

WSR 09-06-002
EMERGENCY RULES
DEPARTMENT OF HEALTH

[Filed February 18, 2009, 3:34 p.m., effective February 18, 2009, 3:34 p.m.]

Effective Date of Rule: Immediately.

Purpose: The emergency amendments to WAC 246-562-020 and 246-562-075 will allow the department to exceed and approve the current number of primary care physician applications to practice in designated health professional shortage areas in Washington state for the 2009 program year. These amendments are necessary to continue access to primary health care within designated health professional shortage areas in Washington state.

Citation of Existing Rules Affected by this Order: Amending WAC 246-562-020 and 246-562-075.

Statutory Authority for Adoption: Chapter 70.185 RCW and Public Law 110-362.

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

Reasons for this Finding: Without the amendments to the rule, physicians who have signed employment contracts with Washington state employers will look to other states for employment. Current rules are a barrier to primary care physicians. The amendments will allow for the immediate acceptance of the primary care physician's waiver applications to secure their employment in underserved areas with focus on access to care.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 1, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 2, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

Date Adopted: February 18, 2009.

Mary C. Selecky
Secretary

AMENDATORY SECTION (Amending WSR 06-07-035, filed 3/8/06, effective 4/8/06)

WAC 246-562-020 Authority to sponsor visa waivers. (1) The department of health may assist communities to recruit and retain physicians, or other health care professionals, as directed in chapter 70.185 RCW, by exercising an option provided in federal law, 8 U.S.C. Sec. 1184(l) as amended by Public Law ((~~108-441~~) 110-362) and 22 C.F.R.

514.44(e). This option allows the department of health to sponsor a limited number of visa waivers each federal fiscal year if certain conditions are met.

(2) The department may acknowledge sponsorship proposed by federal agencies, including the United States Department of Health and Human Services.

(3) The department may carry out a visa waiver program, or, in the event of resource limitations or other considerations, may discontinue the program. Purposes of the program are:

(a) To increase the availability of physician services in existing federally designated shortage areas for health care facilities that have long standing vacancies;

(b) To improve access to physician services for communities and specific underserved populations that are having difficulty finding physician services;

(c) To serve Washington communities which have identified a physician currently holding a J-1 visa as an ideal candidate to meet the community's need for primary health care services or specialist services as allowed by WAC 246-562-080.

(4) The department may only sponsor a visa waiver request when:

(a) The application contains all of the required information and documentation;

(b) The application meets the criteria contained in chapter 246-562 WAC.

(5) The department will limit its activities:

(a) Prior to submission of an application, the department may provide information on preparing a complete application;

(b) For applicants that have benefited from department sponsorship previously, the applicant's history of compliance will be a consideration in future sponsorship decisions;

(c) Because the number of sponsorships the department may provide is limited, and because the number of shortage areas is great, sponsorship will be limited. In any single program year, a health care facility in any one designated health professional shortage area or medically underserved area:

(i) Will not be allotted more than two sponsorships;

(ii) Will not be allotted more than one specialist sponsorship as allowed by WAC 246-562-080(4); and

(iii) Will not be allotted more than one hospitalist sponsorship per hospital;

(d) In any given program year no less than twenty of the federally allocated sponsorships will be allotted for primary care physicians and up to ten of the federally allocated sponsorships will be allotted for specialists through March 31. Any waiver sponsorships that remain unfilled on April 1 of each program year will be available to:

(i) Both primary care and specialist physicians consistent with the provisions of this chapter; and

(ii) Physicians intending to practice in nondesignated shortage areas in health care facilities that meet the criteria in WAC 246-562-075.

AMENDATORY SECTION (Amending WSR 06-07-035, filed 3/8/06, effective 4/8/06)

WAC 246-562-075 Criteria for waiver sponsorships in nondesignated shortage areas. Public Law ((108-441)) 110-362 allows states to sponsor up to ((five)) ten waivers each program year for physicians who will practice medicine in a health care facility that is not located in a designated health professional shortage area but serves patients who reside in designated shortage areas. ((Waivers will not be open to physicians practicing in nondesignated shortage areas until April 1 of each program year.)) For waiver approval, the health care facility must:

(1) Provide care to patients who reside in designated shortage areas.

(a) Describe the facility's service area.

(b) Provide a patient visit report that identifies total patient visits in last six months of service by patient origin zip code.

(2) Describe who will benefit from the physician's services.

(a) Identify the percentage of medicaid and medicare patients who will have access to this physician.

(b) Describe how the facility will assure access to this physician for low-income or uninsured patients.

(c) Explain if the physician has language skills that will benefit patients at this facility.

(3) Provide a detailed report of the extensive recruitment efforts made to recruit a U.S. physician for the specific position that the J-1 physician will fill.

(a) Explain why this physician is necessary at this location.

(b) Explain why it is difficult to recruit a U.S. physician for this location.

(c) Provide the number of physicians interviewed for this position.

(d) Provide the number of physicians offered this position.

WSR 09-06-004

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 09-19—Filed February 18, 2009, 3:53 p.m., effective February 18, 2009, 3:53 p.m.]

Effective Date of Rule: Immediately.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-07100V and 220-52-07100W; and amending WAC 220-52-071.

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: Harvestable amounts of sea cucumbers are available in the sea cucumber districts listed. Prohibition of all diving within two days of scheduled sea cucumber openings discourages the practice of fishing on closed days and hiding the unlawful catch underwater until the legal opening. There is insufficient time to adopt permanent rules.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 2.

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

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

Date Adopted: February 18, 2009.

Philip Anderson

Director

NEW SECTION

WAC 220-52-07100W Sea cucumbers. Notwithstanding the provisions of WAC 220-52-071, effective immediately until further notice, it is unlawful to take or possess sea cucumbers taken for commercial purposes except as provided for in this section:

(1) Sea cucumber harvest using shellfish diver gear is allowed in Sea Cucumber Districts 1 and 5 on Monday through Friday of each week.

(2) It is unlawful to dive for any purpose from a commercially licensed sea cucumber fishing vessel on Saturday and Sunday of each week, except by written permission from the Director.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-52-07100V Sea cucumbers. (08-279)

The following section of the Washington Administrative Code is repealed effective May 1, 2009:

WAC 220-52-07100W Sea cucumbers.

WSR 09-06-005
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 09-23—Filed February 18, 2009, 3:56 p.m., effective March 1, 2009]

Effective Date of Rule: March 1, 2009.

Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order:
 Amending WAC 220-56-350.

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: Surveys indicate an increased clam population due to both natural recruitment and enhancement, allowing for an extended season. This season change has been approved by the fish and wildlife commission. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: February 18, 2009.

Philip Anderson
 Director

NEW SECTION

WAC 220-56-35000E Clams other than razor clams—Areas and seasons. Notwithstanding the provisions of WAC 220-56-350, effective immediately until further notice, it is unlawful to take, dig for and possess clams, cockles, and mussels taken for personal use from the following public tidelands except during the open periods specified herein:

(1) Dosewallips State Park: Open March 1 until further notice.

WSR 09-06-015
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 09-25—Filed February 20, 2009, 1:27 p.m., effective February 20, 2009, 1:27 p.m.]

Effective Date of Rule: Immediately.

Purpose: Amend hunting rules.

Citation of Existing Rules Affected by this Order:
 Amending WAC 232-28-286.

Statutory Authority for Adoption: RCW 77.12.047, 77.12.020.

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

Reasons for this Finding: These changes are necessary to address emerging black bear tree damage on "Green Crow" lands. There is insufficient time to promulgate rules outside of the emergency rule process.

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

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

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

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

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

Date Adopted: February 20, 2009.

Philip Anderson
 Director

NEW SECTION

WAC 232-28-28600B 2007, 2008, and 2009 Spring black bear seasons and regulations Notwithstanding the provisions of WAC 232-28-286, effective immediately, change the hunt area description for "Monroe" to add "Green Crow" lands. The new hunt area description should read, "That portion of GMU 448 that is designated as the hunt area by DNR, Green Crow, and Longview Timber Lands."

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

WSR 09-06-031
EMERGENCY RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed February 24, 2009, 8:41 a.m., effective February 24, 2009, 8:41 a.m.]

Effective Date of Rule: Immediately.

Purpose: The department is creating new WAC 388-96-758 and 388-96-759 to increase compensation for low-wage workers in nursing homes beginning July 1, 2008, and to establish a system of reporting to ensure that the low-wage add-on increased the compensation/benefits for low-wage workers; increased staff; and/or paid for wage compression when low-wage workers' compensation was increased.

Statutory Authority for Adoption: Chapter 74.46 RCW.

Other Authority: Section 206(9), chapter 329, Laws of 2008.

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

Reasons for this Finding: This emergency rule implements section 929, chapter 329, Laws of 2008, [which] states "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately." This third emergency supersedes the previous emergency filed as WSR 08-22-016. The department has filed the CR-102 as WSR 09-04-066 and is holding a hearing on March 10, 2009.

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

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

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

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

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

Date Adopted: February 17, 2009.

Stephanie E. Schiller
Rules Coordinator

NEW SECTION

WAC 388-96-758 Add-on for low-wage workers. (1)

Under section 206, chapter 329, Laws of 2008, effective July 1, 2008, the department will grant a low wage add-on payment not to exceed one dollar and fifty-seven cents per resident day to any nursing home provider that has indicated a desire to receive the add-on by May 30, 2008. A nursing

home may use the add-on only for in-house staff and not for allocated, home office, or purchased service increases. A nursing home may use the add on to:

(a) Increase wages, benefits, and/or staffing levels for certified nurse aides;

(b) Increase wages and/or benefits but not staffing levels for dietary aides, housekeepers, laundry aides, or any other category of worker whose statewide average dollars-per-hour wage was less than fifteen dollars in calendar year 2006, according to cost report data. The department has determined that the additional categories of workers qualifying under this standard are:

(i) Activities directors and assistants;

(ii) Patient choices coordinators;

(iii) Central supply/ward clerks;

(iv) Expanded community service workers; and

(v) Social workers; and

(c) Address wage compression for related job classes immediately affected by wage increases to low-wage workers.

(2) A nursing home that received effective July 1, 2008 a low-wage add-on under chapter 329, Laws of 2008 shall report to the department its expenditure of that add-on by:

(a) Completing Cost Report Schedule L 1; and

(b) Returning it to the department by January 31, 2009.

(3) By examining Cost Report Schedule L 1, the department will determine whether the nursing home complied with the statutory requirements for distribution of the low wage add-on. When the department is unable to determine or unsure that the statutory requirements have been met, it will conduct an on site audit.

(4) When the department determines that the statutory requirements have been met, the low wage add-on will be reconciled at the same time as the regular settlement process but as a separate reconciliation. The reconciliation process will compare gross dollars received in the add-on to gross dollars spent.

(5) When the department determines that the low wage add-on has not been spent in compliance with the statutory requirements, then it will recoup the noncomplying amount as an overpayment.

(6) The department also will require the completing of Cost Report Schedule L 1 for any calendar year in which the low wage add-on is paid for six months or more. Subsections (1) through (5) of this section will apply to all completions of Cost Report Schedule L 1 irrespective of the calendar year in which it is paid.

(7) If the legislature extends the low-wage worker add-on in the state fiscal year 2010 budget, nursing home providers will have the opportunity again to elect whether they wish to receive the add-on in their July 1, 2009 rates.

NEW SECTION

WAC 388-96-759 Standards for low-wage workers add-on. (1)

In accordance with WAC 388-96-758, the low-wage worker add-on must be used to provide increases in wages or benefits, or to address resulting wage compression beginning on or after the date on which the add-on is first included in the rate. For the first year, that date is July 1,

2008. It may be used to increase staffing levels for certified nurse aides only. The add-on may not be used after July 1 to pay for increases beginning before that date.

(2) Any type of traditional employee benefit is allowable. Such benefits typically fall in one of two categories: retirement, and life or health insurance. However, nontraditional benefits are also allowable (for example, wellness benefits, subsidized meals, or assistance with daycare).

(3) The employer's share of payroll taxes associated with wages and benefits may be covered with the add-on.

(4) For purposes of wage compression, an "immediately affected" job class is one that is related to the low-wage worker category, either in the organizational structure (for example, it supervises the low-wage worker category) or by existing practice (for example, the facility has a benchmark of paying that job class a certain percentage more than the low-wage worker category). Facilities must be able to explain the basis of the relationship if requested. Because the statute refers to "resulting wage compression," a facility must use a portion of the add-on to increase wages or benefits before it may use any of the add-on to address any wage compression caused by such increase.

(5) A facility may use the add-on in relation to any of the job categories listed in WAC 388-96-758, regardless of whether the average wage it pays to its own employees is above fifteen dollars per hour, either before or after including the additional wages funded by the add-on.

(6) Wages or benefits, including employee bonuses, otherwise properly paid with the add on will not be considered as unallowable costs per RCW 74.46.410 (2)(x).

Statutory Authority for Adoption: RCW 74.39.030, 18.20.290.

Other Authority: Chapter 329, Laws of 2008.

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

Reasons for this Finding: This emergency rule implements section 929, chapter 329, Laws of 2008, [which] states "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately." This third emergency supersedes the previous emergency filed as WSR 08-22-015. The department has filed the CR-102 as WSR 09-04-065 and is holding a hearing on March 10, 2009.

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

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

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

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

Date Adopted: February 17, 2009.

Stephanie E. Schiller
Rules Coordinator

WSR 09-06-032

EMERGENCY RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed February 24, 2009, 8:42 a.m., effective February 24, 2009, 8:42 a.m.]

Effective Date of Rule: Immediately.

Purpose: The purpose of this rule change is to implement the 17 level medicaid payment system for adult family homes (AFH) and licensed boarding homes with contracts to provide assisted living (AL), adult residential care (ARC), and enhanced adult residential care (EARC) services effective July 1, 2008.

Citation of Existing Rules Affected by this Order: Amending WAC 388-105-0005.

AMENDATORY SECTION (Amending WSR 06-19-017, filed 9/8/06, effective 10/9/06)

WAC 388-105-0005 The daily Medicaid payment rates for clients assessed using the comprehensive assessment reporting evaluation (CARE) tool and that reside in adult family homes (AFH) and boarding homes contracted to provide assisted living (AL), adult residential care (ARC), and enhanced adult residential care (EARC) services. For contracted AFH and boarding homes contracted to provide AL, ARC, and EARC services, the department pays the following daily rates for care of a Medicaid resident:

COMMUNITY RESIDENTIAL DAILY RATES FOR CLIENTS ASSESSED USING CARE					
KING COUNTY					
CARE CLASSIFICATION	AL Without Capital	AL With Capital	ARC	EARC	AFH
	Add-on	Add-on			
A Low ((+))	\$((65.30))	\$((70.41))	\$((46.18))	\$((46.18))	\$((46.82))
	<u>69.22</u>	<u>74.64</u>	<u>48.95</u>	<u>48.95</u>	<u>48.32</u>

CARE CLASSIFICATION	AL Without Capital	AL With Capital	ARC	EARC	AFH
	Add-on	Add-on			
A Med ((2))	\$((70.71)) <u>74.95</u>	\$((75.82)) <u>80.37</u>	\$((52.40)) <u>55.54</u>	\$((52.40)) <u>55.54</u>	\$((53.13)) <u>54.83</u>
A High ((3))	\$((79.34)) <u>84.10</u>	\$((84.45)) <u>89.52</u>	\$((66.92)) <u>61.00</u>	\$((66.92)) <u>61.00</u>	\$((59.45)) <u>61.35</u>
B Low ((4))	\$((65.30)) <u>69.22</u>	\$((70.41)) <u>74.64</u>	\$((46.18)) <u>48.95</u>	\$((46.18)) <u>48.95</u>	\$((46.82)) <u>48.56</u>
B Med ((5))	\$((72.87)) <u>77.24</u>	\$((77.98)) <u>82.66</u>	\$((58.62)) <u>62.14</u>	\$((58.62)) <u>62.14</u>	\$((59.45)) <u>61.66</u>
<u>B Med-High</u>	<u>\$87.48</u>	<u>\$92.90</u>	<u>\$66.07</u>	<u>\$66.07</u>	<u>\$66.06</u>
B High ((6))	\$((86.88)) <u>92.09</u>	\$((91.99)) <u>97.51</u>	\$((75.23)) <u>75.53</u>	\$((75.23)) <u>75.53</u>	\$((67.85)) <u>75.53</u>
C Low ((7))	\$((70.71)) <u>74.95</u>	\$((75.82)) <u>80.37</u>	\$((52.40)) <u>55.54</u>	\$((52.40)) <u>55.54</u>	\$((53.13)) <u>54.83</u>
C Med ((8))	\$((79.34)) <u>84.10</u>	\$((84.45)) <u>89.52</u>	\$((66.92)) <u>69.72</u>	\$((66.92)) <u>69.72</u>	\$((67.85)) <u>70.02</u>
C ((High 9)) <u>Med-High</u>	\$((98.77)) <u>104.70</u>	\$((103.88)) <u>110.12</u>	\$((87.68)) <u>92.94</u>	\$((87.68)) <u>92.94</u>	\$((88.89)) <u>91.73</u>
<u>C High</u>	<u>\$105.74</u>	<u>\$111.16</u>	<u>\$93.82</u>	<u>\$93.82</u>	<u>\$93.01</u>
D Low ((10))	\$((72.87)) <u>77.24</u>	\$((77.98)) <u>82.66</u>	\$((58.62)) <u>75.07</u>	\$((58.62)) <u>75.07</u>	\$((67.85)) <u>71.38</u>
D Med ((11))	\$((79.34)) <u>85.82</u>	\$((84.45)) <u>91.24</u>	\$((66.92)) <u>86.98</u>	\$((66.92)) <u>86.98</u>	\$((76.28)) <u>87.36</u>
<u>D Med-High</u>	<u>\$110.98</u>	<u>\$116.40</u>	<u>\$110.61</u>	<u>\$110.61</u>	<u>\$105.12</u>
D High ((12))	\$((98.77)) <u>119.59</u>	\$((103.88)) <u>125.01</u>	\$((87.68)) <u>119.59</u>	\$((87.68)) <u>119.59</u>	\$((88.89)) <u>119.69</u>
<u>E Med</u>	<u>\$144.53</u>	<u>\$149.95</u>	<u>\$144.53</u>	<u>\$144.53</u>	<u>\$144.63</u>
<u>E High</u>	<u>\$169.47</u>	<u>\$174.89</u>	<u>\$169.47</u>	<u>\$169.47</u>	<u>\$169.57</u>

COMMUNITY RESIDENTIAL DAILY RATES FOR CLIENTS ASSESSED USING CARE METROPOLITAN COUNTIES*					
CARE CLASSIFICATION	AL Without Capital	AL With Capital	ARC	EARC	AFH
	Add-on	Add-on			
A Low ((1))	\$((59.90)) <u>63.49</u>	\$((64.54)) <u>68.41</u>	\$((46.18)) <u>48.95</u>	\$((46.18)) <u>48.95</u>	\$((46.82)) <u>48.32</u>
A Med ((2))	\$((63.15)) <u>66.94</u>	\$((67.79)) <u>71.86</u>	\$((50.32)) <u>53.34</u>	\$((50.32)) <u>53.34</u>	\$((51.03)) <u>52.66</u>
A High ((3))	\$((77.18)) <u>81.81</u>	\$((81.82)) <u>86.73</u>	\$((63.81)) <u>58.17</u>	\$((63.81)) <u>58.17</u>	\$((56.28)) <u>58.08</u>
B Low ((4))	\$((59.90)) <u>63.49</u>	\$((64.54)) <u>68.41</u>	\$((46.18)) <u>48.95</u>	\$((46.18)) <u>48.95</u>	\$((46.82)) <u>48.56</u>

CARE CLASSIFICATION	AL Without Capital	AL With Capital	ARC	EARC	AFH
	Add-on	Add-on			
B Med ((5))	\$((68.54)) <u>72.65</u>	\$((73.18)) <u>77.57</u>	\$((55.51)) <u>58.84</u>	\$((55.51)) <u>58.84</u>	\$((56.28)) <u>58.37</u>
<u>B Med-High</u>	<u>\$82.29</u>	<u>\$87.21</u>	<u>\$62.57</u>	<u>\$62.57</u>	<u>\$62.60</u>
B High ((6))	\$((84.73)) <u>89.81</u>	\$((89.37)) <u>94.73</u>	\$((71.08)) <u>73.40</u>	\$((71.08)) <u>73.40</u>	\$((64.70)) <u>73.40</u>
C Low ((7))	\$((63.15)) <u>66.94</u>	\$((67.79)) <u>71.86</u>	\$((50.32)) <u>53.56</u>	\$((50.32)) <u>53.56</u>	\$((51.03)) <u>53.05</u>
C Med ((8))	\$((77.18)) <u>81.81</u>	\$((81.82)) <u>86.73</u>	\$((63.81)) <u>68.82</u>	\$((63.81)) <u>68.82</u>	\$((64.70)) <u>68.31</u>
C ((High-9)) <u>Med-High</u>	\$((95.52)) <u>101.25</u>	\$((100.16)) <u>106.17</u>	\$((81.45)) <u>86.34</u>	\$((81.45)) <u>86.34</u>	\$((82.59)) <u>85.23</u>
<u>C High</u>	<u>\$102.26</u>	<u>\$107.18</u>	<u>\$91.84</u>	<u>\$91.84</u>	<u>\$90.43</u>
D Low ((10))	\$((68.54)) <u>72.65</u>	\$((73.18)) <u>77.57</u>	\$((55.51)) <u>74.04</u>	\$((55.51)) <u>74.04</u>	\$((64.70)) <u>69.80</u>
D Med ((11))	\$((77.18)) <u>83.48</u>	\$((81.82)) <u>88.40</u>	\$((63.81)) <u>85.24</u>	\$((63.81)) <u>85.24</u>	\$((72.06)) <u>85.01</u>
<u>D Med-High</u>	<u>\$107.33</u>	<u>\$112.25</u>	<u>\$107.87</u>	<u>\$107.87</u>	<u>\$101.92</u>
D High ((12))	\$((95.52)) <u>116.30</u>	\$((100.16)) <u>121.22</u>	\$((81.45)) <u>116.30</u>	\$((81.45)) <u>116.30</u>	\$((82.59)) <u>115.79</u>
<u>E Med</u>	<u>\$140.04</u>	<u>\$144.96</u>	<u>\$140.04</u>	<u>\$140.04</u>	<u>\$139.53</u>
<u>E High</u>	<u>\$163.78</u>	<u>\$168.70</u>	<u>\$163.78</u>	<u>\$163.78</u>	<u>\$163.27</u>

*Benton, Clark, Franklin, Island, Kitsap, Pierce, Snohomish, Spokane, Thurston, Whatcom, and Yakima counties.

COMMUNITY RESIDENTIAL DAILY RATES FOR CLIENTS ASSESSED USING CARE NONMETROPOLITAN COUNTIES**					
CARE CLASSIFICATION	AL Without Capital	AL With Capital	ARC	EARC	AFH
	Add-on	Add-on			
A Low ((1))	\$((58.83)) <u>62.36</u>	\$((63.77)) <u>67.60</u>	\$((46.18)) <u>48.95</u>	\$((46.18)) <u>48.95</u>	\$((46.82)) <u>48.32</u>
A Med ((2))	\$((63.15)) <u>66.94</u>	\$((68.09)) <u>72.18</u>	\$((49.29)) <u>52.25</u>	\$((49.29)) <u>52.25</u>	\$((49.98)) <u>51.58</u>
A High ((3))	\$((77.18)) <u>81.81</u>	\$((82.12)) <u>87.05</u>	\$((62.78)) <u>57.23</u>	\$((62.78)) <u>57.23</u>	\$((55.24)) <u>57.01</u>
B Low ((4))	\$((58.83)) <u>62.36</u>	\$((63.77)) <u>67.60</u>	\$((46.18)) <u>48.95</u>	\$((46.18)) <u>48.95</u>	\$((46.82)) <u>48.56</u>
B Med ((5))	\$((68.54)) <u>72.65</u>	\$((73.48)) <u>77.89</u>	\$((54.48)) <u>57.75</u>	\$((54.48)) <u>57.75</u>	\$((55.24)) <u>57.29</u>
<u>B Med-High</u>	<u>\$82.29</u>	<u>\$87.53</u>	<u>\$61.40</u>	<u>\$61.40</u>	<u>\$61.38</u>
B High ((6))	\$((84.73)) <u>89.81</u>	\$((89.67)) <u>95.05</u>	\$((69.00)) <u>69.42</u>	\$((69.00)) <u>69.42</u>	\$((63.66)) <u>69.42</u>
C Low ((7))	\$((63.15)) <u>66.94</u>	\$((68.09)) <u>72.18</u>	\$((49.29)) <u>52.25</u>	\$((49.29)) <u>52.25</u>	\$((49.98)) <u>51.58</u>

CARE CLASSIFICATION	AL Without Capital	AL With Capital	ARC	EARC	AFH
	Add-on	Add-on			
C Med ((8))	\$((77.18)) <u>81.81</u>	\$((82.12)) <u>87.05</u>	\$((62.78)) <u>65.05</u>	\$((62.78)) <u>65.05</u>	\$((63.66)) <u>65.70</u>
C ((High(9))) <u>Med-High</u>	\$((95.52)) <u>101.25</u>	\$((100.46)) <u>106.49</u>	\$((78.34)) <u>83.04</u>	\$((78.34)) <u>83.04</u>	\$((79.44)) <u>81.98</u>
<u>C High</u>	<u>\$102.26</u>	<u>\$107.50</u>	<u>\$86.81</u>	<u>\$86.81</u>	<u>\$85.52</u>
D Low ((10))	\$((68.54)) <u>72.65</u>	\$((73.48)) <u>77.89</u>	\$((54.48)) <u>69.99</u>	\$((54.48)) <u>69.99</u>	\$((63.66)) <u>66.01</u>
D Med ((11))	\$((77.18)) <u>83.48</u>	\$((82.12)) <u>88.72</u>	\$((62.78)) <u>80.57</u>	\$((62.78)) <u>80.57</u>	\$((69.96)) <u>80.39</u>
<u>D Med-High</u>	<u>\$107.33</u>	<u>\$112.57</u>	<u>\$101.96</u>	<u>\$101.96</u>	<u>\$96.37</u>
D High ((12))	\$((95.52)) <u>109.93</u>	\$((100.46)) <u>115.17</u>	\$((78.34)) <u>109.93</u>	\$((78.34)) <u>109.93</u>	\$((79.44)) <u>109.48</u>
<u>E Med</u>	<u>\$132.36</u>	<u>\$137.60</u>	<u>\$132.36</u>	<u>\$132.36</u>	<u>\$131.92</u>
<u>E High</u>	<u>\$154.80</u>	<u>\$160.04</u>	<u>\$154.80</u>	<u>\$154.80</u>	<u>\$154.36</u>

** Nonmetropolitan counties: Adams, Asotin, Chelan, Clallam, Columbia, Cowlitz, Douglas, Ferry, Garfield, Grant, Grays Harbor, Jefferson, Kittitas, Klickitat, Lewis, Lincoln, Mason, Okanogan, Pacific, Pend Orielle, San Juan, Skagit, Skamania, Stevens, Wahkiakum, Walla Walla and Whitman.

WSR 09-06-035
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Health and Recovery Services Administration)

[Filed February 24, 2009, 3:13 p.m., effective February 24, 2009, 3:13 p.m.]

Effective Date of Rule: Immediately.

Purpose: RCW 74.09.470 (5)(b) requires expansion of the premium-based children's healthcare for households with incomes up to and including 300% of FPL. The program name is changed from "children's healthcare" to "apple health for kids." This rule will increase the number of children who qualify for medical coverage.

Citation of Existing Rules Affected by this Order: Amending WAC 388-416-0015, 388-418-0025, 388-478-0075, 388-505-0210, 388-505-0211, 388-542-0010, 388-542-0020, 388-542-0050, and 388-542-0300.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.057, and 74.08.090.

Other Authority: RCW 74.09.402.

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

Reasons for this Finding: The department is filing this emergency to meet a legislatively-mandated implementation date of January 1, 2009. The preproposal notice for the permanent rule adoption was filed as WSR 08-15-006; proposed rules are filed as WSR 08-21-105; and the public hearing was held on November 25, 2008. The department anticipates filing the permanent rule in March 2009.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 9, Repealed 0.

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

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

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 9, Repealed 0.

Date Adopted: February 20, 2009.

Stephanie E. Schiller
 Rules Coordinator

AMENDATORY SECTION (Amending WSR 08-05-018, filed 2/12/08, effective 3/14/08)

WAC 388-416-0015 Certification periods for categorically needy (CN) scope of care medical assistance programs. (1) A certification period is the period of time a person is determined eligible for a categorically needy (CN) scope of care medical program. Unless otherwise stated in this section, the certification period begins on the first day of the month of application and continues to the last day of the last month of the certification period.

(2) For a child eligible for the newborn medical program, the certification period begins on the child's date of birth and continues through the end of the month of the child's first birthday.

(3) For a woman eligible for a medical program based on pregnancy, the certification period ends the last day of the month that includes the sixtieth day from the day the pregnancy ends.

(4) For families the certification period is twelve months with a six-month report required as a condition of eligibility as described in WAC 388-418-0011.

(5) For children, the certification period is twelve months. Eligibility is continuous without regard to changes in circumstances other than aging out of the program, moving out-of-state, failing to pay a required premium(s), incarceration or death.

(6) When the child turns nineteen the certification period ends even if the twelve-month period is not over. The certification period may be extended past the end of the month the child turns nineteen when:

(a) The child is receiving inpatient services (see WAC 388-505-0230) on the last day of the month the child turns nineteen;

(b) The inpatient stay continues into the following month or months; and

(c) The child remains eligible except for exceeding age nineteen.

(7) For an SSI-related person the certification period is twelve months.

(8) When the medical assistance unit is also receiving benefits under a cash or food assistance program, the medical certification period is updated to begin anew at each:

(a) Approved application for cash or food assistance; or

(b) Completed eligibility review.

(9) A retroactive certification period can begin up to three months immediately before the month of application when:

(a) The client would have been eligible for medical assistance if the client had applied; and

(b) The client received covered medical services as described in WAC 388-501-0060 and 388-501-0065.

(10) If the client is eligible only during the three-month retroactive period, that period is the only period of certification, except when:

(a) A pregnant woman is eligible in one of the three months preceding the month of application, but no earlier than the month of conception. Eligibility continues as described in subsection (3);

(b) A child is eligible for a CN medical program as described in WAC 388-505-0210 (1) through (4) and (6) in

one of the three months preceding the month of application. Eligibility continues for twelve months from the earliest month that the child is determined eligible.

(11) Any months of a retroactive certification period are added to the designated certification periods described in this section.

(12) ~~((There is no retroactive eligibility for))~~ Coverage under premium-based ((children's healthcare)) programs included in apple health for kids coverage as described in WAC 388-505-0210 and chapter 388-542 WAC((--If creditable coverage exists at the time of application, the certification period)) begins no sooner than the month after creditable coverage ends.

AMENDATORY SECTION (Amending WSR 08-05-018, filed 2/12/08, effective 3/14/08)

WAC 388-418-0025 Effect of changes on medical program eligibility. (1) You continue to be eligible for medical assistance until the department determines your ineligibility or eligibility for another medical program. This applies to you if, during a certification period, you become ineligible for, or are terminated from, or request termination from:

(a) A CN Medicaid program;

(b) A ~~((children's healthcare))~~ program included in apple health for kids; or

(c) Any of the following cash grants:

(i) TANF;

(ii) SSI; or

(iii) GA-X. See WAC 388-434-0005 for changes reported during eligibility review.

(2) If you become ineligible for refugee cash assistance, refugee medical assistance can be continued through the eight-month limit, as described in WAC 388-400-0035(4).

(3) If you receive a TANF cash grant or family medical, you are eligible for a medical extension, as described under WAC 388-523-0100, when your cash grant or family medical program is terminated as a result of:

(a) Earned income; or

(b) Collection of child or spousal support.

(4) A change in income during a certification period does affect eligibility for all medical programs except:

(a) Pregnant women's medical programs;

(b) ~~((Children's healthcare programs,))~~ A program included in apple health for kids, except as specified in subsection (5); or

(c) The first six months of the medical extension benefits.

(5) For a child receiving ~~((benefits))~~ premium-based coverage under ((the premium-based children's healthcare programs)) a program included in apple health for kids as described in WAC 388-505-0210 and chapter 388-542 WAC, the department must redetermine eligibility for ~~((a))~~ nonpremium-based ((medical program)) coverage when the family reports:

(a) Family income has decreased to less than two hundred percent federal poverty level (FPL);

(b) The child becomes pregnant;

(c) A change in family size; or

(d) The child receives SSI.

AMENDATORY SECTION (Amending WSR 08-05-018, filed 2/12/08, effective 3/14/08)

WAC 388-478-0075 Medical programs—Monthly income standards based on the federal poverty level (FPL). (1) Each year, the federal government publishes new federal poverty level (FPL) income standards in the Federal Register found at <http://aspe.hhs.gov/poverty/index.shtml>. The income standards for the following medical programs change on the first day of April every year based on the new FPL:

(a) Pregnant women's program up to one hundred eighty-five percent of FPL;

(b) ~~((Children's healthcare programs))~~ A program included in apple health for kids up to two hundred percent of FPL;

(c) Healthcare for workers with disabilities (HWD) up to two hundred twenty percent of FPL; and

(d) Premium-based coverage under ~~((the children's healthcare programs))~~ a program included in apple health for kids over two hundred percent of FPL, but not over ~~((two hundred fifty))~~ three hundred percent of FPL.

(2) The department uses the FPL income standards to determine:

(a) The mandatory or optional Medicaid status of an individual; and

(b) Premium amount, if any, for a child.

(3) There are no resource limits for the programs under this section.

AMENDATORY SECTION (Amending WSR 08-05-018, filed 2/12/08, effective 3/14/08)

WAC 388-505-0210 Children's healthcare programs. Funding for children's healthcare coverage may come through Title XIX (medicaid) ~~((or))~~, Title XXI ~~((for the Social Security Act))~~ ~~((or))~~ SCHIP ~~((or))~~, or through state-funded programs. There are no resource limits for children's ~~((medical))~~ healthcare programs ~~((, but children must meet the eligibility criteria below to qualify for these programs))~~. Children's healthcare programs that fall under the apple health for kids umbrella are described in subsections (1) through (4) below.

(1) Newborns are eligible for federally matched categorically needy (CN) coverage through their first birthday when:

(a) The child's mother was eligible for and receiving medical assistance at the time of the child's birth; and

(b) The child remains with the mother and resides in the state.

(2) Children under the age of nineteen who are U.S. citizens, U.S. nationals, or qualified aliens as described in WAC 388-424-0001 and 388-424-0006 (1) and (4) are eligible for federally matched CN coverage ~~((under children's healthcare programs))~~ when they meet the following criteria:

(a) State residence as described in chapter 388-468 WAC;

(b) A Social Security number or application as described in chapter 388-476 WAC;

(c) Proof of citizenship or immigrant status and identity as required by WAC 388-490-0005(11);

(d) Family income is at or below two hundred percent federal poverty level (FPL), as described in WAC 388-478-0075 at each application or review; or

(e) They received supplemental security income (SSI) cash payments in August 1996 and would continue to be eligible for those payments except for the August 1996 passage of amendments to federal disability definitions; or

(f) They are eligible for SSI-related CN or MN coverage.

(3) Noncitizen children under the age of nineteen, who do not meet qualified alien status as described in WAC 388-424-0006 (1) or (4), or are ineligible due to the five-year ban as described in WAC 388-424-0006(3), are eligible for state-funded CN coverage ~~((under children's healthcare programs))~~ when they meet the following criteria:

(a) State residence as described in chapter 388-468 WAC; and

(b) Family income is at or below two hundred percent FPL at each application or review.

(4) Children under the age of nineteen are eligible for premium-based CN coverage ~~((under children's healthcare programs))~~ as described in chapter 388-542 WAC when they meet the following criteria:

(a) State residence as described in chapter 388-468 WAC;

(b) Family income is over two hundred percent FPL, as described in WAC 388-478-0075, but not over ~~((two hundred fifty))~~ three hundred percent FPL at each application or review;

(c) They do not have other creditable health insurance as described in WAC 388-542-0050; and

(d) They pay the required monthly premiums as described in WAC 388-505-0211

(5) Children under age nineteen are eligible for the medically needy (MN) medicaid program when they meet the following criteria:

(a) Citizenship or immigrant status, state residence, and Social Security number requirements as described in subsection (2)(a), (b), and (c); ~~((and))~~

(b) ~~((They))~~ Are ineligible for other federal Medicaid programs; and

(c) Meet their spenddown obligation as described in WAC 388-519-0100 and 388-519-0110.

(6) Children under the age of twenty-one who reside or expect to reside in a medical institution, intermediate care facility for the mentally retarded (ICF/MR), hospice care center, nursing home, or psychiatric facility may be eligible for medical coverage. See WAC 388-505-0230 "Family related institutional medical" and WAC 388-513-1320 "Determining institutional status for long-term care."

(7) Children who are in foster care under the legal responsibility of the state, or a federally recognized tribe located within the state, are eligible for federally matched CN Medicaid coverage through the month of their:

(a) Eighteenth birthday;

(b) Twenty-first birthday if children's administration determines they remain eligible for continued foster care services; or

(c) Twenty-first birthday if they were in foster care on their eighteenth birthday and that birthday was on or after July 22, 2007.

(8) Children who receive subsidized adoption services are eligible for federally matched CN Medicaid coverage.

(9) Children under age of nineteen may also be eligible for:

(a) Family medical as described in WAC 388-505-0220;

(b) Medical extensions as described in WAC 388-523-0100; or

(c) SSI-related MN if they:

(i) Meet the blind and/or disability criteria of the federal SSI program, or the condition of subsection (2)(e); and

(ii) Have countable income above the level described in WAC 388-478-0070(1).

(10) Children who are ineligible for other ~~((children's healthcare))~~ programs ~~((due to citizenship or immigrant status requirements))~~ included in apple health for kids may be eligible for the alien emergency medical program (AEM) if they meet the following criteria:

(a) They have a documented emergent medical condition as defined in WAC 388-500-0005;

(b) They meet the other AEM program requirements as described in WAC 388-438-0110; and

(c) They have income that exceeds ~~((children's healthcare program standards))~~ three hundred percent FPL; or

(d) They are disqualified from receiving coverage under a premium-based ((children's healthcare coverage)) apple health for kids as described in subsection (4) of this section because of creditable coverage or nonpayment of premiums.

(11) Except for a client described in subsection (6), an inmate of a public institution, as defined in WAC 388-500-0005, is not eligible for any children's healthcare program(s).

AMENDATORY SECTION (Amending WSR 08-05-018, filed 2/12/08, effective 3/14/08)

WAC 388-505-0211 Premium requirements for premium-based ~~((children's healthcare programs))~~ coverage under programs included in apple health for kids. (1) For the purposes of this chapter, "**premium**" means an amount paid for ~~((medical))~~ coverage under programs included in apple health for kids.

(2) Payment of a premium is required as a condition of eligibility for premium-based ~~((children's healthcare))~~ coverage under programs included in apple health for kids, as described in WAC 388-505-0210(4), unless the child is:

(a) Pregnant; or

(b) An American Indian or Alaska native.

(3) The premium requirement begins the first of the month following the determination of eligibility. There is no premium requirement for medical coverage received in a month or months before the determination of eligibility.

(4) The premium amount for the assistance unit is based on the net ~~((available))~~ countable income as described in WAC ~~((388-450-0005))~~ 388-450-0210 and the number of children in the assistance unit. If the household includes more than one assistance unit, the premium amount billed for the assistance units may be different amounts.

(5) The premium amount for each eligible child ~~((is fifteen dollars per month per child, up to a maximum of forty-five dollars per month, per household))~~ shall be:

(a) Twenty dollars per month per child for households with income above two hundred percent FPL, but not above two hundred and fifty percent FPL;

(b) Thirty dollars per month per child for households with income above two hundred and fifty percent FPL, but not above three hundred percent FPL; and

(c) Limited to a monthly maximum of two premiums for households with two or more children.

(6) All children in an assistance unit are ineligible for medical coverage when the head of household fails to pay required premium payments for three consecutive months.

(7) When the department terminates the medical coverage of a child due to nonpayment of premiums, the child has a three-month period of ineligibility beginning the first of the following month. The three-month period of ineligibility is rescinded only when the:

(a) Past due premiums are paid in full prior to the begin date of the period of ineligibility; or

(b) The child becomes eligible for coverage under a non-premium-based medical program. The department will not rescind the three-month period of ineligibility for reasons other than the criteria described in this subsection.

(8) The department writes off past-due premiums after twelve months.

(9) When the designated three-month period of ineligibility is over, all past due premiums that are an obligation of the head of household must be paid or written off before a child can become eligible for premium-based ~~((children's healthcare))~~ coverage under a program included in apple health for kids.

(10) A family cannot designate partial payment of the billed premium amount as payment for a specific child in the assistance unit. The full premium amount is the obligation of the head of household of the assistance unit. A family can decide to request medical coverage only for certain children in the assistance unit, if they want to reduce premium obligation.

(11) A change that affects the premium amount is effective the month after the change is reported and processed.

(12) A sponsor or other third party may pay the premium on behalf of the child or children in the assistance unit. The premium payment requirement remains the obligation of head of household of the assistance unit. The failure of a sponsor or other third party to pay the premium does not eliminate the:

(a) Establishment of the period of ineligibility described in subsection (7) of this section; or

(b) Obligation of the head of household to pay past-due premiums.

AMENDATORY SECTION (Amending WSR 08-05-018, filed 2/12/08, effective 3/14/08)

WAC 388-542-0010 Purpose and scope of premium-based ~~((children's healthcare programs))~~ coverage under programs included in apple health for kids. The department administers the programs included in apple health for kids that provide premium-based ~~((children's healthcare))~~ coverage through a combination of state and federal funding sources as described below:

(1) Federally matched healthcare coverage as authorized by Title XXI of the Social Security Act state children's health insurance program (SCHIP) and RCW 74.09.450 for citizen and federally qualified immigrant children whose family income is above two hundred percent of the federal poverty level (FPL) but is not above ~~((two hundred fifty))~~ three hundred percent ~~((of the))~~ FPL.

(2) State funded healthcare coverage for ~~((noncitizen))~~ children with family income above two hundred percent FPL, but not above ~~((two hundred fifty))~~ three hundred percent FPL, who are ineligible for Title XXI federally matched children's healthcare coverage due to immigration issues.

AMENDATORY SECTION (Amending WSR 08-05-018, filed 2/12/08, effective 3/14/08)

WAC 388-542-0020 Other rules that apply to premium-based ~~((children's healthcare programs))~~ coverage under programs included in apple health for kids. In addition to the rules of this chapter, children receiving premium-based ~~((children's healthcare clients))~~ coverage under programs included in apple health for kids are subject to the following rules:

(1) Chapter 388-538 WAC, Managed care (except WAC 388-538-061, 388-538-063, and 388-538-065) if the child is covered under federally matched CN coverage;

(2) WAC 388-505-0210(4), Children's healthcare program eligibility;

(3) WAC 388-505-0211, Premium requirements for premium-based ~~((children's healthcare programs))~~ coverage under programs included in apple health for kids;

(4) WAC 388-416-0015(12), Certification periods for categorically needy (CN) scope of care medical assistance programs; and

(5) WAC 388-418-0025, Effect of changes on medical program eligibility.

AMENDATORY SECTION (Amending WSR 08-05-018, filed 2/12/08, effective 3/14/08)

WAC 388-542-0050 Definitions for premium-based ~~((children's healthcare programs))~~ coverage under programs included in apple health for kids. The following definitions, as well as those found in WAC 388-538-050 and in 388-500-0005 Medical definitions, apply to premium-based ~~((children's healthcare programs))~~ coverage under programs included in apple health for kids.

"Creditable coverage" means most types of public and private health coverage, except Indian health services, that provides access to physicians, hospitals, laboratory services, and radiology services. This term applies to the coverage whether or not the coverage is equivalent to that offered under premium-based ~~((children's healthcare))~~ programs included in apple health for kids. "Creditable coverage" is described in 42 U.S.C. Sec. 1397jj.

"Employer-sponsored dependent coverage" means creditable health coverage for dependents offered by a family member's employer or union, for which the employer or union may contribute in whole or part towards the premium. Extensions of such coverage (e.g., COBRA extensions) also qualify as employer-sponsored dependent coverage as long

as there remains a contribution toward the premiums by the employer or union.

AMENDATORY SECTION (Amending WSR 08-05-018, filed 2/12/08, effective 3/14/08)

WAC 388-542-0300 Waiting period for premium-based ~~((healthcare))~~ coverage under programs ~~((coverage))~~ included in apple health for kids following employer coverage. (1) The department requires applicants to serve a waiting period of four full consecutive months before receiving premium-based ~~((children's healthcare programs))~~ coverage under programs included in apple health for kids if the client or family:

(a) Chooses to end employer sponsored dependent coverage. The waiting period begins the day after the employment-based coverage ends; or

(b) Fails to exercise an optional coverage extension (e.g., COBRA) that meets the following conditions. The waiting period begins on the day there is a documented refusal of the coverage extension when the extended coverage is:

(i) Subsidized in part or in whole by the employer or union;

(ii) Available and accessible to the applicant or family; and

(iii) At a monthly cost to the family meeting the limitation of subsection (2)(b)(iv).

(2) The department does not require a waiting period prior to premium-based coverage under ~~((premium-based children's healthcare programs))~~ a program included in apple health for kids when:

(a) The client or family member has a medical condition that, without treatment, would be life-threatening or cause serious disability or loss of function; or

(b) The loss of employer-sponsored dependent coverage is due to any of the following:

(i) Loss of employment with no post-employment subsidized coverage as described in subsection (1)(b);

(ii) Death of the employee;

(iii) The employer discontinues employer-sponsored dependent coverage;

(iv) The family's total out-of-pocket maximum cost for employer-sponsored dependent coverage is ~~((fifty dollars per month or more))~~ two and one-half percent or more of the family's countable monthly income;

(v) The plan terminates employer-sponsored dependent coverage for the client because the client reached the maximum lifetime coverage amount;

(vi) Coverage under a COBRA extension period expired;

(vii) Employer-sponsored dependent coverage is not reasonably available (e.g., client would have to travel to another city or state to access care); or

(viii) Domestic violence caused the loss of coverage for the victim.

**WSR 09-06-049
EMERGENCY RULES
DEPARTMENT OF**

SOCIAL AND HEALTH SERVICES

(Aging and Disability Services Administration)

[Filed February 25, 2009, 3:03 p.m., effective February 25, 2009, 3:03 p.m.]

Effective Date of Rule: Immediately.

Purpose: The department is amending chapter 388-828 WAC, the DDD assessment, to add the children's intensive in-home behavioral support program (CIIBS) eligibility algorithm.

Citation of Existing Rules Affected by this Order: Amending WAC 388-828-1620.

Statutory Authority for Adoption: RCW 71A.12.30 [71A.12.030].

Other Authority: Section 205 (1)(i), chapter 329, Laws of 2008 (ESHB 2687).

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

Reasons for this Finding: The 2008 supplemental budget, ESHB 2687, section [205](1)(i) directs the department to develop and implement a federal HCBS waiver to provide intensive behavior support services for up to one hundred children with developmental disabilities and their families. DDD is incorporating rules for the CIIBS eligibility algorithm into chapter 388-828 WAC.

An initial public notice was filed September 29, 2008, as WSR 08-20-087. This emergency rule extends the emergency rule filed October 30, 2008, as WSR 08-22-040.

Stakeholder work is being completed and the rules are expected to be formally proposed by May 2009.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; and Recently Enacted State Statutes: New 5, Amended 1, Repealed 0.

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

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

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 5, Amended 1, Repealed 0.

Date Adopted: February 23, 2009.

Stephanie E. Schiller
Rules Coordinator

AMENDATORY SECTION (Amending WSR 07-10-029, filed 4/23/07, effective 6/1/07)

WAC 388-828-1620 How does DDD determine which panels are mandatory in your DDD assessment? DDD determines which panels are mandatory in your DDD assessment by assigning you to a client group using the following table:

If you are approved by DDD to receive:	Your client group is:
(1) DDD (DCBS) <u>HCBS</u> waiver services per chapter 388-845 WAC; or (2) State-only residential services per chapter 388-825 WAC; or (3) ICF/MR services per 42 CFR 440 and 42 CFR 483.	Waiver and State-Only Residential
(4) Medicaid personal care (MPC) per chapter 388-106 WAC; or (5) DDD HCBS Basic, Basic Plus, <u>CIIBS</u> or Core waiver services per chapter 388-845 WAC and personal care services per chapter 388-106 WAC; or (6) Medically intensive health care program services per chapter 388-551 WAC; or (7) Adult day health services per chapter 388-106 WAC; or (8) Private duty nursing services per chapter 388-106 WAC; or (9) Community options program entry system (COPES) services per chapter 388-106 WAC; or (10) Medically needy residential waiver services per chapter 388-106 WAC; or (11) Medicaid nursing facility care services per chapter 388-106 WAC.	Other Medicaid Paid Services
(12) County employment services per chapter 388-850 WAC. (13) Other DDD paid services per chapter 388-825 WAC, such as: (a) Family support services; or (b) Professional services. (14) Nonwaiver voluntary placement program services per chapter 388-826 WAC; (15) SSP only per chapter 388-827 WAC;	State-Only Paid Services
(16) You are not approved to receive any DDD paid services.	No Paid Services

NEW SECTION

WAC 388-828-8500 What is the children's intensive in-home behavioral support (CIIBS) program algorithm?
The children's intensive in-home behavioral support (CIIBS)

program algorithm is a formula in the DDD assessment that calculates your out-of-home placement risk score to determine your eligibility for the CIIBS waiver per chapter 388-845 WAC.

NEW SECTION

WAC 388-828-8505 When does the DDD assessment run the CIIBS algorithm to determine your eligibility for the CIIBS waiver? The DDD assessment runs the CIIBS algorithm to determine your eligibility for the CIIBS waiver when your support assessment is moved to current and:

- (1) You are the assessed age of eight or older and under age eighteen;
- (2) Your behavior acuity level is high per WAC 388-828-5640;
- (3) Your caregiver's risk score is medium, high or immediate per WAC 388-828-5300;
- (4) Your ICF/MR score is eligible per WAC 388-828-4400; and
- (5) You are not enrolled in the CIIBS waiver.

NEW SECTION

WAC 388-828-8515 How does DDD determine your CIIBS out-of-home placement risk score? Your CIIBS out-of-home placement risk score is calculated using the following table:

Section and WAC reference	If you meet the following criteria:	Then adjust your score by:	Score if you meet criteria
	Clients meeting eligibility criteria in WAC 388-828-8505		Beginning Score = 0
DDD Determination WAC 388-823-0500	Eligible condition of autism in the DDD determination.	Adding 40 points	=
ADL Acuity Level WAC 388-828-5480	Your ADL support needs level = high, medium or low	Subtracting 54 points	=
Behavior Acuity Scale WAC 388-828-5500 through 388-828-5640	Your most prominent behavior = assault/injury and Severity of your most prominent behavior = "potentially dangerous" or "life threatening"	Adding 14 points	=
Protective Supervision Acuity Scale WAC 388-828-5060	Your answer to the following question: "What level of monitoring does the client typically require during awake hours?" = "Line of sight/earshot"	Adding 13 points	=
DDD Caregiver Status Acuity WAC 388-828-5300	Your caregiver risk level = high or immediate	Adding 136 points	=
Backup Caregiver Status WAC 388-828-5320	Your answer to the following question: "Under what conditions are other caregiver(s) available?" = "No other caregiver available"	Adding 33 points	=
Mobility Acuity Scale WAC 388-828-5900	Your mobility acuity level = high, medium or low	Subtracting 15 points	=
		Sum of all of scores above is your CIIBS out-of-home placement risk score	=

NEW SECTION

WAC 388-828-8510 What elements does the CIIBS algorithm use to calculate your out-of-home placement risk score? The CIIBS algorithm uses the following elements to determine your out-of-home placement risk score:

- (1) The DDD protective supervision acuity scale (WAC 388-828-5000 to 388-828-5100);
- (2) The DDD caregiver status acuity scale (WAC 388-828-5120 to 388-828-5360);
- (3) The DDD behavioral acuity scale (WAC 388-828-5500 to 388-828-5640);
- (4) The DDD activities of daily living (ADL) acuity scale (WAC 388-828-5380 to 388-828-5480);
- (5) The DDD mobility acuity scale (WAC 388-828-5380 to 388-828-5480); and
- (6) Eligible condition of "autism" as indicated in the DDD determination (WAC 388-823-0500).

NEW SECTION

WAC 388-828-8520 How does DDD determine if I am eligible for the CIIBS waiver? DDD uses the following table to determine if you are eligible for the CIIBS waiver based on your CIIBS out-of-home placement risk score per WAC 388-828-8510:

If your CIIBS out-of-home placement risk score is:	Then your CIIBS eligibility is:
96 or greater	Yes - Severe
17 through 95	Yes - High
Less than 17	No - (not eligible)

WSR 09-06-058

EMERGENCY RULES

DEPARTMENT OF

FISH AND WILDLIFE

[Order 09-24—Filed February 27, 2009, 10:31 a.m., effective March 1, 2009]

Effective Date of Rule: March 1, 2009.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order: Amending WAC 232-28-619.

Statutory Authority for Adoption: RCW 77.12.047.

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

Reasons for this Finding: Slightly over seven hundred hatchery adult spring chinook are forecasted to return to the Kalama River this year. Six hundred fish must escape past the sport fishery to meet the hatchery brood stock goal. Slightly over 2,000 hatchery adult spring chinook are forecasted to return to the Lewis River this year. A total of 1,350 fish must escape past the sport fishery to meet the hatchery brood stock goal. The expected remaining harvestable hatchery surplus is too small to support full sport fisheries. The sport fisheries and hatchery returns will be closely monitored in-season and any further adjustments to the sport fishery may be made later this season. There is insufficient time to adopt permanent rules.

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

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

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

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

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

Date Adopted: February 27, 2009.

Philip Anderson
Director

NEW SECTION

WAC 232-28-61900B Exceptions to statewide rules—Kalama and Lewis rivers. Notwithstanding the provisions of WAC 232-28-619, effective March 1, 2009, until further notice, it is unlawful to violate the following provisions:

(1) Kalama River - In those waters from boundary markers at the mouth upstream to 1,000 feet below the fishway at the upper salmon hatchery, daily limit of six Chinook salmon, of which no more than one may be an adult; minimum size 12 inches, and release wild Chinook.

(a) Electric motors are allowed on those waters upstream from the Modrow Bridge.

(2) Lewis River - In those waters from the mouth to the mouth of the East Fork, and waters of the North Fork Lewis River from the mouth to the overhead powerlines below Merwin Dam, daily limit of six Chinook salmon, of which no more than one may be an adult; minimum size 12 inches, and release wild Chinook.

WSR 09-06-069

EMERGENCY RULES

BUILDING CODE COUNCIL

[Filed March 2, 2009, 4:07 p.m., effective March 2, 2009, 4:07 p.m.]

Effective Date of Rule: Immediately.

Purpose: To extend the emergency rule adopted under WSR 08-09-001, WAC 51-54-0400 2006 International Fire Code for consistency with chapter 406, Laws of 2007. The permanent rule will go into effect July 1, 2009.

Citation of Existing Rules Affected by this Order: Amending WAC 51-54-0400.

Statutory Authority for Adoption: RCW 19.27.074 and 19.27.020.

Other Authority: Chapters 19.27 and 34.05 RCW, chapter 406, Laws of 2007.

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

Reasons for this Finding: The state building code council, based on the following good cause, finds that an emergency affecting the general welfare of the state of Washington exists. The council further finds that immediate amendment of a certain council rule is necessary for the public welfare and that observing the time requirements of notice and opportunity to comment would be contrary to the public interest.

The declaration of emergency affecting the general welfare of the state of Washington is based on the following findings:

The state legislature passed the safe schools plan, SSHB [2SSB] 5097, in the 2007 legislative session, which requires that school districts have an updated plan in place by September 1, 2008, to include drills for sheltering-in-place and lockdown in addition to fire drills.

The council, in conjunction with their Fire Code Technical Advisory Group, the office of the superintendent of public instruction, Washington School Safety Advisory Committee, and the Washington Association of Fire Marshals, has developed amendments to chapter 51-54 WAC, the 2006 International Fire Code, outlining basic requirements for lockdown and shelter in place plans. The emergency rule allows school districts the maximum possible lead time to develop their plans under these guidelines. These plans are essential to ensure the safety of the occupants of schools in the state of Washington. The final permanent rule will go into effect July 1, 2009.

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

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

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

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

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

Date Adopted: March 2, 2009.

John P. Neff
Council Chair

AMENDATORY SECTION (Amending WSR 07-01-093, filed 12/19/06, effective 7/1/07)

WAC 51-54-0400 Chapter 4—Emergency planning and preparedness.

401.2 Approval. Where required by the fire code official, fire safety plans, emergency procedures, and employee training programs shall be approved.

SECTION 402 DEFINITIONS

EMERGENCY DRILL. An exercise performed to train staff and occupants and to evaluate their efficiency and effectiveness in carrying out emergency procedures.

LOCKDOWN. An action used to position occupants behind secured openings and isolated from threats.

Full lockdown. Occupants remain out of sight and as quiet as possible, with only limited authorized entry, exit, or movement within the building. Occupants in corridors, com-

mon areas, or unsecured areas move quickly to the nearest secured area.

Modified lockdown. Occupants of a facility are isolated from potential outside threats by remaining within a building with exterior doors and other exits secured, and that entry and exit from the building is limited to that which is authorized. During a modified lockdown, interior movement and other activities within the building may be allowed or restricted in accordance to the lockdown plan.

SHELTER-IN-PLACE. An emergency response used to minimize exposure of facility occupants to chemical or environmental hazards by taking refuge in predetermined interior rooms or areas where actions are taken to isolate the interior environment from the exterior hazard.

SECTION 404 EMERGENCY PLANS

404.1 General. Fire safety, evacuation, shelter-in-place, and lockdown plans shall comply with the requirements of this section.

404.2 Fire safety and evacuation plans. Fire safety and evacuation plans shall comply with the requirements of Sections 404.2.1 through 404.2.4.

404.2.1 Where required. A fire safety and evacuation plan shall be prepared and maintained in accordance with this chapter for the following occupancies and buildings when required by the fire code official.

1. Group A having an occupant load of 100 or more.
2. Group B buildings having an occupant load of 500 or more persons or more than 100 persons above or below the lowest level of exit discharge.
3. Group E.
4. Group H.
5. Group I.
6. Group R-1.
7. Group R-2 college and university buildings. Boarding homes, group homes, and residential treatment facilities licensed by the state of Washington.
8. High-rise buildings.
9. Group M buildings having an occupant load of 500 or more persons or more than 100 persons above or below the lowest level of exit discharge.
10. Covered malls exceeding 50,000 sf in aggregate floor area.
11. Underground buildings.
12. Buildings with an atrium and having an occupancy in Group A, E, or M.

~~((404.4 Maintenance. Fire safety and evacuation plans shall be reviewed by the owner or occupant annually or as necessitated by changes in staff assignments, occupancy, or the physical arrangement of the building.))~~

404.2.2 Contents. Fire safety and evacuation plan contents shall be in accordance with Sections 404.2.2.1 and 404.2.2.2.

404.2.2.1 Fire evacuation plans. Fire evacuation plans shall include the following:

1. Emergency egress or escape routes and whether evacuation of the building is to be complete or, where approved, by selected floors or areas only.

2. Procedures for employees who must remain to operate critical equipment before evacuating.

3. Procedures for accounting for employees and occupants after evacuation has been completed.

4. Identification and assignment of personnel responsible for rescue or emergency medical aid.

5. The preferred and any alternative means of notifying occupants of a fire or emergency.

6. The preferred and any alternative means of reporting fires and other emergencies to the fire department or designated emergency response organization.

7. Identification and assignment of personnel who can be contacted for further information or explanation of duties under the plan.

8. A description of the emergency voice/alarm communication system alert tone and preprogrammed voice messages, where provided.

404.2.2.2 Fire safety plans. Fire safety plans shall include the following:

1. The procedure for reporting a fire or other emergency.

2. The life safety strategy and procedures for notifying, relocating, or evacuating occupants.

3. Site plans indicating the following:

3.1 The occupancy assembly point.

3.2 The locations of fire hydrants.

3.3 The normal routes of fire department vehicle access.

4. Floor plans identifying the locations of the following:

4.1 Exits.

4.2 Primary evacuation routes.

4.3 Secondary evacuation routes.

4.4 Accessible egress routes.

4.5 Areas of refuge.

4.6 Manual fire alarm boxes.

4.7 Portable fire extinguishers.

4.8 Occupant-use hose stations.

4.9 Fire alarm annunciators and controls.

5. A list of major fire hazards associated with the normal use and occupancy of the premises, including maintenance and housekeeping procedures.

6. Identification and assignment of personnel responsible for maintenance of systems and equipment installed to prevent or control fires.

7. Identification and assignment of personnel responsible for maintenance, housekeeping and controlling fuel hazard sources.

404.2.3 Maintenance. Fire safety and evacuation plans shall be reviewed by the owner or occupant annually or more often, as necessitated by changes in staff assignments, occupancy, or the physical arrangement of the building.

404.2.4 Availability. Fire safety and evacuation plans shall be available in the workplace for reference and review by employees, and copies shall be furnished to the fire code official for review upon request.

404.3 Shelter-in-place and lockdown plans. Shelter-in-place and lockdown plans shall comply with the requirements of Sections 404.3.1 through 404.3.4.

404.3.1 Where required. A shelter-in-place and lockdown plan shall be prepared and maintained for all Group E occupancies.

EXCEPTION: Daycares not colocated on a Group E campus.

404.3.2 Contents. Shelter-in-place and lockdown plan contents shall be in accordance with Sections 404.3.2.1 and 404.3.2.2.

404.3.2.1 Shelter-in-place plans. Shelter-in-place plans shall include the following:

1. Identification of the procedures of initiating the shelter-in-place plan throughout the facility or campus.

2. Identification of prearranged alert and recall signals to notify all occupants.

3. Identification of procedures for reporting the facility is sheltering-in-place to the local emergency dispatch center.

4. A means of two-way communication between a central location and each secure area.

5. Identification of protective security measures.

6. Location of emergency supplies.

7. Accountability procedures for staff to report the presence or absence of occupants.

8. Identification of crisis response team members in accordance with the National Incident Management System.

9. Actions to be taken in the event of a fire or medical emergency while sheltering-in-place.

404.3.2.2 Lockdown plans. Lockdown plans shall include the following:

1. Identification of the procedures of initiating the lockdown plan throughout the facility or campus.

2. Identification of prearranged alert and recall signals to notify all occupants.

3. Identification of procedure for access to facility for emergency responders.

4. Identification of procedures for reporting the facility is in lockdown to the local emergency dispatch center.

5. A means of two-way communication between a central location and each secure area.

6. Identification of protective security measures.

7. Location of emergency supplies.

8. Accountability procedures for staff to report the presence or absence of occupants.

9. Identification of crisis response team members in accordance with the National Incident Management System.

10. Actions to be taken in the event of a fire or medical emergency while in lockdown.

404.3.3 Maintenance. Shelter-in-place and lockdown plans shall be reviewed by the owner or occupant annually or more often, as necessitated by changes in staff assignments, occupancy, or the physical arrangement of the building.

404.3.4 Availability. Shelter-in-place and lockdown plans shall be available in the workplace for reference and review by employees, and copies shall be furnished to the fire code official for review upon request.

Sections 404.4 and 404.5 are not adopted.

SECTION 405 EMERGENCY DRILLS

405.1 General. Emergency drills shall comply with the requirements of this section.

405.2 Emergency evacuation drills. Emergency evacuation drills complying with the provisions of this section shall be conducted at least annually in the occupancies listed in Section 404.2.1 or when required by the fire code official. Drills shall be designed in cooperation with the local authorities.

405.2.1 Frequency. Required emergency evacuation drills shall be held at the intervals specified in Table 405.2.1 or more frequently where necessary to familiarize all occupants with the drill procedure.

**TABLE 405.2.1
FIRE AND EVACUATION DRILL
FREQUENCY AND PARTICIPATION**

<u>GROUP OR OCCUPANCY</u>	<u>FREQUENCY</u>	<u>PARTICIPATION</u>
<u>Group A</u>	<u>Quarterly</u>	<u>Employees</u>
<u>Group B^c</u>	<u>Annually</u>	<u>Employees</u>
<u>Group E</u>	<u>Monthly^{a,e}</u>	<u>All occupants</u>
<u>Group I</u>	<u>Quarterly on each shift</u>	<u>Employees^b</u>
<u>Group R-1</u>	<u>Quarterly on each shift</u>	<u>Employees</u>
<u>Group R-2^f</u>	<u>Quarterly on each shift</u>	<u>Employees</u>
<u>Group R-2^d</u>	<u>Four annually</u>	<u>All occupants</u>
<u>High-rise buildings</u>	<u>Annually</u>	<u>Employees</u>

^a The frequency shall be allowed to be modified in accordance with Section 408.3.2.

^b Fire and evacuation drills in residential care assisted living facilities shall include complete evacuation of the premises in accordance with Section 408.10.5. Where occupants receive habilitation or rehabilitation training, fire prevention and fire safety practices shall be included as part of the training program.

^c Group B buildings having an occupant load of five hundred or more persons or more than one hundred persons above or below the lowest level of exit discharge.

^d Applicable to Group R-2 college and university buildings in accordance with Section 408.3.

^e Group E, and daycares collocated on a Group E campus shall jointly perform at least six fire and evacuation drills per school year.

^f Applicable to boarding homes, group homes, and residential treatment facilities licensed by the state of Washington.

405.2.2 Leadership. Responsibility for the planning and conduct of drills shall be assigned to competent persons designated to exercise leadership.

405.2.3 Time. Drills shall be held at unexpected times and under varying conditions to simulate the unusual conditions that occur in case of fire.

405.2.4 Recordkeeping. Records shall be maintained of required emergency evacuation drills and include the following information:

1. Identity of the person conducting the drill.

2. Date and time of the drill.
3. Notification method used.
4. Staff members on duty and participating.
5. Number of occupants evacuated.
6. Special conditions simulated.
7. Problems encountered and corrective action taken.
8. Weather conditions when occupants were evacuated.
9. Time required to accomplish complete evacuation.

405.2.5 Notification. Where required by the fire code official, prior notification of emergency evacuation drills shall be given to the fire code official.

405.2.6 Initiation. Where a fire alarm system is provided, emergency evacuation drills shall be initiated by activating the fire alarm system. The fire alarm monitoring company shall be notified prior to the activation of the fire alarm system for drill purposes and again at the conclusion of the transmission and restoration of the fire alarm system to normal mode.

EXCEPTION: Drills conducted between the hours of 9:00 p.m. and 6:00 a.m., in Group R-2 boarding homes, group homes and residential treatment facilities licensed by the state of Washington, are allowed to utilize a coded announcement.

405.2.7 Accountability. As building occupants arrive at the assembly point, efforts shall be made to determine if all occupants have been successfully evacuated or have been accounted for.

405.2.8 Recall and reentry. An electrically or mechanically operated signal used to recall occupants after an evacuation shall be separate and distinct from the signal used to initiate the evacuation. The recall signal initiation means shall be manually operated and under the control of the person in charge of the premises or the official in charge of the incident. No one shall reenter the premises until authorized to do so by the official in charge.

405.3 Shelter-in-place and lockdown drills. Shelter-in-place and lockdown drills complying with the provisions of this section shall be conducted in the occupancies listed in Section 404.3.1 or when required by the fire code official. Drills shall be designed in cooperation with local authorities.

405.3.1 Frequency. Shelter-in-place and lockdown drills required by this section shall each be held at least annually to familiarize all occupants with the emergency procedures. Group E and collocated daycares shall drill jointly.

405.3.2 Leadership. Responsibility for the planning and conduct of drills shall be assigned to competent persons designated to exercise leadership.

405.3.3 Time. Drills shall be held at unexpected times and under varying conditions to simulate the unusual conditions that occur in case of an emergency.

405.3.4 Recordkeeping. Records shall be maintained of required shelter-in-place and lockdown drills and include the following information:

1. Identity of the person conducting the drill.
2. Date and time of the drill.
3. Notification method used.

4. Staff members on duty and participating.
5. Number of occupants sheltered and unaccounted for.
6. Special conditions simulated.
7. Problems encountered and corrective actions taken.
8. Time required to accomplish complete sheltering.

405.3.5 Notification. Where required by the fire code official, prior notification of shelter-in-place and lockdown drills shall be given to appropriate emergency response agencies.

405.3.6 Signals. Alerting signals shall be separate and distinct from the fire alarm and other signals.

405.3.7 Accountability. Efforts shall be made to determine if all occupants have been successfully sheltered and accounted for.

SECTION 406 EMPLOYEE TRAINING AND RESPONSE PROCEDURES

406.1 General. Employees in the occupancies listed in Sections 404.2.1 and 404.3.1 shall be trained in the procedures described in their emergency plans. Training shall be based on these plans and as described in Sections 404.2.2 and 404.3.2.

406.3 Employee training program. Employees shall be trained in fire prevention, evacuation, fire safety, shelter-in-place, and lockdown in accordance with Sections 406.3.1 through 406.3.4.

406.3.4 Shelter-in-place and lockdown training. Employees shall be familiarized with the alert and recall signals, their assigned duties in the event of an alarm or emergency, communication system, location of emergency supplies, and the use of the incident notification and alert system.

SECTION 408 USE AND OCCUPANCY-RELATED REQUIREMENTS

408.2.1 Seating plan. The fire safety and evacuation plans for assembly occupancies shall include the information required by Section 404.2.2 and a detailed seating plan, occupant load, and occupant load limit. Deviations from the approved plans shall be allowed provided the occupant load limit for the occupancy is not exceeded and the aisles and exit accessways remain unobstructed.

408.3.2 Emergency evacuation drill deferral. In severe climates, the fire code official shall have the authority to modify the emergency evacuation drill frequency specified in Section 405.2.1.

408.5.4 Drill frequency. Emergency evacuation drills shall be conducted at least six times per year, two times per year on each shift. Twelve drills shall be conducted in the first year of operation. Drills are not required to comply with the time requirements of Section 405.2.3.

408.6 Group I-2 occupancies. Group I-2 occupancies shall comply with the requirements of Sections 408.6.1 and 408.6.2 and Sections 401 through 406. Drills are not required to comply with the time requirements of Section 405.2.3.

Section 408.10 is not adopted.

408.11.1 Lease plan. A lease plan shall be prepared for each covered mall building. The plan shall include the following information in addition to that required by Section 404.2.2.2:

1. Each occupancy, including identification of tenant.
2. Exits from each tenant space.
3. Fire protection features, including the following:
 - 3.1 Fire department connections.
 - 3.2 Fire command center.
 - 3.3 Smoke management system controls.
 - 3.4 Elevators and elevator controls.
 - 3.5 Hose valves outlets.
 - 3.6 Sprinkler and standpipe control valves.
 - 3.7 Automatic fire-extinguishing system areas.
 - 3.8 Automatic fire detector zones.
 - 3.9 Fire barriers.

408.11.1.1 Submittal. The lease plan shall be submitted to the fire code official, and shall be maintained on-site for immediate reference by responding fire service personnel.

408.11.1.2 Revisions. The lease plan shall be reviewed and revised annually or as often as necessary to keep them current. Modifications or changes in occupancies shall not be made without prior approval of the fire code official and building official.