATORY SECTION (Amending WSR 01-11-102, filed 5/21/01, effective 6/21/01)

WAC 196-33-300 Providing direct supervision. Direct supervision (~~(is a combination of activities by which)~~) by a licensee (~~(maintains)~~) is described as follows:

(1) Maintaining control over those decisions that are the basis for the findings, conclusions, (~~(analysis)~~) analyses, rationale, details, and judgments that are embodied in the development and preparation of on-site plans, specifications, reports, and related activities. (~~(Direct supervision explains the relationship between the licensee and those persons who are performing the work controlled by the licensee. Direct supervision)~~)

(2) Requires providing personal direction, oversight, inspection, observation, and supervision of the work being certified.

~~((Communications between the licensee and those persons who are performing the work)) (3) These actions may include, but are not limited to ((, use of any of the following ways)): Direct face-to-face communications; written communications; U.S. mail; electronic mail; facsimiles; telecommunications, or communication through other current technology (: Provided, that the licensee retains, maintains, and asserts continuing control and judgment.~~

~~Nothing in this section shall be construed to relieve the licensee from the responsibility of final decision making and plan stamping)).~~

(4) Contractual or employment relations must be in place between the licensee and unlicensed preparer to qualify as direct supervision.

(5) Mentoring is not direct supervision. Reviewing documents as defined by WAC 196-33-500, after preparation without involvement in the design and development process as described above cannot be accepted as direct supervision.

[Statutory Authority: RCW 18.210.050, 18.210.060. WSR 01-11-102, § 196-33-300, filed 5/21/01, effective 6/21/01.]

AMENDATORY SECTION (Amending WSR 01-11-102, filed 5/21/01, effective 6/21/01)

WAC 196-33-500 Seal and stamp usage. The use of the seal/stamp shall be in accordance with chapters 18.43 and 18.210 RCW, or as otherwise described herein:

(1) Final documents are those documents that are prepared and distributed for use for construction, final agency approvals, use by clients, and record drawings or as-builts for filing with public officials where such record drawings or as-builts are required to be prepared by the licensee. Any final document must contain the seal/stamp, ~~((license expiration date and))~~ signature, and date of signature of the licensee who prepared or directly supervised the work. For the purpose of this section, "document" is defined as plans, designs, specifications ~~((and)),~~ reports, and as-built documents prepared by the licensee.

(2) Preliminary documents are those documents not considered final as defined herein ~~((,))~~ but are released or distributed by the licensee. Preliminary documents must be clearly identified as "PRELIMINARY" or contain such wording so it may be differentiated from a final document. Preliminary documents ~~((shall))~~ must be stamped ~~((and dated)),~~ but need not be signed or dated by the licensee.

(3) Plan sets: Every page of a plan set must contain the seal/stamp and signature of the licensee(s) who prepared or who had direct supervision over the preparation of the work, and date of signature.

(a) Plans/designs containing work prepared by or under the direct supervision of more than one licensee shall be sealed/stamped, signed, and dated by each licensee and shall clearly note the extent of each licensee's responsibility.

~~(b) ((As provided for in subsections (1) and (2) of this section, each page of a plan set must contain the seal/stamp of the licensee who prepared or who had direct supervision over the preparation of the work and may contain the signature of the licensee depending on whether the plan set is final or preliminary.~~

~~(e))~~ Plan/design sheets containing and/or depicting background and/or supporting information that is duplicated from other plans need only be sealed/stamped by the licensee(s) who prepared or was in direct supervision of the design ~~((on that plan sheet. Whenever possible))~~. The origin of the background information ~~((should))~~ shall be noted on the plan sheet.

~~((d))~~ (c) All design revisions to final plan/design sheets shall ~~((be performed by qualified licensees and shall be done in accordance with the provisions of RCW 18.210. The revised plan/design sheets shall))~~ clearly identify on each sheet ~~((r))~~ the revisions made and shall contain the name and seal of the licensee, and signature of licensee with the date the ~~((revision))~~ sheet was ~~((made))~~ sealed.

(4) Specifications: Specifications that are prepared by or under the direct supervision of a licensee shall contain the seal/stamp ~~((and))~~, signature of the licensee, and date of the signature. If the specifications prepared by a licensee are a portion of a bound specification document that contains specifications other than that of an on-site design nature, the licensee need only seal/stamp that portion or portions of the documents for which the licensee is responsible. Nothing herein should be construed to require that each page of ~~((a))~~ an on-site design specification be sealed/stamped by the licensee.

(5) Document review: When a licensee is required to review work prepared by another licensed on-site designer, the reviewing licensee shall fully review those documents ~~((and))~~. If required, the licensee shall prepare a report that discusses the findings of the review with any supporting calculations and sketches. The reviewing licensee would then seal/stamp ((and)), sign, and date the report. The report would make reference to and/or be attached to the subject document(s) reviewed.

(6) Nothing in this section requires the stamping of plans/designs by employees of local health districts acting in ~~((their))~~ that capacity as on-site inspectors/reviewers, whether or not licensed under chapter 18.210 RCW.

[Statutory Authority: RCW 18.210.050, 18.210.060. WSR 01-11-102, § 196-33-500, filed 5/21/01, effective 6/21/01.]

Explanation of exemptions: This rule is exempt per RCW 34.05.310 (4)(b) because the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party.

Scope of exemption for rule proposal:
Is fully exempt.

June 30, 2023
Ken Fuller
Director

OTS-4680.1

AMENDATORY SECTION (Amending WSR 21-22-092, filed 11/2/21, effective 12/3/21)

WAC 196-09-015 Complaint processing approach. The board processes complaints as follows:

(1) Anyone may submit a complaint against a licensed or unlicensed person alleging unprofessional conduct, unlicensed practice, or any other violations of chapter 18.43, 18.235, or 18.210 RCW. Complaints must be sworn to in writing and should include documentation of the alleged conduct.

(2) Upon receipt of the complaint, board staff will send an acknowledgment of the complaint to the complainant. If the subject of the complaint ("respondent") is a licensee, the board will notify the licensee respondent that a complaint was filed against them and include a copy of the complaint documents.

(3) Board staff will conduct an initial review of the complaint to determine whether the complaint raises a potential violation that would fall within the jurisdiction (~~and purview of a potential board action.~~

~~(a) If board staff determines there are no violations)) of the board's regulatory powers. If the complaint does not raise a potential violation of law within the board's jurisdiction, the complaint is administratively closed after recommendation to the board, and the parties are notified of the closure.~~

~~((b) If board staff determines)) (4) If there is a potential violation, a ((formal investigation)) case is opened, a case file is created, and an investigator and case manager are assigned. The respondent is notified, and a response to the allegations in the complaint is requested.~~

~~((4)) (5) The investigator will conduct a formal investigation which may include requests for documentation and interviews of the complainant, respondent, and other associated parties. All records gathered during the investigation will be placed in the case file.~~

~~(6) When the investigation is complete, the case manager will review and evaluate ((all documentation or comments received (the investigation file),)) the case file with the investigator, and may ask additional questions of any party, or call for further investigation. When the case manager completes their review ((of the documentation)), they will draft a written report, which will ((result in either)) include facts, possible violations and recommendation on the disposition of the case which may be case closure, case closure with remedial~~

counseling, (~~(expedited resolution)~~) or issuance of (~~(statement of)~~) charges.

~~((5))~~ (7) The board may resolve a complaint or investigation at any time during this process.

(8) If a complainant requests reopening of a closed complaint or investigation, the board may only do so upon receipt of additional evidence or information in support of the original complaint that is relevant to the allegations. Submission of additional documentation does not guarantee the complaint or investigation will be reopened.

[Statutory Authority: RCW 18.43.035. WSR 21-22-092, § 196-09-015, filed 11/2/21, effective 12/3/21.]

**WSR 23-14-091
PROPOSED RULES
BOARD OF REGISTRATION
FOR PROFESSIONAL ENGINEERS
AND LAND SURVEYORS**

[Filed June 30, 2023, 9:31 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-01-051.

Title of Rule and Other Identifying Information: Chapter 196-12 WAC, Registered professional engineers.

Hearing Location(s): On August 23, 2023, at 1:30 p.m., at Board of Registration for Professional Engineers and Land Surveyors Office, 605 11th Avenue S.E., Suite 201, Olympia, WA 98501; or WebEx meeting <https://brpels.my.webex.com/brpels.my/j.php?MTID=mc78c5c6baf60baadb0f370ce52a9ecc9>. The board of registration for professional engineers and land surveyors (board) is holding this hearing in person at the board's office in Olympia. The public may also virtually participate in the hearing by accessing the hearing link on the board's rule-making [web] page <https://brpels.wa.gov/about-us/laws-and-rules/rulemaking-activity>.

Date of Intended Adoption: October 19, 2023.

Submit Written Comments to: Shanan Gillespie, P.O. Box 9025, Olympia, WA 98507-9025, email Shanan.Gillespie@brpels.wa.gov, by August 23, 2023.

Assistance for Persons with Disabilities: Contact Mackenzie Wherrett, phone 360-968-4813, TTY 711 or 1-800-835-5388, email Mackenzie.Wherrett@brpels.wa.gov, by August 18, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To implement changes to RCW 18.43.110 (FE waiver for applicants licensed in another jurisdiction), clarify current language regarding experience while enrolled in school, clarify language for applicants that have degrees from other countries, and repeal language that is no longer relevant.

Reasons Supporting Proposal: Implement changes to RCW 18.43.110 by the legislature in 2023. Clarification of recently amended language regarding processes and requirements for licensure as a professional engineer in Washington. Repeal of duplicate language found elsewhere in chapter 196-12 WAC.

Statutory Authority for Adoption: RCW 18.43.035.
Statute Being Implemented: RCW 18.43.040 and 18.43.110.
Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Board of registration for professional engineers and land surveyors, governmental.

Name of Agency Personnel Responsible for Drafting: Shanan Gillespie, 605 11th Avenue S.E., Suite 201, Olympia, WA 98501, 360-664-1570; Implementation and Enforcement: Ken Fuller, 605 11th Avenue S.E., Suite 201, Olympia, WA 98501, 360-968-4805.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. The board is not one of the agencies to which RCW 34.05.328 applies pursuant to RCW 34.05.328 (5) (a).

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect; rule content is explicitly and specifically dictated by statute; and rules adopt, amend, or repeal a procedure, practice, or requirement relating to agency hearings; or a filing or related process requirement for applying to an agency for a license or permit.

Is exempt under RCW 19.85.025(4).

Explanation of exemptions: The following rules are exempt per RCW 34.05.310 (4)(d) because the amendments clarify language without changing its effect: WAC 196-12-010 (3)(a), 196-12-014, and 196-12-021.

The following rules are exempt per RCW 34.05.310 (4)(g)(ii) process requirements for applying to an agency for a license or permit: WAC 196-12-010, 196-12-014, 196-12-020, and 196-12-021.

The following rule is exempt per RCW 34.05.310 (4)(e) dictated by statute: WAC 196-12-010(2).

Scope of exemption for rule proposal:

Is fully exempt.

June 30, 2023
Ken Fuller
Director

OTS-4650.1

AMENDATORY SECTION (Amending WSR 22-17-121, filed 8/23/22, effective 9/23/22)

WAC 196-12-010 Licensure requirements for all applicants—Initial licensure and licensed in another jurisdiction. To become licensed as a professional engineer in the state of Washington, whether you are applying for an initial license or you possess a license in another jurisdiction, you must meet the requirements for experience and examinations described below, which need not be completed within the state of Washington:

(1) **Experience:** Have eight years of experience in engineering work of a character satisfactory to the board:

(a) The eight years may be a combination of education and practical work experience.

(b) The eight years of experience must be broad based and progressive to include gaining knowledge and comprehension of engineering subjects and applying engineering principles.

(2) **Examination requirements:** An applicant must have received passing scores on two stages of examination(s). One must test the fundamentals of engineering and the other must test the principles and practice of engineering. Exam results must be independently verified by a NCEES member board, or a board approved foreign jurisdiction.

(a)(i) **Fundamentals of engineering examination** must meet the following requirements:

(ii) The examination must be either:

(A) The National Council of Examiners for Engineering and Surveying (NCEES) fundamentals-of-engineering (FE) examination; or

(B) An equivalent examination as determined by the board which tests the applicant's knowledge of appropriate fundamentals of engineering subjects including mathematics and the basic sciences as defined in RCW 18.43.040 (1)(b)(i) and was administered by a board approved foreign jurisdiction.

(b) Fundamentals of engineering examination waiver shall be granted to an applicant licensed in another jurisdiction provided that:

(i) The professional engineering license is currently active and is in good standing.

(ii) The license is in a branch of engineering currently recognized by the board.

(iii) The applicant has been actively licensed in a board recognized licensing jurisdiction for a minimum of 10 years since receiving their initial professional engineering license.

(c) **Principles and practice of engineering examination:** The principles and practice of engineering (PE) examination must be the examination administered by NCEES.

(3) **Additional licensure requirements:** An applicant must meet the following additional requirements for licensure:

(a) Receive a passing score on the Washington engineer law review exam;

(b) Fully complete the application form to the satisfaction of the board; and

(c) Pay all applicable fees.

[Statutory Authority: RCW 18.43.035. WSR 22-17-121, § 196-12-010, filed 8/23/22, effective 9/23/22; WSR 18-10-085, § 196-12-010, filed 5/1/18, effective 6/1/18; WSR 15-08-064, § 196-12-010, filed 3/27/15, effective 4/30/15; WSR 14-07-106, § 196-12-010, filed 3/19/14, effective 4/19/14; WSR 08-11-100, § 196-12-010, filed 5/20/08, effective 7/1/08. Statutory Authority: Chapters 18.43 and 18.235 RCW. WSR 04-04-001, § 196-12-010, filed 1/21/04, effective 2/21/04. Statutory Authority: RCW 18.43.035. WSR 98-12-052, § 196-12-010, filed 5/29/98, effective 7/1/98; WSR 88-12-044 (Order PM 738), § 196-12-010, filed 5/27/88; WSR 87-13-005 (Order PM 606), § 196-12-010, filed 6/4/87; WSR 84-04-027 (Order PL 454), § 196-12-010, filed 1/25/84; WSR 82-01-064 (Order 81-10), § 196-12-010, filed 12/18/81; Order PL 224, § 196-12-010, filed 11/5/75; Order PL-129, § 196-12-010, filed 7/27/72; Order 11, § 196-12-010, filed 9/12/68; Rule IIA, filed 11/15/65; Rule IIA, filed 8/4/64; Rule IA, filed 12/26/62.]

AMENDATORY SECTION (Amending WSR 22-17-121, filed 8/23/22, effective 9/23/22)

WAC 196-12-014 PE licensure application form. The board has a single application form for PE licensure in the state of Washington. This application form must be used by all applicants including those applying for the PE exam and licensure concurrently, those who have already taken the PE examination in another jurisdiction but have not obtained their initial license, and those who are already licensed in another jurisdiction and are seeking a license in Washington state.

(1) **Current PE examination and licensure applications:** Applicants who have not taken the PE examination will apply for both the PE ex-

amination and licensure on the application form. In order to be approved by the board to take the PE examination, the applicant must complete all sections of the form, except the date and location of taking the PE exam and must otherwise meet all of the qualifications for licensure. Upon passing the PE examination, the applicant is also qualified for licensure.

Applications for PE examination and licensure must be received at the board's address with the applicable fee by the date posted on the board's website.

(2) **All other applicants for PE licensure in Washington state.**

All other applicants applying for licensure in the state of Washington, including those who are licensed in another jurisdiction or have passed the Principles & Practices of engineering examination but have not obtained their initial license, must complete all sections of the application form provided by the board.

~~((a))~~ (3) All applicants must provide information on the application form that demonstrates they meet all requirements for licensure. This includes work experience requirements, education requirements, and examination requirements as detailed in WAC 196-12-010, 196-12-020, and 196-12-021; and RCW 18.43.040.

~~((b))~~ (4) All applicants must provide the following documents to verify ~~((these))~~ the work experience, education, and examination requirements:

(a) A completed NCEES record transmitted to the Washington board;
or

(b) Provide all the following documents:

(i) Education experience records - Official transcripts or the equivalent, showing all grades and degrees.

(ii) Work experience records - Completed form titled "Professional Engineering Experience Verification" which includes not only work experience information and details but also verifications of work experience by supervisors or other verifiers, per RCW 18.43.050.

(iii) Verification of licensing in any other jurisdiction(s), if any.

(iv) Verification of passing the FE examination or its equivalent (if any) or verification of FE waiver and verification of passing the PE examination.

[Statutory Authority: RCW 18.43.035. WSR 22-17-121, § 196-12-014, filed 8/23/22, effective 9/23/22.]

AMENDATORY SECTION (Amending WSR 22-17-121, filed 8/23/22, effective 9/23/22)

WAC 196-12-020 Work experience records. The following criteria will be used in evaluating an applicant's experience record:

(1) Work experience will be approved based on a demonstration of competency and progressive responsibility in the analysis, synthesis and evaluation of engineering concepts and data, under the direct supervision of a person authorized by chapter 18.43 RCW or other applicable statute to practice engineering. Under the general guidance and direct supervision of an authorized professional, the applicant must be in a position of making independent judgments and decisions in the following experience areas:

(a) Formulating conclusions and recommendations;

(b) Identifying design and/or project objectives;
 (c) Identifying possible alternative methods and concepts;
 (d) Defining performance specifications and functional requirements;
 (e) Solving engineering problems;
 (f) Interacting with allied professionals;
 (g) Effectively communicating recommendations and conclusions;
 (h) Demonstrating an understanding and concern for energy/environmental considerations, socioeconomic impact, and sustainability of resources.

(2) Engineering teaching may be considered satisfactory experience up to a maximum of two years at the discretion of the board.

(3) Applied research is considered satisfactory experience when it meets the following conditions:

(a) The research must be conducted under the guidance or supervision of a professional engineer. For the purposes of this subsection, guidance or supervision means being cognizant of all applicable aspects of the work and a reviewer of all applicable reporting documentation.

(b) The principal result(s) of the research are in a published report or a recognized engineering journal article in which the applicant is the primary author or the work is adequately documented and available to the board upon request.

(4) For military engineering experience to be considered acceptable, it should be similar to engineering experience that would be gained in a nonmilitary environment as defined in subsection (1) of this section, and such experience must be verified.

(5) Experience credit for an undergraduate degree cannot be earned concurrently with work experience credit. No more than one year of experience will be granted for one calendar year.

(6) Work experience gained while enrolled in a postgraduate engineering program may be considered satisfactory experience at the discretion of the board. No more than one year of experience will be granted for one calendar year.

(7) All work experience gained must be under the direct supervision of a professional engineer authorized to practice under chapter 18.43 RCW or an individual authorized by another statute to practice engineering.

[Statutory Authority: RCW 18.43.035. WSR 22-17-121, § 196-12-020, filed 8/23/22, effective 9/23/22; WSR 08-11-100, § 196-12-020, filed 5/20/08, effective 7/1/08. Statutory Authority: Chapters 18.43 and 18.235 RCW. WSR 04-04-001, § 196-12-020, filed 1/21/04, effective 2/21/04. Statutory Authority: RCW 18.43.035. WSR 02-01-071, § 196-12-020, filed 12/14/01, effective 1/30/02; WSR 98-12-052, § 196-12-020, filed 5/29/98, effective 7/1/98; WSR 92-01-101, § 196-12-020, filed 12/17/91, effective 1/17/92; WSR 87-13-005 (Order PM 606), § 196-12-020, filed 6/4/87; WSR 84-04-027 (Order PL 454), § 196-12-020, filed 1/25/84; WSR 82-01-064 (Order 81-10), § 196-12-020, filed 12/18/81; Order PL-115, § 196-12-020, filed 11/24/71; Rule IIB, filed 11/15/65; Rule IIB, filed 5/26/65; Rule IIB, filed 8/4/64; Rule IB, filed 12/26/62.]

AMENDATORY SECTION (Amending WSR 22-17-121, filed 8/23/22, effective 9/23/22)

WAC 196-12-021 Education as experience ((records)). Education may be counted towards the eight years of experience requirement specified in WAC 196-12-010. Official transcripts must be sent to the board's office for review and approval.

(1) A baccalaureate degree in engineering in a program accredited by the accreditation board for engineering and technology (ABET) is equivalent to four years of required experience. Satisfactory completion of each year of such an approved program is equivalent to one year of experience.

(2) A degree in engineering from a non-ABET accredited engineering program may be given four years at the discretion of the board. The board will determine if the degree is satisfactory in awarding years of experience.

(3) No more than one year may be granted for postgraduate engineering courses.

(4) A baccalaureate degree in a nonengineering program will be given a maximum of two years of experience.

(5) An associate degree in engineering from an approved program may be equivalent for up to two years of experience.

(6) Sporadic engineering related education may be considered as experience by the board at its discretion. For example, one or two engineering classes taken at a time, often at different schools; and/or classes taken through industry or the military may count as experience. In evaluating this type of education, the board will compare the courses taken to college coursework in a baccalaureate of engineering degree program.

(a) A number of foreign degree programs are included in mutual recognition agreements entered into by ABET with other accrediting authorities. Applicants with a degree from one of these programs will be evaluated by the board.

(b) Applicants having engineering degrees from programs in countries that are not ABET accredited will be required to have their transcripts evaluated by a transcript evaluation service approved by the board. This evaluation will be performed at the applicant's expense, and the applicant will be responsible for submitting all necessary information to the evaluation service. The board will use the evaluation to determine if the foreign degree is satisfactory to the board to award years of experience.

(c) An applicant with an undergraduate degree from a foreign program that is not ABET accredited, ~~((can waive the requirement for a degree evaluation))~~ is not required to have their undergraduate degree evaluated if they have a graduate degree in engineering from a school that has an ABET accredited undergraduate engineering degree program in the same discipline as the graduate degree. Years of experience will be determined at the discretion of the board.

For maximum experience credit the applicant must have their non-ABET accredited undergraduate degree from a foreign program evaluated by a transcript evaluation service approved by the board.

(7) Any other education may be taken into account and evaluated on its merits by the board.

~~((8) Work experience gained between semesters or quarters or during summers while enrolled in an approved curriculum may be counted as experience at the discretion of the board.))~~

[Statutory Authority: RCW 18.43.035. WSR 22-17-121, § 196-12-021, filed 8/23/22, effective 9/23/22; WSR 14-07-106, § 196-12-021, filed 3/19/14, effective 4/19/14; WSR 08-11-100, § 196-12-021, filed 5/20/08, effective 7/1/08.]

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 196-12-045 Registration of applicants licensed in
 other jurisdictions.

WSR 23-14-108
PROPOSED RULES
BOARD OF REGISTRATION
FOR PROFESSIONAL ENGINEERS
AND LAND SURVEYORS

[Filed July 3, 2023, 12:10 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-09-011.

Title of Rule and Other Identifying Information: WAC 196-29-110
Land surveying practice standards.

Hearing Location(s): On August 23, 2023, at 1:30 p.m., at Board of Registration for Professional Engineers and Land Surveyors (BRPELS) Office, 605 11th Avenue S.E., Suite 201, Olympia, WA 98501; or WebEx meeting <https://brpels.my.webex.com/brpels.my/j.php?MTID=mc78c5c6baf60baadb0f370ce52a9ecc9>. BRPELS is holding this hearing in person at its office in Olympia. The public may also virtually participate in the hearing by accessing the hearing link on BRPELS' rule-making [web] page <https://brpels.wa.gov/about-us/laws-and-rules/rulemaking-activity>.

Date of Intended Adoption: October 19, 2023.
Submit Written Comments to: Shanan Gillespie, P.O. Box 9025, Olympia, WA 98507-9025, email Shanan.Gillespie@brpels.wa.gov, by August 23, 2023.

Assistance for Persons with Disabilities: Contact Mackenzie Wherrett, phone 360-968-4813, TTY 711 or 1-800-835-5388, email Mackenzie.Wherrett@brpels.wa.gov, by August 18, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To amend current language regarding land surveyor practice standards and remove language that is no longer relevant to the standards.

Reasons Supporting Proposal: Changes provide clarification of the standards and removes language that is not applicable to the land surveying standards of practice.

Statutory Authority for Adoption: RCW 18.43.035.
Statute Being Implemented: Chapter 18.43 RCW.
Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: BRPELS, governmental.
Name of Agency Personnel Responsible for Drafting: Shanan Gillespie, 605 11th Avenue S.E., Suite 201, Olympia, WA 98501, 360-664-1570; Implementation and Enforcement: Ken Fuller, 605 11th Avenue S.E., Suite 201, Olympia, WA 98501, 360-968-4805.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328.

BRPELS is not one of the agencies to which RCW 34.05.328 applies pursuant to RCW 34.05.328 (5) (a).

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:
Is exempt under RCW 19.85.025(3) as the rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect.
Is exempt under RCW 19.85.025(4).

Explanation of exemptions: This rule is exempt per RCW 34.05.310 (4) (d) because it corrects and clarifies current language.

Scope of exemption for rule proposal:

Scope of exemption for rule proposal:

Scope of exemption for rule proposal:

Scope of exemption for rule proposal:

Scope of exemption for rule proposal:

Is fully exempt.

July 3, 2023
Ken Fuller
Director

OTS-4737.1

AMENDATORY SECTION (Amending WSR 17-01-137, filed 12/20/16, effective 1/20/17)

WAC 196-29-110 Land surveying practice standards. (~~Failure by any registrant to comply with the provisions of the Survey Recording Act, chapter 58.09 RCW and the survey standards, chapter 332-130 WAC shall be considered misconduct or malpractice as defined by RCW 18.43.105(10).~~)

The following standards shall (~~also~~) apply:

(1) The monumentation, posting, and/or the marking of a boundary line between two existing corner monuments constitutes the "practice of land surveying" as defined in chapter 18.43 RCW (~~and chapter 196-16 WAC~~), and consequently requires said work to be performed under the direct supervision of a registered professional land surveyor.

(2) The field survey work performed to accomplish the monumentation, posting, and marking of a boundary line between two existing corner monuments shall meet the minimum standards imposed by chapter 332-130 WAC.

(3) The monumentation, posting, and/or marking of a boundary line between two existing corner monuments involves a determination of the accuracy and validity of the existing monuments by the use of standard survey methods and professional judgment.

(4) The monumentation, posting, and marking of a boundary line between two existing corner monuments shall require the filing of a record of survey according to chapter 58.09 RCW unless both corners satisfy one or both of the following requirements:

(a) The corner(s) are shown as being established on a properly recorded or filed survey according to chapter 58.09 RCW and are accurately and correctly shown thereon.

(b) The corner(s) are described correctly, accurately, and properly on a land corner record according to chapter 58.09 RCW if their establishment was by a method not requiring the filing of a record of survey.

Failure by any registrant to comply with the provisions of the Survey Recording Act, chapter 58.09 RCW and the survey standards, chapter 332-130 WAC shall be considered misconduct or malpractice as defined by RCW 18.43.105(10).

[Statutory Authority: RCW 18.43.035. WSR 17-01-137, § 196-29-110, filed 12/20/16, effective 1/20/17; WSR 06-22-038, § 196-29-110, filed 10/25/06, effective 11/25/06. Formerly WAC 196-24-110.]

WSR 23-14-112
PROPOSED RULES
WASHINGTON STATE UNIVERSITY
[Filed July 5, 2023, 8:56 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-10-087.

Title of Rule and Other Identifying Information: Chapter 504-45 WAC, Public records.

Hearing Location(s): On August 9, 2023, at 4:00 p.m., Zoom meeting. Join from PC, Mac, Linux, iOS, or Android <https://wsu.zoom.us/j/94531918080>, Meeting ID 945 3191 8080; or join by phone (long distance) +1 253 215 8782, +12532158782,,94531918080# US (one-tap mobile call). To find an international phone number, see <https://wsu.zoom.us/j/94531918080>. No in-person hearing locations are being scheduled for this hearing.

Date of Intended Adoption: September 15, 2023.

Submit Written Comments to: Deborah Bartlett, Rules Coordinator, P.O. Box 641225, Pullman, WA 99164-1225, email prf.forms@wsu.edu, by August 9, 2023.

Assistance for Persons with Disabilities: Contact Joy Faerber, phone 509-335-2005, email prf.forms@wsu.edu, by August 7, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The university is updating the rules regarding public records, including availability, processing, exemptions, costs of providing public records, review of denials, and description of the university agency.

Reasons Supporting Proposal: The proposed amendments modify, clarify, and update the university's public records rules.

Statutory Authority for Adoption: RCW 28B.30.150, 42.56.040.

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

Name of Proponent: Public.

Name of Agency Personnel Responsible for Drafting: Danielle Hess, Executive Director, Policy and Governance, French Administration, Room 442, Pullman, WA 99164-1045, 509-335-5524 or Alicia Foth, Manager, University Public Records Officer, Public Records Office, Information Technology Building, Room 3011, Pullman, WA 99164-1225, 509-335-3928; Implementation: Alicia Foth, Manager, University Public Records Officer, Public Records Office, Information Technology Building, Room 3011, Pullman, WA 99164-1225, 509-335-3928; and Enforcement: Leslie Brunelli, Executive Vice President, Finance and Administration, French Administration, Room 442, Pullman, WA 99164-1045, 509-335-5524.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. The university does not consider these rules to be significant legislative rules.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(4).

Scope of exemption for rule proposal:

Is fully exempt.

July 5, 2023
Deborah L. Bartlett, Director
Policies, Records, and Forms
University Rules Coordinator

OTS-4704.1

AMENDATORY SECTION (Amending WSR 17-23-138, filed 11/20/17, effective 12/21/17)

WAC 504-45-020 Agency description—Contact information—Public records officer. (1) Washington State University is an institution of higher education, authority for which is located in chapter 28B.30 RCW. The system administrative offices and the main campus of the university are located at ~~((the university's main campus at))~~ Pullman, Washington. Other campuses are located at Spokane, Tri-Cities, Vancouver, and Everett, Washington. There is also a global (online) campus. Agricultural research centers are located at Mt. Vernon, Prosser, Puyallup, Vancouver, and Wenatchee, Washington. Cooperative extension offices are maintained at the county seats of all counties in the state. The university also has operations offices at Seattle and Olympia, Washington.

(2) Any person wishing to request access to public records of the university, or seeking assistance in making such a request, should contact the university's public records office located at the Pullman administrative offices. Current contact information and additional information regarding release of public records, including costs, are available on the university's website at <https://wsu.edu>.

(3) The public records officer oversees compliance with the act, but another university staff member may process the request. Therefore, these rules refer to the public records officer or "designee." The public records officer or designee and the university provide the "fullest assistance" to requestors; ensure that public records are protected from damage or disorganization; and prevent fulfilling public records requests from causing excessive interference with essential functions of the university.

[Statutory Authority: RCW 28B.30.150. WSR 17-23-138, § 504-45-020, filed 11/20/17, effective 12/21/17; WSR 13-24-028, § 504-45-020, filed 11/25/13, effective 12/26/13; WSR 07-04-027, § 504-45-020, filed 1/29/07, effective 3/1/07.]

AMENDATORY SECTION (Amending WSR 17-23-138, filed 11/20/17, effective 12/21/17)

WAC 504-45-030 Availability of public records. (1) Hours for inspection of records. Public records are available for inspection and copying by appointment during normal business hours of the university. For the purposes of this chapter, the normal business hours for the public records office are from 8:00 a.m. to noon and from 1:00 p.m. to 5:00 p.m., Monday through Friday, excluding the university's holidays and scheduled and emergency closure periods. Records must be inspected at the offices of the university.

(2) Index of records. An index of final orders, declaratory orders, interpretive statements, and policy statements entered after June 30, 1990, is available at the office of the university's rules coordinator at the Pullman campus. The university posts links to many of these records on its website at <https://wsu.edu>.

(3) Organization of records. The university maintains its records in a reasonably organized manner. The university takes reasonable actions to protect records from damage and disorganization. A requestor must not take university records from university offices without the permission of the public records officer or designee. Certain records are available on the university's website at <https://wsu.edu>. Requestors are encouraged to view the documents available on the website prior to submitting a records request.

(4) Making a request for public records.

(a) Any person wishing to inspect or copy public records of the university should make the request in writing on the university's public records portal, using the request form on the university's website, or by letter (~~, fax,~~) or email addressed to the public records officer or designee. The university also honors in-person requests received by the public records office during normal business hours. The public records office records in-person verbal requests in writing and confirms the substance of the request with the requestor. The following information must be included in the request:

(i) Name of the person requesting records, unless the requestor wishes to remain anonymous;

(ii) Mailing address of requestor;

(iii) Other contact information, including telephone number and any email address;

(iv) Identification of the public records adequate for the public records officer or designee to locate the records; and

(v) The date of the request.

(b) If the requestor wishes to have copies of the records made instead of simply inspecting them, (~~he or she~~) they should so indicate and make arrangements to pay for copies of the records or a deposit. Pursuant to RCW 42.56.120, standard photocopies or electronically produced copies are provided at the rates established in WAC 504-45-070. A requestor may also refer to the university's website at <https://wsu.edu> for current rates.

(c) A form is available for use by requestors at the public records office and on the university's website at <https://wsu.edu>.

~~((d) The public records officer or designee may accept requests for public records that contain the above information by telephone or in person. If the public records officer or designee accepts such a request, he or she confirms receipt of the information and the substance of the request in writing.))~~

[Statutory Authority: RCW 28B.30.150. WSR 17-23-138, § 504-45-030, filed 11/20/17, effective 12/21/17; WSR 13-24-028, § 504-45-030, filed 11/25/13, effective 12/26/13; WSR 07-04-027, § 504-45-030, filed 1/29/07, effective 3/1/07.]

AMENDATORY SECTION (Amending WSR 17-23-138, filed 11/20/17, effective 12/21/17)

WAC 504-45-040 Processing of public records requests—General.

(1) Providing "fullest assistance." The university is charged by statute with adopting rules which provide for how it is to "provide full access to public records," "protect records from damage or disorganization," "prevent excessive interference with the essential functions

of the agency," provide "fullest assistance" to requestors, and provide the "most timely possible action" on public records requests. The public records officer or designee processes requests in the order allowing the most requests to be processed in the most efficient manner. This may include grouping requests to help ensure university resources are being used efficiently, for example, when an individual requestor, or one or more requestors from the same organization, makes multiple records requests.

(2) Acknowledging receipt of request. Within five business days of receipt of the request, the public records officer or designee does one or more of the following:

(a) Makes the records available for inspection or copying;

(b) If copies are requested and payment for the copies, if any, is made or terms of payment are agreed upon, sends the copies to the requestor;

(c) Provides a reasonable estimate of when records will be available;

(d) If the request is unclear or does not sufficiently identify the requested records, requests clarification from the requestor. Such clarification may be requested and provided by telephone, email, or mail. Based upon that clarification, the public records officer or designee may revise the estimate of when records will be available; or

(e) Denies the request.

(3) Consequences of failure to respond. If the university does not respond in writing within five business days of receipt of the request for disclosure, the requestor should consider contacting the public records officer or designee to determine the reason for the failure to respond.

(4) Protecting rights of others. In the event that the requested records contain information that may affect rights of others and may be exempt from disclosure, the public records officer or designee may, prior to providing the records, give notice to such others whose rights may be affected by the disclosure. Such notice should be given so as to make it possible for those other persons to contact the requestor and ask (~~him or her~~) them to revise the request, or, if necessary, seek an order from a court to prevent or limit the disclosure. The notice to the affected persons includes a copy of the request.

(5) Records exempt from disclosure. Some records are exempt from disclosure, in whole or in part. If the university believes that a record is exempt from disclosure and should be withheld, the public records officer or designee states the specific exemption and provides a brief explanation of why the record or a portion of the record is being withheld. If only a portion of a record is exempt from disclosure, but the remainder is not exempt, the public records officer or designee redacts the exempt portions, provides the nonexempt portions, and indicates to the requestor why portions of the record are being redacted.

(6) Inspection of records.

(a) Consistent with other demands, the university must promptly provide space to inspect public records. No member of the public may remove a document from the viewing area or disassemble or alter any document. The requestor must indicate which documents (~~he or she wishes~~) they wish the university to copy.

(b) The requestor must claim or review the assembled records within (~~thirty~~) 30 days of the university's notification to (~~him or her~~) them that the records are available for inspection or copying. The university notifies the requestor in writing of this requirement

and informs the requestor that (~~he or she~~) they should contact the university to make arrangements to claim or review the records. If the requestor or a representative of the requestor fails to claim or review the records within the (~~thirty~~) 30-day period or make other arrangements, the university may close the request. Other public records requests can be processed ahead of a subsequent request by the same person for the same or almost identical records, which can be processed as a new request.

(7) Providing copies of records. After inspection is complete, the public records officer or designee makes any copies of records requested by the requestor or arranges for copying.

(8) Providing records in installments. When the request is for a large number of records, the public records officer or designee provides access for inspection and copying in installments, if (~~he or she~~) they reasonably determine(~~s~~) that it would be practical to provide the records in that way. If, within (~~thirty~~) 30 days, the requestor fails to inspect the entire set of records or one or more of the installments, the public records officer or designee may stop searching for the remaining records and close the request.

(9) Completion of inspection. When the inspection of the requested records is complete and all requested copies are provided, the public records officer or designee indicates that the university has completed a diligent search for the requested records and made any located nonexempt records available for inspection.

(10) Closing withdrawn or abandoned request. The public records officer or designee may close the request and indicate to the requestor that the university has closed the request when the requestor (~~either~~):

(a) Withdraws the request (~~or~~);

(b) Fails to provide clarification within 30 days of a request for clarification;

(c) Fails to fulfill (~~his or her~~) their obligations to inspect the records, which includes opening and downloading the records within 30 days; or

(d) Fails to pay the deposit or final payment for the requested copies (~~, the public records officer or designee closes the request and indicates to the requestor that the university has closed the request~~) within 30 days.

(11) Later discovered documents. If, after the university has informed the requestor that it has provided all available records, the university becomes aware of additional (~~responsible~~) responsive documents existing at the time of the request, it must promptly inform the requestor of the additional documents and make them available for inspection or provide copies upon payment on an expedited basis.

[Statutory Authority: RCW 28B.30.150. WSR 17-23-138, § 504-45-040, filed 11/20/17, effective 12/21/17; WSR 13-24-028, § 504-45-040, filed 11/25/13, effective 12/26/13; WSR 07-04-027, § 504-45-040, filed 1/29/07, effective 3/1/07.]

AMENDATORY SECTION (Amending WSR 17-23-138, filed 11/20/17, effective 12/21/17)

WAC 504-45-050 Processing of public records requests—Electronic records. (1) Requesting electronic records. The process for requesting electronic public records is the same as for requesting paper public records.

(2) Providing electronic records. When a requestor requests records in an electronic format, the public records officer or designee provides the nonexempt records or portions of such records that are reasonably locatable in an electronic format that is used by the agency and is generally commercially available, or in a format that is reasonably translatable from the format in which the agency keeps the record.

(3) Customized access to databases. With the consent of the requestor, the university may provide customized access under RCW ((43.41A.130)) 43.105.355 if the record is not reasonably locatable or not reasonably translatable into the format requested. The university may charge a fee consistent with RCW ((43.41A.130)) 43.105.355 for such customized access. (See WAC 504-45-070.)

[Statutory Authority: RCW 28B.30.150. WSR 17-23-138, § 504-45-050, filed 11/20/17, effective 12/21/17; WSR 13-24-028, § 504-45-050, filed 11/25/13, effective 12/26/13; WSR 07-04-027, § 504-45-050, filed 1/29/07, effective 3/1/07.]

AMENDATORY SECTION (Amending WSR 17-23-138, filed 11/20/17, effective 12/21/17)

WAC 504-45-060 Exemptions. (1) The Public Records Act provides that a number of types of ((documents)) records are exempt from public inspection and copying. In addition, ((documents)) records are exempt from disclosure if any "other statute" exempts or prohibits disclosure. Requestors should be aware of the following exemptions, outside the Public Records Act, that restrict the availability of some ((documents)) records held by the university for inspection and copying. This is not an exhaustive list as numerous exemptions exist outside the act. The university's failure to list an exemption here does not affect the efficacy of any exemption.

- (a) RCW 5.60.060 - Privileged communications;
 - (b) 20 U.S.C. 1232g - Family Education Rights and Privacy Act (FERPA);
 - (c) 42 U.S.C. 405 (c) (2) (vii) (1) - Social Security numbers;
 - (d) 45 C.F.R. parts 106 and 164 - Health Insurance Portability and Accountability Act of 1996 (HIPAA);
 - (e) Chapter 19.108 RCW and RCW 4.24.601 - Uniform Trade Secrets Act; and
 - (f) Chapter 10.97 RCW - Regarding criminal history information.
- (2) The university is prohibited by statute from providing lists of individuals for commercial purposes.

[Statutory Authority: RCW 28B.30.150. WSR 17-23-138, § 504-45-060, filed 11/20/17, effective 12/21/17; WSR 07-04-027, § 504-45-060, filed 1/29/07, effective 3/1/07.]

AMENDATORY SECTION (Amending WSR 17-23-138, filed 11/20/17, effective 12/21/17)

WAC 504-45-070 Costs of providing (~~(copies of)~~) public records.

(1) Costs for (~~(copies of)~~) public records. There is no fee for inspecting public records. The following fees apply to copies of public records:

(a) Ten cents per page for records scanned into electronic format;

(b) Five cents for every four electronic files or attachments uploaded to an email, cloud storage service, or other electronic delivery system;

(c) Ten cents per gigabyte for transmitting records electronically;

(d) Fifteen cents per page for photocopies of public records and/or printed copies of electronic public records when requested;

(e) The actual cost of any digital storage media or device provided by the agency, the actual cost of any container or envelope used to mail the copies to the requestor, and the actual postage or delivery charge;

(f) For body worn camera footage, staff redaction time as provided in RCW 42.56.240 (14) (f); and

(g) Under RCW ((42.56.120)) 42.56.130, the university may charge other copy fees authorized by statutes outside chapter 42.56 RCW.

(2) In addition to the charge imposed for providing (~~(copies of)~~) public records and for the use by any person of university equipment, the university may include a customized service charge. The university charges for customized services pursuant to RCW 42.56.120(3). The customized service charge may reimburse the university up to the actual cost of providing the services in this section. The university provides the requestor the opportunity to amend (~~(his or her)~~) their request in order to avoid or reduce the cost of a customized service charge. The university may require a deposit in an amount not to exceed (~~(ten)~~) 10 percent of the estimated cost of providing (~~(copies)~~) records for a request, or 10 percent of the estimated cost of staff redaction time for body worn camera footage, including a customized service charge. If the university makes a request available on a partial or installment basis, the university may charge for each part of the request as it is provided.

(3) Payment. Payment may be made by credit or debit card, cash, check, or money order to the university. For payments made by credit or debit card, a service fee equivalent to the cost of processing the payment is charged.

(a) All required fees must be paid in advance of release of the copies or an installment of copies, or in advance of when a deposit is required. The university notifies the requestor of when payment is due.

(b) The university closes a request when a requestor fails by the payment date to pay in the manner prescribed for records, an installment of records, or a required deposit.

(4) Pursuant to RCW 42.56.120(2), (~~(as amended by section 3, chapter 304, Laws of 2017, Washington State)~~) the university declares that it would be unduly burdensome for it to calculate the actual costs it charges for providing copies of public records for the following reasons:

(a) Funds were not allocated for performing a study to calculate such actual costs and the agency lacks the necessary funds to perform a study and calculations;

(b) Staff resources are insufficient to perform a study and to calculate such actual costs; and

(c) A study would interfere with and disrupt other essential agency functions.

(5) The university's public records office publishes a schedule of fees on the university's website consistent with this rule. The university reserves the right to change its fees as allowed by RCW 42.56.120.

[Statutory Authority: RCW 28B.30.150. WSR 17-23-138, § 504-45-070, filed 11/20/17, effective 12/21/17; WSR 13-24-028, § 504-45-070, filed 11/25/13, effective 12/26/13; WSR 07-04-027, § 504-45-070, filed 1/29/07, effective 3/1/07.]

AMENDATORY SECTION (Amending WSR 17-23-138, filed 11/20/17, effective 12/21/17)

WAC 504-45-080 Review of denials of public records. (1) Petition for internal administrative review of denial of access. Any person who objects to the initial denial or partial denial of a records request may petition in writing (including email) to the public records officer for a review of that decision. The petition must include a copy of, or reasonably identify, the written statement by the public records officer or designee denying the request.

(2) Consideration of petition for review. The public records officer (~~must~~) immediately refers the petition to their supervisor, or a designee in the supervisor's absence, who considers the petition and either affirms or reverses such denial within two business days following the university's receipt of the petition, or within such other time as the university and the requestor mutually agree.

(3) Review by the attorney general's office. Pursuant to RCW 42.56.530, if the university denies a requestor access to public records because it claims the record is exempt in whole or in part from disclosure, the requestor may request the attorney general's office review the matter. The attorney general has adopted rules on such requests in WAC 44-06-160.

(4) Judicial review. Any person may request court review of denials of public records requests pursuant to RCW 42.56.550 at the conclusion of two business days after the initial denial regardless of any internal administrative appeal.

[Statutory Authority: RCW 28B.30.150. WSR 17-23-138, § 504-45-080, filed 11/20/17, effective 12/21/17; WSR 08-08-055, § 504-45-080, filed 3/27/08, effective 4/27/08; WSR 07-04-027, § 504-45-080, filed 1/29/07, effective 3/1/07.]

WSR 23-14-118

PROPOSED RULES

EMPLOYMENT SECURITY DEPARTMENT

[Filed July 5, 2023, 9:52 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-05-104.

Title of Rule and Other Identifying Information: WAC 192-140-035

What happens if I do not respond to a request for information?

Hearing Location(s): On August 10, 2023, at 9:00 a.m. PST, Zoom, Meeting ID 846 6400 6931, Passcode 372773; or one-tap mobile +12532158782,,84664006931# US (Tacoma), +12532050468,,84664006931# US. Join Zoom meeting <https://esd-wa-gov.zoom.us/j/84664006931?pwd=U3NZcDhGTmslQXNVQVFXIXI3dXNYUT09>.

Date of Intended Adoption: August 11, 2023.

Submit Written Comments to: Stephanie Frazee, P.O. Box 9046, Olympia, WA 98507-9046, email rules@esd.wa.gov, fax 844-652-7096, by August 10, 2023.

Assistance for Persons with Disabilities: Contact Teresa Eckstein, phone 360-507-9890, fax 360-507-9890, TTY relay 711, email Teresa.eckstein@esd.wa.gov [Teresa.eckstein@esd.wa.gov], by August 3, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Currently, WAC 192-140-035 states that, if an unemployment insurance claimant does not respond to a request for information, they are denied benefits "indefinitely" until they respond to the department's request for information. The department's proposed rule would clarify the circumstances under which a claimant may requalify for benefits after previously being denied due to failing to respond to a request for information from the department by creating two exceptions to the "indefinite period of time" time frame provided in the current rule.

Reasons Supporting Proposal: The proposal is needed to clarify the circumstances in which a claimant may requalify for benefits after being denied benefits for failing to respond to a department request for information.

Statutory Authority for Adoption: RCW 50.12.010 and 50.12.040 provide general rule-making authority to the employment security department. RCW 50.20.010 defines benefit eligibility conditions for unemployment benefits.

Statute Being Implemented: RCW 50.20.010.

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

Name of Proponent: Employment security department, governmental.

Name of Agency Personnel Responsible for Drafting: Stephanie Frazee, Olympia, Washington, 425-465-0313; Implementation and Enforcement: JR Richards, Olympia, Washington, 360-463-1079.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Stephanie Frazee, P.O. Box 9046, Olympia, WA 98507-9046, phone 425-465-0313, fax 844-652-7096, TTY relay 711, email rules@esd.wa.gov, <https://esd.wa.gov/newsroom/rulemaking/failure-to-respond> [https://esd.wa.gov/newsroom/rulemaking/failure-to-respond].

Scope of exemption for rule proposal from Regulatory Fairness Act requirements:

Is not exempt.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. [No information supplied by agency.]

July 3, 2023

Joy E. Adams, Director

Employment System Policy and Integrity Division

OTS-4570.2

AMENDATORY SECTION (Amending WSR 10-11-046, filed 5/12/10, effective 6/12/10)

WAC 192-140-035 What happens if I do not respond to a request for information? (1) The department will presume that you are disqualified from benefits if you provide potentially disqualifying information, or fail to provide necessary information, and then do not respond to a request for specific information. The department will deny benefits under RCW 50.20.010.

(2) This denial is for an indefinite period of time and will continue until either:

(a) You provide the requested information;

(b) You qualify for a new, separate unemployment claim and the information requested under subsection (1) of this section is not relevant for your new claim; or

(c) The request for information was made pursuant to a quality control review under 20 C.F.R. § 602.11 and your response is no longer needed for the quality control review.

(3) Once you provide the requested information, the department may issue a redetermination under RCW 50.20.160. The department will issue a new decision allowing benefits if you provide enough information to establish your eligibility for benefits.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.20.010. WSR 10-11-046, § 192-140-035, filed 5/12/10, effective 6/12/10.]

WSR 23-14-120

PROPOSED RULES

HEALTH CARE AUTHORITY

[Filed July 5, 2023, 10:21 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 22-24-114.

Title of Rule and Other Identifying Information: Transportation services—Nonemergency transportation (NEMT); WAC 182-546-5000 NEMT—General, 182-546-5100 NEMT—Definitions, 182-546-5550 NEMT—Exclusions and limitations, 182-546-5600 NEMT—Intermediate stops or delays, 182-546-5800 NEMT—Trips out-of-state/out-of-country, 182-546-5900 NEMT—Meals, lodging, escort/guardian, and 182-546-6200 NEMT—Reimbursement.

Hearing Location(s): On August 8, 2023, at 10:00 a.m. The health care authority (HCA) holds public hearings virtually without a physical meeting place. To attend the virtual public hearing, you must register in advance https://us02web.zoom.us/webinar/register/WN_PL_UX-6lSuWpeJy1vLlPEg. If the link above opens with an error message, please try using a different browser. After registering, you will receive a confirmation email containing information about joining the public hearing.

Date of Intended Adoption: August 9, 2023.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 42716, Olympia, WA 98504-2716, email arc@hca.wa.gov, fax 360-586-9727, by August 8, 2023, by 11:59 p.m.

Assistance for Persons with Disabilities: Contact Johanna Larson, phone 360-725-1349, fax 360-586-9727, telecommunication[s] relay service 711, email Johanna.Larson@hca.wa.gov, by July 21, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: HCA is amending these rules to provide more precise language to define the program parameters and ensure consistency. Specifically, in addition to housekeeping changes, the agency is proposing to amend:

- WAC 182-546-5000(4) to clarify this section pertains to a client's freedom of access to health care, but that doesn't require the agency to cover transportation at a higher cost in order to meet the client's personal choice of medical provider.
- WAC 182-546-5100 to add a definition for against medical advice (AMA), fix WAC reference in ambulance definition, and remove definitions for extended stay and short stay.
- WAC 182-546-5550 to add in a new subsection (1)(b) regarding AMA discharges and a new subsection (1)(k) for standalone pharmacy trips.
- WAC 182-546-5600 (3)(b) to clarify the agency may pay for transportation for a client to a pharmacy to obtain medicare Part D prescriptions if the prescriptions are billable to medicaid and not paid for by medicare Part D.
- WAC 182-546-5800(1) to clarify that out-of-state requests require a minimum of seven days' notice before the client's travel.
- WAC 182-546-5900(4) to clarify the reasonable cost of lodging and meals is measured against the state per diem of the location where the client is receiving covered medical services and striking subsections (4)(a), (b), and (c).

Reasons Supporting Proposal: See purpose.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160; 42 C.F.R. 431.53, 42 C.F.R. 440.170.

Statute Being Implemented: RCW 41.05.021, 41.05.160; 42 C.F.R. 431.53, 42 C.F.R. 440.170.

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

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Valerie Freudenstein, P.O. Box 42719, Olympia, WA 98504-2716 [2719], 360-725-1344; Implementation and Enforcement: Emily Horton, 626 8th Avenue S.E., Olympia, WA 98504, 360-725-1721.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to HCA rules unless requested by the joint administrative rules review committee or applied voluntarily.

Scope of exemption for rule proposal from Regulatory Fairness Act requirements:

Is not exempt.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. HCA is amending these rules to provide more precise language to define the program parameters and ensure consistency. This change does not impose a more-than-minor cost.

July 5, 2023

Wendy Barcus

Rules Coordinator

OTS-4406.3

AMENDATORY SECTION (Amending WSR 16-12-022, filed 5/20/16, effective 6/20/16)

WAC 182-546-5000 Nonemergency transportation—General. (1) The (~~medicaid~~) agency covers nonemergency nonambulance transportation to and from covered health care services, as (~~provided by the Code of Federal Regulations~~) required by 42 C.F.R. 431.53 (~~and 42 C.F.R. 440.170~~), subject to the limitations and requirements under WAC 182-546-5000 through 182-546-6200. See WAC 182-546-1000 for nonemergency ground ambulance transportation.

(2) The agency pays for nonemergency transportation for clients covered under state-funded medical programs subject to funding appropriated by the legislature.

(3) Clients may not select the transportation provider or the mode of transportation.

(4) A client's right to freedom of choice does not require the agency to cover transportation at unusual or exceptional cost in order to meet a client's personal choice of health care provider.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 16-12-022, § 182-546-5000, filed 5/20/16, effective 6/20/16; WSR 15-03-050, § 182-546-5000, filed 1/14/15, effective 2/14/15. WSR 11-17-032, recodi-

fied as § 182-546-5000, filed 8/9/11, effective 8/9/11. Statutory Authority: RCW 74.04.057, 74.08.090, and 74.09.500. WSR 11-15-029, § 388-546-5000, filed 7/12/11, effective 8/12/11. Statutory Authority: RCW 74.08.090, 74.09.500, 74.04.050, 74.04.055, and 74.04.057. WSR 01-06-029, § 388-546-5000, filed 3/2/01, effective 4/2/01.]

AMENDATORY SECTION (Amending WSR 20-05-066, filed 2/14/20, effective 3/16/20)

WAC 182-546-5100 Nonemergency transportation—Definitions. The following definitions and those found in chapter 182-500 WAC apply to nonemergency medical brokered transportation. Unless otherwise defined in WAC 182-546-5200 through 182-546-6000, medical terms are used as commonly defined within the scope of professional medical practice in the state of Washington.

"Against medical advice (AMA)" - When a client elects to discharge from a health care facility against the advice of medical professionals.

"Ambulance" - See WAC (~~(182-546-0001)~~) 182-546-0125.

"Broker" - An organization or entity contracted with the (~~(medicaid)~~) agency to arrange nonemergency transportation and related services for clients.

"Drop off point" - The location authorized by the transportation broker for the client's trip to end.

"Escort" - A person authorized by the transportation broker to accompany and be transported with a client to a health care service. An escort's transportation may be authorized depending on the client's age, mental state or capacity, safety requirements, mobility skills, communication skills, or cultural issues.

(~~("Extended stay" - A period of time spanning thirty consecutive days or longer for which a client receives health care services outside of their local community and for which they may request assistance with meals and lodging.)~~)

"Guardian" - A person who is legally responsible for a client and who may be required to be present when a client is receiving health care services.

"Local community" - The client's city or town of residence or nearest location to residence.

"Local provider" - A provider, as defined in WAC 182-500-0085, who delivers covered health care service within the client's local community, and the treatment facility where the services are delivered within the client's local community.

"Lodging and meals" - Temporary housing and meals provided during a client's out-of-area medical stay.

"Mode" - A method of transportation assistance used by the general public that an individual client can use in a specific situation. Methods that may be considered include, but are not limited to:

- Air transport;
- Public bus;
- Commercial bus;
- Ferries/water taxis;
- Gas vouchers/gas cards;
- Grouped or shared-ride vehicles;
- Mileage reimbursement;

- Parking;
- Stretcher vans or cars;
- Taxi;
- Tickets;
- Tolls;
- Train;
- Volunteer drivers;
- Walking or other personal conveyance; and
- Wheelchair vans.

"Noncompliance or noncompliant" - When a client:

- Fails to appear at the pickup point of the trip at the scheduled pickup time;
- Misuses or abuses agency-paid medical, transportation, or other services;
- Fails to comply with the rules, procedures, or policies of the agency or those of the agency's transportation brokers, the brokers' subcontracted transportation providers, or health care service providers;
- Poses a direct threat to the health or safety of self or others; or
- Engages in violent, seriously disruptive, or illegal conduct.

"Pickup point" - The location authorized by the agency's transportation broker for the client's trip to begin.

"Return trip" - The return of the client to the client's residence, or another authorized drop-off point, from the location where a covered health care service has occurred.

"Service animal" - An animal individually trained to work or perform tasks for an individual with a disability. The work or task an animal has been trained to provide must be directly related to the individual's disability. Animals whose sole function is to provide comfort or emotional support do not qualify as service animals under the American with Disabilities Act.

~~(**"Short stay"** - A period of time up to twenty-nine days for which a client receives health care services outside of their local community and for which they may request assistance with meals and lodging.)~~

"Stretcher car or van" - A vehicle that can legally transport a client in a prone or supine position when the client does not require medical attention en route.

"Stretcher trip" - A transportation service that requires a client to be transported in a prone or supine position without medical attention during the trip. This may be by stretcher, board, gurney, or other appropriate device. Medical or safety requirements must be the basis for transporting a client in the prone or supine position.

"Transportation provider" - A person or company under contract with a broker to provide trips to eligible clients.

"Trip" - Transportation one-way from the pickup point to the drop off point by an authorized transportation provider.

"Urgent care" - An unplanned appointment for a covered medical service with verification from an attending physician or facility that the client must be seen that day or the following day.

[Statutory Authority: RCW 41.05.021, 41.05.160, 42 C.F.R. §§ 431.53 and 440.170. WSR 20-05-066, § 182-546-5100, filed 2/14/20, effective 3/16/20. Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 16-12-022, § 182-546-5100, filed 5/20/16, effective 6/20/16; WSR 15-03-050, § 182-546-5100, filed 1/14/15, effective 2/14/15. WSR

11-17-032, recodified as § 182-546-5100, filed 8/9/11, effective 8/9/11. Statutory Authority: RCW 74.04.057, 74.08.090, and 74.09.500. WSR 11-15-029, § 388-546-5100, filed 7/12/11, effective 8/12/11. Statutory Authority: RCW 74.04.050, 74.04.057, 74.08.090, 74.09.500, and 74.09.035. WSR 08-08-064, § 388-546-5100, filed 3/31/08, effective 5/1/08. Statutory Authority: RCW 74.08.090, 74.09.500, 74.04.050, 74.04.055, and 74.04.057. WSR 01-06-029, § 388-546-5100, filed 3/2/01, effective 4/2/01.]

AMENDATORY SECTION (Amending WSR 20-05-066, filed 2/14/20, effective 3/16/20)

WAC 182-546-5550 Nonemergency transportation—Exclusions and limitations.

(1) The following service categories listed in WAC 182-501-0060 are subject to the following exclusions and limitations:

(a) Adult day health (ADH) - Nonemergency transportation for ADH services is not provided through the brokers. ADH providers are responsible for arranging or providing transportation to ADH services.

(b) Against medical advice (AMA) discharges - Nonemergency transportation is not provided through the brokers for clients that elect to discharge from a facility or hospital AMA.

(c) Ambulance - Nonemergency ambulance transportation is not provided through the brokers except as specified in WAC 182-546-5200

(2) (e).

~~((e))~~ (d) Emergency department (ED) - When a client is discharged from the ED, brokers may provide transportation only to another medicaid-covered service or to the client's residence ~~((only))~~.

~~((d))~~ (e) Hospice services - Nonemergency transportation is not provided through the brokers when the health care service is related to a client's hospice diagnosis. See WAC 182-551-1210.

~~((e))~~ (f) Medical equipment, durable (DME) - Nonemergency transportation is not provided through the brokers for DME services, except for complex rehabilitation technology (CRT) and DME equipment that needs to be fitted to the client (such as braces/crutches, wheelchairs).

~~((f))~~ (g) Medical nutrition services - Nonemergency transportation is not provided through the brokers to pick up medical nutrition products.

~~((g))~~ (h) Medical supplies/equipment, nondurable (MSE) - Nonemergency transportation is not provided through the brokers for MSE services.

~~((h))~~ (i) The following mental health and substance use disorder services:

(i) Nonemergency transportation brokers generally provide one round trip per day. The broker must request agency approval for additional trips for off-site activities.

(ii) Nonemergency transportation of an involuntarily detained person under the Involuntary Treatment Act (ITA) is not a service provided or authorized by transportation brokers. Involuntary transportation is a service provided by an ambulance or a designated ITA transportation provider.

(iii) Nonemergency transportation is not provided through the brokers to or from information and assistance services which include:

(A) Alcohol and drug information school;

(B) Information and crisis services; and

(C) Emergency service patrol.

~~((i))~~ (j) Program of all-inclusive care for the elderly (PACE)-nonemergency transportation for clients in the PACE program is not provided through the brokers. The PACE contractor is responsible for transportation to PACE services.

(k) Standalone pharmacy trips - Transportation that occurs solely for the purpose of picking up a medication prescribed by a health care provider from a pharmacy.

(i) The broker may provide mileage reimbursement to the client or coordinate a standalone pharmacy trip only when:

(A) The client cannot receive the medication through the mail and such transportation assistance has been requested two business days in advance; or

(B) Documentation from a medical professional has been provided to the broker that indicates medication was prescribed for a condition that requires urgent treatment.

(ii) A standalone pharmacy trip that meets the conditions of (k) of this subsection is restricted to one trip per week per household, unless documentation from a medical professional indicates the medication must be picked up urgently.

(iii) Documentation of medical necessity from the client's health care provider, pharmacy, or other medical professional is required before the broker can authorize a standalone pharmacy trip more frequently than once a week per household.

(iv) If the client has a scheduled trip to an eligible medical appointment in the same week as a pharmacy pick up, the prescription must be picked up when in route to or from the medical appointment. See WAC 182-546-5600 (3) (b).

(2) Service animals as defined in WAC 182-546-5100 may be transported with clients.

(3) The following programs do not have a benefit for brokered nonemergency transportation through the agency:

(a) Federal medicare savings and state-funded medicare buy-in programs (see chapter 182-517 WAC);

(b) Family planning services - Nonemergency transportation is not provided for clients that are enrolled only in family planning only services; and

(c) Alien emergency medical (AEM) - See WAC 182-507-0115.

[Statutory Authority: RCW 41.05.021, 41.05.160, 42 C.F.R. §§ 431.53 and 440.170. WSR 20-05-066, § 182-546-5550, filed 2/14/20, effective 3/16/20. Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 16-12-022, § 182-546-5550, filed 5/20/16, effective 6/20/16; WSR 15-03-050, § 182-546-5550, filed 1/14/15, effective 2/14/15. WSR 11-17-059, recodified as § 182-546-5550, filed 8/15/11, effective 8/15/11. Statutory Authority: RCW 74.04.057, 74.08.090, and 74.09.500. WSR 11-15-029, § 388-546-5550, filed 7/12/11, effective 8/12/11.]

AMENDATORY SECTION (Amending WSR 15-03-050, filed 1/14/15, effective 2/14/15)

WAC 182-546-5600 Nonemergency transportation—Intermediate stops or delays. (1) The ~~((medicaid))~~ agency does not pay for any costs re-

lated to intermediate stops or delays that are not directly related to the original approved trip, including trips that would, or did, result in additional transportation costs due to client convenience.

(2) Brokers may authorize intermediate stops or delays for clients if the broker determines that the intermediate stop is:

(a) Directly related to the original approved trip; or

(b) Likely to limit or eliminate the need for supplemental covered trips.

(3) The agency considers the following reasons to be related to the original trip:

(a) Transportation of the client to and from an immediate subsequent medical referral/appointment; or

(b) Transportation of the client to a pharmacy to obtain one or more prescriptions when in route to or from the covered service and the pharmacy is within a reasonable distance of the usual route to the medical appointment. The agency does not pay for transportation of the client to a pharmacy to obtain medicare Part D prescriptions unless the prescription is billable to medicaid and not paid by medicare Part D.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 15-03-050, § 182-546-5600, filed 1/14/15, effective 2/14/15. WSR 11-17-032, recodified as § 182-546-5600, filed 8/9/11, effective 8/9/11. Statutory Authority: RCW 74.04.057, 74.08.090, and 74.09.500. WSR 11-15-029, § 388-546-5600, filed 7/12/11, effective 8/12/11.]

AMENDATORY SECTION (Amending WSR 15-03-050, filed 1/14/15, effective 2/14/15)

WAC 182-546-5800 Nonemergency transportation—Trips out-of-state/out-of-country. (1) The ((~~medicaid~~)) agency reviews requests for out-of-state nonemergency transportation in accordance with regulations for covered health care services((~~r~~)) including, but not limited to, WAC 182-501-0180, 182-501-0182 and 182-501-0184. Out-of-state requests must be submitted to the agency no less than seven business days prior to the client's anticipated travel date.

(2) The agency does not pay for nonemergency transportation to or from locations outside of the United States and U.S. territories, except as allowed under WAC 182-501-0184 for British Columbia, Canada.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 15-03-050, § 182-546-5800, filed 1/14/15, effective 2/14/15. WSR 11-17-032, recodified as § 182-546-5800, filed 8/9/11, effective 8/9/11. Statutory Authority: RCW 74.04.057, 74.08.090, and 74.09.500. WSR 11-15-029, § 388-546-5800, filed 7/12/11, effective 8/12/11.]

AMENDATORY SECTION (Amending WSR 20-05-066, filed 2/14/20, effective 3/16/20)

WAC 182-546-5900 Nonemergency transportation—Meals, lodging, escort/guardian. (1) The ((~~medicaid~~)) agency may pay for meals and lodging for clients who must be transported to health care services

outside of the client's local community. The agency's transportation brokers determine when meals and lodging are necessary based on a client's individual need.

(2) Brokers may authorize payment for meals and lodging for up to one calendar month. Extensions beyond the initial calendar month must be prior authorized by the broker on a month-to-month, week-to-week, or as-needed basis.

(3) Brokers may not authorize payment for alcohol, cannabis, or other nonfood items.

(4) Brokers follow the agency's guidelines in determining the reasonable costs of meals and lodging. ~~((The agency's guidelines are:~~

~~(a) The reasonable cost of lodging for short and extended stays is measured against state per diem rates.~~

~~(b) For short stays, the cost of meals may not exceed the state per diem rate.~~

~~(c) For extended stays, the reasonable cost of meals is measured against the state's basic food program. The maximum monthly allowable meal cost for extended stays is not to exceed the client's calculated monthly food benefit.)~~ The reasonable cost of lodging and meals is measured against the state per diem for the location where the client is receiving covered health care services.

(5) The agency pays for the transportation of an authorized escort, including meals and lodging, when all of the following apply:

(a) The client is present, except as stated in subsection (5) of this section; and

(b) The broker determines the transportation costs of an escort ~~((is))~~ are necessary based upon the client's age, mental state or capacity, safety requirements, mobility requirements, communication or translation requirements, or cultural issues.

(6) The agency may authorize and pay for the transportation of an authorized escort or guardian, with or without the presence of the client, if the broker determines, and documents, that the presence of the authorized escort or guardian is necessary to ensure that the client has access to medically necessary care.

(7) Lodging and meals for all out-of-state nonemergency transportation must be prior authorized by the agency. Border areas as defined by WAC 182-501-0175 are considered in-state under this section and subsequent sections.

[Statutory Authority: RCW 41.05.021, 41.05.160, 42 C.F.R. §§ 431.53 and 440.170. WSR 20-05-066, § 182-546-5900, filed 2/14/20, effective 3/16/20. Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 15-03-050, § 182-546-5900, filed 1/14/15, effective 2/14/15. WSR 11-17-032, recodified as § 182-546-5900, filed 8/9/11, effective 8/9/11. Statutory Authority: RCW 74.04.057, 74.08.090, and 74.09.500. WSR 11-15-029, § 388-546-5900, filed 7/12/11, effective 8/12/11.]

AMENDATORY SECTION (Amending WSR 20-05-066, filed 2/14/20, effective 3/16/20)

WAC 182-546-6200 Nonemergency transportation—Reimbursement.

(1) To be reimbursed for trips, meals, or lodging, the requestor must receive prior authorization from the broker at least two business days in advance of the client's travel.

(2) A client must request reimbursement of preauthorized expenditures for trips, meals, or lodging within (~~(thirty)~~) 30 calendar days after their medical appointment. The broker may consider reimbursement requests beyond (~~(thirty)~~) 30 calendar days if a client shows good cause as defined in WAC 388-02-0020 for having not requested reimbursement within (~~(thirty)~~) 30 calendar days.

(3) To be reimbursed for transportation-related services, the requestor must provide the broker with legible copies of:

- (a) Itemized receipt(s);
- (b) The operator's valid driver's license;
- (c) Valid vehicle registration; and
- (d) Proof of insurance for the vehicle/operator at the time of the trip.

(4) The (~~(medicaid)~~) agency or the broker may retroactively authorize and reimburse for transportation costs, including meals and lodging when:

(a) A client is approved for a delayed certification period as defined in WAC 182-500-0025, or for a retroactive eligibility period as defined in WAC 182-500-0095, or is retroactively eligible for a medically needy program which requires a spenddown as defined in WAC 182-500-0100;

(b) The transportation costs were not used to meet a client spenddown liability in accordance with WAC 182-519-0110;

(c) The transportation costs for which retroactive reimbursement is requested falls within the period of retroactive eligibility or delayed certification;

(d) The client received medically necessary services that were covered by the client's medical program for the date(s) of service for which retroactive reimbursement is requested; and

(e) The request for retroactive reimbursement is made within (~~(sixty)~~) 60 calendar days from the date of eligibility notification (award letter), not to exceed eight months from the date(s) of service for which reimbursement is requested.

(5) When transportation cost(s) are retroactively authorized, the reimbursement amount must not exceed the reimbursement amount that would have been authorized prior to the date(s) of service.

(6) To be paid by the broker for nonemergency transportation services:

(a) Ambulance providers must be subcontracted with the broker in accordance with WAC 182-546-5200.

(b) Nonambulance providers must be subcontracted with the broker in accordance with WAC 182-546-5200.

(7) The agency, through its contracted brokers, does not pay for nonemergency transportation when:

(a) The health care service the client is requesting transportation to or from is not a service covered by the client's medical program;

(b) The covered health care service is within three-quarters of a mile from the pick-up point, except when:

(i) The client's documented and verifiable medical condition and personal capabilities demonstrates that the client is not able to walk three-quarters mile distance;

(ii) The trip involves an area that the broker determines is not physically accessible to the client; or

(iii) The trip involves an area that the agency's broker considers to be unsafe for the client, other riders, or the driver.

(c) The client has personal or informal transportation resources that are available and appropriate to the clients' needs;

(d) Fixed-route public transportation service is available to the client within three-quarters of a mile walking distance. Exceptions to this rule may be granted by the transportation broker when the need for more specialized transportation is documented. Examples of such a need may be the client's use of a portable ventilator, a walker, or a quad cane; or

(e) The mode of transport that the client requests is not necessary, suitable, or appropriate to the client's medical condition.

[Statutory Authority: RCW 41.05.021, 41.05.160, 42 C.F.R. §§ 431.53 and 440.170. WSR 20-05-066, § 182-546-6200, filed 2/14/20, effective 3/16/20. Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 15-03-050, § 182-546-6200, filed 1/14/15, effective 2/14/15. WSR 11-17-032, recodified as § 182-546-6200, filed 8/9/11, effective 8/9/11. Statutory Authority: RCW 74.04.057, 74.08.090, and 74.09.500. WSR 11-15-029, § 388-546-6200, filed 7/12/11, effective 8/12/11.]

WSR 23-14-121
PROPOSED RULES
LIQUOR AND CANNABIS
BOARD

[Filed July 5, 2023, 10:25 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-08-040.

Title of Rule and Other Identifying Information: The Washington state liquor and cannabis board (board) proposes to amend WAC 314-40-040 to allow private clubs to add additional membership drives and host consecutive membership drives.

Hearing Location(s): On August 16, 2023, at 10:00 a.m. All public board activity will be held in a "hybrid" environment. This means that the public will have options for in-person or virtual attendance. The boardroom at the headquarters building in Olympia (1025 Union Avenue, Olympia, WA 98504) will be open for in-person attendance. The public may also login using a computer or device, or call-in using a phone, to listen to the meeting through the Microsoft Teams application. The public may provide verbal comments during the specified public comment and rules hearing segments. TVW also regularly airs these meetings. Please note that although the Boardroom will be staffed during a meeting, board members and agency participants may continue to appear virtually. For more information about board meetings, please visit [https://lcb.wa.gov/Boardmeetings/Board meetings](https://lcb.wa.gov/Boardmeetings/Board%20meetings).

Date of Intended Adoption: No earlier than August 30, 2023.

Submit Written Comments to: Rules Coordinator, P.O. Box 43080, Olympia, WA 98504-3080, email rules@lcb.wa.gov, fax 360-704-5027, by August 16, 2023.

Assistance for Persons with Disabilities: Contact Anita Bingham, ADA coordinator, human resources director, phone 360-664-1739, fax 360-664-9689, TTY 711 or 1-800-833-6388, email anita.bingham@lcb.wa.gov, by August 9, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this rule proposal is to extend the number of days per quarter that a private club may hold membership functions from one to two days per calendar quarter and provide that membership drives may be held on two consecutive days, rather than one, per calendar year. The proposal also provides that there must be at least seven days between membership events. The board anticipates that the proposed rule changes will provide more opportunities for community service organizations, fraternal clubs, and other private clubs to recruit new members. The ability to expand membership drives is anticipated to support continuation, expansion, and sustainability of needed community service provision.

Reasons Supporting Proposal: While this proposal was initiated as the result of a rule petition accepted on September 14, 2022, related to private club membership drives, there are additional reasons to support this proposal. Specifically, as a result of the COVID-19 pandemic and other limiting factors, community service organization membership has declined. The rule revision would provide more opportunity and flexibility to promote and recruit members. These organizations support and host a variety of community services, such as school supply drives, community health programs, high school scholarships, and community-specific fundraisers. Expanding membership will allow these organizations to continue and expand these activities.

Statutory Authority for Adoption: RCW 66.06.030, 66.24.450.

Statute Being Implemented: RCW 66.06.030, 66.24.450.

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

Name of Proponent: Washington state liquor and cannabis board, governmental.

Name of Agency Personnel Responsible for Drafting: Dr. Kathy Hoffman, Research Manager, 1025 Union Avenue, Olympia, WA 98501, 360-664-1622; Implementation: Rebecca Smith, Director of Licensing, 1025 Union Avenue, Olympia, WA 98501, 360-664-1753; and Enforcement: Chandra Brady, Director of Education and Enforcement, 1025 Union Avenue, Olympia, WA 98501, 360-664-1726.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. Consistent with RCW 34.05.328 (5)(a), these proposed rules are not subject to cost-benefit analysis requirements unless requested by the joint administrative rules review committee or voluntarily applied. Additionally, the proposed rules do not qualify as significant legislative rules under RCW 34.05.328(5).

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(4).

Explanation of exemptions: The proposed rules are exempt from the Regulatory Fairness Act's (RFA) small business economic impact statement (SBEIS) requirement under RCW 19.85.025(4) because they do not impose more-than-minor costs to businesses as demonstrated below.

Scope of exemption for rule proposal:

Is fully exempt.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. *Estimated Cost of Compliance.* The proposed rule revisions extend the number of days per quarter that a private club may hold membership functions from one to two days per calendar quarter and provide that membership drives may be held on two consecutive days, rather than one, per calendar year. The proposal also provides that there must be at least seven days between membership events. These proposed rule revisions are anticipated to support continuation, expansion, and sustainability of needed community service provision.

The agency anticipates that licensees will not incur additional compliance costs as a result of these rule revisions. The agency anticipates that licensees may need to spend a small amount of time (less than 30 minutes of administrative time) to apply for permitting for the additional membership drive days.

According to the 2019 Occupational Employment Statistics (OES) Databook available in the employment security department (ESD) labor market report library (<https://esd.wa.gov/labormarketinfo/report-library>), the average hourly wage in Washington state for secretaries and administrative assistants, except legal, medical, and executive (using the standard occupational classification (SOC) Code 43-6014) is \$21.31. Based on that [those] data, the estimated cost for the administrative activity of familiarization with the rule revisions is \$10.66 ($\$21.31 \text{ average hourly wage} \times .5 \text{ hours} = \text{approximately } \10.66).

Minor Cost Threshold Estimates: The board applied North American Industry Classification System (NAICS) codes 81341 for civil and social organizations to estimate the minor cost thresholds for private clubs. According to the 2017 NAICS Manual (<https://www.census.gov/library/publications/2017/econ/2017-naics-manual.html>), civic and so-

cial organizations (81341) "comprises establishments primarily promoting the civic and social interests of their members. Establishments in this industry may operate bars and restaurants for their members." There are no separate NAICS codes available for private clubs.

As shown in the table below, the estimated one-time cost of compliance for distilleries and craft distilleries (\$10.66) does not exceed the minor cost estimate for this industry (\$3,309.70), so an SBEIS is not required under RCW 19.85.030.

| 2017 Industry NAICS Code | Estimated Cost of Compliance | Industry Description | NAICS Code Title | Minor Cost Estimate Max of 1% Pay, 0.3% Rev, and \$100 | 1% of Avg Annual Payroll (0.01*AvgPay) | 0.3% of Avg Annual Gross Business Income (0.003*AvgGBI) |
|--------------------------|------------------------------|--------------------------------|------------------|---|--|--|
| 81341 | \$10.66 | Civic and Social Organizations | Distilleries | \$3,309.70 | \$3,309.70 2020 Dataset pulled from ESD | \$812.76 2020 Dataset pulled from DOR |

July 5, 2023
David Postman
Chair

OTS-4661.1

AMENDATORY SECTION (Amending WSR 17-16-072, filed 7/26/17, effective 8/26/17)

WAC 314-40-040 Guest and courtesy cards—Visitors. (1) Guest cards are intended for invited guests residing outside of the immediate area.

(a) Guest cards shall be issued no more than three times per year for a period not to exceed (~~fourteen~~) 14 consecutive days, and must be numbered serially, with a record of the issuance of each such card to be filed in a manner as to be readily accessible to the agents of the board;

(b) Contestants in golf or tennis tournaments conducted on the grounds of a licensed club will be considered a visitor for the day(s) of the event.

(2) Visitors may be introduced when accompanied at all times by a member, who is not an on duty employee, and may remain as long as such member is present in the club. Any such visitor may only enjoy the privileges of the club six times in any one calendar year unless a different number of times is allowed in the club by-laws.

(3) Persons who are members in good standing of a national veterans organization may enjoy the privileges of any licensed club affiliated with any national veterans organization, and persons who are members in good standing of a national fraternal organization may enjoy the privileges of any club affiliated with that particular national fraternal organization if the bylaws of such clubs authorize reciprocal privileges. Subsections (1) and (2) of this section shall not apply to members of such organizations.

(4) Persons who are members in good standing of organizations licensed as private nonfraternal clubs may enjoy the privileges of other licensed nonfraternal clubs if the bylaws of such clubs authorize reciprocal privileges. Subsections (1) and (2) of this section shall not apply to members of such clubs.

(5) Courtesy cards may be issued to the adult members of the immediate family of any member with or without charge upon application being made to the club by the member.

(6) In order to recruit new members and build club membership, a private club may hold a public membership function for ~~((one))~~ two days per calendar quarter where club liquor may be given or sold to those attending as a part of the membership drive activities. The function must be advertised as a membership drive. ~~((Membership drives may not be held on consecutive days.))~~ A membership drive may be held on two consecutive days per calendar year. There must be at least seven days between membership events.

(7) A person issued a guest card by the club manager pursuant to subsection (1) of this section may introduce visitors into the club provided:

(a) The visitors are accompanied at all times by the sponsoring guest card holder;

(b) The visitors remain in the club only as long as the sponsoring guest card holder is present; and

(c) The house rules or bylaws of the club provide guest card holders the privilege of introducing visitors into the club.

[Statutory Authority: RCW 66.24.450. WSR 17-16-072, § 314-40-040, filed 7/26/17, effective 8/26/17. Statutory Authority: RCW 66.08.030 and 66.24.450. WSR 11-23-048, § 314-40-040, filed 11/9/11, effective 12/10/11; WSR 10-16-056, § 314-40-040, filed 7/28/10, effective 8/28/10. Statutory Authority: RCW 66.08.030. WSR 95-16-030, § 314-40-040, filed 7/21/95, effective 8/21/95; WSR 88-07-060 (Order 239, Resolution No. 248), § 314-40-040, filed 3/16/88; WSR 88-01-016 (Order 235, Resolution No. 244), § 314-40-040, filed 12/8/87; WSR 86-07-013 (Order 177, Resolution No. 186), § 314-40-040, filed 3/11/86. Statutory Authority: RCW 66.08.030 and 66.98.070. WSR 85-06-020 (Order 152, Resolution No. 161), § 314-40-040, filed 2/27/85; WSR 82-04-028 (Order 92, Resolution No. 101), § 314-40-040, filed 1/27/82; Rule 106, filed 6/13/63.]

WSR 23-14-122

PROPOSED RULES

DEPARTMENT OF HEALTH

(Board of Naturopathy)

[Filed July 5, 2023, 10:34 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-24-042.

Title of Rule and Other Identifying Information: Naturopathic nonsurgical cosmetic procedure rules; WAC 246-836-210 Authority to use, prescribe, dispense and order and new 246-836-212 Botulinum toxin nonsurgical cosmetic procedures. The board of naturopathy (board) is proposing the standards for naturopathic physicians to administer cosmetic purpose Botox injections.

Hearing Location(s): On August 11, 2023, at 8:45 a.m., at Labor and Industry Office Building, 7273 Linderson Way S.W., Room S130, Tumwater, WA 98501; or virtual. Please use the following link to register for the virtual hearing https://us02web.zoom.us/webinar/register/WN_CL9eL-IET_CWQPB5oocfPA. The board will provide a virtual and a physical location for this hearing to promote social distancing and the safety of the citizens of Washington state.

Date of Intended Adoption: August 11, 2023.

Submit Written Comments to: Lana Crawford, P.O. Box 47852, Olympia, WA 98504-7852, email <https://fortress.wa.gov/doh/policyreview/>, fax 360-236-2850, by August 4, 2023.

Assistance for Persons with Disabilities: Contact Lana Crawford, phone 360-236-4760, fax 360-236-2901, TTY 711, email naturopathic@doh.wa.gov, by August 4, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The board is proposing the standards for naturopathic physicians to administer cosmetic purpose Botox injections. This proposal is based on feedback received and research into training requirements for each of the nonsurgical cosmetic procedures being considered. The board determined that it is appropriate to focus on Botox injections for cosmetic purposes in this rule making and not those cosmetic procedures that are considered tissue altering, such as fillers and sclerosing substances. Typical training sessions for Botox injections for advanced level health care practitioners involve weekend courses lasting approximately 16 hours. The topic of other, more invasive nonsurgical cosmetic procedures may be the subject [of] a future rule project. This change in rule will promote patient safety by establishing the training and conditions required to administer Botox and allows naturopaths to provide treatment once requirements are met.

Reasons Supporting Proposal: One of the purposes of the board is to regulate the competency and quality of naturopathic physicians by establishing consistent standards of practice. There are no specific laws or rules in Washington state for the practice of nonsurgical cosmetic procedures by naturopathic physicians. RCW 18.36A.020(12) defines "naturopathic medicines" as those substances "... those legend drugs and controlled substances consistent with naturopathic medical practice in accordance with rules established by the board." RCW 18.36A.160 provides that the board shall determine the education and experience requirements for licensure. The goal of the proposed rules is to promote patient safety by identifying Botox as an approved legend drug, identifying allowable nonsurgical cosmetic procedures in naturopathic practice and establishing the training required and condi-

tions under which naturopathic physicians perform nonsurgical cosmetic procedures.

Statutory Authority for Adoption: RCW 18.36A.160.

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

Name of Proponent: Department of health, board of naturopathy, governmental.

Name of Agency Personnel Responsible for Drafting: Lana Crawford, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-4760; Implementation and Enforcement: Harold Wright, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-2850.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Lana Crawford, P.O. Box 47852, Olympia, WA 98504-7852, phone 360-236-4760, fax 360-236-2901, TTY 711, email naturopathic@doh.wa.gov.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(4).

Explanation of exemptions: The proposed rule does not affect small businesses. These rules only apply to providers.

Scope of exemption for rule proposal:

Is fully exempt.

July 5, 2023

Harold H. Wright, Jr. M. Ed.
Executive Director

OTS-4228.2

AMENDATORY SECTION (Amending WSR 12-13-104, filed 6/20/12, effective 7/21/12)

WAC 246-836-210 Authority to use, prescribe, dispense and order.

(1) Naturopathic medical practice includes the prescription, administration, dispensing, and use of:

(a) Nutrition and food science, physical modalities, minor office procedures, homeopathy, hygiene, and immunizations/vaccinations;

(b) Contraceptive devices;

(c) Nonlegend medicines including vitamins, minerals, botanical medicines, homeopathic medicines, and hormones;

(d) Legend drugs as defined under RCW 69.41.010 with the exception of (~~Botulinum Toxin (commonly known as, among other names, Botox, Vistabel, Dysport, or Neurobloc) and~~) inert substances used for cosmetic purposes; and

(e) Codeine and testosterone products that are contained within Schedules III, IV, and V in chapters 69.50 RCW and (~~(246-887)~~) 246-945 WAC.

(2) In accordance with RCW 69.41.010(~~(13)~~) (14), all prescriptions must be hand-printed, typewritten, or generated electronically.

(3) Prior to being allowed to administer, prescribe, dispense, or order controlled substances, a naturopathic physician must meet the

requirements in WAC 246-836-211 and have obtained the appropriate registration issued by the Federal Drug Enforcement Administration.

(4) Naturopathic physicians may not treat malignancies except in collaboration with a practitioner licensed under chapter 18.57 or 18.71 RCW.

[Statutory Authority: RCW 18.36A.160, 2011 c 41, and 2011 c 40. WSR 12-13-104, § 246-836-210, filed 6/20/12, effective 7/21/12. Statutory Authority: RCW 18.130.050(1), 18.36A.060, and 2005 c 158. WSR 07-20-101, § 246-836-210, filed 10/2/07, effective 11/2/07. Statutory Authority: RCW 18.36A.060 [(1)](a). WSR 92-06-020 (Order 247), § 246-836-210, filed 2/25/92, effective 3/27/92.]

NEW SECTION

WAC 246-836-212 Botulinum toxin nonsurgical cosmetic procedures.

(1) Prior to utilizing botulinum toxin (commonly known as, among other names, Botox, Vistabel, Dysport, or Neurobloc) for nonsurgical cosmetic procedures, a naturopathic physician shall establish a physician/patient relationship which includes, but is not limited to:

- (a) Taking a history;
 - (b) Performing an appropriate physical examination;
 - (c) Making an appropriate diagnosis;
 - (d) Recommending appropriate treatment;
 - (e) Obtaining the patient's informed consent;
 - (f) Providing instructions for emergency and follow-up care; and
 - (g) Preparing an appropriate medical record.
- (2) The naturopathic physician is responsible for:

- (a) The safety of the patient;
- (b) Performing the nonsurgical cosmetic procedure in accordance with standard medical practice; and
- (c) Ensuring that each treatment is documented in the patient's medical record.

(3) Prior to being allowed to prescribe and administer botulinum toxins for cosmetic purposes, naturopathic physicians must be appropriately trained in aesthetic injectable techniques. Such training must be a combination of hands-on training and training in pharmacology that pertains to aesthetics and must also include:

- (a) Criteria for the selection and treatment of patients;
- (b) Indications and contraindications for each procedure;
- (c) Preprocedural and postprocedural care;
- (d) Recognition and acute management of potential complications;

and

- (e) Infectious disease control.

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