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## CITATION

Cite all material in the Washington State Register by its issue number and sequence within that issue, preceded by the acronym WSR. Example: The 37th item in the August 5, 1981, Register would be cited as WSR 81-15-37.

## PUBLIC INSPECTION OF DOCUMENTS

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## CERTIFICATE

Pursuant to RCW 34.08.040, the publication of rules or other information in this issue of the Washington State Register is hereby certified to be a true and correct copy of such rules or other information, except that headings of public meeting notices have been edited for uniformity of style.

DENNIS W. COOPER  
Code Reviser

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# WASHINGTON STATE REGISTER

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# STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER

## 1. ARRANGEMENT OF THE REGISTER

Documents are arranged within each issue of the Register according to the order in which they are filed in the code reviser's office during the pertinent filing period. The three part number in the heading distinctively identifies each document, and the last part of the number indicates the filing sequence within an issue's material.

## 2. PROPOSED, ADOPTED, AND EMERGENCY RULES OF STATE AGENCIES AND INSTITUTIONS OF HIGHER EDUCATION

The three types of rule-making actions taken under the Administrative Procedure Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW) may be distinguished by the size and style of type in which they appear.

- (a) **Proposed rules** are those rules pending permanent adoption by an agency and set forth in eight point type.
- (b) **Adopted rules** have been permanently adopted and are set forth in ten point type.
- (c) **Emergency rules** *have been adopted on an emergency basis and are set forth in ten point oblique type.*

## 3. PRINTING STYLE—INDICATION OF NEW OR DELETED MATTER

RCW 34.04.058 requires the use of certain marks to indicate amendments to existing agency rules. This style quickly and graphically portrays the current changes to existing rules as follows:

- (a) In amendatory sections—
  - (i) underlined matter is new matter;
  - (ii) ~~deleted matter is ((lined out and bracketed between double parentheses))~~;
- (b) Complete new sections are prefaced by the heading NEW SECTION;
- (c) The repeal of an entire section is shown by listing its WAC section number and caption under the heading REPEALER.

## 4. EXECUTIVE ORDERS, COURT RULES, NOTICES OF PUBLIC MEETINGS

Material contained in the Register other than rule-making actions taken under the APA or the HEAPA does not necessarily conform to the style and format conventions described above. The headings of these other types of material have been edited for uniformity of style; otherwise the items are shown as nearly as possible in the form submitted to the code reviser's office.

## 5. EFFECTIVE DATE OF RULES

- (a) Permanently adopted agency rules take effect thirty days after the rules and the agency order adopting them are filed with the code reviser. This effective date may be delayed, but not advanced, and a delayed effective date will be noted in the promulgation statement preceding the text of the rule.
- (b) Emergency rules take effect upon filing with the code reviser and remain effective for a maximum of ninety days from that date.
- (c) Rules of the state Supreme Court generally contain an effective date clause in the order adopting the rules.

## 6. EDITORIAL CORRECTIONS

Material inserted by the code reviser for purposes of clarification or correction or to show the source or history of a document is enclosed in brackets [ ].

## 7. INDEX AND TABLES

A combined subject matter and agency index and a table of WAC sections affected may be found at the end of each issue.

**1981**  
**DATES FOR REGISTER CLOSING, DISTRIBUTION, AND FIRST AGENCY ACTION**

Issue No.	Distribution Date	First Agency Action Date <sup>2</sup>	Closing Dates <sup>1</sup>		
			OTS <sup>3</sup> OR 10 pages maximum (14 days)	Non-OTS and 11 to 29 pages (28 days)	Non-OTS and 30 pages or more (42 days)
81-01	Jan 7, 1981	Jan 27	Dec 24, 1980	Dec 10	Nov 26
81-02	Jan 21	Feb 10	Jan 7	Dec 24, 1980	Dec 10
81-03	Feb 4	Feb 24	Jan 21	Jan 7	Dec 24, 1980
81-04	Feb 18	Mar 10	Feb 4	Jan 21	Jan 7
81-05	Mar 4	Mar 24	Feb 18	Feb 4	Jan 21
81-06	Mar 18	Apr 7	Mar 4	Feb 18	Feb 4
81-07	Apr 1	Apr 21	Mar 18	Mar 4	Feb 18
81-08	Apr 15	May 5	Apr 1	Mar 18	Mar 4
81-09	May 6	May 26	Apr 22	Apr 8	Mar 25
81-10	May 20	Jun 9	May 6	Apr 22	Apr 8
81-11	Jun 3	Jun 23	May 20	May 6	Apr 22
81-12	Jun 17	Jul 7	Jun 3	May 20	May 6
81-13	Jul 1	Jul 21	Jun 17	Jun 3	May 20
81-14	Jul 15	Aug 4	Jul 1	Jun 17	Jun 3
81-15	Aug 5	Aug 25	Jul 22	Jul 8	Jun 24
81-16	Aug 19	Sep 8	Aug 5	Jul 22	Jul 8
81-17	Sep 2	Sep 22	Aug 19	Aug 5	Jul 22
81-18	Sep 16	Oct 6	Sep 2	Aug 19	Aug 5
81-19	Oct 7	Oct 27	Sep 23	Sep 9	Aug 26
81-20	Oct 21	Nov 10	Oct 7	Sep 23	Sep 9
81-21	Nov 4	Nov 24	Oct 21	Oct 7	Sep 23
81-22	Nov 18	Dec 8	Nov 4	Oct 21	Oct 7
81-23	Dec 2	Dec 22	Nov 18	Nov 4	Oct 21
81-24	Dec 16	Jan 5, 1982	Dec 2	Nov 18	Nov 4

<sup>1</sup>All documents are due at the Code Reviser's Office by 5:00 p.m. on the applicable closing date for inclusion in a particular issue of the Register; see WAC 1-12-035 or 1-13-035.

<sup>2</sup>"No proceeding shall be held on any rule until twenty days have passed from the distribution date of the register in which notice thereof was contained." RCW 28B.19.030(2) and 34.04.025(2). These dates represent the twentieth day after the distribution date of the immediate preceding Register.

<sup>3</sup>OTS is the acronym used for the Order Typing Service offered by the Code Reviser's Office which is briefly explained in WAC 1-12-220 and WAC 1-13-240.

**WSR 81-06-001**  
**ADOPTED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
**(Public Assistance)**

[Order 1609—Filed February 19, 1981]

I, N. Spencer Hammond, Ex. Asst. of the Department of Social and Health Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to:

Amd ch. 388-320 WAC Public records—Disclosure.  
 Rep ch. 388-48 WAC Safeguarding information.  
 Rep WAC 388-08-007 Fair hearing—Access to records.

This action is taken pursuant to Notice Nos. WSR 80-17-050, 81-02-022, 81-03-026 and 81-04-004 filed with the code reviser on 11/19/80, 1/2/81, 1/12/81 and 1/26/81. Such rules shall take effect pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 42.17.250 through 42.17.340 and is intended to administratively implement that statute.

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED February 13, 1981.

By N. S. Hammond  
 Executive Assistant

**REPEALER**

The following section of the Washington Administrative Code is hereby repealed:

(1) WAC 388-08-007 FAIR HEARING—ACCESS TO RECORDS.

**REPEALER**

The following sections of the Washington Administrative Code are hereby repealed:

(1) WAC 388-48-010 PUBLIC ASSISTANCE INFORMATION CONFIDENTIAL AND PRIVILEGED.

(2) WAC 388-48-020 INFORMATION NOT CONFIDENTIAL.

(3) WAC 388-48-030 CONDITIONS AND LIMITATIONS ON DISCLOSING CONFIDENTIAL INFORMATION—INQUIRY WHETHER INDIVIDUAL RECEIVES ASSISTANCE.

(4) WAC 388-48-033 CONDITIONS AND LIMITATIONS ON DISCLOSING CONFIDENTIAL INFORMATION—REQUEST FROM PARENT FOR ADDRESS OR LOCATION OF CHILD.

(5) WAC 388-48-037 CONDITIONS AND LIMITATIONS ON DISCLOSING CONFIDENTIAL INFORMATION—REQUEST FROM LAW ENFORCEMENT AGENCY OR UNITED STATES IMMIGRATION SERVICE FOR ADDRESS OR LOCATION OF RECIPIENT.

(6) WAC 388-48-040 CONDITIONS AND LIMITATIONS ON DISCLOSING CONFIDENTIAL

INFORMATION—INFORMATION RELATED TO ADMINISTRATION OF ASSISTANCE.

(7) WAC 388-48-050 CONDITIONS AND LIMITATIONS ON DISCLOSING CONFIDENTIAL INFORMATION—RELEASE OF INFORMATION TO UNITED STATES ARMED SERVICES.

(8) WAC 388-48-070 CONDITIONS AND LIMITATIONS ON DISCLOSING CONFIDENTIAL INFORMATION—RELEASE OF INFORMATION REQUESTED BY APPLICANT OR RECIPIENT.

(9) WAC 388-48-080 CONDITIONS AND LIMITATIONS ON DISCLOSING CONFIDENTIAL INFORMATION—RELEASE OF INFORMATION TO APPLICANT OR RECIPIENT.

(10) WAC 388-48-100 EMPLOYEES AUTHORIZED TO DISCLOSE INFORMATION.

(11) WAC 388-48-110 DISTRIBUTION OF RULES AND REGULATIONS.

(12) WAC 388-48-120 SOLICITATION OR USE OF CONFIDENTIAL INFORMATION.

(13) WAC 388-48-130 PROHIBITION AGAINST RELEASE OF CONFIDENTIAL AND PRIVILEGED INFORMATION IN JUDICIAL PROCEEDINGS.

AMENDATORY SECTION (Amending Order 899, filed 1/25/74)

WAC 388-320-010 PURPOSE. The purpose of this chapter shall be to ensure compliance by the department of social and health services with the provisions of (~~chapter 1, Laws of 1973, Disclosure Campaign Finances—Lobbying Records, and in particular with sections 25-32 of that act dealing with public records~~) the Public Records Disclosure Act, RCW 42.17.250 through 42.17.340.

This chapter is organized as follows:

(1) WAC 388-320-030 through 388-320-092 provide information relative to the overall organizational structure of the department, as required by RCW 42.17.250.

(2) The remainder of the chapter, commencing with WAC 388-320-100, provides information relating to disclosure of public records, as required by RCW 42.17-.260 through 42.17.340. These sections apply to all offices of the department.

AMENDATORY SECTION (Amending Order 899, filed 1/25/74)

WAC 388-320-020 DEFINITIONS. (1) "Public records" include any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used or retained by the department regardless of physical form or characteristics.

(2) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof; and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums and other documents.

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

(4) "Client" means any person or organization about whom the department has a record.

(5) "Disclosure" means inspection and/or copying.

(6) "Denial of disclosure" denotes any exempting from disclosure of any public record.

AMENDATORY SECTION (Amending Order 899, filed 1/25/74)

WAC 388-320-090 OPERATIONS AND PROCEDURE—RULES ADOPTION AND PUBLICATION. Substantive and procedural rules of general applicability adopted by the department as authorized by law or adopted by the Washington state board of health and enforced by the department as authorized by law appear at the following WAC titles:

(1) Title 248—Health

(2) Title 275—Institutions, mental health, and mental retardation

(3) Title 388—Economic and social services

(4) Title ~~((482—Veterans rehabilitation council))~~ 402—Radiation control agency

(5) Title 490—Vocational rehabilitation.

AMENDATORY SECTION (Amending Order 899, filed 1/25/74)

WAC 388-320-092 STATEMENTS OF POLICY. Statements of general policy or interpretations of general applicability ~~((as identified in WAC 388-320-093 through 388-320-095)),~~ including ~~((practice))~~ procedural manuals maintained for department staff use, shall be available for public inspections.

AMENDATORY SECTION (Amending Order 899, filed 1/25/74)

WAC 388-320-100 PUBLIC RECORDS AVAILABLE. (1) All public records of the department ~~((as defined in WAC 388-320-020))~~ are available for ~~((public inspection and copying pursuant to these rules))~~ disclosure except as otherwise provided ~~((in section 31, chapter 1, Laws of 1973 and WAC 388-320-150))~~ by these rules.

(2) Requests for any identifiable public record may be initiated at any ~~((local))~~ office of the department, except that requests for research purposes shall be made directly to the Human Research Review Section.

(3) The department shall at all times take the most timely possible action on requests for disclosure; the department shall respond in writing within ten working days of receipt of the request for disclosure, and its failure to do so shall entitle the person seeking disclosure to petition the public records officer pursuant to WAC 388-320-210.

AMENDATORY SECTION (Amending Order 899, filed 1/25/74)

WAC 388-320-110 PUBLIC RECORDS OFFICER ~~((=STATE ADMINISTRATIVE OFFICE))~~. The department shall designate a public records officer, ~~((to~~

~~be))~~ located in the state administrative office ~~((=He))~~, who shall be responsible for implementing the department's rules regarding ~~((release))~~ disclosure of public records, coordination of staff in this regard, and generally insuring compliance by the staff with ~~((the))~~ public records disclosure requirements ~~((of chapter 1, Laws of 1973. The public records officer shall be responsible for any disclosure except where responsibility has been delegated to a local office as provided by WAC 388-320-115. The secretary of the department or his designee and the public records officer shall have exclusive authority to deny a request for disclosure of a public record)).~~

AMENDATORY SECTION (Amending Order 899, filed 1/25/74)

WAC 388-320-115 PUBLIC ~~((RECORDS OFFICER—LOCAL OFFICE))~~ DISCLOSURE COORDINATOR. ~~((=The department shall designate local office public records officer to be located in each local office of the department. The local office public records officer shall have authority to~~

(a) disclose information about individuals known to be local office except as limited by section 31, chapter 1, Laws of 1973 or by other laws and rules governing confidentiality of personal information in the department's records:

(b) make available for copying the rules and statements as defined in WAC 388-320-090, 388-320-092, 388-320-093, and 388-320-095 which are maintained in the local office to which the request is made.

(c) make available for copying or for free distribution informational material published by the department for use of the public and which is available in the local office to which the request is made.

(d) refer the inquirer to the department's state office public records officer when the requested material is not within the authority of the local office to disclose.

(e) refer the inquirer, or refer the request for information, to the state office public records officer when the request calls for extensive copying of material.

(2) The local office public records officer shall not have authority to deny a request for disclosure of a public record. Each departmental administrative unit—for example, each CSO or institution—shall designate from among its employees at least one public disclosure coordinator, who shall:

(1) Have responsibility to respond to written requests for disclosure of the department's nonexempt public records located in that office; and

(2) Refer the person requesting disclosure to any other office where the record is located, and assist further in the disclosure process; and

(3) Verify, if necessary, the identity of any person requesting information.

AMENDATORY SECTION (Amending Order 899, filed 1/25/74)

WAC 388-320-130 REQUEST FOR PUBLIC RECORDS. (1) ~~((In accordance with requirements of chapter 1, Laws of 1973 that agencies prevent unreasonable invasions of privacy, protect public records from~~

~~damage or disorganization and prevent excessive interference with the essential functions of the agency, public records may be inspected or copied or copies of such records may be obtained by members of the public upon compliance with the procedures specified in this section.~~

~~(2) A request shall be made in writing upon a form prescribed by the department which shall be available at its state and local administrative offices. The request shall include~~

~~(a) the name of the person requesting the record~~

~~(b) the time of day and calendar date on which the request is made~~

~~(c) the nature of the request~~

~~(d) an appropriate description of the record requested.~~

~~(3) The public records officer or staff member to whom the request is made shall assist the requestor to appropriately identify the public record requested.~~

~~(4) The request form shall be presented to the public records officer or if he is not available to any member of the department's staff during customary office hours.)) A request for disclosure of a public record may be oral or written. Such a request need merely identify with reasonable certainty the record sought to be disclosed.~~

~~(2) A request for disclosure shall be made during customary business hours.~~

~~(3) A request for disclosure shall not be made for commercial or political purposes.~~

~~(4) If the public record contains material exempt from disclosure pursuant to law, including those laws cited in WAC 388-320-220, the department must provide the person requesting disclosure with a written explanation for the nondisclosure, pursuant to WAC 388-320-205.~~

~~(5) Any person continuing to seek disclosure, after having received a written explanation for nondisclosure pursuant to WAC 388-320-205, may request a review under the provisions of WAC 388-320-210.~~

~~(6) When a person's identity is relevant to an exemption, that person may be required to provide personal identification.~~

~~(7) Nothing in this section or elsewhere in this chapter shall be construed to require the department to compile statistics or other information from material contained in public records, where doing so would unduly interfere with other essential functions of the department and is not required for litigation by rules of pretrial discovery.~~

#### NEW SECTION

WAC 388-320-135 DISCLOSURE TO CLIENT'S REPRESENTATIVE. (1) If a client requests disclosure to a representative, that request must be accompanied by a written release signed by the client, except that, as an accommodation to the client and if the legislator or attorney representing the client can provide assurance that the client has authorized disclosure, the client's record may be briefly discussed with that legislator or attorney so long as there is neither physical inspection nor copying of client records by that representative. A written release must include:

(a) The identity of the person(s) or organization(s) to whom disclosure is to be made;

(b) An identification of the record, or portion thereof, to be disclosed;

(c) A statement of when the authorization for disclosure expires.

(2) Disclosures of information to a representative shall be made to the same extent as to the client.

(3) The legal guardian of a client has any and all rights accorded to a client by this section.

AMENDATORY SECTION (Amending Order 899, filed 1/25/74)

WAC 388-320-140 FEES—INSPECTION AND COPYING. (1) No fee shall be charged for the inspection of public records.

(2) The department shall ~~((charge a fee per page of copy for providing copies of public records and for use of the department's copy equipment. The fee shall be the amount necessary to reimburse the department for its actual costs incident to such copying.)) collect the following fees to reimburse itself for actual costs incident to providing copies of public records:~~

~~(a) In the instance of manuals, and manual revisions to holders of manuals, the cost shall be that of printing and mailing;~~

~~(b) Cost of copying of blueprints and like materials involving an extraordinary expense shall be fully reimbursed to the department;~~

~~(c) Otherwise, the department shall charge a fee of ten cents per page, plus postage if any, provided that:~~

~~(i) The first ten pages shall be free;~~

~~(ii) Additionally, any materials to be entered by the department as an exhibit in a hearing or trial shall be free.~~

~~(iii) Additionally, where a hearing or trial is being contested, the public disclosure coordinator shall authorize additional free copying of materials demonstrated to be relevant, where the client is indigent.~~

~~(3) Nothing contained in this section shall preclude the department from agreeing to exchange or provide copies of manuals or other public records with other state or federal agencies, whenever doing so is in the best interest of the department.~~

~~(4) The secretary of the department or his designee is authorized to waive any of the foregoing copying costs.~~

AMENDATORY SECTION (Amending Order 899, filed 1/25/74)

WAC 388-320-170 PROTECTION OF PUBLIC RECORDS. Public records ~~((may)) shall be ((inspected)) disclosed only in the presence of a ((department)) public ((records officer)) disclosure coordinator or his/her designee~~((- Inspection shall be denied and records))~~, who shall ~~((be withdrawn)) withdraw the records if the ((individual inspecting the records does so)) person requesting disclosure acts in a manner which will damage or substantially disorganize ((them)) the records or ((which interferes)) interfere excessively with other essential functions of the department. This section shall not be construed to prevent the department from accommodating a client by use of the mails in the disclosure process.~~~~

AMENDATORY SECTION (Amending Order 899, filed 1/25/74)

WAC 388-320-180 RECORDS INDEX. (1) The department finds that it would be unduly burdensome and would interfere with agency operations to maintain an index of records (~~(as specified in section 26(2) of chapter 1, Laws of 1973)~~) because of the complexity and diversity of its operations and the resulting volume of manuals, correspondence, reports, surveys, staff studies and other materials.

(2) The department will make available for public (~~(inspection and copying)~~) disclosure all (~~(indexes)~~) indices which may at a future time be developed for agency use.

NEW SECTION

WAC 388-320-205 DISCLOSURE PROCEDURE. (1) The public disclosure coordinator shall review file materials prior to disclosure.

(2) If the file does not contain materials exempt from disclosure, the public disclosure coordinator shall ensure full disclosure.

(3) If the file does contain materials exempt from disclosure, the public disclosure coordinator shall deny disclosure of those exempt portions of the file, and shall, at the time of the denial, in writing, clearly specify the reasons for the denial of disclosure, including a statement of the specific exemptions or reasons authorizing the withholding of the record and a brief explanation of how the exemption or reason applies. The remaining, nonexempt materials shall be fully disclosed.

NEW SECTION

WAC 388-320-210 REMEDY FOR REVIEW OF DENIAL OF DISCLOSURE. (1) If the person requesting disclosure disagrees with the decision of a public disclosure coordinator denying disclosure of a public record, this person may at any time petition the department's public records officer for review of the decision denying disclosure. The form used by the public disclosure coordinator to deny disclosure of a public record shall clearly indicate this right of review.

(2) The public records officer shall review decisions denying disclosure in the most prompt fashion possible, and such review shall be deemed completed at the end of the second business day following receipt by the department of the petition for review. This shall constitute final agency action for the purposes of judicial review, pursuant to RCW 42.17.320.

NEW SECTION

WAC 388-320-220 EXEMPTIONS TO PUBLIC RECORDS DISCLOSURE. Nondisclosable records are those exempted by law, including:

(1) Personal information in any files concerning a client to the extent required by RCW 42.17.310(1)(a) and/or 74.04.060, including departmental evaluations of information received from providers of services, is exempt from disclosure to the general public. However,

disclosure may be made to the client or the client's representative, except as otherwise prohibited by these rules;

(2) Valuable formulae, designs, drawings and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss, as required by RCW 42.17.310(1)(h);

(3) Data (including information revealing the identity of persons who file complaints, except as the complainant may authorize) contained in intelligence, investigative, and other related files compiled by investigative, law enforcement or penology agencies, and state agencies vested with the responsibility to discipline members of any profession. This data is nondisclosable to the extent required by RCW 42.17.310(1)(d) and (e), RCW 10.97.080, chapter 446-20 WAC, and 28 C.F.R. 20, but disclosable to the extent required by 45 C.F.R. 205.10(a)(13)(i) and RCW 74.08.070;

(4) Vocational rehabilitation records to the extent required by 45 C.F.R. 1361.47 and WAC 490-500-550;

(5) Certain juvenile justice or juvenile care records to the extent required by chapter 13.50 RCW;

(6) Records of the state registrar of vital statistics to the extent required by RCW 70.58.095;

(7) Alcohol and drug abuse patient records to the extent required by 42 C.F.R. Chapter 1 Part II or other federal law or regulation;

(8) Office of support enforcement information regarding location of parents to the extent required by RCW 74.20.280;

(9) Adoption and voluntary termination of parent-child relationship records to the extent required by chapter 26.32 RCW, and financial information received from adoptive parents to the extent required by RCW 74.13.121;

(10) Mental illness and inebriacy records to the extent required by RCW 71.05.390;

(11) Personal information in files maintained for an employee of the department to the extent required by RCW 42.17.310(1)(b);

(12) Deliberative material, as opposed to facts upon which a decision is based, contained in preliminary drafts, notes, recommendations, and intra-agency memoranda in which opinions are expressed or policies formulated or recommended; except that a specific record shall be disclosable when publicly cited by the department in connection with any action to the extent required by RCW 42.17.310(1)(i);

(13) Records which are relevant to a controversy to which the department is a party but which records would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts, including records involving attorney-client communications between the department and the office of the attorney general privileged under RCW 5.60.060(2);

(14) The central registry of reported cases of child abuse or abuse of developmentally disabled persons to the extent required by RCW 26.44.070;

(15) Records of patients and inmates of state institutions to the extent required by RCW 72.01.290;



(16) Records concerning applicants or recipients of support enforcement activities, as required by 45 C.F.R. 302.18;

(17) Nursing home records, to the extent required by RCW 18.51.190 and 70.124.010;

(18) Competitive contract procurement instruments, such as a request for proposals or an invitation for bids, prior to their release to potential bidders; proposals and bids received in response to competitive contract procurement instruments until either the public opening of bids or, for proposals, the contractor and the department have signed the contract, pursuant to RCW 43.20A.050.

#### NEW SECTION

WAC 388-320-225 QUALIFICATIONS ON NON-DISCLOSURE. (1) To the extent that nondisclosable information can be deleted from the specific records sought, the remainder of the records shall be disclosable.

(2) No exemptions shall be construed to require non-disclosure of statistical information not descriptive of identifiable persons, as required by RCW 42.17.310(2).

(3) Inspection and copying of any specific records otherwise nondisclosable is permissible pursuant to an order of the superior court enforcing a subpoena in accordance with the provisions of RCW 42.17.310(3), or an order of the office of hearings enforcing a subpoena.

(4) Upon written request of a person who has been properly identified as an officer of the law with a felony arrest warrant or a properly identified United States immigration official with a warrant for an illegal alien the department shall disclose to such officer or official the current address and location of the person described in the warrant, as required by RCW 74.04.062.

(5) Any person may inquire of the department whether a named individual is a recipient of welfare assistance in accordance with RCW 74.04.060.

(6) Any records of the department may be made accessible for research purposes provided that the research complies with the guidelines published by the department in response to 45 C.F.R. 46 or other applicable state and federal law.

#### NEW SECTION

WAC 388-320-230 VISITATION RIGHTS OF PARENTS. (1) Upon written request of a parent who has been awarded visitation rights or legal custody, the public disclosure coordinator shall disclose to such parent the current address of his or her natural or adoptive child(ren) if they are currently receiving financial aid from the department as shown by the warrant roll, or receiving nonassistance support enforcement services. Information supplied to a parent by the department shall be used only for purposes directly related to the visitation or custody provisions of the court order. No parent shall disclose such information to any other person except for the purpose of enforcing visitation or custody provisions of the court order.

(2) A request for an address shall be accompanied by a copy of the appropriate court order awarding visitation

or custody, and the requesting parent shall state in his or her written request that the accompanying order has not been subsequently modified or amended.

(3) Information shall be released only upon satisfactory evidence of the identity of the party, but this provision is waived where the request is made by an attorney at law representing the parent.

#### NEW SECTION

WAC 388-320-235 DISCLOSURE FOR PROGRAM PURPOSES. (1) For purposes directly connected with the administration of department programs, information shall be disclosed between different offices of the department, unless prohibited by 45 C.F.R. 205.50 or other law.

(2) For purposes directly connected with the administration of department programs, information may be disclosed by the department to outside agencies, unless disclosure is prohibited by law.

(3) Outside agencies receiving information pursuant to (2) of this section shall be thereby subject to the same standards of disclosure as are required of the department.

#### NEW SECTION

WAC 388-320-240 DISCLOSURE FOR OTHER THAN PROGRAM PURPOSES. To the extent not otherwise prohibited or authorized by law, inquiries from agencies outside the department will be honored only if written and only if the client's authorization is included with the request.

#### REPEALER

The following sections of the Washington Administrative Code are hereby repealed:

(1) WAC 388-320-055 OPERATIONS AND PROCEDURE—PROGRAM DIVISION RESPONSIBILITIES.

(2) WAC 388-320-060 OPERATIONS AND PROCEDURE—PROGRAM DIVISION OPERATION.

(3) WAC 388-320-070 OPERATIONS AND PROCEDURE—ADMINISTRATIVE DIVISIONS.

(4) WAC 388-320-093 STATEMENTS OF POLICY—PRACTICE MANUALS.

(5) WAC 388-320-094 STATEMENTS OF POLICY—STATE PLANS.

(6) WAC 388-320-095 STATEMENTS OF POLICY—OTHER.

(7) WAC 388-320-120 OFFICE HOURS.

(8) WAC 388-320-150 EXEMPTIONS.

(9) WAC 388-320-155 DENIAL OF REQUEST.

(10) WAC 388-320-160 REVIEW OF DENIAL.

(11) WAC 388-320-190 COMMUNICATIONS AND SUBMISSIONS RELATING TO PUBLIC RECORDS.

(12) WAC 388-320-200 ADOPTION OF FORM.

**WSR 81-06-002**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
**(Public Assistance)**

[Order 1608—Filed February 19, 1981]

I, N. Spencer Hammond, Ex. Asst. of the Department of Social and Health Services do promulgate and adopt at Olympia, Washington, the annexed rules relating to supplemental payments for AFDC recipients, amending WAC 388-29-115.

I, N. Spencer Hammond, find that an emergency exists and that the foregoing order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting such emergency is these changes are necessary to fully implement the ratable reductions adopted by Order #1550, filed on October 2, 1980.

Such rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated under the general rule-making authority of the secretary of the Department of Social and Health Services as authorized in RCW 74.08.090.

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED February 18, 1981.

By N. S. Hammond  
 Executive Assistant

**AMENDATORY SECTION** (Amending Order 1500, filed 4/16/80)

**WAC 388-29-115 SUPPLEMENTAL PAYMENTS FOR AFDC RECIPIENTS.** (1) Effective February 11, 1980, recipients of AFDC are eligible for a supplemental grant payment whenever the total of their actual income and available cash resources during a payment month are less than eighty percent of the ((appropriate monthly standard for basic requirements for the size of the assistance unit)) amount that would be paid to a similar family with no income.

(2) Supplemental payments shall be paid in the amount of the difference between eighty percent of the ((assistance unit's monthly standard for basic requirements)) amount that would be paid to a similar family with no income and the actual anticipated net income and available cash resources, for the month in which the supplemental payment is requested.

(3) The following are included in determining total income received and expected to be received, and total cash resources available during the payment month:

(a) Public assistance payments including any amounts credited against previous overpayments;

(b) Net earned income prior to thirty dollars plus one-third earnings exemption;

(c) Indian per capita payments;

(d) Alaska Native payments;  
 (e) CETA incentive payments;  
 (f) Youth employment and training allowances and earnings;

(g) Retroactive public assistance payments resulting from a court order or fair hearing;

(h) Social security benefits;

(i) Veterans' benefits;

(j) Cash compensation to action volunteers;

(k) Any lump sum;

(l) Cash on hand;

(m) Cash in an account available to the recipient during the month of request, to include cash exempted for the purposes of determining eligibility for AFDC and SSI recipients.

(4) Not included as income or resources for purposes of determining eligibility for supplemental payments are the following:

(a) Relocation assistance;

(b) Student grants or loans under programs administered by the U.S. commissioner of education;

(c) Payments to federally sponsored foster grandparents, senior health aids, senior companions, SCORE, or ACE participants;

(d) Payments made under the federal experimental housing allowance programs;

(e) Work-related expenses as contained in WAC 388-28-515(4) and (5) and the payment of child care expenses as contained in WAC 388-28-515(7);

(f) Any adjustments for prior underpayments;

(g) Assistance paid under Public Law 96-126 federal energy allowance program.

(5) AFDC recipients shall be notified of their right to receive supplemental payments in writing each time they are notified that the department intends to reduce, or suspend their assistance.

(6) Supplemental payments are only paid upon request, and shall be issued within five working days of the request for a supplemental payment.

(7) A request for a supplemental payment must be received within the month for which the payment is requested. A request is received when a recipient provides the CSO with a written statement requesting a supplemental payment, and verifies his/her eligibility for a supplemental payment.

**WSR 81-06-003**  
**ADOPTED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
**(Public Assistance)**

[Order 1610—Filed February 19, 1981]

I, N. Spencer Hammond, Ex. Asst. of the Department of Social and Health Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to medical assistance, amending chapters 388-84, 388-86 and 388-87 WAC.

This action is taken pursuant to Notice No. WSR 81-01-089 filed with the code reviser on December 19,

1980. Such rules shall take effect pursuant to RCW 34.04.040(2).

This rule is promulgated under the general rule-making authority of the secretary of the Department of Social and Health Services as authorized in RCW 74.08.090.

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED February 4, 1981.

By N. S. Hammond  
Executive Assistant

AMENDATORY SECTION (Amending Order 1203, filed 4/1/77)

WAC 388-84-015 APPROVAL OF APPLICATION. (1) All applicants shall be informed by means of an award letter of the action taken by the department and the amount of participation, if any. When there is participation, copies of the award letter shall be sent to ~~((the))~~ selected provider(s) and to ~~((professional audit. (See WAC 388-83-005)))~~ the office of provider services.

(2) Individuals approved for federal aid ~~((or continuing general))~~ assistance grants and ~~((for federal aid medical care only shaft))~~ Medicaid may be issued ~~((a))~~ temporary ~~((identification booklet until the next warrant roll is processed))~~ medical coupons by the CSO. When there is another medical resource, the ~~((temporary identification booklet))~~ medical coupons shall indicate such resource ~~((below the names on each coupon)).~~

(3) The financially approved applicant for ~~((medical care only or the recipient of noncontinuing general assistance not relatable to federal aid or Title XVI programs,))~~ state funded medical care who has an acute and emergent medical condition ~~((and who has satisfied the deductible shaft))~~ may be issued ~~((an identification booklet))~~ medical coupons by the CSO specifying other medical resources and limitations on care ~~((and listing all other medical resources at the bottom of the booklet)).~~

AMENDATORY SECTION (Amending Order 1542, filed 9/9/80)

WAC 388-86-012 AUDIOMETRIC SERVICES. ~~((+))~~ Evaluation of hearing by audiometric equipment is available ~~((with prior medical consultant approval))~~ to recipients of ~~((continuing assistance or FAMCO))~~ Medicaid when administered by an approved audiologist ~~((and/or specialist in ENT))~~ or a physician. These evaluations must be related to the provision of a hearing aid or to a disease process and are not available for routine or group screenings.

AMENDATORY SECTION (Amending Order 1196, filed 3/3/77)

WAC 388-86-080 OXYGEN SERVICE. (1) Oxygen ~~((including regulators, humidifiers, masks, etc.,))~~

shall be made available through contract to include regulators, humidifiers, masks and related supplies to recipients under age sixty-five in their own homes when requested by the attending physician and approved by the medical consultant.

(2) Oxygen and related supplies shall be obtained from contract supplier for recipients in skilled nursing homes ~~((is available from the nursing homes))~~ on the request of the attending physician. ~~((Payment to the nursing home is through the use of the medical vendor invoice 525-101))~~ See WAC 388-87-080 for payment process.

(3) Recipients age sixty-five and over and others eligible for part B medicare benefits who are not in a nursing home or hospital shall have oxygen and equipment for its administration available only under medicare. Such persons are not eligible for state owned equipment.

AMENDATORY SECTION (Amending Order 1554, filed 10/9/80)

WAC 388-86-095 PHYSICIANS' SERVICES. The department shall purchase the services of physicians participating in the program on a fee-for-service or contract basis subject to the exceptions and restrictions listed below.

(1) Physicians' services are provided through contract agreements for certain voluntary child care agencies and maternity homes ~~((according to WAC 388-86-105)).~~

(2) Cost of a physical examination is authorized only for recipients related to federal programs under the following circumstances:

(a) For admission to skilled nursing facility if within 48 hours of admission or change of status from a private-pay to a Medicaid-eligible patient.

(b) Given as a screening under the EPSDT program; see WAC 388-86-027.

(c) For physical examination not covered by Medicaid, see the following:

(i) AFDC incapacity, see WAC 388-24-065(2)

(ii) Determination of whether an individual's health will or will not permit his return to his home, see WAC 388-28-420(4)(b)

(iii) Request by the claimant or examiner in a fair hearing procedure, see ~~((WAC))~~ chapter 388-08 ~~((= 503))~~ WAC

(iv) Foster home placement, see chapter 388-70 WAC

(v) Adoptive home placement, see WAC 388-70-440

(vi) Employability for WIN program, see WAC 388-24-107(1)(b)

(vii) Incapacity for GAU program, see WAC 388-37-032(4).

(3) When covered services of a consultant or specialist are necessary, approval need not be obtained from the medical consultant. Payment shall be made in accordance with local medical bureau practices.

(a) A fee for consultation shall not be paid when the specialist subsequently performs surgery or renders treatment for which flat fees or fees-for-service accrue.

(b) On initial or subsequent visits for the purpose of establishing a diagnosis and when services of a specialist

or consultant are required, payment shall be limited to not more than two such services. Any additional specialist or consultant requests shall be justified by the attending physician and approved by the medical consultant.

(4) Limitations on payment for physicians' services:

(a) Payment for physicians' calls for nonemergent conditions in ~~((the office, home,))~~ a skilled nursing facility or an intermediate care facility, ((nursing home, or outpatient department of a hospital)) is limited to ~~((one call))~~ two calls per month ~~((except for screening under the EPSDT program if such screening is an additional visit during the month))~~. Requests for payment for additional visits must be justified ~~((on form DSHS 525-100))~~ at the time the billing is submitted by the physician.

(b) ~~((Payment for physicians' calls in a skilled nursing facility shall be limited to two calls per month. Requests for payment for additional visits must be justified on form DSHS 525-100 as in subdivision (4)(a).))~~

~~((c) Payment for treatment of new and acute conditions with necessary x-ray, laboratory and consultative services shall be limited to two calls. Requests for payment for additional calls must be justified on form DSHS 525-100.~~

~~((d) On occasion, the physician may treat several members of a family in one office visit. An initial office fee is paid for the first member; payment for the remaining visits will be based on equitable adjustment determined by the medical director.~~

~~((e)) Payment for hospital calls is limited to one call per day. This is applicable to other than flat fee care.~~

~~((f) Treatment for psychiatric or mental conditions by a psychiatrist shall be limited to one hour a month individual psychotherapy or equivalent combinations. When the individual is in an acute phase, however, up to a maximum of two hours psychotherapy may be authorized, when justified, during the first month of treatment. Subdivisions (4)(a) through (4)(c) also apply unless other rules take precedence. See WAC 388-86-067(1) for service provided by a contracting mental health center.))~~

(c) Individual outpatient psychotherapy provided by a psychiatrist shall be limited to one hour per month or equivalent combinations. Up to a maximum of two hours psychotherapy may be authorized when justified during the first month of treatment. Subdivisions of (4)(a) and (b) also apply unless other rules take precedence. See WAC 388-86-067(1) for service provided by a contracting mental health center.

(5) All surgical procedures require approval by the medical consultant.

~~((a))~~ (6) Nonemergent ~~((surgical procedures))~~ hospital admissions for state funded recipients require prior approval by the chief of the office of medical policy and procedure or his designees.

~~((b))~~ (7) Minor surgery and diagnostic procedures performed in a physician's office do not require prior approval.

~~((c) CAT scans must have prior approval.~~

~~((6))~~ (8) No payment will be made for cosmetic, reconstructive or plastic surgery which is defined as surgery performed to revise or change the texture, configuration or relationship of structure with continuous structure when the purpose is primarily psychological and will not correct or materially improve body function, or is intended to alter any part of the body which could be considered to be "normal" within broad range of variation for function, age, ethnic, or familial origin.

~~((7))~~ (9) A recipient of public assistance is not required to obtain medical care in the county of his residence. See also WAC 388-83-025.

~~((8))~~ (10) For limitations on out-of-state physicians' services see WAC 388-86-115.

AMENDATORY SECTION (Amending Order 1346, filed 9/27/78)

WAC 388-86-100 SURGICAL APPLIANCES—PROSTHETIC DEVICES—AIDS TO MOBILITY.

(1) The department shall authorize the purchase or rental of surgical appliances, prosthetic devices, aids to mobility and other durable medical equipment only when such items will

- (a) reduce the length of hospitalization,
- (b) aid the rehabilitation of an employable person,
- (c) enable the person to return to or continue to live in his own home,
- (d) be used full time by a nursing home patient who will benefit materially from its use,
- (e) result in financial saving to the department.

(2) No approval is required for the purchase of external braces involving the neck, trunk and extremities; nor pressure garments, support hose, canes, or wood crutches.

(3) Other nonreusable items costing less than one hundred fifty dollars do not require approval if provision of the appliance will expedite a recipient's release from a hospital.

(4) Prior approval by the ~~((office))~~ division of medical assistance is required for:

- (a) Purchase of reusable medical appliances and aids to mobility costing more than five hundred dollars,
- (b) Purchase of nonreusable surgical appliances or prosthetic devices costing more than five hundred dollars, except as described in subsection (2),
- (c) Metal crutches and other appliances require prior approval of the local medical consultant.

(d) All ((other appliances,)) rentals and repairs require prior approval by the local medical consultant.

(5) A recipient who has medicare part B benefits must utilize this resource for the purchase or rental of any items provided by medicare. Payment of medicare coinsurance and deductibles will be made by the department for purchase of all medicare items.

(6) Medical appliances purchased by the department become the property of the recipient.

AMENDATORY SECTION (Amending Order 1151, filed 9/8/76)

~~WAC 388-86-105 VOLUNTARY AGENCY ((= CHILD OR UNWED MOTHER RECEIVING FOSTER CARE)). ((1))~~ Medical care shall be provided for a child or unmarried mother certified by the department as eligible ((for foster care payments by the department;)) and receiving the services of a voluntary agency or maternity home ((under a choice of one of two plans. The two plans are identified as plan A and plan B. The choice of the plan is the responsibility of the voluntary agency)).

~~((2) Under plan A the voluntary agency and the department sign an agreement whereby the agency independently provides and pays for all necessary medical care for the eligible child or unmarried mother served by the agency. The agency shall bill the department monthly at the agreed per capita rate, and may not seek remuneration from the department over and above this rate.~~

~~((3) Under plan B the department shall provide medical care for an eligible child or unmarried mother served by the agency on the same basis that such care would be provided any other individual eligible for federal aid medical care only.))~~

AMENDATORY SECTION (Amending Order 1265, filed 1/13/78)

WAC 388-87-080 PAYMENT—OXYGEN. The initial request for oxygen and related supplies on state form DSHS 525-101 originating with the attending physician for recipients in their own home requires approval from the medical consultant. ((On repeat deliveries of oxygen, as necessary, the authorized representative in the area office may sign the succeeding state form DSHS 525-101. Approval by the medical consultant is not required for these)) Approval is not required for recipients in a nursing home. Repeat deliveries to recipients in their own home do not require approval.

**WSR 81-06-004**  
**ADOPTED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
**(Institutions)**

[Order 1611—Filed February 19, 1981]

I, N. Spencer Hammond, Ex. Asst. of the Department of Social and Health Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to schedule of per capita cost, amending WAC 275-20-030.

This action is taken pursuant to Notice No. WSR 81-02-023 filed with the code reviser on January 2, 1981. Such rules shall take effect pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 72.33.660 and is intended to administratively implement that statute.

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED February 18, 1981.

By N. S. Hammond  
 Executive Assistant

AMENDATORY SECTION (Amending Order 1535, filed 8/25/80)

WAC 275-20-030 SCHEDULE OF PER CAPITA COST. Resident charges will be collected on the basis of the following:

	<del>((Per Capita))</del> <del>((Monthly Rate))</del>	Per Capita Daily Rate
Lakeland Village	<del>((5,576.60))</del>	<del>((84.71))</del> \$89.36
Rainier School	<del>((2,343.91))</del>	<del>((77.66))</del> \$81.29
Yakima Valley School	<del>((2,220.42))</del>	<del>((73.60))</del> \$77.00
Fircrest School	<del>((2,611.58))</del>	<del>((85.86))</del> \$90.57
Interlake School	<del>((2,396.53))</del>	<del>((78.79))</del> \$83.11
Frances Haddon Morgan	<del>((2,957.41))</del>	<del>((97.23))</del> \$102.57
School for Blind-nonresident	<del>((2,023.32))</del>	<del>((66.52))</del> \$76.49
School for Deaf-nonresident	<del>((1,459.70))</del>	<del>((47.99))</del> \$55.18
Cerebral Palsy Center	<del>((3,415.79))</del>	<del>((112.30))</del> \$129.14

**WSR 81-05-005**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
**(Public Assistance)**  
 [Filed February 19, 1981]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services, intends to adopt, amend, or repeal rules concerning supplemental payments for AFDC recipients, amending WAC 388-29-115.

It is the intention of the secretary to adopt these rules on an emergency basis prior to the hearing.

Correspondence concerning this notice and proposed rules attached should be addressed to:

N. Spencer Hammond  
 Executive Assistant  
 Department of Social and Health Services  
 Mailstop OB-44 C  
 Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact William B. Pope, Chief, Office of Administrative Regulations, at State Office Building #2, 12th and Jefferson, Olympia, Washington, Phone (206) 753-7015, by March 25,

1981. The meeting site is in a location which is barrier free;

that such agency will at 10:00 a.m., Wednesday, April 8, 1981, in the Auditorium, Office Building #2, 12th and Franklin, Olympia, Washington, conduct a hearing relative thereto;

and that the adoption, amendment, or repeal of such rules will take place at 9:00 a.m., Wednesday, April 15, 1981, in William B. Pope's office, 4th Floor, Office Building #2, 12th and Franklin, Olympia, Washington.

The authority under which these rules are proposed is RCW 74.08.090.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to April 8, 1981, and/or orally at 10:00 a.m., Wednesday, April 8, 1981, Auditorium, Office Building #2, 12th and Franklin, Olympia, Washington.

Dated: February 18, 1981

By: N. S. Hammond  
Executive Assistant

#### STATEMENT OF PURPOSE

This state is filed pursuant to RCW 34.04.045.

Amend WAC 388-29-115.

Purpose of the rule or rule change is to adjust supplemental payments for AFDC recipients.

Statutory authority: RCW 74.08.090.

Summary of the rule or rule change: Supplemental payments will be based on current payment standards rather than the standard of need.

Person or persons responsible for the drafting implementation and enforcement of the rule:

Name of initiator: Dave Anderson.

Title: Program Manager.

Office: Bureau of Income Maintenance  
Phone: 3-4373.

Mailstop: OB-31 C.

The person or organization (if other than DSHS) who proposed these rules is: None.

These rules are not necessary as a result of federal laws, federal court decisions or state court decisions.

#### AMENDATORY SECTION (Amending Order 1500, filed 4/16/80)

WAC 388-29-115 SUPPLEMENTAL PAYMENTS FOR AFDC RECIPIENTS. (1) Effective February 11, 1980, recipients of AFDC are eligible for a supplemental grant payment whenever the total of their actual income and available cash resources during a payment month are less than eighty percent of the ~~((appropriate monthly standard for basic requirements for the size of the assistance unit))~~ amount that would be paid to a similar family with no income.

(2) Supplemental payments shall be paid in the amount of the difference between eighty percent of the ~~((assistance unit's monthly standard for basic requirements))~~ amount that would be paid to a similar family with no income and the actual anticipated net income and available cash resources, for the month in which the supplemental payment is requested.

(3) The following are included in determining total income received and expected to be received, and total cash resources available during the payment month:

(a) Public assistance payments including any amounts credited against previous overpayments;

(b) Net earned income prior to thirty dollars plus one-third earnings exemption;

(c) Indian per capita payments;

(d) Alaska Native payments;

(e) CETA incentive payments;

(f) Youth employment and training allowances and earnings;

(g) Retroactive public assistance payments resulting from a court order or fair hearing;

(h) Social security benefits;

(i) Veterans' benefits;

(j) Cash compensation to action volunteers;

(k) Any lump sum;

(l) Cash on hand;

(m) Cash in an account available to the recipient during the month of request, to include cash exempted for the purposes of determining eligibility for AFDC and SSI recipients.

(4) Not included as income or resources for purposes of determining eligibility for supplemental payments are the following:

(a) Relocation assistance;

(b) Student grants or loans under programs administered by the U.S. commissioner of education;

(c) Payments to federally sponsored foster grandparents, senior health aids, senior companions, SCORE, or ACE participants;

(d) Payments made under the federal experimental housing allowance programs;

(e) Work-related expenses as contained in WAC 388-28-515(4) and (5) and the payment of child care expenses as contained in WAC 388-28-515(7);

(f) Any adjustments for prior underpayments;

(g) Assistance paid under Public Law 96-126 federal energy allowance program.

(5) AFDC recipients shall be notified of their right to receive supplemental payments in writing each time they are notified that the department intends to reduce, or suspend their assistance.

(6) Supplemental payments are only paid upon request, and shall be issued within five working days of the request for a supplemental payment.

(7) A request for a supplemental payment must be received within the month for which the payment is requested. A request is received when a recipient provides the CSO with a written statement requesting a supplemental payment, and verifies his/her eligibility for a supplemental payment.

**WSR 81-06-006**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
**(Public Assistance)**

[Filed February 19, 1981]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services, intends to adopt, amend, or repeal rules concerning chore services, amending chapter 388-15 WAC.

Public hearings on these proposed rules were held in Seattle on February 2 and Spokane on February 3. The purpose of this notice is to postpone adoption from February 18 to February 27;

and that the adoption, amendment, or repeal of such rules will take place at 9:00 a.m., Friday, February 27, 1981, in William B. Pope's office, 4th floor, Office Building #2, 12th and Franklin, Olympia, Washington.

The authority under which these rules are proposed is RCW 74.08.090.

This notice is connected to and continues the matter noticed in Notice No. WSR 81-01-109 filed with the code reviser's office on December 24, 1980.

Dated: February 18, 1981  
By: N. S. Hammond  
Executive Assistant

**WSR 81-06-007**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
**(Health)**

[Filed February 19, 1981]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services, intends to adopt, amend, or repeal rules concerning adjustment of certificate of need expenditure thresholds, adopting new chapter 248-156 WAC.

Correspondence concerning this notice and proposed rules attached should be addressed to:

N. Spencer Hammond  
Executive Assistant  
Department of Social and Health Services  
Mailstop OB-44 C  
Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact William B. Pope, Chief, Office of Administrative Regulations, State Office Building #2, 12th and Jefferson, Olympia, Washington, Phone (206) 753-7015, by March 11, 1981. The meeting site is in a location which is barrier free;

that such agency will at 10:00 a.m., Wednesday, April 8, 1981, in the Auditorium, Office Building #2, 12th and Franklin, Olympia, Washington, conduct a hearing relative thereto;

and that the adoption, amendment, or repeal of such rules will take place at 9:00 a.m., Wednesday, April 15, 1981, in William B. Pope's office, 4th Floor, 12th and Franklin, Olympia, Washington.

The authority under which these rules are proposed is RCW 70.38.025.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to April 8, 1981, and/or orally at 10:00 a.m., Wednesday, April 8, 1981, Auditorium, Office Building #2, 12th and Franklin, Olympia, Washington.

Dated: February 18, 1981  
By: N. S. Hammond  
Executive Assistant

**STATEMENT OF PURPOSE**

This statement is filed pursuant to RCW 34.04.045.

New chapter 248-156 WAC.

Purpose of the proposed rule is to implement the provisions of RCW 70.38.025(6) and

(12), which require the department to establish an index for adjusting the "expenditure minimum" and "annual operating costs" as these terms are used in those portions of chapter 70.38 RCW which pertain to the certificate of need program.

Reason these rules are necessary: To implement the provisions of RCW 70.38.025(6) and (12) as discussed above.

Statutory authority: RCW 70.38.025.

Summary of the rule: The rules and regulations provide for the department to make adjustments, as required, on an annual basis; prescribe the use of the Department of Commerce Cost Index, as mandated by federal regulations (42 CFR Part 123, October 21, 1980); specify the effective date of such adjustments and the period during which the adjustments will remain in effect; and, set forth the method by which the revised thresholds will be published and disseminated.

Person responsible for drafting the rule: James L. Russell, Jr., Health Facility Planning Analyst, Certificate of Need Unit, Office of State Health Planning and Development, Phone: 753-0905.

Person or organization (if other than DSHS) who proposed these rules: None.

These rules implement the provisions of RCW 70.38.025(6) and (12) which, in terms of the adjustments to be made and the time periods covered, are consistent with P. L. 96-79 and the federal regulations.

The rules will be implemented as part of the certificate of need program administered under rules and regulations adopted by the State Board of Health. The rules will have no fiscal impact except for those state agencies which must comply with the certificate of need rules and regulations (chapter 248-19 WAC).

Chapter 248-156 WAC  
**ADJUSTMENT OF CERTIFICATE OF NEED EXPENDITURE THRESHOLDS**

NEW SECTION

WAC 248-156-010 PURPOSE OF CHAPTER 248-156 WAC. These rules and regulations are adopted pursuant to RCW 70.38.025 (6) and (12) for the purpose of establishing the index to be used and procedures for making adjustments to the "expenditure minimum" for capital expenditures and to the annual operating costs for new "institutional health services" which are subject to the requirements of the certificate of need program established under the provisions of chapter 70.38 RCW.

NEW SECTION

WAC 248-156-020 DEFINITIONS. For the purposes of chapter 248-156 WAC, the following words and phrases shall have the following meanings:

- (1) "Certificate of need program" means that program established in accordance with the provisions of chapter 70.38 RCW.
- (2) "Department" means the department of social and health services.

**NEW SECTION**

**WAC 248-156-030 INDEX AND PROCEDURES FOR ADJUSTMENT.** (1) Index to be used. For the purposes of the certificate of need program, the United States Department of Commerce Composite Construction Cost Index shall be used in the annual adjustments of the following:

(a) The "expenditure minimum" as this term is defined in RCW 70.38.025 and WAC 248-19-220; and

(b) The minimum annual operating costs entailed in the provision of new "institutional health services," as this term is defined in RCW 70.38.025 and WAC 248-19-220, which will cause a new institutional health service to be subject to the provisions of chapter 248-19 WAC, the certificate of need rules and regulations.

**(2) Procedure for adjustment.**

(a) On or before the first day of each January, the department shall adjust and publish the adjusted expenditure minimum for capital expenditures and the adjusted minimum annual operating costs for institutional health services. Such adjusted minimums shall be in effect during the entire calendar year for which they are established.

(b) The adjustments in the minimums shall be based on the changes which occurred in the Department of Commerce Composite Construction Cost Index during the twelve month period ending on the last day of the preceding September.

(c) The adjusted minimums shall be published by the department by public notice in one or more newspapers of general circulation within the state and through a written notice sent to each health systems agency, the hospital commission, each health care facility subject to the requirements of the certificate of need program, each statewide organization of such health care facilities, and the State Health Coordinating Council.

**WSR 81-06-008  
PROPOSED RULES  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES  
(Public Assistance)  
[Filed February 19, 1981]**

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services, intends to adopt, amend, or repeal rules concerning foster care, amending chapter 388-70 WAC.

Correspondence concerning this notice and proposed rules attached should be addressed to:

N. Spencer Hammond  
Executive Assistant  
Department of Social and Health Services  
Mailstop OB-44 C  
Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact William B. Pope, Chief, Office of Administrative Regulations, at State Office Building #2, 12th and Jefferson, Olympia, Washington, Phone (206) 753-7015, by March 11, 1981. The meeting site is in a location which is barrier free;

that such agency will at 10:00 a.m., Wednesday, April 8, 1981, in the Auditorium, Office Building #2, 12th and Franklin, Olympia, Washington, conduct a hearing relative thereto;

and that the adoption, amendment, or repeal of such rules will take place at 9:00 a.m., Wednesday, April 15, 1981, in William B. Pope's office, 4th Floor, Office Building #2, 12th and Franklin, Olympia, Washington.

The authority under which these rules are proposed is RCW 74.08.090.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to April 8, 1981, and/or orally at 10:00 a.m., Wednesday, April 8, 1981, Auditorium, Office Building #2, 12th and Franklin, Olympia, Washington.

Dated: February 18, 1981

By: N. S. Hammond  
Executive Assistant

**STATEMENT OF PURPOSE**

This statement is filed pursuant to RCW 34.04.045.

Amend chapter 388-70 WAC.

Purpose of the rule or rule change is to reflect vendor rate increases in the foster care program.

Statutory authority: RCW 74.04.090[74.08.090].

Person or persons responsible for the drafting, implementation and enforcement of the rule:

Name of initiator: Janet Duris

Title: Program Manager

Office: Bureau of Children's Services

Phone: 3-0705

Mailstop: OB-41 D

The person or organization (if other than DSHS) who proposed these rules is: None

These rules are not necessary as a result of federal laws, federal court decisions or state court decisions.

**AMENDATORY SECTION** (Amending Order 1445, filed 10/24/79)

**WAC 388-70-042 PAYMENT STANDARDS—REGULAR FOSTER FAMILY CARE.** Effective July 1, ((1979)) 1980, foster care payment standards shall be as follows:

(1) The board payment for foster care of a child in a family foster home is one hundred and ((seven dollars)) fourteen dollars and fifty cents per month for a child less than six years of age, one hundred and ((thirty-nine dollars)) forty-eight dollars and seventy-five cents per month for children six through eleven years of age and one hundred and ((sixty-seven dollars)) seventy-eight dollars and seventy cents per month for a child twelve and over. For the purposes of determining the payment for board, the child's birthdate is considered to be the first of the month in which his birthday occurs.

(2) Foster parents shall be provided seventeen dollars and sixty-eight cents per month for personal incidentals including school supplies. A monthly clothing allowance of fourteen dollars and eighty-two cents is paid for children under twelve years, while seventeen dollars and sixty-seven cents is paid for children twelve years and older.

(3) An initial clothing allowance for children placed in foster care is provided to supplement a child's clothing supply, where necessary, at the time a child is placed in foster care. This allowance may not exceed one hundred dollars unless otherwise authorized by a regional office.

**AMENDATORY SECTION** (Amending Order 1445, filed 10/24/79)

**WAC 388-70-044 PAYMENT STANDARDS—RECEIVING HOME CARE—STANDARDS FOR USING.** (1) The purpose and/or use of receiving home is to allow the department or private agency to care for a child in a foster family home on a temporary, emergent or interim basis in order that there be sufficient time for the development of a plan which includes the involvement of the child whenever possible.

(2) The two types of placements in receiving homes are emergency and regular. Placements under the conditions described in WAC 388-



70-047 are classified as "emergency." All others are classified as "regular."

(3) Receiving homes supported by the department shall be limited to the number the CSO administrator determines necessary in his geographical area. The criteria to be followed are:

(a) Each department or private agency shall document its need for a receiving home and present the request in writing, giving the specifics, to the CSO administrator or to the regional director when more than one CSO administrator is involved.

(b) All receiving homes shall be licensed as foster family homes.

(c) Receiving homes are developed to provide care up to thirty days.

(d) The need for receiving home(s) must carry a direct relationship to the department's or private agency's type of program and service responsibilities.

(e) The intent of the service is to allow the department or private agency to develop and carry out a suitable plan for the child.

(4) Every six months the CSO administrator shall receive a written report on each receiving home, resubstantiating its continued use and need.

(5) Foster family homes which regularly provide care for children on a temporary, emergent, or interim basis and are available for placement twenty-four hours per day shall be designated as receiving homes. These homes shall be paid ~~((twenty-six))~~ twenty-eight dollars and ~~((seventy-five))~~ forty cents per month for each bed which is kept available for the emergency placement of children. In addition, the daily rate for receiving home care shall be nine dollars and ~~((thirty))~~ ninety-five cents per day per child. Other foster homes which occasionally provide temporary, emergent, or interim care shall not be designated as receiving homes nor receive the retainer fee, but shall be reimbursed for such care at the receiving home rate of nine dollars and ~~((thirty))~~ ninety-five cents per day per child.

(6) Temporary or emergency care for a child shall not exceed thirty days. After thirty days, the rate for children who remain in care in a receiving home shall be that for regular full time foster care except as authorized by the regional director. Clothing and personal incidentals are purchased for the child in receiving home care as needed.

(7) Private group care facilities may, at the discretion of the CSO administrator, be utilized to provide interim care for children and youths requiring care in a group setting. Unless otherwise contracted group care facilities shall be paid for providing interim care at their established daily rate.

**AMENDATORY SECTION** (Amending Order 1445, filed 10/24/79)

**WAC 388-70-048 PAYMENT STANDARDS—SPECIALIZED FOSTER FAMILY CARE—CHILD WITH SPECIAL NEEDS.** In addition to the basic rate for regular foster family home care specified in this chapter, an additional amount may be paid for the specialized care of a child with special needs as determined by the department. The additional amounts are:

- (1) Children with behavior problems ~~(((+2.00)))~~ 119.85 per month
- (2) Intellectual/physically handicapped children ~~(((+2.00)))~~ 119.85 per month
- (3) Emotionally handicapped children ~~(((+2.00)))~~ 119.85 per month

**WSR 81-06-009**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
**(Public Assistance)**  
 [Filed February 19, 1981]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services, intends to adopt, amend, or repeal rules concerning:

- Amd WAC 388-15-030 Rights of applicant for services.
- Amd WAC 388-33-377 Grant continuation pending fair hearing.

It is the intention of the secretary to adopt these rules on an emergency basis prior to the hearing.

Correspondence concerning this notice and proposed rules attached should be addressed to:

N. Spencer Hammond  
 Executive Assistant  
 Department of Social and Health Services  
 Mailstop OB-44 C  
 Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact William B. Pope, Chief, Office of Administrative Regulations, at State Office Building #2, 12th and Jefferson, Olympia, Washington, Phone (206) 753-7015, by March 25, 1981. The meeting site is in a location which is barrier free;

that such agency will at 10:00 a.m., Wednesday, April 8, 1981, in the Auditorium, Office Building #2, 12th and Franklin, Olympia, Washington, conduct a hearing relative thereto;

and that the adoption, amendment, or repeal of such rules will take place at 9:00 a.m., Wednesday, April 15, 1981, in William B. Pope's office, 4th Floor, Office Building #2, 12th and Franklin, Olympia, Washington.

The authority under which these rules are proposed is RCW 74.08.090.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to April 8, 1981, and/or orally at 10:00 a.m., Wednesday, April 8, 1981, Auditorium, Office Building #2, 12th and Franklin, Olympia, Washington.

Dated: February 19, 1981

By: N. S. Hammond  
Executive Assistant

**STATEMENT OF PURPOSE**

This statement is filed pursuant to RCW 34.04.045.

Amend WAC 388-15-030 and 388-33-377. Purpose of the rule or rule change is to clarify that programs eliminated by changes in state or federal law should not and cannot have assistance continued pending a fair hearing.

Statutory authority: RCW 74.08.090.

Person or persons responsible for the drafting implementation and enforcement of the rule:

Name of initiator: Dave Andersen.

Title: Program Manager.

Office: Bureau of Income Maintenance

Phone: 3-4343.

Mailstop: OB-31 C.

The person or organization (if other than DSHS) who proposed these rules is: None.

These rules are not necessary as a result of federal laws, federal court decisions or state court decisions.

AMENDATORY SECTION (Amending Order 1420, filed 7/31/79)

WAC 388-15-030 RIGHTS OF APPLICANT FOR SERVICES. (1) Any individual has the right to request services from the department, make a service application and have his eligibility for services determined.

(2) Eligible individuals shall be given requested services, or other needed services, that are offered by the department, and included in the department's service plan, to meet the goal appropriate to his service need.

(3) Applicants or recipients may request a fair hearing concerning the denial, reduction or termination of a service, or failure to act upon a request for services with reasonable promptness.

(4) Services may not be provided prior to the date of application, nor if federal matching is to be received, provided prior to the date of determination of eligibility unless the determination is made within thirty days of the date of application and the individual was found to be eligible when service was initiated.

(5) Eligibility must be determined on an individual basis for each person in a family, unless specifically designated otherwise as in group eligibility.

(6) Notice shall be given to applicants for or recipients of services to indicate that they have been found eligible or ineligible for services. ~~((In cases of intended action to discontinue, terminate, suspend, or reduce the services of a recipient, the department will provide that recipient notice, in writing, of this action and the individual's right to request a fair hearing at least ten days prior to the effective date of that action. The ten-day notice is not required when a service is provided and at time of authorization there are specified beginning and end dates. The client shall be given a copy of the written agreement at the time of initiation of services, and a termination notice shall be sent dated no later than the specified ending date))~~ Notice shall be given to a recipient of the department's planned action to reduce, suspend, or terminate; such notices shall follow and be in accord with WAC 388-33-376, 388-33-382, and 388-33-385.

(7) Service applications may be made by the individual, or others acting in his behalf, or may be the result of referral from another agency or member of the community. Where the individual is unable, too incompetent, or in a protective service case unwilling, to sign his own application, another responsible or appropriate individual may sign on his behalf, including a member of agency staff.

(8) Services may be only provided to accomplish the specific goals for the particular services as designated in the state service plan and rules.

(9) ~~((Services shall not be suspended, reduced, discontinued, or terminated until the fair hearing decision is rendered if a hearing is requested within ten days prior to the effective date. There are two exceptions to this policy. The first exception is when it has been determined at the hearing that the sole issue is the result of a change or application of state or federal law or policy. The))~~ WAC 388-33-377 is incorporated by reference to determine the circumstances under which services will be continued pending a hearing when a recipient of services requests a fair hearing to appeal the department's planned action to reduce, suspend, or terminate services. A second exception is when a change affecting the recipient's service eligibility occurs while a hearing decision is pending and the recipient fails to request a subsequent hearing after notice of the change has been given by the department. If, under these exceptions, service is to be discontinued, the department will notify the recipient of this action, in writing, at least ten days prior to the effective date of that action.

AMENDATORY SECTION (Amending Order 1320, filed 7/20/78)

WAC 388-33-377 GRANT CONTINUATION PENDING FAIR HEARING. (1) When a recipient ~~((of))~~ of medical benefits, AFDC, ~~((or))~~ refugee assistance, general assistance ~~((payments))~~ continuing and/or services files a request for fair hearing according to chapter 388-08 WAC ~~((and the request is filed))~~ within the advance notice period ~~((specified in WAC 388-33-376))~~, assistance shall not be ~~((continued, if the decision being appealed relates to proposed reduction, suspension, or termination:~~

Such payment continues through the month of the fair hearing in all cases in which a fair hearing is requested, unless the request is withdrawn in writing by the claimant or abandoned)) suspended, reduced, or terminated; except assistance shall not be continued when the sole issue is one of state or federal law requiring automatic grant adjustments for classes of recipients, unless the reason for an individual appeal is incorrect grant, benefit, or service computation. Assistance will

also not be continued if an automatic grant adjustment required either by state or federal law results in termination of a program.

(2) When a recipient requests a fair hearing within the advance notice period ~~((relative to a proposed reduction, suspension, or termination of))~~ to appeal the department's planned action to reduce, suspend or terminate assistance, which is not an automatic grant adjustment required by either state or federal law, the determination of whether the issue is one of policy or is an issue of fact or judgment will be determined at the fair hearing by the hearing examiner.

(a) If there is an issue of fact or judgment including the correctness of application of the department's rules and policy, assistance will then continue through the month in which a fair hearing decision is rendered.

(b) If the issue is one of policy, assistance is discontinued at the end of the month in which the hearing is held. The department shall promptly inform the client in writing if assistance will not be continued, based on the above determination that the issue is one of policy.

(3) Assistance shall be reinstated in any case where the notice to reduce, suspend or terminate the grant does not require advance notice, if the recipient requests a fair hearing within ten days of the mailing of the notice of action. Subsection (1) applies.

(4) When a monthly payment has been prorated as provided in WAC 388-33-382(2)(a), and (1)(a) and (1)(b) of this section apply, assistance shall be restored immediately to meet the recipient's needs according to rules and procedures.

(5) Assistance shall not be continued under the provisions in this section if the claimant requests in writing that assistance not be continued, or if the request is withdrawn in writing by the claimant or abandoned.

(6) When the claimant requests a hearing date delay, the state office shall determine the reasonableness of the request and whether assistance will be continued during the extended period.

**WSR 81-06-010  
EMERGENCY RULES  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES  
(Public Assistance)**

[Order 1612—Filed February 19, 1981]

I, N. Spencer Hammond, Ex. Asst. of the Department of Social and Health Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to:

Amd WAC 388-15-030 Rights of applicant for services.

Amd WAC 388-33-377 Grant continuation pending fair hearing.

I, N. Spencer Hammond, find that an emergency exists and that the foregoing order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting such emergency is these rules are necessary at this time to clarify that programs eliminated by state law effective March 1, 1981 should not and cannot have assistance continued beyond that date.

Such rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated under the general rule-making authority of the secretary of Department of Social and Health Services as authorized in RCW 74.08.090.

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED February 18, 1981.

By N. S. Hammond  
Executive Assistant

AMENDATORY SECTION (Amending Order 1420, filed 7/31/79)

WAC 388-15-030 RIGHTS OF APPLICANT FOR SERVICES. (1) Any individual has the right to request services from the department, make a service application and have his eligibility for services determined.

(2) Eligible individuals shall be given requested services, or other needed services, that are offered by the department, and included in the department's service plan, to meet the goal appropriate to his service need.

(3) Applicants or recipients may request a fair hearing concerning the denial, reduction or termination of a service, or failure to act upon a request for services with reasonable promptness.

(4) Services may not be provided prior to the date of application, nor if federal matching is to be received, provided prior to the date of determination of eligibility unless the determination is made within thirty days of the date of application and the individual was found to be eligible when service was initiated.

(5) Eligibility must be determined on an individual basis for each person in a family, unless specifically designated otherwise as in group eligibility.

(6) Notice shall be given to applicants for or recipients of services to indicate that they have been found eligible or ineligible for services. ~~((In cases of intended action to discontinue, terminate, suspend, or reduce the services of a recipient, the department will provide that recipient notice, in writing, of this action and the individual's right to request a fair hearing at least ten days prior to the effective date of that action. The ten day notice is not required when a service is provided and at time of authorization there are specified beginning and end dates. The client shall be given a copy of the written agreement at the time of initiation of services, and a termination notice shall be sent dated no later than the specified ending date))~~ Notice shall be given to a recipient of the department's planned action to reduce, suspend, or terminate, such notices shall follow and be in accord with WAC 388-33-376, 388-33-382, and 388-33-385.

(7) Service applications may be made by the individual, or others acting in his behalf, or may be the result of referral from another agency or member of the community. Where the individual is unable, too incompetent, or in a protective service case unwilling, to sign his own application, another responsible or appropriate individual may sign on his behalf, including a member of agency staff.

(8) Services may be only provided to accomplish the specific goals for the particular services as designated in the state service plan and rules.

(9) ~~((Services shall not be suspended, reduced, discontinued, or terminated until the fair hearing decision is rendered if a hearing is requested within ten days prior to the effective date. There are two exceptions to this~~

~~policy. The first exception is when it has been determined at the hearing that the sole issue is the result of a change or application of state or federal law or policy. The))~~ WAC 388-33-377 is incorporated by reference to determine the circumstances under which services will be continued pending a hearing when a recipient of services requests a fair hearing to appeal the department's planned action to reduce, suspend, or terminate services. A second exception is when a change affecting the recipient's service eligibility occurs while a hearing decision is pending and the recipient fails to request a subsequent hearing after notice of the change has been given by the department. If, under these exceptions, service is to be discontinued, the department will notify the recipient of this action, in writing, at least ten days prior to the effective date of that action.

AMENDATORY SECTION (Amending Order 1320, filed 7/20/78)

WAC 388-33-377 GRANT CONTINUATION PENDING FAIR HEARING. (1) When a recipient ~~((of))~~ of medical benefits, AFDC, ~~((or))~~ refugee assistance, general assistance ~~((payments))~~ continuing and/or services files a request for fair hearing according to chapter 388-08 WAC ~~((and the request is filed))~~ within the advance notice period ~~((specified in WAC 388-33-376)),~~ assistance shall not be ~~((continued, if the decision being appealed relates to proposed reduction, suspension, or termination.~~

Such payment continues through the month of the fair hearing in all cases in which a fair hearing is requested, unless the request is withdrawn in writing by the claimant or abandoned)) suspended, reduced, or terminated, except assistance shall not be continued when the sole issue is one of state or federal law requiring automatic grant adjustments for classes of recipients, unless the reason for an individual appeal is incorrect grant, benefit, or service computation. Assistance will also not be continued if an automatic grant adjustment required either by state or federal law results in termination of a program.

(2) When a recipient requests a fair hearing within the advance notice period ~~((relative to a proposed reduction, suspension, or termination of))~~ to appeal the department's planned action to reduce, suspend or terminate assistance, which is not an automatic grant adjustment required by either state or federal law, the determination of whether the issue is one of policy or is an issue of fact or judgment will be determined at the fair hearing by the hearing examiner.

(a) If there is an issue of fact or judgment including the correctness of application of the department's rules and policy, assistance will then continue through the month in which a fair hearing decision is rendered.

(b) If the issue is one of policy, assistance is discontinued at the end of the month in which the hearing is held. The department shall promptly inform the client in writing if assistance will not be continued, based on the above determination that the issue is one of policy.

(3) Assistance shall be reinstated in any case where the notice to reduce, suspend or terminate the grant does not require advance notice, if the recipient requests a

fair hearing within ten days of the mailing of the notice of action. Subsection (1) applies.

(4) When a monthly payment has been prorated as provided in WAC 388-33-382(2)(a), and (1)(a) and (1)(b) of this section apply, assistance shall be restored immediately to meet the recipient's needs according to rules and procedures.

(5) Assistance shall not be continued under the provisions in this section if the claimant requests in writing that assistance not be continued, or if the request is withdrawn in writing by the claimant or abandoned.

(6) When the claimant requests a hearing date delay, the state office shall determine the reasonableness of the request and whether assistance will be continued during the extended period.

### WSR 81-06-011

#### PROPOSED RULES

### INSURANCE COMMISSIONER

[Filed February 19, 1981]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Insurance Commissioner, intends to adopt, amend, or repeal rules concerning the establishment of minimum loss ratios, reserve standards and filing requirements for group and individual disability insurance policies delivered in the State of Washington. (Final wording of the proposed rules may be changed prior to adoption.);

and that the adoption, amendment, or repeal of such rules will take place at 2:00 p.m., Thursday, April 30, 1981, in the Insurance Commissioner's Office, Airdustrial Park, Tumwater, Washington.

This notice is connected to and continues the matter noticed in Notice No. WSR 80-17-036 filed with the code reviser's office on November 18, 1980.

Dated: February 19, 1981

By: Robert E. Johnson  
Deputy Commissioner

### WSR 81-06-012

#### ADOPTED RULES

### DEPARTMENT OF LICENSING (Board of Optometry)

[Order PL 367—Filed February 20, 1981]

Be it resolved by the Washington State Board of Optometry, acting at Seattle, Washington, that it does promulgate and adopt the annexed rules relating to the amending of WAC 308-53-130 Courses not presumed to qualify; 308-53-230 Renting space from and practicing on premises of commercial (mercantile) concern and adopting 308-53-215 Contact lens advertising.

This action is taken pursuant to Notice No. WSR 81-01-107 filed with the code reviser on December 24, 1980. Such rules shall take effect pursuant to RCW 34.04.040(2).

This rule is promulgated under the general rule-making authority of the Washington State Board of Optometry as authorized in RCW 18.54.070(5).

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), as appropriate, and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED February 18, 1981.

By Richard H. Wehrli, O.D.  
Chairman

### AMENDATORY SECTION (Amending Order PL 239, filed 3/3/76)

WAC 308-53-130 COURSES NOT PRESUMED TO QUALIFY. Commercially sponsored courses or courses devoted to techniques involving a single product or device will not be presumed to qualify as continuing education courses (~~but such courses may be accepted for continuing education credit by arrangement with the board made prior to the giving of the course~~). Additionally, continuing education courses shall exhibit relevancy to the usual and customary practice of optometry and must have a definite correlation to subjects taught or offered in accredited colleges or schools of optometry approved by the Board of Optometry. However, such courses may be granted continuing education credit upon approval by the board.

### NEW SECTION

WAC 308-53-215 CONTACT LENS ADVERTISING. Where contact lens prices are advertised, such advertisement shall clearly state: (a) the type of contact lens or lenses offered at the price(s) advertised and any exclusions or limitations therein; (b) whether examinations, dispensing, related supplies and/or other service charges are included or excluded in the advertised price(s); and (c) the manufacturer, laboratory of origin or brand name of the contact lenses.

### AMENDATORY SECTION (Amending Order PL 281, filed 1/17/78)

WAC 308-53-230 RENTING SPACE FROM AND PRACTICING ON PREMISES OF COMMERCIAL (MERCANTILE) CONCERN. Where a doctor of optometry rents or buys space from and practices optometry on the premises of a commercial or mercantile concern:

(1) The practice must be owned by the doctor of optometry solely or in conjunction with other licensed doctors of optometry, and in every phase be under the exclusive control of the doctor(s) of optometry. The prescription files must be the sole property of the doctor(s) of optometry.

(2) The space must be definite and distinct from space occupied by other occupants of the premises and by the commercial or mercantile concern itself.

(3) All signs, advertising and display must be separate and distinct from that of the other occupants and of the

commercial or mercantile concern itself, and have the name of the doctor(s) of optometry and the words "doctor of optometry" prominently displayed in connection therewith. Any verbal or spoken advertisement of announcement advertising an optometrist on the premises of a commercial or mercantile concern shall not make references which could reasonably convey the impression that the optometric practice is controlled by or part of the commercial or mercantile concern.

(4) There must be displayed on any part of the premises occupied by the doctor of optometry or in any advertising of such doctor of optometry no legends such as "optical department," "optical center," "optometrical department," or any others which could reasonably convey the impression that the optometric practice is controlled by or part of the commercial or mercantile concern.

(5) In any written advertisement or announcement which uses the name of a commercial or mercantile concern to indicate the location of an optometric practice, the name(s) of the licensed doctor(s) of optometry owning the practice must be in larger type than the name of the commercial or mercantile concern.

(6) A written notice, of a size and type reasonably expected to attract the attention of the public, shall be put in a conspicuous place where the public will be exposed to it before professional services have been contracted for; this notice shall, in plain and simple terms, explain the relationship between the doctor of optometry and the commercial concern. The notice must express that the doctor of optometry is not controlled by the commercial concern in his professional practices, and must clearly describe the amount of responsibility that the commercial concern takes for the professional services rendered by the doctor of optometry.

Examples follow; these are not exhaustive:

John Smith, O.D., is a lessee, not an employee, of the store. He is solely responsible for his professional activities.

The store accepts no responsibility for the actions of John Smith, O.D., its lessee.

John Smith, O.D., is a lessee of the store, not an employee. As a part of the lease, he has agreed to follow the store's policy of "guaranteed satisfaction or your money back." (Obviously, only if this is true.)

Washington law prohibits the store from controlling or owning the practice of a licensed doctor of optometry. Accordingly, the store can assume no responsibility for Dr. Smith's professional services.

The store is responsible for filling your optical prescription. It is not responsible for the professional services of Dr. Smith, its lessee. (If the store operates the optical dispensary.)

**WSR 81-06-013**  
**ADOPTED RULES**  
**DEPARTMENT OF LICENSING**  
**(Dental Disciplinary Board)**  
[Order PL 373—Filed February 20, 1981]

Be it resolved by the Dental Disciplinary Board, acting at Seattle, Washington, that it does promulgate and adopt the annexed rules relating to the adoption of chapters 308-37 and 308-39 WAC.

This action is taken pursuant to Notice No. WSR 81-02-032 filed with the code reviser on January 5, 1981. Such rules shall take effect pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 18.32.640 and is intended to administratively implement that statute.

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), as appropriate, and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED February 13, 1981.

By Maxine L. Nelson  
Executive Secretary

Chapter 308-37 WAC  
DENTISTRY - LICENSE DISPLAY - REPORTS -  
RECORDS - INVENTORY REQUIREMENTS -  
PRESCRIBING PRACTICES

WAC

- 308-37-100 DISPLAY OR LICENSES.
- 308-37-110 MAINTENANCE AND RETENTION OF PATIENT RECORDS.
- 308-37-120 REPORT OF PATIENT INJURY OR MORTALITY.
- 308-37-130 INVENTORY AND RECORDING REQUIREMENTS FOR ALL PRESCRIPTION DRUGS.
- 308-37-140 PRESCRIBING, DISPENSING OR DISTRIBUTING DRUGS.

NEW SECTION

WAC 308-37-100 DISPLAY OF LICENSES. The license of any dentist, dental hygienist or other individual licensed pursuant to the laws of Washington to engage in any activity being performed in the premises under the supervision or control of a licensed dentist, shall be displayed in a place visible to individuals receiving services in the premises, and readily available for inspection by any designee of the Dental Disciplinary Board.

NEW SECTION

WAC 308-37-110 MAINTENANCE AND RETENTION OF PATIENT RECORDS. Any dentist who treats patients in the State of Washington shall maintain complete treatment records regarding patients treated. These records shall include, but shall not be

limited to x-rays, treatment plans, patient charts, patient histories, correspondence, financial data and billing. These records shall be retained by the dentist for five years in an orderly, accessible file and shall be readily available for inspection by the Dental Disciplinary Board or its authorized representative.

NEW SECTION

WAC 308-37-120 REPORT OF PATIENT INJURY OF MORTALITY. All licensees engaged in the practice of dentistry shall submit a complete report of any patient mortality or other incident which results in temporary or permanent physical or mental injury requiring hospitalization of said patient during, or as a direct result of dental procedures or anesthesia related thereto. This report shall be submitted to the Dental Disciplinary Board within thirty (30) days of the occurrence.

NEW SECTION

WAC 308-37-130 INVENTORY AND RECORDING REQUIREMENTS FOR ALL PRESCRIPTION DRUGS. Every dentist shall maintain an inventory of all legend drugs and controlled substances that he or she has prescribed or dispensed. This inventory shall include the date prescribed or the date dispensed, the name of the patient prescribed or dispensed to, the name of the medication, and the dosage and amount of the medication prescribed or dispensed. An accurate record of the medication prescribed or dispensed will be clearly indicated on the patient history.

NEW SECTION

WAC 308-37-140 PRESCRIBING, DISPENSING OR DISTRIBUTING DRUGS. No dentist shall prescribe, dispense or distribute any controlled substance or legend drug for other than dentally-related conditions.

Chapter 308-39 WAC  
GUIDELINES FOR SAFE ADMINISTRATION OF ANESTHETIC AGENTS FOR DENTAL PROCEDURES

WAC

- 308-39-100 PURPOSE.
- 308-39-110 DEFINITIONS.
- 308-39-120 STANDARDS FOR DENTAL ADMINISTRATION OF ANESTHESIA.

NEW SECTION

WAC 308-39-100 PURPOSE. The purpose of this chapter is to establish guidelines upon which the safety of administration of anesthetic agents can be measured. The dental laws of the State of Washington permit any licensed dentist to administer such agents. Morbidity and mortality can be associated therewith. Training, experience, adequate equipment and competent staff can minimize such risk. The Dental Disciplinary Board is empowered and directed to identify unsafe practices,

equipment and conditions and direct corrective action. These guidelines represent the basis upon which unsafe dental anesthesia practices would be judged. The Board therefore, in order to promote the welfare of the state and to protect the health and well-being of the people of this state, finds it necessary to adopt the following definitions and standards.

NEW SECTION

WAC 308-39-110 DEFINITIONS. (1) "Dental Disciplinary Board" shall mean the board created by RCW 18.32.560.

(2) "Dental Examining Board" shall mean the board created by RCW 18.32.035.

(3) "Director" shall mean the director of the Department of Licensing.

(4) "General Anesthesia" consists of the use of any drug, element or other material which results in the elimination of sensations accompanied by a state of unconsciousness.

(5) "Semi-conscious Sedation" consists of the use of any drug, element or other material which results in relaxation, diminution or loss of sensation, with retention of full reflex activity including the capability of maintaining and protecting the airway, spontaneous breathing ability with adequate ventilation, but impaired or lack of ability to respond adequately to questions and commands.

(6) "Conscious Sedation" consists of the use of any drug, element or other material which results in relaxation, diminution or loss of sensation with the retention of intact protective reflexes, including the ability to maintain an airway, and capability of rational responses to question on command.

(7) "Regional Anesthesia" consists of the use of and drug, element, or other material which results in a state of insensibility of a circumscribed area, or the loss of sensation of some definite, localized area, without inhibition of conscious processes.

NEW SECTION

WAC 308-39-120 STANDARDS FOR DENTAL ADMINISTRATION OF ANESTHESIA. The Dental Disciplinary Board adopts the following guidelines for its use when considering and investigating complaints and charges of malpractice, unsafe conditions and practices involving the dental administration of anesthesia; and for analyzing anesthesia equipment, staff, procedures and training:

(1) A minimum of one (1) year or its equivalent, of training in anesthesiology and related subjects beyond the undergraduate dental school level shall be completed prior to the use or administration of general anesthesia or of semi-conscious sedation for dental patients;

(2) When using general anesthesia or semi-conscious sedation for dental patients, the dentist shall have a facility that is properly equipped for the administration of general anesthesia or semi-conscious sedation and staffed with a supervised team of auxiliary personnel capable of reasonably handling procedures, problems and emergencies incident to the use and administration of

general anesthesia or semi-conscious sedation. This staff shall be under close supervision of a licensed dentist and shall include periodic update and competence in cardio-pulmonary resuscitation techniques and other emergency procedures.

(3) A minimum of sixty (60) hours of technique instruction in an accredited hospital or accredited dental school, including instruction in safety and management of emergencies, shall be completed prior to the use or administration of conscious sedation with oral or injected drugs for sedation for dental patients.

(4) When using conscious sedation with oral or injected drugs (i.e., nitrous oxide analgesia plus oral or intramuscular premedication) the dentist shall have a facility that is properly equipped for the administration of conscious sedation and staffed with a supervised team of auxiliary personnel capable of reasonably handling procedures, problems and emergencies incident to the use and administration of conscious nitrous oxide and oral or injected sedative medication. This staff shall be under the close supervision of a licensed dentist and shall include periodic updating and competence in cardiopulmonary resuscitation and other emergency procedures.

(5) When using conscious sedation utilizing nitrous oxide analgesia only or in conjunction with local anesthetic agents a minimum of twenty (20) hours of technique instruction sponsored by an accredited hospital, accredited dental school, accredited dental hygiene school, or dental society, including instruction in safety and management of emergencies, shall be completed prior to the use of administration of conscious nitrous oxide sedation for dental patients.

(6) When using conscious nitrous oxide sedation for dental patients, the dentist shall have a facility that is properly equipped for the administration of conscious sedation and staffed with a supervised team of auxiliary personnel capable of reasonably handling procedures, problems, and emergencies incident to the use and administration of conscious sedation. This staff shall be under the close supervision of a licensed dentist and shall include periodic updating and competence in cardiopulmonary resuscitation.

(7) When using local or regional anesthetic agents for dental patients the dentist shall have a facility that is properly equipped for the administration of local anesthesia and be capable of reasonably handling procedure problems and emergencies incident to the use and administration of local anesthetic agents. Such competence shall include periodic update and competence in cardiopulmonary resuscitation.

Dentists who comply with the above-listed guidelines or who can show evidence of competence and skill by virtue of experience and/or comparable alternate training, or who are board certified or board certification eligible in one of the recognized dental specialties commonly requiring the use of anesthesia techniques shall be presumed by the Dental Disciplinary Board to have appropriate credentials for the use of anesthetics.

**WSR 81-06-014**  
**PROPOSED RULES**  
**DEPARTMENT OF LICENSING**  
 [Filed February 20, 1981]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Licensing, intends to adopt, amend, or repeal rules concerning Listing agreement-Statement of negotiability of compensation, WAC 308-124D-015;

that such agency will at 4:00 p.m., Tuesday, April 7, 1981, in the Phoenix D Room, Hyatt House, 17001 Pacific Highway South, Seattle, WA, conduct a hearing relative thereto.

The authority under which these rules are proposed is RCW 18.85.040.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to April 7, 1981, and/or orally at 4:00 p.m., Tuesday, April 7, 1981, Phoenix D Room, Hyatt House, 17001 Pacific Highway South, Seattle, WA.

This notice is connected to and continues the matter noticed in Notice No. WSR 81-02-054 filed with the code reviser's office on January 7, 1981.

Dated: February 20, 1981

By: John Gonzalez  
 Director

**WSR 81-06-015**  
**PROPOSED RULES**  
**DEPARTMENT OF LICENSING**  
**(Dental Disciplinary Board)**  
 [Filed February 20, 1981]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Dental Disciplinary Board, intends to adopt, amend, or repeal rules concerning the adoption of chapter 308-38 WAC;

that such agency will at 1:00 p.m., Friday, March 13, 1981, in the Vance Airport Inn, Seattle Room, 18220 Pacific Highway South, Seattle, WA, conduct a hearing relative thereto;

and that the adoption, amendment, or repeal of such rules will take place at 1:00 p.m., Friday, March 13, 1981, in the Seattle Room, Vance Airport Inn, 18220 Pacific Highway South, Seattle, WA.

The authority under which these rules are proposed is RCW 18.32.640.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to March 13, 1981, and/or orally at 1:00 p.m., Friday, March 13, 1981, Seattle Room, Vance Airport Inn, 18220 Pacific Highway South, Seattle, WA.

This notice is connected to and continues the matter noticed in Notice No. WSR 81-02-032 filed with the code reviser's office on January 5, 1981.

Dated: February 19, 1981

By: Maxine L. Nelson  
 Executive Secretary

**WSR 81-06-016**  
**ADOPTED RULES**  
**HOSPITAL COMMISSION**

[Order 81-01, Resolution R-81-01—Filed February 20, 1981]

Be it resolved by the Washington State Hospital Commission, acting at the University Tower Hotel, Seattle, Washington, that it does promulgate and adopt the annexed rules relating to a uniform system of accounting and financial reporting, chapter 261-20 WAC.

This action is taken pursuant to Notice No. WSR 81-02-035 filed with the code reviser on January 6, 1981. Such rules shall take effect pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to chapter 70.39 RCW and is intended to administratively implement that statute.

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), as appropriate, and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED February 19, 1981.

By Frank D. Baker  
 Executive Director

Chapter 261-20 WAC  
REGULATIONS RELATING TO, AND ESTABLISHMENT OF, A UNIFORM SYSTEM OF ACCOUNTING AND FINANCIAL REPORTING

NEW SECTION

WAC 261-20-010 PURPOSE. This chapter is adopted by the Washington state hospital commission pursuant to RCW 70.39.180 to implement the provisions of RCW 70.39.100 and 70.39.110 regarding the establishment of a uniform system of accounting and financial reporting by which hospitals shall record and report their revenues, expenses, other income, other outlays, assets and liabilities, and units of service.

NEW SECTION

WAC 261-20-020 DEFINITIONS. As used in this chapter, unless the context requires otherwise.

(1) "Washington state hospital commission" and "commission" each shall mean the Washington state hospital commission created by chapter 70.39 RCW.

(2) "Hospital" shall mean any health care institution which is required to qualify for a license under RCW 70.41.020(2); or as a psychiatric hospital under chapter 71.12 RCW, but shall not include any health care institution conducted for those who rely primarily upon treatment by prayer or spiritual means in accordance with the creed or tenets of any church or denomination.

(3) "System of accounts" shall mean the list of accounts, code numbers, definitions, units of measure, and principles and concepts included in the commission's publication entitled Accounting and Reporting Manual for Hospitals.

NEW SECTION

WAC 261-20-030 ADOPTION AND ESTABLISHMENT OF UNIFORM SYSTEM OF ACCOUNTS. The commission pursuant to RCW 70.39.100, hereby adopts and establishes a uniform system of accounts for accounting and reporting to the commission by all hospitals, such system being described in the commission's publication Accounting and Reporting Manual for Hospitals, which publication is hereby incorporated by this reference as though set forth in full and at length. From and after October 1, 1974, each hospital shall utilize the established system of accounts for accounting and reporting to the commission for the hospital's fiscal years that begin on or after October 1, 1974. The system of accounts also shall be utilized by each hospital for filing information, as may be required by the commission, pertaining to the total financial needs of the hospital and the resources available or expected to become available to meet such needs.

NEW SECTION

WAC 261-20-040 ADOPTION AND ESTABLISHMENT OF A UNIFORM SYSTEM FOR THE REPORTING OF INFORMATION. From and after September 30, 1974, each hospital annually shall file with the commission within one hundred twenty days after the close of its fiscal year in the form and manner prescribed by the commission:

- (1) A balance sheet detailing the assets, liabilities, and net worth of the hospital;
- (2) A statement of income and expenses;
- (3) A statement of changes in fund balances;
- (4) A statement of detailed operating expenses by department;
- (5) A statement of detailed revenues by department; and
- (6) Such other reports of costs incurred in rendering services as the commission may prescribe: PROVIDED, HOWEVER, The one hundred twenty day period may be extended up to and including an additional sixty days upon submission to the commission, of what it, in its discretion, may consider good and sufficient reasons. Where more than one hospital is operated by the reporting organization, the information required by this section shall be reported for each hospital separately.

NEW SECTION

WAC 261-20-050 CERTIFICATION AND ATTESTATION OF REPORTS. All financial reports filed with the commission pursuant to WAC 261-20-040 or 261-20-060 shall be certified by the hospital's certified or licensed public accountant, or under oath by the hospital's administrative and financial officers, that such reports, to the best of their knowledge and belief, have been prepared in accordance with the prescribed system of accounting and reporting, and fairly state the financial position of the hospital as of the specified date; the commission also may require attestation as to such statements from responsible officials of the hospital so designated by the governing board, if any, of the hospital.



NEW SECTION

WAC 261-20-060 ALTERNATIVE SYSTEM OF FINANCIAL REPORTING. Upon receipt of a request in detail to the satisfaction of the commission, the commission shall consider, and in its discretion may approve by resolution an alternative system for reporting of information by a hospital for such period(s) or portion thereof as the commission shall specify, for one or more of the following reasons:

(1) The hospital charges no fee to users of its services, presents no billing, either direct or indirect, to users of its services, and presents no billing and accepts no payment for services from private or public insurers.

(2) The hospital is significantly different from other hospitals in one or more of the following respects: Size; financial structure; methods of payment for services; or scope, type, and method of providing services.

(3) The hospital has other pertinent distinguishing characteristics.

(4) Such alternative system will avoid otherwise unduly burdensome costs in meeting the requirements of the uniform system of information reporting established by the commission.

NEW SECTION

WAC 261-20-065 COMPLIANCE WITH WAC 261-10-060 AND 261-10-070. Compliance with WAC 261-20-040 or 261-20-060, and 261-20-050 shall be deemed compliance with WAC 261-10-060 and 261-10-070.

NEW SECTION

WAC 261-20-070 UNIFORMLY APPLICABLE INTERPRETIVE RULINGS. The executive director of the commission is authorized to make uniformly applicable interpretive rulings with respect to the assignment of specific items to specific accounts and with respect to the interpretation of the commission's publication Accounting and Reporting Manual for Hospitals when such rulings appear necessary to assure uniformity of accounting procedures or to facilitate fair, accurate, and efficient reporting of hospital financial data.

NEW SECTION

WAC 261-20-080 CRIMINAL PROVISIONS. RCW 70.39.200 provides that every person who shall violate or knowingly aid and abet the violation of chapter 70.39 RCW or any valid orders, rules, or regulations thereunder, or who fails to perform shall be guilty of a misdemeanor. Following official notice to the accused by the commission of the existence of an alleged violation, each day upon which a violation occurs shall constitute a separate violation. Any person violating the provisions of chapter 70.39 RCW may be enjoined from continuing such violation.

**WSR 81-06-017****ADOPTED RULES****HOSPITAL COMMISSION**

[Order 81-02, Resolution R-81-02—Filed February 20, 1981]

Be it resolved by the Washington State Hospital Commission, acting at University Tower Hotel, Seattle, Washington, that it does promulgate and adopt the annexed rules relating to the adoption and establishment of uniform system of accounts, amending WAC 261-20-030.

Modifying the following pages:

Page 1123 DEPRECIATION POLICIES  
 Pages 1181 and 1182 FINANCIAL ARRANGEMENTS  
 Page 2401.4 (Cont. 2) #5910 UNCOMPENSATED CARE - HILL-BURTON ASSISTED HOSPITALS  
 Page 2420.2 #7010 LABOR AND DELIVERY SERVICES  
 Page 2420.2 (Cont. 5) #7070 LABORATORY  
 Page 2420.2 (Cont. 8) #7110 ELECTRODIAGNOSIS  
 Page 2420.2 (Cont. 15) #7200 PHYSICAL THERAPY  
 Page 2420.8 (Cont. 2) #8830 INSURANCE-HOSPITAL AND PROFESSIONAL MALPRACTICE  
 Page 2420.8 (Cont. 3) #8840 INSURANCE-OTHER

Adding the following pages:

Page 2420.1 (Cont. 4-1) #6150 ALCOHOLISM TREATMENT CENTER  
 Page 2420.2 (Cont. 8-1) #7130 CT SCANNING SERVICES  
 Page 2420.7 (Cont. 1-1) #8613 PLANNING  
 Pages C-1 through C-8 APPENDIX C PHYSICAL THERAPY RELATIVE VALUES

Deleting the following pages:

Page 2410.4 (Cont. 3)  
 Pages C-1 through C-5 APPENDIX C PHYSICAL THERAPY RELATIVE VALUES.

This action is taken pursuant to Notice No. WSR 81-02-036 filed with the code reviser on January 6, 1981. Such rules shall take effect pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to chapter 70.39 RCW and is intended to administratively implement that statute.

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), as appropriate, and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED February 19, 1981.

By Frank D. Baker  
 Executive Director

**Reviser's Note:** The text of the adopted amendments to the Commission's *Accounting and Reporting Manual for Hospitals* has been omitted from publication in the Register under the authority of RCW 34.04.050(3) as being unduly cumbersome to publish. Copies of the adopted rules may be obtained from the Washington State Hospital Commission, Frank D. Baker, Executive Director, Mailstop FJ-21, Olympia, WA 98504.

**WSR 81-06-018**  
**NOTICE OF PUBLIC MEETINGS**  
**INTERAGENCY COMMITTEE**  
**FOR OUTDOOR RECREATION**

[Memorandum, Administrator—February 20, 1981]

The March 1981 Interagency Committee for Outdoor Recreation meeting will take place March 26-27, Thursday-Friday, in the Transportation Commissioners' Board Room, Wing D-1, Highways Administration Building, Olympia, Washington, beginning at 9:00 a.m. each day.

Agenda items include: Fiscal, Projects and Planning Status Reports; Off-Road Vehicle Plan, various project changes for local, state, and off-road vehicles' projects; Land and Water Conservation Fund contingency projects proposals; and legislation concerning the IAC.

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided at this meeting. Request for this aid must be received by March 15, 1981. Please contact Robert L. Wilder, Administrator, 4800 Capitol Boulevard, Olympia, 206-753-3610. The meeting site is barrier free.

**WSR 81-06-019**  
**EMERGENCY RULES**  
**DEPARTMENT OF FISHERIES**  
 [Order 81-15—Filed February 23, 1981]

I, Rolland A. Schmitt, director of the Washington Department of Fisheries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to commercial fishing regulations.

I, Rolland A. Schmitt, find that an emergency exists and that the foregoing order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting such emergency is this order defines river mouth for spring chinook protection in the Lewis, Kalama and Cowlitz Rivers and is adopted pursuant to the Columbia River Compact.

Such rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 75.08.080 and is intended to administratively implement that statute.

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), as appropriate, and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED February 23, 1981.  
 By Rolland A. Schmitt  
 Director

NEW SECTION

**WAC 220-32-03600H CLOSED AREAS - RIVER MOUTHS** Notwithstanding the provisions of WAC 220-32-036, the following closures apply at the mouths of the Cowlitz, Kalama and Lewis Rivers:

(1) Cowlitz River—Closed upstream of a line projected across the Cowlitz River between two fishing boundary markers set on each bank of the Cowlitz River, approximately one-half mile downstream from the lower most railroad bridge crossing the Cowlitz River.

(2) Kalama River—Closed upstream of a line projected across the Kalama River between two fishing boundary markers set on each bank of the Kalama River approximately one mile downstream of the Burlington Northern railroad bridge crossing the Kalama River.

(3) Lewis River—Closed upstream of a line projected from a marker on Austin Point south across the Lewis River to a marker on the opposite shore.

**WSR 81-06-020**  
**NOTICE OF PUBLIC MEETINGS**  
**HIGHLINE COMMUNITY COLLEGE**  
 [Memorandum—February 18, 1981]

In compliance with the Washington State Administrative Code, notice is hereby submitted regarding the regular meetings of Community College District 9 Board of Trustees.

Meetings during 1981 will be held on the third Thursday of each month commencing at 8:30 a.m. with a study session, followed by the regular session at 10:00 a.m., with the exception of June and December which would normally be scheduled for the second Thursday.

The study sessions will be held in the Conference Room of Building 1 and the regular session will be held in the Board Room on the fifth floor of Building 25, Highline Community College, South 240th Street and Pacific Highway South, Midway, Washington.

**WSR 81-06-021**  
**NOTICE OF PUBLIC MEETINGS**  
**TRAFFIC SAFETY COMMISSION**  
 [Memorandum—February 20, 1981]

The Washington Traffic Safety Commission will meet at 2:00 p.m., Wednesday, March 11, 1981, in the Governor's Conference Room, Legislative Building, Olympia.

All members are encouraged to personally attend this first meeting with Governor Spellman, Chairman.

Recognizing the demands on your time during the legislative session, this meeting will be brief.

**WSR 81-06-022**  
**PROPOSED RULES**  
**INSURANCE COMMISSIONER**  
**STATE FIRE MARSHAL**  
 [Filed February 25, 1981]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Insurance Commissioner/State Fire Marshal, intends to adopt, amend, or repeal rules concerning:

New	ch. 212-54 WAC	Day care centers and day treatment centers, standards for fire protection.
New	ch. 212-55 WAC	Mini day care centers, standards for fire protection.
Rep	ch. 212-56 WAC	Group home in family abode, standards for fire protection.
Rep	ch. 212-57 WAC	Group home other than in family abode, standards for fire protection.
Rep	ch. 212-58 WAC	Group home for developmentally disabled persons, standards for fire protection.
Rep	ch. 212-59 WAC	Mini day care centers in family abode, standards for fire protection.
Rep	ch. 212-60 WAC	Mini day care centers other than in family abode, standards for fire protection.
Rep	ch. 212-61 WAC	Day care center in family abode, standards for fire protection.
Rep	ch. 212-62 WAC	Day care center and day treatment program other than in family abode, standards for fire protection.
Rep	ch. 212-63 WAC	Child care institutions, standards for fire protection.
Amd	ch. 212-64 WAC	Maternity services, standards for fire protection.
New	ch. 212-65 WAC	Group care facilities, standards for fire protection;

that such agency will at 10:00 a.m., Tuesday, March 24, 1981, in the State Fire Marshal's Office, Room 500B, State Modular Office Building, Thurston Airdustrial Center, Tumwater, WA 98504, conduct a hearing relative thereto;

and that the adoption, amendment, or repeal of such rules will take place at 10:00 a.m., Tuesday, March 31, 1981, in the State Fire Marshal's Office, Room 500B, State Modular Office Building, Thurston Airdustrial Center, Tumwater, WA 98504.

The authority under which these rules are proposed is RCW 74.15.050.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to March 24, 1981, and/or orally at 10:00 a.m., Tuesday, March 24, 1981, State Fire Marshal's Office, Room 500B, State Modular Office Building, Thurston Airdustrial Center, Tumwater, WA 98504.

This notice is connected to and continues the matter noticed in Notice No. WSR 81-03-051 filed with the code reviser's office on January 19, 1981.

Dated: February 25, 1981

By: Thomas R. Brace  
 Director, Division of State Fire Marshal

**WSR 81-06-023**  
**ADOPTED RULES**  
**EASTERN WASHINGTON UNIVERSITY**  
 [Order 1-22-81—Filed February 25, 1981]

I, Kenneth R. Dolan, Secretary, Board of Trustees of the Eastern Washington University, do promulgate and adopt at Pence Union Building, Cheney, Washington 99004, the annexed rules relating to student conduct code, WAC 172-120-050.

This action is taken pursuant to Notice No. WSR 80-17-029 filed with the code reviser on November 17, 1980. Such rules shall take effect pursuant to RCW 28B.19.050(2).

This rule is promulgated under the general rule-making authority of the Board of Trustees of Eastern Washington University as authorized in RCW 28B.35.10[28B.35.120].

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), as appropriate, and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED January 22, 1981.

By Kenneth R. Dolan  
 Secretary, Board of Trustees

AMENDATORY SECTION (Amending Order 72-2, filed 5/12/72)

WAC 172-120-010 INTRODUCTION. The Board of Trustees of Eastern Washington (~~State College~~) University has the authority and obligation to adopt regulations for the governance of the (~~college~~) university for the purpose of providing educational opportunities to its students, transmitting and advancing knowledge and to providing a wide range of services to both students and the general public. To carry out these responsibilities, the (~~college~~) university requires a community free from violence, threats, and intimidation; protective of free inquiry, respectful of the rights of others; open to change; supportive of democratic and lawful procedures; and dedicated to the rational and orderly approach to the resolution of human problems. To safeguard the rights, opportunities, and welfare of students, faculty, staff and guests of the (~~college~~) university community, and to assure protection of the interests of the (~~college~~) university as it seeks to carry out its mission on behalf of the citizens of the state of Washington, certain minimum standards of conduct become necessary.

AMENDATORY SECTION (Amending Order 72-2, filed 5/12/72)

WAC 172-120-020 INTEREST OF THE (~~COLLEGE~~) UNIVERSITY RELEVANT TO A STUDENT CODE. The (~~college~~) university is a special, as opposed to general purpose community, and as such

must devise procedures and regulations to control disruptive elements which would deter the ((college)) university from furthering its mission—providing learning experiences for its students, transmitting and advancing knowledge and providing services to the greater community. Special ((college)) university interests provide a foundation for building a code of conduct.

(1) The ((college)) university has a primary concern with matters which impinge upon academic achievement and integrity.

(2) The ((college)) university has a concern with conduct which breaches the peace, causes disorder, and substantially interferes with the rights of others.

(3) The ((college)) university has an interest in behavior which threatens or actions which imperil the physical and mental health and safety of members of the ((college)) university community.

(4) The ((college)) university has an obligation to protect its property and the property of members of its community from theft, damage, destruction, or misuse.

(5) The ((college)) university has a commitment to meet its contractual agreements.

(6) The ((college)) university has an obligation to support and be guided by laws of the land.

#### AMENDATORY SECTION (Amending Order 72-2, filed 5/12/72)

WAC 172-120-040 CONDUCT CODE. The following are defined as offenses which are subject to disciplinary action by the ((college)) university. The ((college)) university has the authority to promulgate additional or more specific rules supplementary to the offenses listed in this section provided they are consistent with the student bill of rights in effect at the time and public notification has been given.

(1) All forms of dishonesty including but not limited to cheating, plagiarism, knowingly furnishing false information to the ((college)) university, forgery, alteration or misuse of ((college)) university documents or instruments of identification with intent to defraud.

(2) Conduct which intentionally disrupts or obstructs teaching, research, administration, disciplinary proceedings, freedom of movement or other lawful activities on the ((college)) university campus.

(3) Detention or physical abuse of any person or conduct which is intended to threaten imminent bodily harm or endanger the health or safety of any person on any property owned or controlled by the ((college)) university, or at any ((college)) university-sponsored or supervised functions.

(4) Theft from, or malicious damage to, or malicious misuse of ((college)) university property or the property of any person, when such property is located on the ((college)) university campus.

(5) Failure to comply with reasonable directions of ((college)) university officials or law enforcement officers acting in performance of their duties on campus or affecting conduct on campus.

(6) Being an accessory to any person on the ((college)) university campus who is or who is not a member of the Associated Students of Eastern Washington ((State-College)) University who violates this code.

(7) Violation of published and duly adopted ((college)) university regulations including but not limited to those relating to possession or consumption of alcoholic beverages; and possession and/or use or sale of any narcotic or dangerous drug on the ((college)) university campus or in ((college)) university controlled facilities, contrary to state or federal law.

(8) No person shall have on ((his)) their person, in ((his)) their vehicle, or otherwise in ((his)) their possession any gun, pistol, or firearm, or explosives, dangerous chemicals or other dangerous weapons or instruments on the ((college)) university campus or other ((college)) university property except as follows:

(a) Authorized law enforcement officers shall be permitted to carry arms while on duty and engaged in their regular duties.

(b) Activities requiring use of the prohibited items may be conducted upon approval of the activity by the Board of Trustees.

(c) Persons shall be permitted to have firearms in their possession directly enroute to or from campus firearm storage facilities where such possession is incidental to approved on or off campus possession or use of such firearms.

(9) Violation of a local, county, state, or federal law, whether it be on or off campus, only when a definite ((college)) university interest is involved and where the student misconduct distinctly and adversely affects the ((college's)) university's pursuit of its educational mission.

(10) Intentionally inciting others to engage in any of the conduct prohibited in this code, which incitement leads directly to such conduct.

(11) The unauthorized entry into or onto, or the unauthorized remaining in, or upon, any public or ((college)) university facilities.

(12) All attempts to perform acts of misconduct prohibited by this section shall also be subject to disciplinary action.

#### AMENDATORY SECTION (Amending Order 72-2, filed 5/12/72)

WAC 172-120-050 SANCTIONS. If any person is found guilty, one or more of the sanctions available shall be:

(1) Minor disciplinary sanction:

(a) Admonition: An oral statement to a student that ((he-is)) they are violating or has violated institution rules.

(b) Warning: Notice, orally or in writing, that continuation or repetition of conduct found wrongful, within a period of time stated in the warning, may cause far more severe disciplinary action.

(c) Censure: A written reprimand for violation of specified regulations, including notice of the possibility of more severe disciplinary sanctions in the event of the finding of a violation of any regulation within a stated period of time.

(d) Disciplinary probation: Formal action placing condition upon the student's continued attendance for violation of specified regulations. The disciplinary probation shall specify, in writing, the period of probation

and the conditions, such as limiting the student's participation in ((college)) university related privileged or extra-curricular activities. Disciplinary probation further shall give the student notice that any further misconduct will automatically raise the question of suspension from the ((college)) university. Disciplinary probation shall be for a specified term not to exceed one year of academic enrollment at Eastern Washington ((State-College)) University.

(e) Restitution: Reimbursement for damage or destruction to the property of the ((college)) university or others. This may take the form of appropriate service or other compensation. Failure to make arrangements to pay will result in cancellation of the student's registration and will prevent the student from re-registration.

(f) Fines: The disciplinary officer and the ((college)) university disciplinary committee may assess monetary fines up to a maximum of ((Fifty Dollars (\$50.00))) two hundred dollars against individual students for violation of ((college)) university rules or regulations or for failure to meet the ((college's)) university's standards of conduct. Failure to pay such fines promptly will prevent the student from re-registration.

(2) Major disciplinary sanction:

Suspension: Exclusion from classes and other privileges or activities as set forth in a written notice not to exceed twenty-four ((24)) months. Conditions of readmission shall be stated in the order of suspension.

AMENDATORY SECTION (Amending Order 72-2, filed 5/12/72)

WAC 172-120-060 DISCIPLINE FUNCTIONARIES. (1) ((College)) University disciplinary officer:

The ((college)) university president shall designate a person to be the ((college)) university disciplinary officer who shall review and decide questions of ((college)) university interest. ((He)) The university disciplinary officer may investigate and make decisions in some instances of code violation.

(2) ((College)) University disciplinary committee:

A ((college)) university disciplinary committee composed equally of student and faculty representatives will provide a hearing and will make decisions on all disciplinary cases referred or appealed to it. The members of the committee and their terms of office shall be:

(a) Five ((5)) members of the faculty and/or administration appointed by the president of the ((college)) university for three ((3)) year terms.

(b) Five ((5)) students who shall be appointed by the president of the Associated Students of Eastern Washington ((State-College)) University, with the advice and consent of the associated students legislature, as provided for in the constitution of the Associated Students of Eastern Washington ((State-College)) University. No student shall be eligible for appointment who holds any position with any of the associated student courts, serves as an attorney general or assistant attorney general in any of the student courts, or is in any way affiliated with any judicial, quasi-judicial, or advocacy position with the courts of the Associated Students of Eastern Washington ((State-College)) University.

(c) A nonvoting ((chairman)) chair shall be elected for a one ((1)) year term by the committee from outside the committee. Re-election of the ((chairman)) chair is permissible.

(d) Six ((6)) voting members constitute a quorum.

(e) In the event the ((chairman)) chair is not in attendance, the quorum shall select a voting member to preside at the hearing.

(f) No member of the disciplinary committee shall participate in any case in which ((he-is)) they are a defendant, complainant, or witness, in which ((he-has)) they have a direct or personal interest or bias, or in which ((he-has)) they have acted previously in an advisory or adjudicatory capacity. A committee member's eligibility to participate in a case may be challenged by parties to the case or by other committee members, but decisions in this regard shall be made by the committee as a whole.

(g) In the event a member of the disciplinary committee is disqualified or disqualifies ((himself)) himself from hearing a case, a temporary (for that case only) replacement shall be appointed. If the member is a student, the temporary appointment will be made by the Associated Students of Eastern Washington ((State-College)) University president. If the member is a faculty member or administrator, the temporary appointment will be made by the ((college)) university president.

(3) Student courts:

Student courts, the Associated Students superior court and those established by the Associated Students legislature as lesser courts to the Associated Students superior court, may act on such internal disciplinary problems as they feel competent to deal with effectively. If the student court is inoperative, or if it decides to do so, the student court may refer cases involving alleged violations of rules upon which that court may extend jurisdiction to the ((college)) university disciplinary officer or the ((college)) university disciplinary committee.

AMENDATORY SECTION (Amending Order 76-9-1, filed 9/23/76)

WAC 172-120-070 INITIATION OF DISCIPLINARY PROCEDURES. The object of this code is to provide fair and reasonable procedures with which to deal with problems of student conduct. The student charged with misconduct shall be entitled to due process as defined in Article II, section 10, of the Associated Students of Eastern Washington ((State-College)) University constitution and WAC 172-120-140.

A person wishing to charge a student with a violation of the conduct code may:

(a) Make the charge in a student court if that system has jurisdiction; or

(b) Prefer charges with the ((college)) university disciplinary officer. Nothing in this code shall prohibit or limit the right of persons to go directly to the civil authorities and prefer charges in instances of alleged violations of local, county, state, or federal law.

The ((college)) university disciplinary committee shall have appellate jurisdiction in those situations where the

student has appealed from the imposition of a disciplinary action by the ((college)) university disciplinary officer or by a student court.

AMENDATORY SECTION (Amending Order 72-2, filed 5/12/72)

WAC 172-120-080 AUTHORITY OF ((COLLEGE)) UNIVERSITY DISCIPLINARY OFFICER. When the ((college)) university disciplinary officer receives a complaint against a student for a violation of the code, ((he)) the disciplinary officer will explain to the complainant ((his)) their rights under the student conduct code and possible avenues of action which the complainant has against the student, including reference to remedies under civil law as well as possible remedies under the student code. If the ((college)) university disciplinary officer decides to initiate a disciplinary proceeding against the student ((he)) the disciplinary officer will then call the student charged for an initial conference. At this time, the ((college)) university disciplinary officer will provide the accused student with a written list of the charges ((against him)), and will explain the student's rights under the student code and what possible ramifications may occur under civil law, if any. The disciplinary officer will further explain the disciplinary procedures and possible penalties under the student code and advise ((him)) the student that the student must, within twenty-four hours after receipt of this explanation, decide whether the student wishes to have ((his)) the case heard by the ((college)) university disciplinary officer, or by the ((college)) university disciplinary committee, and sign a statement declaring the same. The committee must receive at least seventy-two ((72)) hours notice as to the time and place of the hearing. After considering the evidence against a student so charged, the ((college)) university disciplinary officer may take any of the following actions:

- (1) Terminate the complaint, exonerating the student.
- (2) Dismiss the charge after whatever counseling and advice is deemed appropriate.
- (3) Refer the student to specialists, as in the case of emotional disturbances.
- (4) Impose any number of sanctions from WAC 172-120-050 (minor disciplinary sanctions) contained herein.
- (5) Refer the case to the ((college)) university disciplinary committee in the event the ((college)) university disciplinary officer deems major disciplinary sanction may be warranted or if the student requests that ((his)) the case be heard by the committee. If the student requests that ((his)) the case be heard by the ((college)) university disciplinary committee rather than the ((college)) university disciplinary officer, the committee may take any of the sanctions listed in subsections (1), (2), (3), and (4) above, except that the committee may impose a major disciplinary sanction as defined in subsection (2) of WAC 172-120-050 herein.

AMENDATORY SECTION (Amending Order 72-2, filed 5/12/72)

WAC 172-120-090 CONSOLIDATION OF CASES PERMISSIBLE. In the event that one or more

students are charged with the same misconduct arising from the same occurrence, the disciplinary committee or ((college)) university disciplinary officer shall be authorized to consolidate the hearings as practical; provided that such consolidation does not prejudice the rights of any students.

AMENDATORY SECTION (Amending Order 72-2, filed 5/12/72)

WAC 172-120-100 HEARINGS PROCEDURE.

(1) Hearings before the ((college)) university disciplinary committee will generally be open hearings, but upon request by either the complaining witness or the student charged, the hearing shall be closed.

(a) In all cases in which an open hearing occurs, the ((chairman)) chair of the committee shall have the discretion to reasonably limit the amount of attendees at such hearing. If at any time during the conduct of a hearing, invited guests or attendees are disruptive of the proceedings, the ((chairman)) chair of the committee may exclude such persons from the hearing room. In those cases in which the ((chairman)) chair decides that because of disruption the hearing cannot be conducted fairly in an open session, ((he)) the chair may direct that the hearing be recessed and that the remainder be conducted in closed session.

(b) Any students attending a disciplinary committee hearing as an invited guests or as ((an)) attendees who continue((s)) to disrupt the proceedings after the ((chairman)) chair of the committee has asked ((him)) them to cease and desist thereof, shall be subject to disciplinary action.

(2) A written record or a tape recording of the testimony before the ((college)) university disciplinary committee shall be kept. It may be reviewed by the student at any time prior to the final disposition of the case. A record of all proceedings will be kept and filed with the ((college)) university disciplinary officer.

(3) ((A)) Students may have an adviser of ((his)) their choice to present or assist in the presentation of ((his)) their case, subject to the limitations of subsection (3)(b) of this section. ((The)) Students must render three ((3)) days' notice prior to the hearing of the prospective representation if ((he)) they intend((s)) to be represented by a duly licensed attorney. In the event ((a)) the students choose((s)) a duly licensed attorney to represent ((him)) them in proceedings before the disciplinary committee, an assistant attorney general for the state of Washington shall represent the ((college)) university therein.

(a) In those instances in which both sides are represented by a duly licensed attorney, the assistant attorney general of the state of Washington representing the ((college)) university shall present the case against the student to the disciplinary committee or the ((college)) university disciplinary officer for appropriate findings and action.

(b) In the instance where duly licensed attorneys are not representing either the ((college)) university or the accused student, the ((college)) university shall be represented by the ((college)) university disciplinary officer,

or his designee; provided, however, that the representative of the ((college)) university shall be acceptable to the complaining witness or witnesses; provided further, that no one may represent the ((college)) university or the student charged unless ((he-is)) they are a member of the student body, faculty, classified staff, or administrative staff of Eastern Washington ((State-College)) University.

(4) Only those matters presented at the hearing in the presence of the accused student, except where the student fails to attend after receipt of proper notice that a hearing regarding the ((college's)) university's allegation that he violated the student code is being held at a certain time and place, will be considered in determining whether the ((college)) university disciplinary committee has sufficient cause to believe that the accused student is guilty of violating any of the written list of charges presented ((him)) them pursuant to WAC 172-120-080 of this code.

(a) In determining whether sufficient cause, as stated in the foregoing paragraph, does exist, the ((college)) university disciplinary officer or in the instance of a hearing, the ((college)) university disciplinary committee, shall decide whether a preponderance of the evidence indicates that the student charged did violate the student code by engaging in the conduct for which ((he was)) they were charged pursuant to WAC 172-120-080 of this code.

(b) For the purposes of this code, the phrase, "preponderance of the evidence", shall mean that it is more likely that the student charged did violate the student code by engaging in the conduct for which ((he-is)) they are charged than that ((he)) they did not.

(c) The ((chairman)) chair of the ((college)) university disciplinary committee shall, in the course of presiding at the disciplinary hearing, give effect to the rules of privilege recognized by law and may exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence.

#### AMENDATORY SECTION (Amending Order 72-2, filed 5/12/72)

WAC 172-120-110 DISCIPLINARY COMMITTEE—DELIBERATIONS AND SANCTIONS. (1) The ((college)) university disciplinary committee will meet in closed session and decide by majority vote whether the preponderance of the evidence indicates that the student has or has not violated the rules ((he-is)) they are charged with having violated. If the decision is that ((he)) the student did engage in an act of misconduct in violation of the rules with which ((he-is)) they are charged with having violated, the committee will by majority vote determine what sanction from WAC 172-120-050 herein it will recommend that the president impose upon the student. This recommendation to the president must be accomplished within five ((5)) days of the time when the proceedings are terminated.

(2) In the course of the committee's decision as to what sanction it shall recommend be imposed by the president, it may consider any evidence of past misconduct that the ((chairman)) chair of the committee deems

relevant; such evidence may be presented by the ((college)) university disciplinary officer or ((his)) their designee.

(3) No recommendation for the imposition of sanctions may be based solely upon the failure of the accused student to answer the charges or appear at the hearing, but must be based upon the evidence considered prior to the committee's decision or on the evidence of past misconduct deemed relevant by the ((chairman)) chair of the ((college)) university disciplinary committee.

#### AMENDATORY SECTION (Amending Order 72-2, filed 5/12/72)

WAC 172-120-120 APPEALS. (1) Any student feeling aggrieved by the imposition of minor disciplinary sanctions by the ((college)) university disciplinary officer or by a student court shall have a right of appeal to the disciplinary committee, provided a written notice of appeal is received by the committee within five ((5)) days after notice of disciplinary action is given. The written notice of appeal shall set forth:

(a) The student's name;

(b) The nature of the disciplinary action imposed; and

(c) The reasons why the recommendation regarding disciplinary action should be reversed, set aside or modified. The committee may request a written report of the case from the disciplinary officer or student court before making its decision. The committee shall also have the right to request additional written information or explanation from any of the parties to the proceeding before rendering its decision. In making its decision, the committee shall only consider the written record before it, the student's notice of appeal, the written report of the disciplinary officer or student court and such other information and explanation it has requested from the parties to the proceeding. There shall be no further appeal from any action of the disciplinary officer. The committee is empowered to affirm, reverse, remand, or modify (only to a less severe sanction) the recommendation regarding disciplinary action of the ((college)) university disciplinary officer or a student court.

(2) Appeals to the president:

(a) Any student aggrieved by the disciplinary committee's recommendation as to what disciplinary action the president should take (as distinguished from appellate consideration by the committee), shall have a right of appeal to the president, or ((his)) the president's designee, within five ((5)) days after notice of the recommendation of disciplinary action is given.

(b) If a complaining witness feels aggrieved by the decision of the ((college)) university disciplinary officer or by the ((college)) university disciplinary committee's recommendation to the president, ((he)) they may petition the president to remand the charges back to the disciplinary officer or the ((college)) university disciplinary committee for a rehearing of the matter as charged.

(3) The written notice of appeal by an aggrieved student or a petition by an aggrieved complaining witness shall set forth:

(a) The student's name or the complaining witness's name;

(b) The nature of the disciplinary action requested or imposed; and

(c) Reasons why the disciplinary sanction recommended should be reversed, set aside, or modified, or in the case of a petitioning complaining witness, the reasons why the disciplinary matter should be reheard by the ((college)) university disciplinary officer or the ((college)) university disciplinary committee.

(4) The president may request a written report of the case from the disciplinary committee before making ((his)) a decision. ((He)) The president shall also have the right to request additional information or explanation from any of the parties to the proceeding before rendering ((his)) a decision. In making ((his)) a decision, ((he)) the president shall only consider the written record ((before him)), the student's notice of appeal, the petition of a complaining witness if such is filed, the written record of the disciplinary committee, and such other information and an explanation ((he has)) requested from the parties to the proceeding. In the instance in which the president has received a finding that the ((college)) university student code has been violated, ((he)) the president may, in considering what disciplinary sanction should be imposed, affirm, reverse, remand, or modify (only to a less severe sanction) the recommendation of the ((college)) university disciplinary committee.

**AMENDATORY SECTION** (Amending Order 72-2, filed 5/12/72)

**WAC 172-120-130 INTERIM SUSPENSION PERMITTED.** Disciplinary actions of the ((college)) university will be implemented by the president of the ((college)) university, except as such implementation may be delegated by the president or the board of trustees. Ordinarily, the disciplinary authority of the ((college)) university will be invoked only after completion of the procedures established for the review of disciplinary cases and after the employee or student, if ((he)) they so ((wishes)) wish, ((has)) have availed ((himself)) themselves of the appeal procedures. However, in emergency situations, if the safety of one or more individuals is imperiled, property is endangered, or the ((college's)) university's ability to function is in question, the president or ((his)) an authorized representative may summarily suspend for stated cause an employee or the enrollment of any student. In all such cases, the individual is entitled to a hearing before the appropriate group or official as specified under discipline procedures as soon as such a hearing can be held, but not to exceed ten ((+0)) days after the date of summary suspension. During the period of interim suspension, the individual shall not enter or remain on the campus or other property owned or controlled by the ((college)) university.

**AMENDATORY SECTION** (Amending Order 76-9-1, filed 9/23/76)

**WAC 172-120-140 JUDICIAL PROCEEDINGS—PROCEDURAL RIGHTS OF STUDENTS.**

(1) Rights of the accused.

(a) An accused student has the right to a fair and impartial hearing before the appropriate committee composed of members of the campus community.

(b) No student may be asked by a ((college)) university official or judiciary body to give information or to answer any question concerning the alleged violation of this chapter which ((he is)) they are suspected of having committed until ((he has)) they have been informed of:

(i) The fact that ((he is)) they are suspected of having violated this chapter and the section ((he is)) they are suspected of having violated,

(ii) The nature and approximate date of the activity in which ((he is)) they are suspected of having engaged,

(iii) The fact that ((he)) they need not give any information regarding the alleged acts.

(c) In all judicial proceedings, the students shall enjoy the right to speak on ((his)) their own behalf.

(d) Both the judiciary body and the student shall enjoy the right to call any persons whom they wish to speak concerning the case, subject to the rules of privilege recognized by law and rules excluding evidence which is incompetent, irrelevant, immaterial or unduly repetitious.

(e) The accused student has the right to know ((his)) their accusers and to cross-examine them and any others presenting evidence against the accused.

(f) A student shall not be subjected to ((college)) university judicial action more than once for the same violation of a regulation.

(g) The burden of proof rests with the accuser. Said burden shall be carried if guilt is indicated by a fair preponderance of the evidence considered as a whole.

**WSR 81-06-024**

**ADOPTED RULES**

**DEPARTMENT OF**

**SOCIAL AND HEALTH SERVICES**

**(Public Assistance)**

[Order 1613—Filed February 25, 1981]

I, N. Spencer Hammond, Ex. Asst. of the Department of Social and Health Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to nursing home accounting and reimbursement system, amending chapter 388-96 WAC.

This action is taken pursuant to Notice No. WSR 81-01-108 filed with the code reviser on December 24, 1980. Such rules shall take effect pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 74.09.120 and is intended to administratively implement that statute.

This rule is promulgated pursuant to RCW 74.46.800 which directs that the secretary of the Department of Social and Health Services has authority to implement the provisions of chapter 74.46 RCW.

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure



Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED February 25, 1981.

By N. S. Hammond  
Executive Assistant

**Reviser's Note:** The material contained in this filing will appear in a subsequent issue of the Register as it was received after the applicable closing date for this issue for agency typed material exceeding the volume limitations of WAC 1-12-035 or 1-13-035, as appropriate.

### WSR 81-06-025

#### NOTICE OF PUBLIC MEETINGS EMPLOYMENT SECURITY DEPARTMENT (Employment and Training Division)

[Memorandum—February 23, 1981]

Following is the date and location of the next meeting of the Washington State Employment and Training Council. Please publish this information in the next edition of the Washington State Register.

"The Washington State Employment and Training Council will meet May 1, 1981, from 9:30 a.m. to 3:00 p.m. at the Crestview Conference Center in Seattle, Washington. The meeting is open to the public and accessible to the handicapped.

Inquiries regarding the meeting should be directed to Kay Boyd at 1007 South Washington Street, Olympia, Washington 98504, (206) 754-1010."

### WSR 81-06-026 PROPOSED RULES DEPARTMENT OF LABOR AND INDUSTRIES

[Filed February 25, 1981]

Notice is hereby given in accordance with the provisions of RCW 34.04.025 and 49.17.040, that the Department of Labor and Industries, intends to adopt, amend, or repeal rules concerning chapter 296-27 WAC, Administrative rules—Method, manner, and frequency of inspections of work places in the state of Washington to determine compliance with the Washington Industrial Safety and Health Act, chapter 49.17 RCW.

Written or oral submissions may also contain data, views, and arguments concerning the effect of the proposed rules or amendments of rules on economic values, pursuant to chapter 43.21H RCW.

The agency reserves the right to modify the text of these proposed rules before the public hearing or in response to written or oral comments received before or during the public hearing.

Correspondence relating to this notice and the proposed rules should be addressed to:

Department of Labor and Industries  
Division of Industrial Safety and Health  
P. O. Box 207  
Olympia, Washington 98504;

that such agency will at 9:30 a.m., Wednesday, March 25, 1981, in the Conference Room, General Administration Building, Olympia, Washington, conduct a hearing relative thereto;

and that the adoption, amendment, or repeal of such rules will take place at 9:30 a.m., Monday, April 20, 1981, in the Director's office, Department of Labor and Industries, Olympia, Washington.

The authority under which these rules are proposed is RCW 49.17.050.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to March 20, 1981, and/or orally at 9:30 a.m., Wednesday, March 25, 1981.

This notice is connected to and continues the matter noticed in Notice No. WSR 81-03-071 filed with the code reviser's office on January 21, 1981.

Dated: February 25, 1981

By: Leon Flaherty  
Acting Director

### WSR 81-06-027

#### EMERGENCY RULES DEPARTMENT OF FISHERIES [Order 81-17—Filed February 25, 1981]

I, Rolland A. Schmitten, director of the Washington Department of Fisheries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to personal use fishing regulations.

I, Rolland A. Schmitten, find that an emergency exists and that the foregoing order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting such emergency is this rule was discussed at a public hearing January 27 and adopted January 29, 1981. Immediate implementation is necessary to protect Columbia River spring chinook salmon.

Such rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 75.08.080 and is intended to administratively implement that statute.

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), as appropriate, and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED February 24, 1981.

By Rolland A. Schmitten  
Director

NEW SECTION

WAC 220-56-16000I COLUMBIA RIVER. Notwithstanding the provisions of WAC 220-56-160, effective March 16 through March 31, 1981, it is unlawful to take, fish for or possess salmon for personal use in that portion of the Columbia River downstream from the Richland-Pasco Highway 12 Bridge.

NEW SECTION

WAC 220-57-50500D (LITTLE) WHITE SALMON RIVER (DRANO LAKE). Notwithstanding the provisions of WAC 220-57-505, effective March 16 through April 30, 1981, it is unlawful to take, fish for or possess salmon for personal use from the waters of (Little) White Salmon River (Drano Lake).

**WSR 81-06-028****EMERGENCY RULES****DEPARTMENT OF FISHERIES**

[Order 81-16—Filed February 25, 1981]

I, Rolland A. Schmitten, director of the Washington Department of Fisheries, do promulgate and adopt at Olympia, Washington, the annexed rules relating to commercial fishing regulations.

I, Rolland A. Schmitten, find that an emergency exists and that the foregoing order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting such emergency is the Chehalis River is closed to protect spring chinook salmon.

Such rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 75.08.080 and is intended to administratively implement that statute.

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), as appropriate, and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED February 24, 1981.

By Rolland A. Schmitten  
Director

NEW SECTION

WAC 220-28-002F0A CLOSED AREA. Effective March 1 through July 31, 1981 it is unlawful for any fisherman, including treaty Indian fishermen, to take, fish for or possess salmon for commercial purposes from the waters of the Chehalis River.

**WSR 81-06-029****PROPOSED RULES****FORT STEILACOOM  
COMMUNITY COLLEGE**

[Filed February 25, 1981]

Notice is hereby given in accordance with the provisions of RCW 28B.19.030, that the Community College District No. 11, Fort Steilacoom Community College, intends to adopt, amend, or repeal rules concerning Policy on Equal Opportunity and Affirmative Action Program, chapter 132K-28 WAC;

that such institution will at 2:00 p.m., Tuesday, April 7, 1981, in the Fort Steilacoom Community College, P 12, Board Room, 9401 Farwest Drive S.W., Tacoma, WA 98498, conduct a hearing relative thereto;

and that the adoption, amendment, or repeal of such rules will take place at 2:00 p.m., Tuesday, April 7, 1981, in the Fort Steilacoom Community College, P 12, Board Room, 9401 Farwest Drive S.W., Tacoma, WA 98498.

The authority under which these rules are proposed is RCW 28B.50.140.

Interested persons may submit data, views, or arguments to this institution in writing to be received by this institution prior to April 1, 1981, and/or orally at 2:00 p.m., Tuesday, April 7, 1981, Fort Steilacoom Community College, P 12, Board Room, 9401 Farwest Drive S.W., Tacoma, WA 98498.

By: Dr. Robert H. Stauffer  
President

**STATEMENT OF PURPOSE**

Title: Chapter 132K-28, Community College District No. 11, Fort Steilacoom Community College, Policy on Equal Opportunity and Affirmative Action Program.

Description of purpose: Elimination of WAC code.

Statutory authority: RCW 28B.50.140 (3).

Summary of rule: Policy on Equal Opportunity and Affirmative Action Program - to meet the requirement of Notice of Intention. Reasons supporting proposed action: To alleviate conflict of other policies of the institution and the elimination of WAC code.

Agency personnel responsible for drafting: Dr. Robert H. Stauffer, President, Fort Steilacoom Community College, 9401 Farwest Drive S.W., Tacoma, WA 98498.

Person or organization proposing rule, and whether public, private, or governmental: Board of Trustees - 2 year public institution.

Agency comments or recommendations regarding statutory language, implementation, enforcement, fiscal matters: None.

Whether rule is necessary as result of federal law or federal or state court action: (if so, attach copy of law or court decision) Not applicable.

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 132K-28-010 POLICY

**WSR 81-06-030****ATTORNEY GENERAL OPINION**

Cite as: AGO 1981 No. 2

[February 25, 1981]

**HIGHWAYS—COUNTY ROADS—MOTOR VEHICLES—  
SNOWMOBILES—LOCAL REGULATION OF SNOWMOBILES  
ON PUBLIC HIGHWAYS OR ROADWAYS**

- (1) Under RCW 46.10.110, a board of county commissioners (as the responsible governing body in the case of county roads) may open to snowmobiles a county road which is also open to conventional vehicles.
- (2) Neither the provisions of chapter 46.16 RCW nor those of chapter 46.37 RCW apply to snowmobiles, even when operated on a public highway or roadway which is also open to conventional vehicles.
- (3) A county may not establish equipment standards or impose age qualifications for the operation of snowmobiles which are inconsistent with RCW 46.10.090 or RCW 46.10.120, respectively.

## Requested by:

Honorable Jeffrey C. Sullivan Prosecuting Attorney  
Yakima County  
329 County Courthouse  
Yakima, Washington 98901

**WSR 81-06-031****PROPOSED RULES****PENINSULA COLLEGE**

[Filed February 26, 1981]

Notice is hereby given in accordance with the provisions of RCW 28B.19.030, that the Community College District #1, Peninsula College, intends to adopt, amend, or repeal rules concerning the repealing of WAC 132A-104-005, Board meetings. Establishing meeting dates and times;

that such institution will at 3:00 p.m., Wednesday, April 15, 1981, in the Board Room of Peninsula College, Port Angeles, Washington, conduct a hearing relative thereto;

and that the adoption, amendment, or repeal of such rules will take place at 3:00 p.m., Wednesday, April 15, 1981, in the Board Room of Peninsula College, Port Angeles, Washington.

The authority under which these rules are proposed is RCW 28B.50.140.

Interested persons may submit data, views, or arguments to this institution in writing to be received by this institution prior to April 15, 1981, and/or orally at 3:00

p.m., Wednesday, April 15, 1981, Board Room of Peninsula College, Port Angeles, Washington.

Dated: February 25, 1981

By: Paul G. Cornaby  
President of Peninsula College and  
Secretary to the Board of Trustees

**STATEMENT OF PURPOSE**

Title: Board meetings.

Description of purpose: To repeal possible conflicting notification of meeting dates.

Statutory Authority: RCW 28B.19.030, 28B.50.130 and 28B.50.140.

Summary of rule: Repeals WAC 132A-104-005, Board meetings.

Reasons supporting proposed action: Currently the board of trustees is required by law to submit on or before January of each year a schedule of regular meeting dates with the Code Reviser (RCW 42.30.075). Although the rule allows for change, the rule may tend to confuse rather than inform. Agency personnel responsible for drafting: Lucille Mealey, 1502 E. Lauridsen Blvd., Port Angeles, WA, SCAN 227-1200; implementation and enforcement: Dr. Paul Cornaby, 1502 E. Lauridsen Blvd., Port Angeles, WA, SCAN 227-1200.

Person or organization proposing rule, and whether public, private or governmental: Board of Trustees of Community College District No. 1, a public body.

Agency comments or recommendations regarding statutory language, implementation, enforcement, fiscal matters: None.

Whether rule is necessary as result of federal law or federal or state court action: (if so, attach copy of law or court decision) No.

**REPEALER**

WAC 132A-104-005 BOARD MEETINGS.

**WSR 81-06-032****ATTORNEY GENERAL OPINION**

Cite as: AGLO 1981 No. 4

[February 26, 1981]

**LEGISLATURE—REDISTRICTING—AUTHORITY OF STATUTORY REDISTRICTING COMMISSION**

A legislative redistricting plan formulated by a statutorily-created redistricting commission could not become effective without being enacted into law by the legislature in the manner that other laws, generally, are enacted.

## Requested by:

Honorable Ted Haley  
St. Sen., 28th District  
104 Institutions Building  
Olympia, Washington 98504

**WSR 81-06-033**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
**(Public Assistance)**  
 [Filed February 27, 1981]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services intends to adopt, amend, or repeal rules concerning Residence—Establishing, amending WAC 388-26-055.

Correspondence concerning this notice and proposed rules attached should be addressed to:

David A. Hogan  
 Director, Client and  
 Community Relations Division  
 Department of Social and Health Services  
 Mailstop OB-44 C  
 Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact William B. Pope, Chief, Office of Administrative Regulations, at State Office Building #2, 12th and Jefferson, Olympia, Washington, Phone (206) 753-7015, by March 25, 1981. The meeting site is in a location which is barrier free;

that such agency will at 10:00 a.m., Wednesday, April 8, 1981, in the Auditorium, Office Building #2, 12th and Franklin, Olympia, Washington, conduct a hearing relative thereto;

and that the adoption, amendment, or repeal of such rules will take place at 9:00 a.m., Wednesday, April 15, 1981, in William B. Pope's office, 4th Floor, Office Building #2, 12th and Franklin, Olympia, Washington.

The authority under which these rules are proposed is RCW 74.08.090.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to April 8, 1981, and/or orally at 10:00 a.m., Wednesday, April 8, 1981, Auditorium, Office Building #2, 12th and Franklin, Olympia, Washington.

Dated: February 27, 1981

By: David A. Hogan  
 Director, Client and  
 Community Relations Division

**STATEMENT OF PURPOSE**

This statement is filed pursuant to RCW 34.04.045.

Amend: WAC 388-26-055.

Purpose of the rule or rule change is to amend rules on residence to provide that states not immediately deny assistance to an applicant who has not established residency at the moment of application but who will have established residency prior to final determination of eligibility.

The reason(s) these rules are necessary is to comply with federal requirements.

Summary of the rule or rule change: WAC 388-26-055(1)(b) is revised by deleting the phrase "at the time of application" from the residence rule.

Person or persons responsible for the drafting implementation and enforcement of the rule:

Name of initiator: Mick Determan

Title: Program Manager

Office: Income Maintenance

Mailstop: OB 31C

Phone: 3-4381.

The person or organization (if other than DSHS) who proposed these rules is: None.

These rules are necessary as a result of a federal law, 45 CFR 233.40.

AMENDATORY SECTION (Amending Order 1490, filed 2/22/80)

WAC 388-26-055 RESIDENCE—ESTABLISHING. (1) A resident is a person who:

(a) Is living in the state of Washington voluntarily with the intention of making his/her home in the state and not for a temporary purpose; that is, one who has indicated intent to maintain his/her residence in the state and has no intention of presently leaving the state to take up residence; or

(b) ~~((At the time of application,))~~ Is living in the state, and entered the state with a job commitment or seeking employment in the state whether or not currently employed.

(2) The CSO is not required to find that an applicant is a resident of Washington if he/she is determined to be a bona fide resident of another state; in other words, that he/she is temporarily absent from another state and has not chosen to acquire residence in this state.

**WSR 81-06-034**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
**(Public Assistance)**

[Order 1614—Filed February 27, 1981]

I, David A. Hogan, Director, Client and Community Relations Division, of the Department of Social and Health Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to Overpayment—Repayment, amending chapter 388-44 WAC.

I, David A. Hogan, find that an emergency exists and that the foregoing order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting such emergency is these rules are necessary to comply with a court order in the case of Bazan vs. DSHS.

Such rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated under the general rule-making authority of the secretary of Department of Social and Health Services as authorized in RCW 74.08.090.

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure

Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED February 27, 1981.

By David A. Hogan

Director, Client and Community Relations Division

AMENDATORY SECTION (Amending Order 1058, filed 10/5/75)

WAC 388-44-010 OVERPAYMENT-DEFINED.

(1) "Overpayment" means any assistance paid to a person (~~(assistance unit)~~) who is not eligible or assistance paid to an eligible person in excess of (~~(need)~~) the amount he/she was eligible to receive.

(2) An overpayment includes vendor payments for medical care provided during a period when the individual was not eligible for public assistance.

(3) Funeral expenses paid by the department are an overpayment to the extent the value of the estate is not used as a resource in determining eligibility. However, the department's funeral expense payment is not repayable when the (~~(surviving spouse and/or dependent child(ren) receive from the)~~) estate consists only ((those)) of assets (resources) which are exempt in determining ((their)) eligibility for public assistance for the surviving spouse and/or dependents.

Reviser's Note: RCW 34.04.058 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.

Reviser's Note: The typographical errors in the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending Order 843, filed 8/9/73)

WAC 388-44-020 FRAUD-DEFINED. (1)

"Fraud" shall mean a deliberate, intentional, and willful act, with the specific purpose of deceiving the department with respect to any material fact, condition, or circumstance affecting eligibility or need.

(a) "Act" as used here includes the (~~(willful)~~) willful failure to act when there is a lawful duty to act, and the willful concealment of or failure to reveal information when there is a lawful duty to reveal such information.

(b) An act based on ignorance, confusion, or mistake and done without intention to deceive shall not be considered fraudulent.

(c) An applicant or recipient shall not be charged with fraud when an overpayment is directly due to any omission, neglect, or error by the department in securing, recording, or acting on information, but shall be responsible for repayment of the overpayment pursuant to the applicable rules in WAC 388-47-127, 388-44-130, and 388-44-140.

(2) The failure of any recipient of public assistance to notify the department within twenty days of any change in circumstances affecting eligibility or need, including receipt or possession of all income or resources not previously declared to the department, shall be prima facie evidence of fraud. When a local office finds that an applicant or recipient has misstated or failed to reveal any

material fact affecting eligibility or need, it shall presume that such act was done intentionally.

(3) It shall be the duty of the department, whenever it finds misstatement or failure to reveal pertinent facts or circumstances, to secure further evidence, whenever possible, which enables it to formulate a firm opinion as to whether or not the act was committed intentionally and fraudulently. In the absence of such further evidence, the presumption is not overcome, however, such presumption is rebuttable.

~~((4)) Evidence to consider in determining whether the existence of fraud is established or negated may include, but is not limited to, the following:~~

~~(a) A statement of the applicant or recipient;~~

~~(b) Names, addresses, and statements of persons who can verify or refute the statement of the applicant or recipient;~~

~~(c) Documents such as birth certificates, medical records, letters, affidavits, receipts, deeds, contracts, and any other type of written or printed communication;~~

~~(d) Any elements in the applicant/recipient's situation which reasonably explain any misstatements or failure to reveal information. Such elements might include physical or mental conditions of the applicant/recipient, language difficulties, problems due to distance, and failure of the local office to fully advise the applicant/recipient.)~~

~~((5)) (4) ((It is of paramount importance that)) The local office must inform all applicants and recipients of their rights and responsibilities concerning eligibility for and receipt of assistance. ((Primary among the responsibilities of applicants and recipients is the obligation to report all circumstances which affect eligibility and need. Fundamental among the rights of applicants and recipients is the right to be informed by the local office what those circumstances are.))~~

~~((6)) (5) See chapter 388-46 WAC for referral to county prosecutor for possible criminal action.~~

Reviser's Note: RCW 34.04.058 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.

Reviser's Note: The typographical errors in the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending Order 539, filed 3/31/71, effective 5/1/71)

WAC 388-44-035 OVERPAYMENT—((DUE TO FACTORS OTHER THAN NEED)) AMOUNT.

(1) The amount of the overpayment to an individual (~~(who is ineligible for reasons other than financial need)~~) shall be determined as follows((-):

(a) If assistance is obtained as a result of a willful act of the recipient to deceive the department, the overpayment shall be 125 (~~(per cent)~~) percent of the amount of assistance, including medical care, to which he/she was not entitled (~~(during such period of ineligibility)~~).

(b) If no willful act to deceive is involved, the overpayment shall be the amount of assistance, including medical care, to which he/she was not entitled (~~(during~~

~~the period of ineligibility(;;). ((provided that such overpayment shall be reduced by))~~

(c) To determine the amount to which he/she was not entitled in (a) and (b), the overpayment shall be reduced by:

(i) The amount of assistance that the recipient would have been eligible to receive during the period of ineligibility from any other category of assistance.

(ii) The amount of any child care paid by a recipient while earning unreported wages in the amount which the department would have paid if the employment and child care had been properly reported.

(iii) The amount of child support, paid by the absent parent for the month of overpayment, in excess of the amount of assistance which the individual was actually entitled.

(2) Any overpayment in any month prior to the effective date of the latest recomputation of grant shall be reduced by the amount of any underpayment in any month prior to the effective date of the latest recomputation.

**Reviser's Note:** RCW 34.04.058 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 Order 965, filed 8/29/74)

WAC 388-44-145 INVOLUNTARY REPAYMENT OF OVERPAYMENT—MANDATORY GRANT DEDUCTION. (1) An overpayment shall be recouped by mandatory deduction from future continuing assistance grants only when the department has made a determination that the overpayment resulted from recipient fraud as defined in WAC 388-44-020.

(2) If an overpayment is the result of recipient fraud and if the recipient has cash, bank accounts, or marketable securities which he refuses to use in full or partial satisfaction of an overpayment, a monthly deduction of up to one hundred percent of future grant(s) shall be established until such time as the amount of the grant(s) the recipient would be otherwise eligible to receive equals the value of the cash, bank accounts, or marketable securities which have been withheld.

(3) When deductions have been made pursuant to subsection (2) and the recipient still owes money, or when subsection (2) does not apply

(a) The department shall, on a case-by-case basis, limit the amount of the monthly deduction so as not to cause undue hardship. The deduction shall not exceed ten percent of the recipient's total monthly requirements unless the recipient requests a larger deduction in writing.

(b) Deleted

(c) Deleted

(d) When a recipient is in a nursing home, intermediate care facility, or hospital, a monthly deduction may be made against the clothing and incidental grant to the recipient. A monthly deduction shall not be made against the vendor payment to the nursing home or intermediate care facility.

(e) The grant shall be suspended when the monthly deduction is equal to or more than the grant which would have been paid had no overpayment occurred.

(f) A deduction shall not be made from a noncontinuing general assistance-employable grant to liquidate an overpayment.

(4) A letter confirming the repayment plan shall be sent to the recipient. The letter shall state the percentage of monthly requirements to be deducted. It shall state the amount of the current grant before and after the deduction is made, the date the deduction begins, the total amount of overpayment to be recouped by grant deduction, and the approximate number of months the deduction will be made.

(5) Mandatory deductions from public assistance grants shall recoup no more than 100 percent of the amount of assistance that the individual was ineligible to receive.

**Reviser's Note:** RCW 34.04.058 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.

#### REPEALER

The following section of the Washington Administrative Code is repealed.

(1) WAC 388-44-040 OVERPAYMENT—DUE TO NEED FACTOR.

**WSR 81-06-035  
PROPOSED RULES  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES  
(Public Assistance)**

[Filed February 27, 1981]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services intends to adopt, amend, or repeal rules concerning Overpayment—Repayment, amending chapter 388-44 WAC.

It is the intention of the secretary to adopt these rules on an emergency basis prior to the hearing.

Correspondence concerning this notice and proposed rules attached should be addressed to:

Director, Client and  
Community Relations Division  
Department of Social and Health Services  
Mailstop OB-44 D  
Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact William B. Pope, Chief, Office of Administrative Regulations, at State Office Building #2, 12th and Jefferson, Olympia, Washington, Phone (206) 753-7015, by March 25, 1981. The meeting site is in a location which is barrier free;

that such agency will at 10:00 a.m., Wednesday, April 8, 1981, in the Auditorium, Office Building #2, 12th and

Franklin, Olympia, Washington, conduct a hearing relative thereto;

and that the adoption, amendment, or repeal of such rules will take place at 9:00 a.m., Wednesday, April 15, 1981, in William B. Pope's office, 4th Floor, Office Building #2, 12th and Franklin, Olympia, Washington.

The authority under which these rules are proposed is RCW 74.08.090.

Dated: February 27, 1981

By: David A. Hogan

Director, Client and

Community Relations Division

### STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Amend: chapter 388-44 WAC.

Purpose of the rule or rule change is to end recoupment of the 25% penalty on fraudulent overpayments through mandatory deductions.

The reason(s) these rules are necessary is to comply with a court order in the case of Bazan vs. DSHS.

Statutory authority: RCW 74.08.090.

Summary of the rule or rule change: WAC 388-44-010(1) and (3) clarifies the definition of "overpayment". WAC 388-44-010(4) and (5) deletes procedural and philosophical material. WAC 388-44-035 makes deductions from overpayments available to both overpayments due to program ineligibility and those due to factors of need, clarifies treatment of child support and child care costs in computing overpayments. WAC 388-44-040 is repealed. WAC 388-44-145(5) prohibits collection of the 25% penalty through mandatory deductions.

Person or persons responsible for the drafting implementation and enforcement of the rule:

Name of initiator: Gerry Nelson

Title: Program Manager

Office: Bureau of Income Maintenance

Mailstop: OB-31 C

Phone: 3-3177.

The person or organization (if other than DSHS) who proposed these rules is: None.

These rules are necessary as a result of a state supreme court decision, No. 47187-8.

### AMENDATORY SECTION (Amending Order 1058, filed 10/5/75)

WAC 388-44-010 OVERPAYMENT-DEFINED. (1) "Overpayment" means any assistance paid to a person (~~(assistance unit)~~) who is not eligible or assistance paid to an eligible person in excess of (~~(need)~~) the amount he/she was eligible to receive.

(2) An overpayment includes vendor payments for medical care provided during a period when the individual was not eligible for public assistance.

(3) Funeral expenses paid by the department are an overpayment to the extent the value of the estate is not used as a resource in determining eligibility. However, the department's funeral expense payment

is not repayable when the (~~(surviving spouse and/or dependent child(ren) receive from the)~~) estate consists only (~~(those)~~) of assets (resources) which are exempt in determining (~~(their)~~) eligibility for public assistance for the surviving spouse and/or dependents.

**Reviser's Note:** RCW 34.04.058 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.

**Reviser's Note:** The typographical errors in the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

### AMENDATORY SECTION (Amending Order 843, filed 8/9/73)

WAC 388-44-020 FRAUD-DEFINED. (1) "Fraud" shall mean a deliberate, intentional, and willful act, with the specific purpose of deceiving the department with respect to any material fact, condition, or circumstance affecting eligibility or need.

(a) "Act" as used here includes the (~~(willful)~~) willful failure to act when there is a lawful duty to act, and the willful concealment of or failure to reveal information when there is a lawful duty to reveal such information.

(b) An act based on ignorance, confusion, or mistake and done without intention to deceive shall not be considered fraudulent.

(c) An applicant or recipient shall not be charged with fraud when an overpayment is directly due to any omission, neglect, or error by the department in securing, recording, or acting on information, but shall be responsible for repayment of the overpayment pursuant to the applicable rules in WAC 388-47-127, 388-44-130, and 388-44-140.

(2) The failure of any recipient of public assistance to notify the department within twenty days of any change in circumstances affecting eligibility or need, including receipt or possession of all income or resources not previously declared to the department, shall be prima facie evidence of fraud. When a local office finds that an applicant or recipient has misstated or failed to reveal any material fact affecting eligibility or need, it shall presume that such act was done intentionally.

(3) It shall be the duty of the department, whenever it finds misstatement or failure to reveal pertinent facts or circumstances, to secure further evidence, whenever possible, which enables it to formulate a firm opinion as to whether or not the act was committed intentionally and fraudulently. In the absence of such further evidence, the presumption is not overcome; however, such presumption is rebuttable.

~~((4))~~ Evidence to consider in determining whether the existence of fraud is established or negated may include, but is not limited to, the following:

(a) A statement of the applicant or recipient;

(b) Names, addresses, and statements of persons who can verify or refute the statement of the applicant or recipient;

(c) Documents such as birth certificates, medical records, letters, affidavits, receipts, deeds, contracts, and any other type of written or printed communication;

~~(d) Any elements in the applicant/recipient's situation which reasonably explain any misstatements or failure to reveal information. Such elements might include physical or mental conditions of the applicant/recipient, language difficulties, problems due to distance, and failure of the local office to fully advise the applicant/recipient.)~~

~~((5))~~ (4) ~~((It is of paramount importance that))~~ The local office must inform all applicants and recipients of their rights and responsibilities concerning eligibility for and receipt of assistance. ~~((Primary among the responsibilities of applicants and recipients is the obligation to report all circumstances which affect eligibility and need. Fundamental among the rights of applicants and recipients is the right to be informed by the local office what those circumstances are.))~~

~~((6))~~ (5) See chapter 388-46 WAC for referral to county prosecutor for possible criminal action.

**Reviser's Note:** RCW 34.04.058 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.

**Reviser's Note:** The typographical errors in the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending Order 539, filed 3/31/71, effective 5/1/71)

WAC 388-44-035 OVERPAYMENT—((DUE TO FACTORS OTHER THAN NEED)) AMOUNT. (1) The amount of the overpayment to an individual ~~((who is ineligible for reasons other than financial need))~~ shall be determined as follows~~((:))~~:

(a) If assistance is obtained as a result of a willful act of the recipient to deceive the department, the overpayment shall be 125 ~~((per cent))~~ percent of the amount of assistance, including medical care, to which he/she was not entitled ~~((during such period of ineligibility))~~.

(b) If no willful act to deceive is involved, the overpayment shall be the amount of assistance, including medical care, to which he/she was not entitled ~~((during the period of ineligibility((:))), ((provided that such overpayment shall be reduced by))~~

(c) To determine the amount to which he/she was not entitled in (a) and (b), the overpayment shall be reduced by:

(i) The amount of assistance that the recipient would have been eligible to receive during the period of ineligibility from any other category of assistance.

(ii) The amount of any child care paid by a recipient while earning unreported wages in the amount which the department would have paid if the employment and child care had been properly reported.

(iii) The amount of child support, paid by the absent parent for the month of overpayment, in excess of the amount of assistance which the individual was actually entitled.

(2) Any overpayment in any month prior to the effective date of the latest recomputation of grant shall be reduced by the amount of any underpayment in any month prior to the effective date of the latest recomputation.

**Reviser's Note:** RCW 34.04.058 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 Order 965, filed 8/29/74)

WAC 388-44-145 INVOLUNTARY REPAYMENT OF OVERPAYMENT—MANDATORY GRANT DEDUCTION. (1) An overpayment shall be recouped by mandatory deduction from future continuing assistance grants only when the department has made a determination that the overpayment resulted from recipient fraud as defined in WAC 388-44-020.

(2) If an overpayment is the result of recipient fraud and if the recipient has cash, bank accounts, or marketable securities which he refuses to use in full or partial satisfaction of an overpayment, a monthly deduction of up to one hundred percent of future grant(s) shall be established until such time as the amount of the grant(s) the recipient would be otherwise eligible to receive equals the value of the cash, bank accounts, or marketable securities which have been withheld.

(3) When deductions have been made pursuant to subsection (2) and the recipient still owes money, or when subsection (2) does not apply

(a) The department shall, on a case-by-case basis, limit the amount of the monthly deduction so as not to cause undue hardship. The deduction shall not exceed ten percent of the recipient's total monthly requirements unless the recipient requests a larger deduction in writing.

(b) Deleted

(c) Deleted

(d) When a recipient is in a nursing home, intermediate care facility, or hospital, a monthly deduction may be made against the clothing and incidental grant to the recipient. A monthly deduction shall not be made against the vendor payment to the nursing home or intermediate care facility.

(e) The grant shall be suspended when the monthly deduction is equal to or more than the grant which would have been paid had no overpayment occurred.

(f) A deduction shall not be made from a noncontinuing general assistance-employable grant to liquidate an overpayment.

(4) A letter confirming the repayment plan shall be sent to the recipient. The letter shall state the percentage of monthly requirements to be deducted. It shall state the amount of the current grant before and after the deduction is made, the date the deduction begins, the total amount of overpayment to be recouped by grant deduction, and the approximate number of months the deduction will be made.

(5) Mandatory deductions from public assistance grants shall recoup no more than 100 percent of the amount of assistance that the individual was ineligible to receive.

**Reviser's Note:** RCW 34.04.058 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.

#### REPEALER

The following section of the Washington Administrative Code is repealed.

(1) WAC 388-44-040 OVERPAYMENT—DUE TO NEED FACTOR.

### WSR 81-06-036

#### EMERGENCY RULES

#### COMMISSION ON EQUIPMENT

[Order 81-02-01—Filed February 27, 1981]

Be it resolved by the Commission on Equipment, acting at General Administration Building, Olympia, Washington 98504, that it does promulgate and adopt the annexed rules relating to traction devices, chapter 204-24 WAC.

We, the Commission on Equipment, find that an emergency exists and that the foregoing order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting such emergency is traffic and road conditions requiring this amendment are already present. Normal filings of notice and adoption would delay the amendment until such time as it was no longer necessary this year.

Such rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 46.37.005 and 46.37.420 which directs that the Commission on Equipment has authority to implement the provisions of RCW 46.37.420.

This rule is promulgated under the general rule-making authority of the Commission on Equipment as authorized in RCW 46.37.005.

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), as appropriate, and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED January 16, 1981.

By Lt. R. C. Dale  
Secretary

AMENDATORY SECTION (Amending Order 7607A, filed January 30, 1978)

WAC 204-24-050 USE OF TIRE CHAINS OR OTHER TRACTION DEVICES. When traffic control signs marked "Chains Required" or "(Other) Approved Traction Devices ((Are)) Required" are posted



by the Transportation Commission, it shall be unlawful for any vehicle not to have tire chains or approved traction devices mounted on the drive wheels of a vehicle, except the use of special tires or approved traction devices other than tire chains by vehicles over 10,000 pounds gross vehicle weight shall not be permitted. These vehicles must use tire chains as set forth. In addition, a wheel on the last axle of any trailer in a two-vehicle combination of vehicles over 10,000 pounds GVW shall have a tire chain mounted on its tire. If the trailer is equipped with a dual rear axle, the chain may be installed on a tire on the forward-most rear axle. On any vehicle (~~((equipped with))~~) equipped with dual tire drive wheels, individual metal chains of hardened metal may be used on the outside drive wheels, provided a minimum of four such chains equally spaced are used on each such wheel. All-wheel drive vehicles with a gross vehicle weight of 8,000 pounds or less, in gear, equipped with approved traction devices on all wheels, may be exempt from using chains when traffic control signs marked "Chains Required" are posted. PROVIDED: That tire chains for at least one set of drive wheels are carried upon such vehicle. Where traffic control signs are posted marked "Chains Required", the use of special tires or approved traction devices may not be substituted for tire chains on single drive vehicles. The Washington State Transportation Commission or Washington State Patrol may prohibit any vehicle from entering a chain control area when it is determined that the vehicle will experience difficulty in safely traveling the area.

**WSR 81-06-037**

**ADOPTED RULES**

**DEPARTMENT OF**

**LABOR AND INDUSTRIES**

[Order 81-5—Filed February 27, 1981—Eff. April 1, 1981]

I, Sam Kinville, director of the Department of Labor and Industries, do promulgate and adopt at the Office of Director of the Department of Labor and Industries, third floor, General Administration Building, Olympia, Washington, the annexed rules relating to standards for installing electric wires and equipment; fees for electrical inspections; duties of Board of Electrical Examiners and Electrical Contractor Administrators; and electrical journeymen and training licensing.

This action is taken pursuant to Notice No. WSR 81-05-025 filed with the code reviser on February 16, 1981. Such rules shall take effect at a later date, such date being April 1, 1981.

This rule is promulgated pursuant to RCW 19.28.060 and is intended to administratively implement that statute.

This rule is promulgated under the general rule-making authority of the Department of Labor and Industries as authorized in RCW 19.28.600.

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure

Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), as appropriate, and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED February 27, 1981.

By Sam Kinville  
Director

AMENDATORY SECTION (Amending Order 77-31, filed 1/31/78)

WAC 296-46-110 FOREWORD. These Rules and Regulations are issued by the Electrical Inspection Section of the Department of Labor and Industries under the authority of chapter 19.28 RCW, Electrical Installations Law. The department is empowered by law to enforce these Rules and Regulations and the National Electrical Code.

The ~~((1978))~~ 1981 edition, National Electrical Code, is hereby adopted by reference as part of these Rules and Regulations. The Rules and Regulations are adopted for the safety of the public and are to be used in connection with the ~~((1978))~~ 1981 edition of the National Electrical Code. Other codes, manuals and reference works referred to in this code will be available for inspection and review in the office of the Electrical Inspection Section of the Division of Building and Construction Safety Inspection Services, Olympia, during business hours. Where there is any conflict between the Rules and Regulations and the National Electrical Code, the Rules and Regulations shall be observed.

Electrical inspectors will give information as to the meaning or application of the National Electrical Code and these Rules and Regulations, but will not lay out work or act as consultants for contractors, owners or users.

A copy of chapter 19.28 RCW, Electrical Installations Law, may be obtained from the Department of Labor and Industries.

NEW SECTION

WAC 296-46-115 DEFINITIONS. Whenever used in these rules, the words:

Advisory board: Shall mean the Washington State Electrical Advisory Board appointed by the governor pursuant to RCW 19.28.065.

Examining board: Shall mean the Board of Electrical Examiners.

Department: Shall mean the Department of Labor and Industries of the State of Washington.

Director: Shall mean the Director of the Department of Labor and Industries.

Regular meeting: Shall mean the quarterly meetings held by the Advisory Board on the last Friday of January, April, July and October.

Board meeting: Shall mean the quarterly meetings held by the examining board on the first Monday of February, May, August and November of each year.

Special meeting: Shall mean any meeting of the advisory board or examining board called by the chairman thereof or the director and held at times other than the regular meetings.

AMENDATORY SECTION (Amending Order 72-7, filed 6/7/72)

WAC 296-46-130 CLASSIFICATION OF OCCUPANCIES. (1) Educational occupancy means a building or that portion thereof used primarily for educational purposes.

(2) Institutional occupancy ((shall)) means a building or that portion thereof where persons are harbored to receive ((charitable or other)) care ((or treatment or are involuntarily detained and health facilities as defined in Section 517-2 of the National Electrical Code)) and are incapable of self-preservation or unable to provide for their own needs and safety without assistance of another person.

(3) Health care occupancy refers to hospitals, nursing homes, psychiatric hospitals, alcoholism hospitals, alcoholism detoxification facilities, residential treatment facilities for psychiatrically impaired children and youth and such other health care occupancies where patients may be unable to provide for their own needs and safety without the assistance of another person. See the National Electrical Code, Section 517-2 for the definition of health care facilities.

AMENDATORY SECTION (Amending Order 77-31, filed 1/31/78)

WAC 296-46-140 PLAN REVIEW FOR ((INSTITUTIONAL;)) EDUCATIONAL, HEALTH CARE FACILITIES AND OTHER BUILDINGS. ((1) All plans for new or altered electrical installations in institutional buildings shall be reviewed and accepted by the State Health Department and the Electrical Inspection Section prior to beginning such installation. Refer plans to State Health Department, Olympia Airport, Olympia, Washington 98504.

(2) All plans for new or altered electrical installations in educational buildings shall be reviewed and accepted by the State Electrical Inspection Section prior to beginning such installation. Refer plans to Electrical Plans Examiner, Room 515, Department of Labor and Industries, 300 West Harrison, Seattle, Washington 98119.

(3) Plan review for new or altered electrical installations of other types of construction may be voluntarily requested by the owner or other interested parties.

(4) Charges for plan review of educational and other type buildings, but not including institutional buildings reviewed under subsection (1) of this section, will be based upon ten percent of the job label fee as determined by WAC 296-46-495 with a minimum fee of twenty dollars. Review fee shall be due at time of plan submittal.) (1) All plans for new or altered installations in educational occupancies shall be reviewed and accepted by the State Electrical Inspection Section prior to beginning such installations. Refer plans to the Electrical Division, 1616 B. Northeast 150th, Seattle, WA 98155.

(2) Plans for new or altered electrical installations in health care occupancies and other facilities which are required to submit plans for new construction for review by the Construction Review Unit, State Department of Social and Health Services, are to be sent directly to

that unit where they will be reviewed by the Department of Labor and Industries, Electrical Division.

(3) Charges for plan review of educational type buildings not including installations reviewed under subsection (2) of this section, will be based upon twenty percent of the job label fee as determined by WAC 296-46-495, plus a fee of twenty-five dollars. Review fee shall be due at time of plan submittal.

(4) Plan review for new or altered electrical installations of other types of construction may be voluntarily requested by the owner or other interested parties. The fee for such review service will be based upon an hourly rate of \$30.00 per hour or major fraction thereof.

AMENDATORY SECTION (Amending Order 77-31, filed 1/31/78)

WAC 296-46-150 WIRING METHODS FOR DESIGNATED BUILDING OCCUPANCIES. (1) The fixed wiring methods for institutional ((and)), educational and health care occupancies shall be metal raceway, nonmetallic raceways encased in not less than two inches of concrete, M.I. or M.C. cable.

EXCEPTION No. 1—For signal and control circuits, ((other than those circuits defined under emergency systems per National Electrical Code, Section 517-2, and Sections 725-3(a) and 725-4, open cable wiring approved for the purpose shall be permitted for Class 2 signal and control circuits installed in accordance with Article 725 of the National Electrical Code)) open cable wiring approved for the purpose shall be permitted for Class 2 signal and control circuits as defined in Article 725 of the National Electrical Code for other than the following circuits and/or systems; nurse call systems, fire alarm systems actuated at manual stations, electric water flow alarm devices in connection with sprinkler systems, automatic fire or smoke, or products of combustion devices, alarms required for systems used in the piping of nonflammable medical gases and communications systems used for issuing instructions during emergency conditions.

EXCEPTION No. 2—Open cable wiring approved for the purpose of (NFPA Bulletin No. 71) shall be permitted for Central Station Protective Systems installed and operator manned and supervised in accordance with the latest adopted edition of the National Fire

Protection Association Bulletin No. 71 in other than hospitals and nursing homes.

EXCEPTION No. 3—Clinics, dental and medical offices and like occupancies except in patient care areas.

(2) Buildings to be licensed as boarding homes, alcoholism treatment facilities (other than alcoholism hospitals and alcoholism detoxification facilities), or birthing centers shall provide a safe electrical environment. A Certificate of Electrical Inspection shall be obtained prior to occupancy.

Buildings of such use that are more than two stories in height or have more than 3,000 square feet of floor area above the first story shall be wired in metallic raceway.

(3) Other buildings. The fixed wiring method in the following building occupancies shall be busways, metal raceways, nonmetallic raceways encased in not less than two inches of concrete, cable trays or types SNM, TC, MI, MC cables; subject to the National Electrical Code.

(a) Commercial buildings: Commercial buildings open to the public and designed, intended or used for the purpose of accommodating 200 or more persons. For determination of such population capacity, the following number of square feet per person shall be applied: for standing capacity, 3 square feet per person for such building areas as transit stations, bus depots, court rooms and like buildings; for fixed seating capacity, 6 square feet per person for such building areas as church chapels, conference rooms, multi-purpose rooms and like buildings; for all other such commercial buildings, 25 square feet per person. Occupant capacity noted in Article 518 of the National Electrical Code governing those occupancies designated will not be recognized.

(b) Industrial plants: Industrial plants, except that open conductors of No. 4/0 or larger size may be installed on insulators not less than 20 feet above floor or working surface level in accordance with Article 320 of the National Electrical Code.

EXCEPTION NO. 1—For signal and control circuits, other than those defined as Class 1 circuits per National Electrical Code, Sections 725-3(a) and 725-4, open cable wiring approved for the purpose shall be permitted for Class 2 signal and control circuits installed in accordance with Article 725 of the National Electrical Code.

EXCEPTION NO. 2—Open cable wiring approved for the purpose (NFPA Bulletin No. 71) shall be permitted for Central Station Protective Systems installed and operator manned and supervised in accordance with the latest adopted edition of the National Fire Protection Association Bulletin No. 71.

EXCEPTION No. ((†)) 3—Rigid nonmetallic conduit may be installed in areas outlined in National Electrical Code Section 300-6.

((†)) (4) Multifamily occupancy buildings (i.e., apartment buildings, hotels, motels and dormitories) of two or more stories, not including basement, shall be wired in accordance with Chapter 3 of the National Electrical Code except feeders and subfeeders in such buildings shall be wired in a raceway(s).

((EXCEPTION NO. 1—For signal and control circuits, other than those defined as Class 1 circuits per National Electrical Code, Sections 725-3(a) and 725-4, open cable wiring approved for the purpose shall be permitted for Class 2 signal and control circuits installed in accordance with Article 725 of the National Electrical Code.

EXCEPTION NO. 2—Open cable wiring approved for the purpose (NFPA Bulletin No. 71) shall be permitted for Central Station Protective Systems installed and operator manned and supervised in accordance with the latest adopted edition of the National Fire Protection Association Bulletin No. 71.))

AMENDATORY SECTION (Amending Order 74-43, filed 12/19/74)

WAC 296-46-335 UNFINISHED AREAS. Space suitable for future living areas shall have circuits terminated or accessible for future electrical rough-in in accordance with the National Electrical Code, Chapter 3. Any wall being insulated in room areas as defined in NEC 210-52 shall have rough-in wiring in place and approved before such thermal insulation is installed.

AMENDATORY SECTION (Amending Order 77-31, filed 1/31/78)

WAC 296-46-350 EMERGENCY SYSTEMS. See Article 700, National Electrical Code. Emergency systems shall comply with the latest adopted edition of the National Fire Protection Association Bulletin 101, Life Safety Code. In accordance with Section ((700-6(d))) 700-12(d), National Electrical Code, separate emergency service conductors shall be provided and may be tapped on the load side of the electric utility metering equipment provided they are sufficiently separated and effectively fireproofed from the main service disconnecting means.

Emergency Systems: Exit and emergency lights in places of assembly and including corridors must be installed where the seating capacity is 200 or more. The

seating capacity will be determined by allowing a basis of 6 square feet per person.

#### NEW SECTION

WAC 296-46-355 MOBILE HOME CONNECTIONS. (1) Mobile home service equipment on private property must be placed convenient and accessible to the occupant and the serving utility.

(2) Mobile home service equipment supplying a unit in a mobile home park must be located on the assigned lot space and conveniently accessible to the occupant. Feeder length from service equipment to the mobile home as noted in NEC 550-23(d) need not be considered.

(3) Overhead feeder strikes to a mobile home shall be supported within fifteen feet of the point of attachment.

(4) Where a mobile home is served from pedestal type equipment, the bottom of the enclosure containing the disconnecting means shall be a minimum of twenty-four inches above the finish grade.

#### AMENDATORY SECTION (Amending Order 77-31, filed 1/31/78)

WAC 296-46-424 RESIDENTIAL OCCUPANCIES, GROUND FAULT CIRCUIT INTERRUPTERS. In addition to complying with Article 210-8, National Electrical Code, there shall be a separate circuit and/or circuits limited to the bathroom(s), garage and those outdoor receptacles GFCI protected. Receptacles on the load side of the GFCI device shall be considered as being on a separate circuit.

~~((EXCEPTION: Receptacles for a single appliance such as door openers and refrigeration equipment need not be GFCI protected.))~~

#### AMENDATORY SECTION (Amending Order 77-31, filed 1/31/78)

~~WAC 296-46-500 ((ADMINISTRATIVE RULES, SCOPE AND PURPOSE)) ELECTRICAL ADVISORY BOARD. ((The State Electricians and Electrical Installations Law, chapter 19.28 RCW, establishes the governor appointed Electrical Advisory Board and a Board of Electrical Examiners and fixes their administrative responsibilities as follows: (1) The Advisory Board's principal function is to assist the director of the Department of Labor and Industries in adopting and promulgating reasonable rules and regulations in furtherance of safety to life and property with respect to electrical installations and appliances.)) RCW 19.28.065 creates an Electrical Advisory Board consisting of seven members appointed by the governor. It shall be the purpose and function of the Advisory Board to advise the director on all matters pertaining to the enforcement of chapter 19.28 RCW including, but not limited to, standards of electrical installations, minimum inspection procedures and the adoption of rules and regulations pertaining to the Electrical Inspection Division.~~

No rules and regulations shall be amended or repealed until the Electrical Advisory Board has first had an opportunity to consider any proposed amendments or repeals and had an opportunity to make recommendations to the director.

The Advisory Board shall, at each regular or special meeting, consider any written proposals made by any persons, firms or corporations for new electrical rules or regulations or for amendments to or repeal of existing electrical rules or regulations or for changes in administrative procedures of the Electrical Inspection Section provided such proposals are submitted in writing to the secretary of the Advisory Board at least fifteen days prior to any such meeting so that the same may be properly included on the agenda for such meeting.

While the Advisory Board will, upon request of the director of the Department of Labor and Industries or the Electrical Inspection Section thereof, aid in the administrative interpretation of the National Electrical Code and the rules and regulations covering standards for electrical installations in the state of Washington, it will not function as a board of appeal nor will it render decisions concerning the application or interpretation of any adopted rules and regulations to any person, firm or corporation engaged in the business of installing wires or equipment to convey electric current, or engaged in installing apparatus or appliances to be operated by such current.

~~((2) The Board of Electrical Examiners principal purpose and function is to establish and administer a written examination for an electrical contractors qualifying certificate and to certify to the director of the Department of Labor and Industries all persons who are entitled to electrical contractors qualifying certificates.~~

~~(3) The primary purpose of the following rules is to provide a uniform procedure whereby persons, firms or corporations interested in communicating with the Department of Labor and Industries on any subject matter relative to rules or regulations which should be adopted, amended or repealed for electrical installations in the state of Washington or relative to the operation of the Electrical Inspection Section of such department may be heard.))~~

In addition to the chairman and secretary of the Advisory Board as provided for by RCW 19.28.065, the Advisory Board shall elect from its members a vice chairman who shall perform all functions of the chairman in his absence.

#### NEW SECTION

WAC 296-46-501 BOARD OF ELECTRICAL EXAMINERS. RCW 19.28.123 creates a Board of Electrical Examiners consisting of nine members who are appointed by the governor. It shall be the purpose and function of the Electrical Examiners Board to:

(1) Establish a general electrical contractors license and special electrical contractor license classification as the board deems appropriate.

(2) Establish and administer written examinations for general electrical contractors administrators license and various specialty electrical contractors administrators license.

(3) Certify to the Director of the Department of Labor and Industries all persons who are entitled to either a general so specialty electrical contractors administrators license.

(4) Advise the director as to the need of additional electrical inspectors and compliance officers to be utilized by the director on either a full- or part-time employment basis.

(5) Determine that all sums paid out of the electrical license fund are necessary to accomplish the intent of chapter 19.28 RCW. Such determination shall be made from reports of sums expended by the department from the electrical license fund. The department shall submit the reports to the board at the board's regular meetings.

(6) Advise the department on rules and regulations of examinations of applicants for journeyman and specialty electricians certificates of competency.

(7) Coordinate with the department in the preparation of an examination for journeyman and specialty electricians certificates of competency.

(8) Conduct hearings on appeals from revocations of electricians certificates of competency.

(9) Advise the Department of Labor and Industries on all matters relative to RCW 19.28.500 through 19.28.620.

The Board of Electrical Examiners shall elect a chairperson and a vice chairperson from its members. The vice chairperson shall perform all functions of the chairperson in the chairperson's absence.

**NEW SECTION**

**WAC 296-46-506 RESPONSIBILITIES OF ELECTRICAL CONTRACTORS ADMINISTRATOR CERTIFICATE HOLDERS—REVOCATION OF CERTIFICATES—APPEALS.** (1) The administrator under an electrical contractors license shall have the following responsibilities:

(a) The administrator must be a supervisory employee or member of the firm as required by RCW 19.28.125. The department will consider an administrator to be a supervisory employee or member of a firm only if the administrator actively directs or oversees the electrical work done by the electrical contractor and its employees. In determining whether the administrator is acting as a supervisor, the department will consider, but not be limited to, the following factors:

(i) Whether the administrator is a full-time employee of the electrical contractor.

(ii) Whether the administrator ensures that electrical work performed by the electrical contractor complies with state or local electrical codes.

(iii) Whether the administrator ensures that the electricians have been licensed as required by law and that electrical trainees are registered and supervised as required by law.

(iv) Whether the administrator ensures that electrical safety procedures are followed by the electrical contractor.

(v) Whether the administrator ensures that all electrical permits or labels required by law are procured.

(vi) Whether the administrator ensures that correlative notices issued by state or local electrical inspection agencies are obeyed.

(b) The administrator must notify the department immediately if his employment relationship with an electrical contractor is ended.

(2) The department may suspend or revoke an administrator's certificate for the administrator's failure to supervise electrical work performed by an electrical contractor or his failure to notify the department of the ending of his employment relationship with an electrical contractor.

(3) Any person whose administrator's certificate has been revoked or suspended by the department may appeal to the electrical board of appeals. The procedure for the appeal is specified in RCW 19.28.310.

**AMENDATORY SECTION** (Amending Order 77-31, filed 1/31/78)

**WAC 296-46-910 APPENDIX F—INSPECTION FEES SCHEDULE.**

**INSPECTION FEES SCHEDULE**

**Appendix F**

**BUILDING AND CONSTRUCTION SAFETY INSPECTION SERVICES DIVISION**

**ELECTRICAL INSPECTION SECTION DEPARTMENT OF LABOR AND INDUSTRIES**

FEES. For fee calculation purposes, amperage will be based on conductor ampacity. Voltage will be based on service conductor voltage as per National Electrical Code, Article 230-201, or load side of transformer.

**INSPECTION FEES SHALL BE PAID PRIOR TO CONNECTION BY SERVING UTILITY.**

**(1) New Service Fees:**

((Mobile)) ((Home)) ((Residence))	Single Multi-Family Residence (Each Family Dwelling Unit)	Other Than Residential			
		120/208 240 Volts	480-600 Volts	601 & Over Volts	
AMPS	1 phase	1 phase	3 phase	3 phase	3 phase
1- 100	<del>(\$16.00)</del> \$ 20.00	<del>(\$16.00)</del> \$ 20.00	<del>(\$16.00)</del> \$ 20.00	<del>(\$16.00)</del> \$ 20.00	<del>(\$32.00)</del> \$ 40.00
101- 200	<del>(20.00)</del> 26.00	<del>(20.00)</del> 26.00	<del>(24.00)</del> 26.00	<del>(32.00)</del> 40.00	<del>(56.00)</del> 72.00
201- 300	<del>(24.00)</del> 30.00	<del>(24.00)</del> 30.00	<del>(36.00)</del> 48.00	<del>(48.00)</del> 60.00	<del>(88.00)</del> 112.00
301- 400	<del>(32.00)</del> 40.00	<del>(32.00)</del> 40.00	<del>(52.00)</del> 68.00	<del>(64.00)</del> 80.00	<del>(124.00)</del> 156.00
401- 500	<del>(40.00)</del> 52.00	<del>(40.00)</del> 52.00	<del>(68.00)</del> 88.00	<del>(84.00)</del> 108.00	<del>(160.00)</del> 200.00
501- 600	<del>(56.00)</del> 72.00	<del>(56.00)</del> 72.00	<del>(84.00)</del> 108.00	<del>(104.00)</del> 132.00	<del>(192.00)</del> 240.00
601- 800	<del>(64.00)</del> 80.00	<del>(64.00)</del> 80.00	<del>(96.00)</del> 120.00	<del>(120.00)</del> 152.00	<del>(228.00)</del> 288.00
801-1200	<del>(76.00)</del> 95.00	<del>(76.00)</del> 95.00	<del>(112.00)</del> 140.00	<del>(140.00)</del> 176.00	<del>(264.00)</del> 332.00
1201-1600	<del>100.00</del>	<del>(80.00)</del> 100.00	<del>(120.00)</del> 152.00	<del>(152.00)</del> 192.00	<del>(280.00)</del> 352.00
1601-2000		<del>(84.00)</del> 108.00	<del>(123.00)</del> 156.00	<del>(160.00)</del> 200.00	<del>(300.00)</del> 376.00
2001-2500		<del>(92.00)</del> 116.00	<del>(136.00)</del> 172.00	<del>(168.00)</del> 212.00	<del>(316.00)</del> 400.00

Single Multi- Family Residence (Each Family Dwelling Unit)	120/208 240 Volts		Other Than Residential		
	1 phase	1 phase 3 phase	480-600 Volts	601 & Over Volts	3 phase
2501-3000	<del>(96.00)</del>	<del>(144.00)</del>	<del>(180.00)</del>	<del>(332.00)</del>	<del>(416.00)</del>
3001-4000	<del>(100.00)</del>	<del>(152.00)</del>	<del>(188.00)</del>	<del>(352.00)</del>	<del>(440.00)</del>
4001-5000	<del>(104.00)</del>	<del>(160.00)</del>	<del>(200.00)</del>	<del>(376.00)</del>	<del>(472.00)</del>
5001-6000	<del>(112.00)</del>	<del>(168.00)</del>	<del>(212.00)</del>	<del>(396.00)</del>	<del>(496.00)</del>
	120.00	180.00	228.00	416.00	416.00
	128.00	192.00	236.00	440.00	440.00
	132.00	200.00	252.00	472.00	472.00
	140.00	212.00	268.00	496.00	496.00

- (2) A minimum fee of ~~((\\$7))~~ \$10 shall be charged for each of the following subject to noted limitations.
  - a. Mobile home service connection in a mobile home park.
  - b. Mobile home feeder where service is existing in a mobile home park.
  - c. Recreational vehicle park each lot to which power is supplied.
  - d. Boat space in a boat harbor or marina each berth to which power is supplied.
  - e. Calculation of or checking heat calculations, where required.
  - f. Individual carnival concessions to which power is supplied.
- (3) A minimum fee of ~~((\\$10))~~ \$15.00 shall be charged for each of the following subject to noted limitations.
  - a. A temporary construction service for lighting and power of 20 KVA or less. The fee for a temporary construction service in excess of 20 KVA shall be 50% of the fee for a new service installation of like ampacity.
  - b. ~~((Circuit extension installed for controls and motors for central heating plants such as gas, oil, and electrical furnaces.))~~ Yard pole meter loops or similar isolated metering installations.
  - c. ~~((Yard pole meter loops or similar isolated metering installations.~~
  - d.)) Each adjacent farm building served from yard pole other than each residence. Exceptions: Installations exceeding 200 amperes shall be in accordance with the appropriate schedule.
  - ~~((e.))~~
  - d. Transient worker housing per unit.
- (4) ~~((The fee for installations, increase and/or relocation (altered) of an existing service or feeder shall be 50% of the fee for a new service of like ampacity, with a minimum fee of \$10.~~
- (5)) The fee for a circuit extension installed for controls and motors for central vacuum systems, garage door openers and heating plants such as gas, oil and electrical furnaces is \$10.00.
- (5) The fee for installations, increase and/or relocation (altered) of an existing service or feeder shall be 50% of the fee for a new service of like ampacity, with a minimum fee of \$15.00.

- (6) The fee for new circuits, circuit extensions, circuit alterations, where the service or feeder is not modified, shall be a total of ~~((\\$10))~~ \$15.00 for one to four circuits inspected at the same time on the same premises under a single label and ~~((\\$2))~~ \$3.00 for each additional circuit.
- ~~((6))~~
- (7) The fee for sign and outline lighting circuits shall be a total of \$10 for one to four circuits inspected at the same time on the same premises under a single label and \$2 for each additional circuit.
- (8) The fee for each electric sign installed shall be a minimum of \$10.00.
- ~~((7))~~
- (9) Where a ~~((high voltage primary))~~ feeder terminates in a separate building it shall be classed as a separate service.
- ~~((8))~~
- (10) The fee for the first feeder installations with new services shall be 25% of the fee for service installations of like ampacity with a minimum fee of ~~((\\$7))~~ \$10.00 for each such feeder.
- ~~((9))~~
- (11) Optional fee schedule for service to individual motor(s) will be ~~((\\$10))~~ \$20.00 per motor for motor rating 25 HP or less: each additional horse power in excess of 25 HP will be an additional fifty cents per HP, with a maximum of \$100, including an allowance of 5 KVA of auxiliary motor equipment.  
The optional fee for a new service installation to individual motor(s) may be calculated in accordance with item (11) above based on HP rating or calculated per the new service amperage schedule item (1) above whichever is the lesser of the calculation methods so stated.
- ~~((10))~~
- (12) In addition to the service and feeder installation fee, the fee for each electrically driven irrigation machine shall be ~~((\\$15))~~ \$20.00.
- (13) Inspections requested for existing electrical facilities will be ~~((\\$7))~~ \$25.00 for the first hour or fraction thereof and \$20 each additional hour or fraction thereof.
- ~~((11))~~
- ~~((The optional fee for a new service installation to individual motor(s) may be calculated in accordance with Item (9) above based on HP rating or calculated per the new service amperage schedule Item (1) above whichever is the lesser of the calculation methods so stated.))~~
- (14) Fees for plan review requests as noted in WAC 296-46-140(1) will be based upon twenty percent of the job label fee as determined by WAC 296-46-495, plus a fee of twenty-five dollars. Fees for electrical review of plans voluntarily requested as noted in WAC 296-46-140(4) will be based upon an hourly charge of \$30.00.

- (15) Penalty. A fee of \$15.00 per hour or fraction thereof shall be paid prior to approval of the installation if the following inspector services are necessary:
- a. Unnecessary trip or trips to inspect when label submitter has given premature notice to the inspector that the work is ready for inspection when it is not or has given an erroneous address.
  - b. More than one additional inspection call per label to view corrections required by written notice of the inspector as a result of carelessness, neglect or for improperly responding to corrective notices.
- (16) The fee for emergency, standby and resource recovery generators up to 5 KW will be \$10.00. Such generators over 5 KW will be \$0.50 per KW up to a maximum fee of \$120.00. Fees for generator installations that constitute the main source of power will be based upon the applicable service and feeder schedule.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

- (1) WAC 296-46-40101 ADMINISTRATOR FEES.
- (2) WAC 296-46-510 DEFINITIONS.
- (3) WAC 296-46-515 OFFICERS.
- (4) WAC 296-46-520 INTERNAL MANAGEMENT.
- (5) WAC 296-46-525 BOARD DUTIES.

AMENDATORY SECTION (Amending Order 76-3, filed 1/30/76)

WAC 296-401-020 ELECTRICIANS WITH LICENSES OR PRACTICING THE ELECTRICAL TRADE AT EFFECTIVE DATE OF THE ACT. Any application for certification under RCW ((+8-37-070)) 19.28.560 of this act must be received by the department prior to December 14, 1973. As defined in RCW ((+8-37-040)) 19.28.530 an applicant to be certified as a journeyman electrician must have had four or more years of experience under the direct supervision of a licensed journeyman electrician.

AMENDATORY SECTION (Amending Order 80-1, filed 1/16/80)

WAC 296-401-080 ELIGIBILITY FOR JOURNEYMAN'S EXAMINATION. A person holding an electrical trainee certificate who has been employed under the direct supervision of a journeyman electrician for four years, or who has completed a four year apprenticeship program in electrical construction that is registered with the state apprenticeship council or the Federal Bureau of Apprenticeship and Training, or who is a graduate of a trade school program in electrical construction that was established during 1946, shall be eligible to take the examination for a journeyman's certificate of competency. A person who has had two years of schooling under the conditions provided in RCW

((+8-37-040)) 19.28.530 in addition to two years of employment under the direct supervision of a journeyman electrician shall be eligible to take the examination for a journeyman's certificate of competency.

AMENDATORY SECTION (Amending Order 80-1, filed 1/16/80)

WAC 296-401-100 COMPUTATION OF YEARS OF EMPLOYMENT. (1) For the purposes of RCW ((+8-37-040)) 19.28.530, 1800 hours of employment shall be considered one year of employment.

(2) At the time of renewal, the holder shall provide the department with an accurate list of the holder's employers in the electrical industry for the previous year and the number of hours worked for each employer.

(3) A person who has completed a four year apprenticeship program in electrical construction that is registered with the state apprenticeship council or the Federal Bureau of Apprenticeship and Training shall be considered to have completed 7200 hours (four years) of employment.

(4) A person who has completed a two year apprenticeship program in an electrical specialty that is registered with the state apprenticeship council or the Federal Bureau of Apprenticeship and Training shall be considered to have completed 3600 hours (two years) of employment.

AMENDATORY SECTION (Amending Order 80-1, filed 1/16/80)

WAC 296-401-140 SUPERVISION OF TRAINEES IN THE ELECTRICAL TRADES. A person possessing a training certificate (trainee) shall be under the direct supervision of a supervising electrician as defined in RCW ((+8-37-020)) 19.28.510. The supervising electrician shall be working on the same job site and within the immediate working proximity of the trainee. The supervising electrician must assign and examine the trainee's electrical work to see that it conforms to the applicable electrical codes.

AMENDATORY SECTION (Amending Order 80-1, filed 1/16/80)

WAC 296-401-150 PENALTIES FOR FALSE STATEMENTS OR MATERIAL MISREPRESENTATION. All applications required under chapter ((+8-37)) 19.28 RCW and the annual statement of hours of employment required under RCW ((+8-37-020)) 19.28.510, shall be made under oath. A person who knowingly makes a false statement or material misrepresentation on an application or statement may be referred to the county prosecutor for criminal prosecution under RCW 9A.72.020, 9A.72.030, and 9A.72.040. The department may also file a civil action under RCW ((+8-37-150)) 19.28.620 and may subtract up to 900 hours of employment from a trainee's total hours, if the department determines the trainee has made a false statement or material misrepresentation.

AMENDATORY SECTION (Amending Order 80-1, filed 1/16/80)

WAC 296-401-160 ENFORCEMENT. (1) The department shall ensure that employers and employees subject to chapter ~~((18.37))~~ 19.28 RCW comply with that chapter and chapter 296-401 WAC by inspecting electrical job sites. The inspections shall be made by the department's compliance officers.

(2) The compliance officer shall determine whether:

(a) Each person doing electrical work on the job site has a proper journeyman, specialty, or trainee certificate;

(b) The ratio of the certified journeyman electricians to the certified trainees on the job site is correct; and

(c) Each certified trainee is directly supervised by an individual with a journeyman or specialty certificate of competency.

(3) If the compliance officer determines that an employer or employee has violated chapters ~~((18.37))~~ 19.28 RCW or 296-401 WAC, the department shall issue a notice of violation that describes the reason the employer or employee has violated chapters ~~((18.37))~~ 19.28 RCW or 296-401 WAC and prescribes a time for abatement of the violation.

(4) If the employer or employee has not abated the violation within the time prescribed in the notice of violation issued pursuant to subsection (3), the department may:

(a) Inform the electrical inspection section and the electrical utility that the electrical worker or workers on the job site are in violation of chapters ~~((18.37))~~ 19.28 RCW or 296-401 WAC pursuant to the authority granted in RCW ~~((18.27.150[RCW 18.37.150]))~~ 19.28.620. The electrical inspection section shall prohibit the connection of electrical service and the utility shall not connect the electrical service until the department is satisfied that the electrical work complies with chapters ~~((18.37))~~ 19.28 RCW and 296-401 WAC.

(b) Ask the attorney general to begin an action to collect the civil penalties provided for in RCW ~~((18.37-150))~~ 19.28.620; and

(c) Issue a cease and desist order that forbids future conduct that is similar to the violation. The order shall take effect immediately when it is received by the employer or employee to whom it is directed.

(5) The employer or employee to whom a cease and desist order is directed may request a hearing pursuant to WAC 296-401-170; however, the request shall not stay the effect of the order. If the employer or employee disobeys the cease and desist order, the department shall apply to the superior court for a court order enforcing the cease and desist order. If the employer or employee disobeys the court order, the department shall request the attorney general to apply to the superior court for an order holding the employer or employee in contempt of court.

AMENDATORY SECTION (Amending Order 80-1, filed 1/16/80)

WAC 296-401-180 EXAMINATION SUBJECTS FOR SPECIALTY'S AND JOURNEYMAN'S CERTIFICATES OF COMPETENCY. The following subjects are among those that may be included in the examination for certificate of competency. The list is not exclusive, and the test may also contain subjects not in the list.

JOURNEYMAN ELECTRICIAN EXAMINATIONS MAY BE BASED ON THESE ITEMS:

AC – Generator; Three-phase; Meters; Characteristics of; Power in AC Circuits (Power Factor); Mathematics of AC Circuits  
 Air Conditioning – Basic  
 Blueprints – Surveys and Plot plans; Floor Plans; Service & Feeders; Electrical Symbols; Elevation Views; Plan((s)) Views  
 Building Wire – Sizes  
 Cable Trays  
 Calculations  
 Capacitive Reactance  
 Capacitor – Types; In Series and Parallel Circuits – Series; Parallel; Combination; Basic; Branch; Outside Branch Circuits; Calculations  
 Conductor – Voltage Drop (line loss); Grounded Conduit – Wiring Methods  
 DC – Generator; Motors; Construction of Motors; Meters  
 Definitions  
 Electrical Units  
 Electron Theory  
 Fastening Devices  
 Fire Alarms – Introduction to; Initiating Circuits  
 Fuses  
 Generation – Principles of Grounding  
 Incandescent Lights  
 Inductance – Introduction to; reactance  
 Insulation – of wire  
 Mathematics – Square Root; Vectors' Figuring Percentages  
 Motors – Motors vs. Generators/CEMF; Single Phase; Capacitor; Repulsion; Shaded Pole; Basic Principles of AC Motors  
 Ohm's Law  
 Power  
 Power Factor – AC Circuits; Correction of; Problems  
 Rectifiers  
 Resistance – of Wire  
 Rigging  
 Safety – Electrical Shock  
 Services  
 Three-Wire System  
~~((Foots {Foots}))~~ Tools



Transformers – Principles of; Types; Single Phase; Three-Phase Connections  
Voltage Polarity Across a Load  
Wiring Methods – Conduit; General  
Wiring Systems – Less than 400 volts; 480/277 Volts; Three-Phase Delta; Distribution

**SPECIALTY RESIDENTIAL ELECTRICIAN EXAMINATIONS MAY BE BASED ON THESE ITEMS:**

AC – Meters  
Blueprints – Residential Plans; Floor Plans; Service and Feeders  
Calculations  
Circuits – Series; Parallel; Combination; Basic; Outside Branch  
Conductor – Voltage Drop (line loss); Grounded; Aluminum  
Conduit – Wiring Methods  
Electrical Units  
First Aid  
Fuses  
General Lighting  
Grounding of Conductors  
Insulation of Wire  
Ladder Safety  
Mathematics – Figuring Percentage  
Ohm's Law  
Overcurrent Protection  
Resistance of Wire  
Services  
Sizes of Building Wire  
Three-Wire System  
(~~Tools~~) Tools  
Transformer – Ratios; Single-Phase

**REPEALER**

The following section of the Washington Administrative Code is repealed:

**WAC 296-401-050 MEETINGS OF GOVERNOR'S ADVISORY BOARD.**

**WSR 81-06-038  
EMERGENCY RULES  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES  
(Public Assistance)**

[Order 1598—Filed February 27, 1981]

I, David A. Hogan, Director, Client and Community Relations Division, of the Department of Social and Health Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to:

Rep WAC 388-86-023 Chiropractic services.  
Rep WAC 388-87-047 Payment—Chiropractic services.

I, David A. Hogan, find that an emergency exists and that the foregoing order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity

to present views on the proposed action would be contrary to public interest. A statement of the facts constituting such emergency is:

WHEREAS legislation known as SHB 206 and SHB 245 (chapter 8, Laws of 1981) was recently enacted by the Legislature and signed into law by the Governor; and

WHEREAS that legislation provided for a supplemental budget appropriation for the Department of Social and Health Services and made certain changes in the programs administered by that department; and

WHEREAS RCW 43.88.290 expressly forbids the department from over-expending or over-encumbering any appropriation made by law, or expending funds contrary to the terms, limits, or conditions of any appropriation made by law,

NOW, THEREFORE, I, David A. Hogan, Director, Client and Community Relations Division of the department and by virtue of the authority vested in and required by the secretary of the department by chapters 43.88 and 43.20A RCW, do hereby find that emergency adoption of these rules is necessary under RCW 34.04.030.

Such rules are therefore adopted as emergency rules to take effect on March 1, 1981.

This rule is promulgated under the general rule-making authority of the secretary of Department of Social and Health Services as authorized in RCW 74.08.090.

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED February 27, 1981.

By David A. Hogan

Director, Client and Community Relations Division

**REPEALER**

The following section of the Washington Administrative Code is repealed.

**(1) WAC 388-86-023 CHIROPRACTIC SERVICES.**

**REPEALER**

The following section of the Washington Administrative Code is repealed.

**(1) WAC 388-87-047 PAYMENT—CHIROPRACTIC SERVICES.**

**WSR 81-06-039  
EMERGENCY RULES  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES  
(Public Assistance)**

[Order 1599—Filed February 27, 1981]

I, David A. Hogan, Director, Client and Community Relations Division, of the Department of Social and Health Services, do promulgate and adopt at Olympia,

Washington, the annexed rules relating to podiatry, repealing WAC 388-86-096.

I, David A. Hogan, find that an emergency exists and that the foregoing order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting such emergency is:

WHEREAS legislation known as SHB 206 and SHB 245 (chapter 8, Laws of 1981) was recently enacted by the Legislature and signed into law by the Governor; and

WHEREAS that legislation provided for a supplemental budget appropriation for the Department of Social and Health Services and made certain changes in the programs administered by that department; and

WHEREAS RCW 43.88.290 expressly forbids the department from over-expending or over-encumbering any appropriation made by law, or expending funds contrary to the terms, limits, or conditions of any appropriation made by law,

NOW, THEREFORE, I, David A. Hogan, Director, Client and Community Relations Division of the department and by virtue of the authority vested in and required by the secretary of the department by chapters 43.88 and 43.20A RCW, do hereby find that emergency adoption of these rules is necessary under RCW 34.04.030.

Such rules are therefore adopted as emergency rules to take effect on March 1, 1981.

This rule is promulgated under the general rule-making authority of the secretary of Department of Social and Health Services as authorized in RCW 74.08.090.

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED February 27, 1981.

By David A. Hogan  
Director, Client and Community Relations Division

**REPEALER**

The following section of the Washington Administrative Code is repealed.

- (1) WAC 388-86-096 **PODIATRY.**

**WSR 81-06-040  
EMERGENCY RULES  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES  
(Public Assistance)**

[Order 1600—Filed February 27, 1981]

I, David A. Hogan, Director, Client and Community Relations Division, of the Department of Social and Health Services, do promulgate and adopt at Olympia,

Washington, the annexed rules relating to dental services, amending WAC 388-86-020.

I, David A. Hogan, find that an emergency exists and that the foregoing order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting such emergency is:

WHEREAS legislation known as SHB 206 and SHB 245 (chapter 8, Laws of 1981) was recently enacted by the Legislature and signed into law by the Governor; and

WHEREAS that legislation provided for a supplemental budget appropriation for the Department of Social and Health Services and made certain changes in the programs administered by that department; and

WHEREAS RCW 43.88.290 expressly forbids the department from over-expending or over-encumbering any appropriation made by law, or expending funds contrary to the terms, limits, or conditions of any appropriation made by law,

NOW, THEREFORE, I, David A. Hogan, Director, Client and Community Relations Division of the department and by virtue of the authority vested in and required by the secretary of the department by chapters 43.88 and 43.20A RCW, do hereby find that emergency adoption of these rules is necessary under RCW 34.04.030.

Such rules are therefore adopted as emergency rules to take effect on March 1, 1981.

This rule is promulgated under the general rule-making authority of the secretary of Department of Social and Health Services as authorized in RCW 74.08.090.

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED February 27, 1981.

By David A. Hogan  
Director, Client and Community Relations Division

**AMENDATORY SECTION (Amending Order 1554, filed 10/9/80)**

WAC 388-86-020 DENTAL SERVICES. (1) ~~The department shall provide dental ((care subject to limitations and conditions set forth below and further defined in current departmental memoranda and dental schedule of maximum allowances. For out-of-state dental care, see WAC 388-86-115(5))) services to recipients of EPSDT.~~

(2) ~~((Dental coverage for recipients of medical assistance and continuing general assistance, who are not eligible for EPSDT, is limited to the following services)) Services will include:~~

~~(a) ((Restorative care will include:)) Initial and periodic oral examinations.~~

~~(b) Treatment necessary for the relief of pain and infection, restoration of teeth, and maintenance of dental health.~~

(c) Orthodontic treatment is defined as the use of any appliance, intra oral or extra oral, removable or fixed, or any surgical procedure designed to move teeth. The following limitations apply:

(i) ((fractured, new or lost fillings)) Prior approval must be obtained from the office of medical policy and procedure,

(ii) ((repair or replacement of broken dentures,)) Treatment is limited to medically necessary services as defined in chapter 388-80 WAC.

((iii) relines of dentures.

(b) Prophylaxis and topical application of fluoride are provided:

(c) Oral surgery with prior approval to correct extreme conditions:

(d) Treatment for pain and infection, including gingivitis and extractions:

(e) Dentures, full or partial with prior approval:

(f) Initial and periodic oral examinations are provided:

(3) EPSDT dental services include treatment necessary for the relief of pain and infection, restoration of teeth, and maintenance of dental health. See subsection (7) of this section.

(4) Dental services for recipients of Medical Only (M.O.) who have satisfied the deductible are subject to the following limitations:

(a) Dental treatment is limited to the relief of pain, which may or may not involve extraction, and surgical repair of the maxilla and/or mandible.

(b) No care is provided outside the state of Washington except in border situations as specified in WAC 388-82-030(4).

(5) Dentures provided by the department but subsequently lost will not be replaced except where medical necessity is clearly demonstrated and prior approval given by the chief of the office of medical assistance or his designee.

(6) Hospitalization for dental conditions, other than acute and emergent, requires prior approval of the chief of the office of medical policy and procedure or his designee. Hospitalization for acute and emergent dental conditions requires approval.

(7) Orthodontic treatment is defined as the use of any appliance, intraoral or extraoral, removable or fixed, or any surgical procedure designed to move teeth. The service is not provided except for EPSDT recipients. The following limitations apply to EPSDT-related orthodontic treatment:

(a) Prior approval must be obtained from the office of medical policy and procedure.

(b) Treatment is limited to medically necessary services. See WAC 388-86-005.

(8) Recipients residing in nursing homes are eligible for dental care subject to the same regulations as those in the general recipient population with the following additional qualifications:

(a) The patient's attending physician will initiate a referral for dental care when a significant dental problem is identified by that physician, the patient, family, nursing home staff or nursing care consultant.

~~(b) The patient shall have freedom of choice of dentists, including referral to a dentist who has provided services to the patient in the past. The staff dentist may be called when the patient has no choice of dentists and concurs with the request.~~

~~(c) The department may approve bedside dental care when sufficient justification exists to show transporting the patient is inappropriate.~~

~~(d) Treatment of a nonemergent nature in a nursing home, congregate care facility or group home requires prior approval for each patient. Payment for multiple screening examinations of patients in these settings will not be made.))~~

#### WSR 81-06-041

#### EMERGENCY RULES

#### DEPARTMENT OF

#### SOCIAL AND HEALTH SERVICES

#### (Public Assistance)

[Order 1601—Filed February 27, 1981]

I, David A. Hogan, Director, Client and Community Relations Division, of the Department of Social and Health Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to state financed medical care services, amending WAC 388-86-120.

I, David A. Hogan, find that an emergency exists and that the foregoing order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting such emergency is:

WHEREAS legislation known as SHB 206 and SHB 245 (chapter 8, Laws of 1981) was recently enacted by the Legislature and signed into law by the Governor; and,

WHEREAS that legislation provided for a supplemental budget appropriation for the Department of Social and Health Services and made certain changes in the programs administered by that department; and

WHEREAS RCW 43.88.290 expressly forbids the department from over-expending or over-encumbering any appropriation made by law, or expending funds contrary to the terms, limits, or conditions of any appropriation made by law,

NOW, THEREFORE, I, David A. Hogan, Director, Client and Community Relations Division of the department and by virtue of the authority vested in and required of the secretary of the department by chapters 43.88 and 43.20A RCW, do hereby find that emergency adoption of these rules is necessary under RCW 34.04.030.

Such rules are therefore adopted as emergency rules to take effect on March 1, 1981.

This rule is promulgated under the general rule-making authority of the secretary of Department of Social and Health Services as authorized in RCW 74.08.090.

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED February 27, 1981.

By David A. Hogan  
Director, Client and Community Relations Division

AMENDATORY SECTION (Amending Order 1554, filed 10/9/80)

WAC 388-86-120 STATE FINANCED MEDICAL CARE ((SERVICES)). ((+)) A recipient of a continuing general assistance grant who cannot be related to a federal aid category ((and a recipient of medical only shall be eligible for treatment of acute and emergent conditions only which requires medical consultant approval. Coverage for the recipient of continuing general assistance shall be termed "major medical."

(a) An "acute condition" is defined as having a short and relatively severe course, not chronic, and an "emergent condition" is defined as occurring unexpectedly and demanding immediate action, either of which includes:

(i) Rabies prevention inoculation. Initial treatment may be started on an emergency basis, however, the approval of the medical consultant must be requested within fourteen days, including date treatment was initiated. Rabies serum shall be requested from the epidemiology section of the department's division of health services, Olympia.

(ii) Hospitalization for acute and/or emergent psychiatric or mental conditions. Voluntary admissions in an acute or emergent phase of psychiatric or mental illness and involuntary commitments by the court are covered by the program for eligible recipients. (See WAC 388-86-050(3)(a) and (b) for limitations of stay).

(b) Major medical coverage includes service in response to an acute and emergent need applicable to the recipient of a continuing general assistance grant and includes those conditions of less urgency where medical experience indicates a failure to treat will usually result in the rapid development of an emergent condition. Certain nonacute and nonemergent conditions that are covered and may be approved by the medical consultant are:

(i) Specific maintenance drugs:

(A) Certain necessary drugs for conditions such as cardiovascular disease, diabetes, mental illness, epilepsy, nephritis, and carcinoma may be prescribed subject to approval by the local medical consultant. Examples of such drugs are cardiac control agents, insulin and oral antidiabetic tablets, anticonvulsant agents, psychotropic drugs, urinary antiinfective agents.

(B) Drugs for former patients of state mental institutions. Tranquilizers, antidepressants, antiepileptics, and agents used for treatment of drug-induced Parkinsonism may be provided to former patients of state hospitals and schools for the mentally retarded. The attending physician prescribes the necessary drugs on Form 6-02 mental hospitals for the mentally retarded and mails the prescription directly to the institution.

~~(ii) Nonemergent care, subject to approval of the medical consultant, if such care:~~

~~(A) Will avoid the need for hospitalization, or~~

~~(B) Is medically indicated in unusual circumstances by the attending physician and concurred with by the medical consultant.~~

~~(2) Limitations on medical services for eligible recipients of a continuing general assistance grant:~~

~~(a) Hearing aids are not provided.~~

~~(b) Care outside the state of Washington is not provided except in bordering states as specified in WAC 388-82-030(4).~~

~~(c) All treatment and drugs must be approved by the medical consultant. See WAC 388-87-025(1).~~

~~(d) Dental coverage as is described in WAC 388-86-020.~~

~~(e) Mental health services are provided only in local community mental health centers.~~

~~(3) One physician office call a month will be provided.~~

~~(4) When an applicant indicates that an urgent undefined medical illness exists, the condition will be regarded as acute and emergent and one office visit for diagnosis will be allowed, provided all financial eligibility criteria have been met. Treatment will be contingent upon the criteria for acute and emergent having also been met.~~

~~(5) Eligibility factors applicable to the recipient of medical only are:~~

~~(a) The applicant must have acquired one thousand dollars in unpaid medical expenses over a twelve-month period.~~

~~(b) The one thousand dollars in unpaid medical expenses is the deductible. This amount plus any participation is the responsibility of the recipient of medical only.~~

~~(c) Recipients undergoing detoxification for an acute alcohol condition are not required to incur the one thousand dollars deductible as an eligibility factor for the covered period of detoxification. When any other medical need is identified, the requirements for acute and emergent need and one thousand dollars deductible shall apply.~~

~~(d) Citizenship is not a requirement of eligibility.~~

~~(6) Additional factors applicable to the recipient of medical only are:~~

~~(a) Maternity care is covered for persons not categorically relatable or eligible under the "H" program. This will usually apply only to nonresidents who have no medical coverage through the state of residence and for out-of-state child welfare service cases. Care may include prenatal, delivery, post partum, and such ancillary medical services as may be requested by the attending physician and approved by the medical consultant.~~

~~(b) Hospitalization is covered for acute and/or emergent psychiatric or mental conditions. Voluntary admissions in an acute or emergent phase of psychiatric or mental illness and involuntary commitments by the court are covered by the program for eligible recipients. (See WAC 388-86-050(3) (a) and (b) for limitations on stay.)~~

~~(c) Hearing aids and eyeglasses are not provided.~~

~~(d) Care outside the state of Washington is not provided except in bordering states as specified in WAC 388-82-030(4).~~

~~(e) All treatment and drugs must be approved by the medical consultant. (See WAC 388-87-025(1).)~~

~~(f) Dental service is limited to the relief of pain.~~

~~(g) Mental health clinic services are not provided.~~

~~(h) Certification covers the acute and emergent condition (including specified exceptions) only)) is eligible to receive the same scope of care (WAC 388-86-005) as a recipient of medicaid, except that no care will be provided outside the state of Washington other than in bordering states as specified in WAC 388-82-030(4), and shall be subject to the following medical program limitations. Continuing general assistance medical coupons bear the imprint "GAU".~~

(1) Elective hospital admissions and elective surgery requests require prior medical consultant approval.

(2) Criteria used to determine that the proposed surgery is elective are:

(a) Medical necessity must be established. Definition in chapter 388-80 WAC applies.

(b) Procedure cannot reasonably be delayed.

(3) Prescribed drugs are limited to specific therapeutic classifications. Lists are published through the Drug Formulary and/or official memoranda.

(4) Mental health services will be provided only in community mental health centers.

(5) Hearing aids are not provided.

**WSR 81-06-042**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
**(Public Assistance)**

[Order 1602—Filed February 27, 1981]

I, David A. Hogan, Director, Client and Community Relations Division, of the Department of Social and Health Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to medical assistance, amending chapters 388-80, 388-81, 388-82, 388-83, 388-84, 388-85 and 388-92 WAC.

I, David A. Hogan, find that an emergency exists and that the foregoing order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting such emergency is:

WHEREAS legislation known as SHB 206 and SHB 245 (chapter 8, Laws of 1981) was recently enacted by the Legislature and signed into law by the Governor; and,

WHEREAS that legislation provided for a supplemental budget appropriation for the Department of Social and Health Services and made certain changes in the programs administered by that department; and

WHEREAS RCW 43.88.290 expressly forbids the department from over-expending or over-encumbering

any appropriation made by law, or expending funds contrary to the terms, limits, or conditions of any appropriation made by law,

NOW, THEREFORE, I, David A. Hogan, Director, Client and Community Relations Division of the department and by virtue of the authority vested in and required by the secretary of the department by chapters 43.88 and 43.20A RCW, do hereby find that emergency adoption of these rules is necessary under RCW 34.04.030.

Such rules are therefore adopted as emergency rules to take effect on March 1, 1981.

This rule is promulgated under the general rule-making authority of the secretary of Department of Social and Health Services as authorized in RCW 74.08.090.

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED February 27, 1981.

By David A. Hogan

Director, Client and Community Relations Division

AMENDATORY SECTION (Amending Order 1542, filed 9/9/80)

WAC 388-80-005 DEFINITIONS. (1) "Acute and emergent" ((signify an acute condition, defined as having a short and relatively severe course, not chronic, and an emergent condition, defined as occurring unexpectedly and demanding immediate action)) medical care for GAU, see WAC 388-86-120.

(2) ("Applicant" is any person who has made an application or on behalf of whom an application has been made to the department for medical care.

(3) "Applicant-recipient" or "A/R" is an applicant for or recipient of medical care provided according to these rules.

(4) "Application" shall mean a written request for ((medical care made to the CSO)) financial or medical assistance from the department of social and health services made by a person in his/her own behalf or in behalf of another person. ((A verbal application must be reduced to writing before considered complete unless the death of the applicant intervenes.))

((5)) (3) "Assignment" is the method by which the provider receives payment for services under Part B of medicare.

(4) "Assistance unit" means a person or members of a family unit who are eligible for cash or medical assistance under a federally matched program including state supplement.

(5) "Authorization" means an official approval of a departmental action.

(a) "Authorization date" means the date the prescribed form authorizing assistance for a new, reopened or reinstated case is signed.

(b) "Authorization of grant" means attesting the applicant's eligibility for assistance in an amount as determined by his/her circumstances and department

standards and giving authority to make payment accordingly.

~~((6))~~ "Available income" is income available to meet the cost of medical care after deducting from net income items specified by the rules.

~~((7))~~ "Beneficiary" is an eligible individual who receives a federal cash benefit and/or state supplement under Title XVI.

~~((8))~~ "Benefit period" is ((the term used by social security administration to denote a period of consecutive days during which services furnished to a patient, up to a certain specified maximum amount, can be paid for by the hospital insurance plan. The term applies to medicare beneficiaries only. See also "spell of illness")) the time period used in determining whether medicare can pay for covered Part A services. A benefit period begins the first day a beneficiary is furnished inpatient hospital or extended care services by a qualified provider. It ends when the beneficiary has not been an inpatient of a hospital or other facility primarily providing skilled nursing or rehabilitation services for sixty consecutive days. There is no limit to the number of benefit periods a beneficiary can have.

~~((9))~~ "Carrier" is ((the agency having a contract to serve as a third-party agency in behalf of the federal government for)) an organization who has a contract with the federal government to process claims under Part B of medicare.

~~((10))~~ "Categorically ((related)) needy" refers to a resident of the state of Washington whose income and resources are evaluated as for cash assistance and who is:

- ~~(a)~~ A recipient of a federal aid grant, or
- ~~(b)~~ A child receiving foster care, or
- ~~(c)~~ An individual who meets the eligibility requirements for a federal aid grant, except that his income and/or resources exceed budgetary standards for a federal aid grant.) Receiving cash assistance.

- (i) Aid to Families of Dependent Children (AFDC).
- (ii) Supplemental Security Income (SSI), including grandfathered individuals and individuals with essential spouses.

- (iii) State supplement.
- (b) Eligible for but not receiving assistance.
- (i) AFDC.
- (ii) SSI and/or state supplemental.
- (iii) Special categories.
- (c) A financially eligible person under twenty-one who would be eligible for AFDC but does not qualify as a dependent child including but not limited to:

- (i) Foster care, or
- (ii) Subsidized adoption, or
- (iii) A skilled nursing home, intermediate care facility, or intermediate care facility for mentally retarded, or
- (iv) An inpatient psychiatric facility.

(d) Individuals related to category (a) above in institutions who would not be eligible for such assistance if they were not institutionalized.

~~((11))~~ "Central disbursements" is the state office section which audits nonmedicaid medical claims for payment ((billed on form DSHS 6-06 (A-19)).

~~((12))~~ "Certification ((is a document confirming that an applicant has met the financial and medical eligibility requirements for the federal aid medical assistance (MA) or fully state-financed care services (MS) programs)) date" means the date the worker certifies changes in a recipient's circumstances and authorizes an action.

"CFR" means the code of federal regulations and is a codification of the general and permanent rules published in the federal register by the executive departments and agencies of the federal government.

"Child" or "minor child" means a person under eighteen years of age.

"Chiropractor" is a person licensed by the state of Washington to practice chiropractic according to chapter 18.25 RCW.

~~((14))~~ "Coinsurance" is a portion of the medicare cost for covered services, after the deductible is met, which the patient must pay.

"CSO" (community service office) is an office of the department which administers the medical care program at the county level.

"Deductible" is the initial cost of medical care for which the recipient is responsible. It applies specifically to:

(a) All recipients who are beneficiaries of Title XVIII medicare. This is the amount the individual accrues on a yearly basis and is paid by the department to the social security administration for authorized recipients,

(b) Applicants or recipients of medical only. Medical assistance can be certified after such recipients have accrued medical expenses as prescribed in WAC 388-83-045(2)(c).)

"Client" means an applicant or recipient of financial and/or social services provided by the department of social and health services.

"Coinsurance" means the portion of reimbursable hospital and medical expenses, after subtraction of any deductible, which medicare does not pay. Under Part A, coinsurance is a per day dollar amount, and under Part B, is twenty percent of reasonable charges.

"CSO" (community service office) is an office of the department which administers the various social and health services at the county level.

"Continuing assistance" means payments to persons who presumably will be eligible for and receive, from the date of authorization, regular monthly grants on a prepayment basis. Continuing assistance includes federal aid and continuing general assistance grants to unemployable persons.

"Deductible" means an initial specified amount that is the responsibility of the applicant and/or recipient.

(a) Part A of medicare - Inpatient hospital deductible - an initial amount in each benefit period which medicare does not pay.

(b) Part B of medicare - The first sixty dollars in expenses which must be incurred before medicare starts to pay.

"Delayed certification" shall mean the date of certification for medicaid and date of application for SSI

are the same for an SSI beneficiary whose eligibility decision was delayed due to administrative action.

~~((17))~~ (21) "Department" shall mean the state department of social and health services.

~~((18) "Detoxification" (alcohol) means three-day treatment of acute alcoholism for which the department will pay under the medical care program.~~

~~(19))~~ (22) "Division of medical assistance" shall mean the single state agency authorized to administer the Title XIX medical ~~((care))~~ assistance program.

(23) "Eligible couple" means an eligible individual and eligible spouse.

(24) "Eligible individual" means an aged, blind or disabled person as defined in Title XVI of the Social Security Act. If two such persons are husband and wife (and have not been living apart for more than six months), only one of them may be considered an eligible individual.

~~((20))~~ (25) "EPSDT" shall mean a program providing early and periodic screening, diagnosis and treatment to persons under 21 years of age who are eligible under Title XIX of the Social Security Act.

~~((21))~~ (26) "Essential person" ~~((is the "grandfathered" spouse of a former OAA, AB, or DA recipient for whom a cash allowance is included in the SSI benefit of a beneficiary))~~ means a person whose needs were taken into account in determining the need of OAA, AB, or DA recipient for December, 1973, who continues to live in the home of such recipient, and continues to be an essential person.

~~((22) "ESSO" (economic and social service office) see "CSO".~~

~~(23))~~ (27) "Extended care facility" (ECF) See "skilled nursing facility".

~~((24))~~ (28) "Extended care patient" is a recently hospitalized medicare patient who needs relatively short-term skilled nursing and rehabilitative care in a skilled nursing facility.

(29) "Fair hearing" means an administrative proceeding by which the department hears and decides the appeal of an applicant/recipient from an action or decision of the department.

~~((25))~~ (30) "Federal aid" ~~((shalt))~~ means the ~~((medical))~~ assistance ~~((or aid to families with dependent children programs for which the state receives matching funds))~~ grant programs for which funds-in-aid are received by the state from the federal government.

~~((26) "Federal aid medical care only" (FAMCO) is medical care provided to a person not eligible for a federal aid grant or for foster care but who can otherwise be categorically related or who is otherwise eligible under the "H" category.~~

(27) "Financially eligible" shall mean the determination by the department that an applicant meets the financial requirements to receive medical care under the medical assistance (MA) or state medical care services (MS) programs.

(28) "Fiscal intermediary" is the agency having a contract to serve as fiscal agent for Part A of medicare.)

(31) "Fraud" shall mean a deliberate, intentional and wilful act, with the specific purpose of deceiving the department with respect to any material, fact, condition, or circumstances affecting eligibility or need.

(32) "General assistance - continuing" (GAU) means assistance to unemployable persons who are not eligible for or not receiving federal aid assistance.

~~((29))~~ (33) "Grandfathering" refers to ~~((certain individuals specified below who on December 31, 1973, were receiving medical assistance (or had an application pending which was subsequently approved) and who continue to be eligible under Title XVI for purposes of medicaid beginning January 1, 1974))~~:

(a) A noninstitutionalized individual who meets all current requirements for medicaid eligibility except the criteria for blindness or disability; and

(i) As eligible for medicaid in December, 1973, as blind or disabled, whether or not he/she was receiving cash assistance in December, 1973; and

(ii) For each consecutive month after December, 1973, continue to meet the criteria for blindness and disability and other conditions of eligibility used under the medicaid plan in December, 1973; and

(iii) The needs of the "essential person" shall only be considered when he/she is living with such person in the same household.

(b) An institutionalized individual who was eligible for medicaid in December, 1973, or any part of that month, as an inpatient of a medical institution or resident of intermediate care facility that was participating in the medicaid program and for each consecutive month after December, 1973:

(i) Continued to meet the requirements for medicaid eligibility that were in effect under the state's plan in December, 1973, for institutionalized individuals; and

(ii) Remained institutionalized.

~~((a) Aged, blind and disabled recipients of FAMCO.~~  
~~(b) Disabled recipients of categorical cash assistance who did not meet Title XVI disability criteria.~~

(c) Essential persons in adult federal-aid grant programs. All individuals above remain "grandfathered" as long as they continue to meet original program criteria or continue to be an essential person to the same individual who was converted to SSI, and as long as the latter remains eligible.

(30) "H category" is a federal aid category in the medical assistance (MA) program. An applicant under this category is an individual under 21, or a pregnant woman of any age, who cannot be categorically related but whose income and/or resources are insufficient to meet the cost of medical care.

(31) "Home" shall mean real property owned and used by an applicant-recipient as a place of residence, together with reasonable amount of property surrounding or contiguous thereto which is used and useful to him.

~~((32))~~ (34) "Home health agency" is an agency or organization certified under medicare to provide skilled nursing and other therapeutic services to the patient in his/her place of residence.

~~((33))~~ (35) "Hospital" shall mean any institution licensed as a hospital by the official state licensing authority.

~~((34))~~ (36) "Institution" shall mean an establishment which furnishes food and shelter to four or more persons unrelated to the proprietor and, in addition provides medically related services and medical care. This would include hospitals, skilled nursing facilities, intermediate care facilities and institutions for the mentally retarded, but does not include correctional institutions.

(37) "Intermediary" is an organization who has an agreement with the federal government to process medicare claims under Part A.

~~((35))~~ (38) "Intermediate care facility" shall mean a licensed facility certified to provide intermediate care for which an agreement has been executed.

~~((36))~~ (39) "Intermediate care facility/IMR" shall mean a state institution or a licensed nursing home either of which has been certified by state office (SO) as meeting ~~((IMR))~~ the CFR regulations to provide ~~((24))~~ twenty-four hour health-related care and services to mentally retarded persons or persons with related conditions.

~~((37))~~ (40) "Legal dependents" are persons whom an individual is required by law to support.

~~((38))~~ "Local office". See CSO.

~~((39))~~ (41) "Medicaid" or "Medical assistance" ~~((or))~~ "MA" shall mean the federal aid Title XIX program under which medical care is provided to:

(a) A recipient of ~~((a federal aid grant or of SSI benefit or an eligible child receiving foster care))~~ AFDC.

(b) A recipient of ~~((a continuing general assistance grant who is categorically related))~~ SSI.

(c) A recipient of ~~((a continuing general assistance grant who is eligible for care under the "H" category))~~ state supplement.

(d) A ~~((categorically related recipient or a recipient under the "H" category who is eligible for federal aid medical care only (ineligible for a grant)))~~ financially eligible person under twenty-one including, but not limited to individuals in:

(i) Foster care, or

(ii) Subsidized adoption, or

(iii) A skilled nursing home, intermediate care facility, or intermediate care for mentally retarded, or

(iv) An inpatient psychiatric facility.

(e) Individuals related to category (b) above in institutions who would not be eligible for cash assistance solely because of the level of their income if they were not institutionalized.

(f) Individuals who are eligible but not receiving cash assistance under (a), (b), or (c) above.

~~((e))~~ The spouse of an aged, blind or disabled beneficiary for whom a cash allowance is included in the SSI benefit.

(40) "Medical audit". See "provider services".

~~((41))~~ "Medical care program" is the total program under which medical care is provided through medical assistance (MA) and medical care services (MS) according to the rules in chapters 388-80 through 388-95 WAC.

~~((42))~~ "Medical care services" or "MS" shall mean the fully state-financed program under which medical care is provided to:

(a) A recipient of a continuing general assistance grant who cannot be categorically related;

(b) A recipient of general assistance who does not qualify in the "H" category;

(c) A recipient of medical only (MO).

~~((43))~~ (42) "Medical consultant" shall mean a physician employed by the department at the CSO level.

(43) "Medical facility" see "Institution".

(44) "Medically necessary" is a term for describing requested service which is reasonably calculated to prevent, diagnose, correct, cure, alleviate or prevent the worsening of conditions that endanger life, or cause suffering or pain, or result in illness or infirmity, or threaten to cause or aggravate a handicap, or cause physical deformity or malfunction, and there is no other equally effective more conservative or substantially less costly course of treatment available or suitable for the recipient requesting the service. For the purpose of this section "course of treatment" may include mere observation or, where appropriate, no treatment at all.

(45) "Medicare" is a commonly used term for the federal government health insurance program for certain aged or disabled recipients under Titles II and XVII of the Social Security Act.

(46) "Nursing care consultant" shall mean a qualified and licensed registered nurse employed by the department at the CSO level.

(47) "Outpatient" is a nonhospitalized patient receiving care in an outpatient or emergency department of a hospital, or away from a hospital such as in a physician's office or the patient's own home.

(48) "Part A" is the hospital insurance portion of medicare.

(49) "PAS" - professional activity study is a compilation of inpatient hospital data by diagnosis and age, conducted by the commission of professional and hospital activities, which resulted in the determination of an average length of stay for patients. These data were published in a book entitled "Length of Stay in PAS Hospitals, Western". The department has adopted this book as the basis for authorizing payment for the maximum number of inpatient hospital days for recipients of state funded programs, or where no memorandum of understanding with a PSRO exists.

(50) "Part B" is the supplementary medical insurance benefit (SMIB) or the "doctor portion" of medicare.

(51) ("Participation" is that part of the cost of medical care which the recipient who has available resources must pay.

~~((52))~~ "Physician" is a doctor of medicine, or osteopathy ~~((or podiatry))~~ who is legally authorized to perform the functions of his profession by the state in which he performs them.

~~((53))~~ (52) "Professional standards review organization" (PSRO). See "Washington state professional standards review organization".

~~((54))~~ (53) "Provider" or "provider of service" means ~~((those))~~ an institution~~((s))~~, ~~((agencies))~~ agency, or individual~~((s furnishing))~~ who has a signed agreement



to furnish medical care and goods and/or services to recipients and who ((are)) is eligible to receive payment from the department. ((See also "vendor".))

((55)) (54) "Provider services" shall mean the office of the division of medical assistance which ((authorizes)) processes claims for payment ((for medical billings)) under Title XIX and state funded programs.

((56) "Recipient of continuing assistance" is a person certified by the CSO as eligible to receive a continuing maintenance grant, that is, a recipient of federal aid or continuing general assistance (GAU) or a child receiving foster care.

((57) "Recipient of medical assistance" (MA) is a resident of the state of Washington who is receiving medical care as a recipient of a federal aid grant or SSI benefit, as a foster child, as a recipient of general assistance categorically related or under the H category, as an "essential person", or who has been certified as eligible to receive federal aid medical care only (FAMCO).

((58) "Recipient of medical only" (MO) is an individual who is not eligible for a grant or for medical assistance (MS), and who has been certified for the treatment of acute and emergent conditions only, under that part of the state funded medical care services (MS) program known as "medical only".

((59) "Recipient of noncontinuing general assistance" is a person certified by the department as eligible to receive temporary general assistance (GAN).)

((60)) (55) Residence ((=the)), state ((which officially meets one or more)) of ((the following)) means:

(a) The state where the applicant/recipient is living with the intent to remain there permanently or for an indefinite period;

(b) The state which he/she entered with a job commitment or to seek employment, whether or not currently employed;

(c) The state making a state supplementary payment;

(d) The state making placement in an out-of-state institution;

(e) The state of the parents or legal guardian, if one has been appointed, of an institutionalized individual who is under age twenty-one or is age twenty-one or over and who became incapable of determining residential intent before age twenty-one;

(f) The state where the person over age twenty-one judged to be legally incompetent is living.

((61) "Resource" is any asset which could be applied toward meeting the costs of medical care. A nonexempt resource is one which is available to meet the costs of medical care. An exempt resource is not considered available to meet the costs of medical care.

((62)) (56) "Retroactivity" ((is the process used to certify applicant/recipients related to federal programs no earlier than the first day of the third month prior to the month of application to cover unpaid bills for covered medical care)) means the period of no more than three months prior to month of application during which an individual applying under medicaid may be certified.

((63)) (57) "Skilled nursing facility" shall mean a licensed facility certified to provide skilled nursing care for which an agreement has been executed.

((64)) (58) "Skilled nursing home", unless otherwise described, shall mean any institution or facility licensed by the department as a nursing home, or is a nursing home unit of a hospital licensed by the state department of social and health services. Also known as "skilled nursing facility".

((65)) (59) "Spell of illness" ((benefit period) begins on the first day a person eligible for medicare receives covered services in a hospital or extended care facility. A spell of illness ends as soon as he has been out of any hospital, extended care facility, or a nursing home providing skilled nursing service, for sixty consecutive days)) - see benefit period.

((66)) (60) "Spouse" -

(a) "Eligible spouse" ((is a person in a two-person household who, in addition to the eligible individual, is eligible for cash benefits under SSI. This person is automatically eligible for medicaid)) means an aged, blind or disabled individual who is the husband or wife of an eligible individual and who has not been living apart from such eligible individual for more than six months.

(b) "Ineligible spouse" ((is a person in a two-person household of an eligible individual who is not eligible for a cash benefit under SSI. This person is not automatically eligible for medicaid and must apply in his or her own right)) means the husband or wife of an eligible individual who is not aged, blind or disabled; or although aged, blind or disabled has not applied for such assistance.

(c) "Nonapplying spouse" means the husband or wife of an eligible individual who although aged, blind or disabled has not applied for such assistance.

(61) "State-funded medical care" shall mean medical care, as defined by DSHS, provided to eligible persons on continuing general assistance.

((67)) (62) "State office" or "SO" shall mean the division of medical assistance of the department.

((68)) (63) "Supplementary ((security income)) payment" ((is a cash benefit provided as a federal payment and/or state supplement under Title XVI for the aged, blind and disabled)) means the state money payment to individuals receiving benefits under Title XVI (or who would, but for their income, be eligible for such benefits) as assistance based on need in supplementation of SSI benefits. This payment includes:

(a) "Mandatory state supplement" means the state money payment with respect to individuals who, for December, 1973, were recipients of money payments under the department's former programs of old age assistance, aid to the blind and disability assistance.

(b) "Optional state supplement" means the elected state money payment to individuals eligible for SSI benefits or who except for the level of their income would be eligible for such benefits.

((69) "Title XVI" is a program administered by the social security administration which provides supplementary security income to the aged, blind and disabled.

(70) "Transfer of property" shall mean any act or any omission to act whereby title to property is assigned or set over or otherwise vested or allowed to vest in another person, including delivery of personal property, bills of sale, deeds, mortgages, pledges, or any other instrument

~~conveying or relinquishing whole or partial title of property.~~

~~(71) "Vendor" is a provider of medical goods or services under these rules.)~~

~~(64) "Supplemental security income (SSI) program, Title XVI," means the federal program of supplemental security income for the aged, blind, and disabled established by section 301 of the social security amendments of 1972, and subsequent amendments, and administered by the Social Security Administration (SSA).~~

~~(65) "Third party" means any entity that is or may be liable to pay all or part of the medical cost of injury, disease, or disability of an applicant or recipient of medicaid.~~

~~((72)) (66) "Washington State Professional Standards Review Organization" (WSPSRO) is the state level organization responsible for determining whether health care activities are medically necessary, meet professionally acceptable standards of health care, and are appropriately provided in an out-patient or institutional setting for ((recipients of federally related programs)) beneficiaries of medicare and recipients of medicaid and maternal and child health.~~

~~((NOTE\* Specific definitions applicable to: Medical assistance to the aged and those under 21 years of age in mental institutions are in WAC 388-95-005, Title XVI related recipients are in WAC 388-92-005, and "Grandfathered" recipients are in WAC 388-93-005.))~~

AMENDATORY SECTION (Amending Order 1542, filed 9/9/80)

WAC 388-81-005 MEDICAL CARE PROGRAM. The department of social and health services provides a medical care program, administered through the division of medical assistance, designed to meet the health care needs of eligible individuals who ~~((do not have resources to meet the full cost of medical care. This medical care program is offered through use of certified providers of medical services as described in WAC 388-87-007))~~ have been determined eligible as defined in WAC 388-80-105.

AMENDATORY SECTION (Amending Order 1542, filed 9/9/80)

WAC 388-81-025 ELIGIBILITY—GENERAL.

(1) Financial eligibility is established when the department certifies that the applicant meets the appropriate financial requirements in chapter 388-83 WAC.

(2) The department shall be responsible for payment of medical care provided within the scope of the program to ~~((recipients of medical assistance (MA), to recipients of continuing general assistance (GAU) who cannot be categorically related, and to recipients of medical only (MO) who have an acute and emergent medical need. Services provided and limitations thereto are specified in chapter 388-86 WAC))~~ eligible persons.

AMENDATORY SECTION (Amending Order 1542, filed 9/9/80)

WAC 388-81-040 FAIR HEARING. (1) Any applicant for or recipient of medical care provided under chapter 74.09 RCW who feels aggrieved by a decision rendered by the department has a right to a fair hearing as provided by chapter 388-08 WAC.

(2) When the fair hearing request calls into question a decision of a medical consultant or when eligibility is being determined in the ~~((federal aid medical care only or medical only programs))~~ medicaid category or state funded medical program, a prehearing review is the responsibility of the division of medical assistance.

(3) Chapter 388-08 WAC applies when a request for a fair hearing is related to medical care.

(4) The medical director or his designee shall review all fair hearing requests referred by the examiner to determine:

(a) Whether or not the appellant's request for service was filed according to the applicable rules and regulations,

(b) Whether or not the decisions have been made upon complete and accurate evaluation of the facts, existing standards, regulations, and policies.

(5) All records and information necessary to determine the validity of the appellant's fair hearing request shall be furnished upon request to the reviewing authority and forwarded not later than ten days from such request.

(6) An ~~((independent))~~ professionally qualified person and/or persons not a party to the action being appealed may be obtained at the request of the examiner or the appellant.

(7) Upon receipt of the necessary material, evidence, or reports, the designated reviewing authority shall evaluate the appellant's request in accord with existing rules, regulations, and policies of the department. The reviewing authority:

(a) May reverse the decision when such adverse decision has been made contrary to rules, regulations and policies of the division;

(b) May resolve a situation resulting in the fair hearing request by adjustment.

(8) In providing a system for fair hearings for applicants or recipients of medical care, the rules in chapter 388-08 WAC shall be adhered to and, where appropriate, other portions of WAC which are applicable to the particular circumstances of the appellant.

AMENDATORY SECTION (Amending Order 1265, filed 1/13/78)

WAC 388-81-050 RESTITUTION. (1) If a recipient of medical care was not eligible for such care or comes into possession of resources which he/she fails to disclose to the department, the amount of such medical care payment made by the department on his/her behalf which could have been met by his/her undisclosed resources shall be an overpayment and a debt due the department. (See chapter 388-44 WAC for definition of overpayment and procedures pertaining to repayment by grant recipients.) Reimbursement cannot be collected

from a grant for vendor payments incorrectly paid for medical care.

(2) If repayment is not obtained from a nongrant recipient, the case and the files relative thereto shall be forwarded to the office of reimbursements for such further action as deemed necessary. However, in no event shall a lien be filed while the ineligible recipient or ~~(his)~~ the dependent spouse is still living unless the claim has been reduced to judgment in a superior court of the state of Washington.

AMENDATORY SECTION (Amending Order 299, filed 9/6/68)

WAC 388-81-055 FRAUD. Any person who by means of willfully false statement or representation or by impersonation or other fraudulent device or failure to reveal resources as required obtains or attempts to obtain or aids or abets any person to obtain medical care to which he/she is not entitled shall be guilty of larceny. See WAC 388-44-020 for procedures to be followed in cases involving fraud.

AMENDATORY SECTION (Amending Order 911, filed 3/1/74)

WAC 388-81-060 SUPPLEMENTARY MEDICAL INSURANCE "BUY IN". The department will purchase supplementary medical insurance Part B, under Title XVIII of the social security act for an eligible individual who is a recipient of a federal aid grant ~~((or federal aid medical care only and who~~

~~(1) is entitled to hospital insurance benefits under Part A, or~~

~~(2) has attained the age of 65 and is either a citizen or an alien lawfully admitted for permanent residence who has resided in the United States continuously during the five years immediately preceding the month in which he applies for assistance, or~~

~~(3) is under age 65 and has been entitled to disability insurance benefit annuities under the social security act for not less than twenty-four consecutive months on the basis of a disability for which compensation is being paid by the social security administration, or~~

~~(4) is a beneficiary of medicare because of chronic renal disease requiring hemodialysis or kidney transplantation)).~~

NEW SECTION

WAC 388-82-006 MEDICAL ASSISTANCE. Medical assistance is the Title XIX funded medical program that provides full scope medical care to eligible individuals.

AMENDATORY SECTION (Amending Order 1542, filed 9/9/80)

WAC 388-82-010 PERSONS ELIGIBLE FOR MEDICAL ASSISTANCE. Medical assistance ~~((is provided for.))~~ is available to any individual who is categorically needy.

~~(1) ((A recipient of AFDC (including AFDC foster child) or beneficiary of supplemental security income who has applied for medical assistance;~~

~~(2) The essential person of a converted supplemental security income beneficiary as defined in WAC 388-92-070;~~

~~(3) A child, other than AFDC-FC foster child, for whom the department is making a foster care payment and who is determined eligible for medical assistance;~~

~~(4) An individual qualifying for the "II" federally aided category;~~

~~(5) A recipient of a continuing general assistance grant who can be categorically related;~~

~~(6) An individual who qualifies for federal aid medical care only (FAMCO) by meeting the eligibility standards in~~

~~(a) Chapter 388-83 WAC, and~~

~~(b) WAC 388-24-040(1) through (7), 388-24-050(2) through (7), and 388-24-550, for aid to families with dependent children, except for WIN registration, or~~

~~(c) Chapter 388-93 WAC for age, blindness or disability certified before January 1, 1974, or~~

~~(d) Chapter 388-92 WAC for age, blindness or disability certified after January 1, 1974.))~~ Individuals receiving or eligible to receive a cash assistance payment.

Categories under which individuals may qualify include:

(a) Aid to families with dependent children (AFDC);

(b) Supplemental security income (SSI);

(c) State supplemental payment; and

(d) Individuals under age twenty-one whose income is less than the one person AFDC standard, including but not limited to those individuals who are in:

(i) Foster care; or

(ii) Subsidized adoption; or

(iii) Skilled nursing home, intermediate care facility, or intermediate care facility for mentally retarded (ICF/MR); or

(iv) Inpatient psychiatric facilities.

(2) Individuals in medical facilities:

(a) Who would be eligible for cash assistance if they were not institutionalized. This includes all categorically needy groups;

(b) Who would not be eligible for cash assistance if they were not institutionalized. This includes only aged, blind, and disabled groups.

NEW SECTION

WAC 388-82-115 SPECIAL CATEGORIES ELIGIBLE FOR MEDICAL ASSISTANCE. (1) Persons who, in August, 1972, received OAA, AB, AFDC, or APTD, and also received RSDI benefits, and who became ineligible for OAA, AB, AFDC or APTD solely because of the twenty percent increase in social security benefits under Public Law 92-336, shall be eligible for medicaid as categorically needy. The provision applies to both current cash applicants and recipients. Program description and eligibility determination are described in chapter 388-93 WAC.

(2) Applicants for SSI or AFDC who were entitled to RSDI benefits in August, 1972, and would have been ineligible solely because of the social security benefits

under Public Law 92-336 shall have the twenty percent increase disregarded in determining financial eligibility.

(3) An AFDC family unit which becomes ineligible solely because of increased hours or increased income from employment shall remain categorically eligible for medical assistance (MA) for four calendar months beginning with the month of ineligibility provided that:

(a) The family received AFDC in at least three of the six months immediately preceding the month of ineligibility.

(b) A member of such family continues to be employed, and

(c) The family is otherwise eligible for AFDC except for increased hours or increased income from employment.

(4) Current recipients who become ineligible for SSI benefits and/or state supplementary payments after April 1, 1977, solely because of OASDI cost-of-living benefit increases under PL 94-566, section 503, shall remain categorically eligible for medical assistance (MA). Any subsequent OASDI cost-of-living benefit must be considered available income. This disregard does not apply to:

(a) New applicants (i.e., who were not receiving SSI/SSP prior to increase).

(b) Persons who were not actually receiving SSI/SSP payments for some other reason.

(c) Persons who would have received SSI/SSP if they had applied.

(d) Persons who would have received SSI/SSP if they were not living in a medical or intermediate care facility.

#### NEW SECTION

WAC 388-82-125 RECIPIENTS IN MEDICAL INSTITUTIONS ELIGIBLE UNDER TITLE XIX. Medical assistance is available to an otherwise eligible individual who is in a Title XIX certified medical facility defined as:

- (1) A general hospital,
- (2) A skilled nursing home,
- (3) An intermediate care facility,
- (4) An intermediate care facility for mentally retarded, and
- (5) In state mental institutions, only eligible individuals age sixty-five and over.

#### NEW SECTION

WAC 388-82-126 STATE FUNDED MEDICAL CARE PROGRAM. (1) State-funded medical care is a more limited scope of medical care provided to eligible individuals. State-funded medical care services are defined in chapter 388-86 WAC.

(2) Continuing general assistance recipients in skilled nursing homes, intermediate care facilities or intermediate care facilities for mentally retarded shall be provided medical care to the same extent as a recipient of medical assistance.

#### NEW SECTION

WAC 388-82-130 MEDICAL CARE PROVIDED IN BORDERING CITIES. Medical care will be provided to eligible individuals in a bordering city on the same basis as in-state care. The only recognized bordering cities are Moscow, Sandpoint and Lewiston, Idaho; Portland, The Dalles, Hood River, Rainier, Milton-Freewater, and Astoria, Oregon.

#### NEW SECTION

WAC 388-82-135 OUT-OF-STATE MEDICAL CARE. (1) A categorically needy resident of the state of Washington temporarily out of the state may be provided medical assistance within the scope of the medicaid program.

(2) When an eligible individual goes to another state, excluding bordering cities, expressly to obtain medical care that is available within the state of Washington, medical assistance will only be provided on an emergency basis.

(3) Medical assistance will be provided to persons who enter the state and are determined to be financially eligible, provided the residency requirements in chapter 388-80 WAC are met.

(4) State-funded medical care is not provided out-of-state except in designated bordering cities.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

(1) WAC 388-82-005 MEDICAL CARE—GENERAL DESCRIPTION OF PROGRAMS.

(2) WAC 388-82-015 "H" CATEGORY (FEDERAL AID).

(3) WAC 388-82-020 MEDICAL CARE SERVICES.

(4) WAC 388-82-025 INSTITUTIONAL STATUS.

(5) WAC 388-82-030 STATE OF WASHINGTON RESIDENT REQUIRING CARE OUT-OF-STATE.

(6) WAC 388-82-035 OUT-OF-STATE RESIDENT REQUIRING MEDICAL CARE IN WASHINGTON STATE.

(7) WAC 388-82-045 MEDICAL CARE FOR UNITED STATES CITIZEN RETURNED FROM FOREIGN COUNTRY.

AMENDATORY SECTION (Amending Order 1203, filed 4/1/77)

WAC 388-83-005 ((GENERAL)) MEDICAL ASSISTANCE ELIGIBILITY. The department shall provide medical ((care)) assistance within the limitations set forth under these rules and regulations to any individual who has been certified ((as eligible to receive such care under the medical care program, that is, certified as eligible for federal aid medical assistance (MA), or state-financed medical care services (MS)). Any person who has been so certified may obtain approved medical

~~care from any eligible provider who undertakes to provide services under the rules and regulations of the department)) Title XIX eligible. The recipient shall be responsible for furnishing the provider with a medical identification coupon or other adequate notification of eligibility provided by the department.~~

#### NEW SECTION

WAC 388-83-006 STATE-FUNDED MEDICAL CARE SERVICES. The department shall provide state-funded medical care within the limitations set forth under these rules and regulations to any individual who has been certified as eligible to receive such services as a continuing general assistance recipient. The recipient shall be responsible for furnishing the provider with a medical identification coupon or other adequate verification of eligibility provided by the department.

AMENDATORY SECTION (Amending Order 1542, filed 9/9/80)

WAC 388-83-010 ((USE OF)) ALTERNATIVE SOURCES FOR MEDICAL CARE. (1) All third party resources for medical care available to the applicant or recipient must be utilized to the fullest possible extent in the payment for the medical care prior to participation by the department.

(2) Any payment, additional payment((s)) or contribution((s)) by or on behalf of an applicant((,-a)) recipient, ((or other person)) meant to increase the overall level of care beyond that ((normally provided with)) included in the amount, duration or scope of medical care shall be considered as a nonexempt resource and will be applied against the cost of medical care ((normally)) provided under the program.

(3) The department makes agreements with providers of prepaid medical plans. Eligible recipients who choose to participate in a prepaid program are required to utilize such providers of service exclusively except for certain noncovered services for which the department may be responsible under the medical care program. See WAC 388-87-010(4).

AMENDATORY SECTION (Amending Order 967, filed 8/29/74)

WAC 388-83-015 CITIZENSHIP AND ALIEN-AGE. ((+)) An applicant ((for federal aid medical care only)) must be a citizen of the United States or an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law including an alien who is lawfully present in the United States according to specified sections of the immigration and nationality act. (See WAC 388-26-120)

((2) This requirement does not apply to the medical only program:))

AMENDATORY SECTION (Amending Order 1056, filed 9/25/75)

WAC 388-83-017 SOCIAL SECURITY NUMBER. (1) ((An applicant for federal aid medical care

only)) A categorically needy applicant shall be encouraged to provide a social security number on the application form and shall be assisted to secure such number if he/she wishes to secure one.

(2) ((An applicant who is otherwise eligible shall not be denied medical assistance because of failure or refusal to disclose or apply for a social security number, and the individual shall be so informed.)) There is no Title XIX enumeration requirement.

AMENDATORY SECTION (Amending Order 264 (part), filed 11/24/67)

WAC 388-83-020 AGE. No age requirements is imposed as a condition of eligibility in regard to ((the)) medical ((Care Program)) assistance. The age of the applicant is established to determine whether the individual may be related to a federal aid category, or may be eligible for the under ((the<sup>n</sup>H<sup>n</sup>)) age twenty-one category.

AMENDATORY SECTION (Amending Order 1470, filed 1/3/80)

WAC 388-83-025 RESIDENCE. An applicant or recipient of the benefits of the medical care program must be a resident of the state of Washington ((see exception in WAC 388-82-035(1))); an applicant-recipient need not be a resident of the county in which medical care is ((sought)) obtained. ((See definitions, chapter 388-80 WAC.))

AMENDATORY SECTION (Amending Order 1402, filed 5/16/79)

WAC 388-83-028 ((EXTENDED)) ELIGIBILITY FACTORS FOR SPECIAL CATEGORIES. (1) ((Persons who, in August, 1972, received OAA, AFDC, AB, or DA and also received RSDI benefits, and who became ineligible for OAA, AFDC, AB or DA solely because of the twenty percent increase in social security benefits under Public Law 92-336, shall be eligible for federal aid medical care only (FAMCO). The provisions of WAC 388-83-045(8)(a) shall apply.)) Cash recipients of OAA, AB or APTD who became ineligible because of the twenty percent increase in RSDI benefits in August, 1972, must have that increase disregarded in determining current eligibility. If the sole reason for their income exceeding the cash standard is the August, 1972, increase, then they are categorically eligible for medicaid. Medicaid eligibility determinations for this group must include this factor.

(2) ((Applicants for FAMCO or AFDC who were entitled to RSDI benefits in August, 1972)) Persons who were eligible under federal cash assistance programs (AFDC, AB or APTD but were not receiving assistance, and would have been ineligible solely because of the ((social security benefits under Public Law 92-336)) August, 1972, RSDI twenty percent increase shall have the twenty percent increase disregarded in determining financial eligibility ((for FAMCO. The provisions of WAC 388-83-045(8)(b) shall apply)).

(3) An AFDC ((grant assistance)) family unit which becomes ineligible solely because of increased hours or

increased income from employment shall remain categorically eligible for medical assistance (MA) for four calendar months beginning with the month of ineligibility provided that:

(a) The family received AFDC in at least three of the six months immediately preceding the month of ineligibility,

(b) A member of such family continues to be employed, and

(c) The family is otherwise eligible for AFDC except for increased hours or increased income from employment,

(d) Participation shall not be required.

(4) ~~((Persons))~~ Current recipients who become ineligible for SSI benefits and/or state supplementary payments in ~~((July))~~ April, 1977, solely because of OASDI cost-of-living benefit increases under PL 94-566, section 503 shall remain categorically eligible for medical assistance (MA). Any subsequent OASDI cost-of-living benefit must be considered available income. This disregard does not apply to:

(a) New applicants (i.e., who were not receiving SSI/SSP prior to increase).

(b) Persons who were not actually receiving SSI/SSP payments for some other reason.

(c) Persons who would have received SSI/SSP if they had applied.

(d) Persons who would have received SSI/SSP if they were not living in a medical or intermediate care facility, etc.

(5) Persons who were "grandfathered" into SSI January 1, 1974, and continue to meet the definition in chapter 388-80 WAC are eligible for medical assistance. Termination and reapplication does not reinstate the "grandfathered" status. Program and eligibility factors are described in chapter 388-93 WAC.

#### NEW SECTION

WAC 388-83-130 ELIGIBILITY DETERMINATION—NONINSTITUTIONAL. (1) Eligibility determination for AFDC shall be as follows:

(a) Applicants who are eligible but not receiving cash assistance shall be determined as for the appropriate cash assistance category.

(b) Individuals under age twenty-one not SSI related shall have eligibility determination based on the AFDC standard for one person.

(i) When an under twenty-one person resides in the same family unit with parents, their income is considered available whether or not actually contributed.

(ii) The AFDC earned income exemption of \$30 + 1/3 of remainder does not apply to individuals applying solely for medical assistance.

(2) Eligibility for SSI related applicants who are eligible but not receiving cash assistance shall be determined as for the appropriate SSI cash assistance category. See chapter 388-92 WAC for income and resources computation.

#### NEW SECTION

WAC 388-83-135 MONTHLY STANDARD—INSTITUTIONAL. The monthly standard for SSI/state supplement related individuals in medical facilities shall have their eligibility determined by:

(1) Comparing the maximum gross income to three hundred percent of the SSI benefit (the SSI cap).

(2) Using other SSI financial criteria for consideration of resources as defined in chapter 388-92 WAC.

#### NEW SECTION

WAC 388-83-140 ALLOCATION OF INCOME—INSTITUTIONALIZED RECIPIENT. (1) All institutionalized recipients will retain \$32.50 personal needs allowance.

(2) The AFDC related individual in a medical facility is eligible to receive an amount as a cash assistance payment sufficient to bring income up to the personal needs allowance.

(3) SSI related recipients may retain the current personal needs allowance plus wages received for work approved by the department as part of a training or rehabilitative program designed to prepare the individual for less restrictive placement. The total personal needs allowance including the initial \$32.50 may not exceed the monthly noninstitutional state supplement standard. There are no deductions for expenses of employment. When the total amount of wages received plus the initial personal needs allowance exceeds the monthly standard, the excess wages are applied to the cost of care.

(4) In addition to the allocations in (1) and (3) above, SSI related individuals residing in a medical facility throughout a calendar month are entitled to the following allocations of income as applicable:

(a) Maintenance needs of spouse not to exceed state supplement standard,

(b) Maintenance needs of family adjusted for number of family members living at home, but not to exceed highest need standard for a family of same size under AFDC,

(c) Amounts for incurred medical expenses not subject to third-party payment including but not limited to:

(i) Health insurance premiums, co-insurance or deductible charges,

(ii) Necessary medical care recognized under state law but not covered under medicaid.

(d) For a single person, maintenance of the home where the individual has been certified by a physician to need institutional care for no more than six consecutive months,

(i) Income thus exempted must be used to retain the independent living situation of an individual with no dependents through payment of such requirements as rent or mortgages, real estate taxes, insurance, gas, electricity, oil, water or sewer necessary to maintain the home,

(ii) Up to one hundred eighty dollars per month may be exempted from the individual's actual income based on the verified actual cost to retain the home during six consecutive months,

(iii) The six-month period begins on the first of the month following date of admission for medicaid eligible

recipients or the date of eligibility for individuals changing from private to medicaid, and ceases when the patient is discharged to an independent living arrangement or at the end of six months if the recipient has not been discharged,

(iv) CSO social service staff shall document initial need for the income exemption and review the individual's circumstances after ninety days.

(5) Income remaining in (1), (2), (3) or (4) will be used to compute payment of the participation amount (that income remaining after allocation of income) shall be a matter solely between the recipient and the medical facility.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

(1) WAC 388-83-030 COMPUTATION OF AVAILABLE INCOME AND RESOURCES.

(2) WAC 388-83-035 MONTHLY MAINTENANCE STANDARD—APPLICANT LIVING IN OWN HOME.

(3) WAC 388-83-045 ALLOCATION OF AVAILABLE INCOME AND NONEXEMPT RESOURCES.

(4) WAC 388-83-050 AVAILABILITY OF RESOURCES.

(5) WAC 388-83-055 EXEMPT RESOURCES.

(6) WAC 388-83-060 NONEXEMPT RESOURCES.

(7) WAC 388-83-065 TRANSFER OF RESOURCES WITHIN TWO YEARS PRIOR TO APPLICATION.

#### NEW SECTION

WAC 388-84-105 MEDICAL ASSISTANCE. (1) All individuals wishing to make application for medical assistance shall have the opportunity to do so without delay.

(a) Applicants will be provided with:  
 (i) An explanation of the civil rights act,  
 (ii) Fair hearing information,  
 (iii) Information on early and periodic screening, diagnosis and treatment, when appropriate,  
 (iv) Information on family planning, when appropriate.

(b) The application shall mean verbal or written request; verbal application must be reduced to writing.

(c) If death of applicant intervenes, the application may be completed by a relative or interested person(s).

(2) Individuals who receive cash assistance payment under AFDC, SSI or state supplement are eligible without a separate application.

(3) A spouse ineligible for SSI benefits solely because of the level of his/her income must apply individually for medical assistance.

(4) A resident of the state of Washington temporarily out of the state may make application directly to the community services office (CSO) in his/her area of the state through either an individual or agency acting in his/her behalf.

#### NEW SECTION

WAC 388-84-110 APPLICATION—DISPOSITION. (1) Timely determination standards are:

(a) Sixty days for applicants based on disability,

(b) Forty-five days for all other categories,

(c) Certain unusual circumstances beyond the administrative control of the CSO may delay a decision on an application.

(2) For cash assistance, approval of the medical assistance is concurrent.

(3) Notification of approval for all other applicants for medical assistance will be by means of an award letter.

(4) Denial of the application for a categorically needy individual will follow cash assistance standards and criteria. The denial notice will include the right to a fair hearing.

(5) Withdrawal of an application will follow WAC 388-38-172.

#### NEW SECTION

WAC 388-84-115 EFFECTIVE DATE OF APPLICATION. (1) The effective date of eligibility for medical assistance shall be no later than the third month before the month of application provided:

(a) The medical services received were covered.

(b) Individual would have been eligible had he/she applied.

(c) Applicant met all eligibility factors in chapter 388-83 WAC.

(2) Eligibility effective date for medical assistance is the first day of the month if the individual was eligible at any time during that month.

(3) The month of application for SSI beneficiaries for purposes of determining eligibility for medical assistance shall be the month they apply for SSI.

(4) The AFDC related, under age twenty-one, and SSI related individuals may be issued a temporary medical coupon by the CSO until the state office issued coupon arrives.

#### NEW SECTION

WAC 388-84-120 APPLICATION FOR STATE FUNDED MEDICAL CARE. (1) Individuals ineligible for a categorically needy program (AFDC, aged, blind, disabled, or under twenty-one) may be provided medical care under the state-funded program of continuing general assistance.

(2) Approval and effective date of state-funded medical care is concurrent with notice of certification for cash assistance.

(3) Termination of state-funded medical occurs with termination of continuing general assistance grant.

(4) The CSO may issue temporary medical coupons until state office issued coupons arrive.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

(1) WAC 388-84-005 RIGHT TO APPLY.

(2) WAC 388-84-010 DISPOSITION OF APPLICATION.

(3) WAC 388-84-015 APPROVAL OF APPLICATION.

(4) WAC 388-84-020 DENIAL OF APPLICATION.

(5) WAC 388-84-025 WITHDRAWAL.

Chapter 388-85 WAC  
MEDICAL CARE—(~~AUTHORIZATION OF ELI-~~  
~~GIBILITY~~) CERTIFICATION

NEW SECTION

WAC 388-85-105 CERTIFICATION OF ELIGIBILITY. Entitlement to medical assistance continues until the individual is determined ineligible for cash assistance.

(1) When eligibility for AFDC is terminated:

(a) For AFDC cash assistance due to increased income or increased hours from employment, medical assistance shall continue for four calendar months beginning with month of ineligibility.

(b) Because an individual has been removed from AFDC cash assistance due to reaching state legal age of majority, a redetermination of eligibility for medical assistance for those under twenty-one shall be made.

(c) For lack of cooperation in WIN or lack of school attendance, redetermination of eligibility for medical assistance will be made according to appropriate cash.

(2) Redetermination of eligibility for medical assistance shall be the same as for the cash assistance program to which an individual is related.

(3) Any change in circumstances relating to the individual's financial or medical eligibility must be promptly reported to the CSO.

NEW SECTION

WAC 388-85-110 SSI/STATE SUPPLEMENT TERMINATION. (1) When an SSI/state supplemental beneficiary is terminated by SSA because of failure to meet blindness and disability criteria under Title XVI, medical assistance shall be terminated at the end of the second month following the month in which eligibility ceases if the beneficiary has filed a timely request for a hearing from SSA regarding eligibility for cash assistance.

(2) Individuals in medical facilities who are not receiving cash assistance shall be notified in writing when eligibility ceases.

REPEALER

The following sections of the Washington Administrative Code are repealed:

(1) WAC 388-85-005 CERTIFICATION DOCUMENT.

(2) WAC 388-85-010 AUTHORIZATION PROCEDURE.

(3) WAC 388-85-015 PERIOD OF CERTIFICATION.

(4) WAC 388-85-020 REDETERMINATION OF ELIGIBILITY.

(5) WAC 388-85-025 NOTIFICATION—INITIAL CERTIFICATION, REDETERMINATION OF ELIGIBILITY AND CHANGE OF CIRCUMSTANCES.

(6) WAC 388-85-027 EFFECTIVE DATE OF CHANGE IN ELIGIBILITY.

Chapter 388-92 WAC  
MEDICAL CARE FOR PERSONS RECEIVING BENEFITS UNDER TITLE XVI OF SOCIAL SECURITY ACT—ELIGIBILITY—INCOME AND RESOURCE STANDARDS FOR APPLICANTS IN OWN HOME

AMENDATORY SECTION (Amending Order 1402, filed 5/16/79)

WAC 388-92-005 DEFINITIONS. The definitions in (~~WAC 388-92-005~~) this section apply only to (~~chapter 388-92 WAC~~) SSI related applicants.

(1) Beneficiary – A person who receives a cash benefit under Title XVI and/or state supplement.

(2) (~~Deleted~~) SSI related – Eligible for but not receiving cash assistance.

(3) Income – The receipt by an individual of any property or service which he can apply either directly, by sale, or conversion to meet his basic needs for food, clothing, and shelter.

(a) Earned income means gross wages for services rendered and/or net earnings from self-employment. Earned income received at predictable intervals other than monthly or in unequal amounts will be converted to a monthly basis. If income is weekly, the amount is multiplied by 4.3 to arrive at a monthly figure.

(b) Unearned income means all other income (~~including but not limited to~~

(i) ~~Support and maintenance furnished in cash or kind.~~

(ii) ~~Prizes and awards—This includes prizes won in a contest, lottery, or game of chance or awards received as the result of a decision or judgment of a court, a board of arbitration, or the like, but not ordinarily from a competition. When a prize or award is not in cash, the current fair market value of the item is counted as unearned income.~~

(iii) ~~Proceeds of any life insurance policy to the extent that they exceed the amount expended for the purposes of the insured individual's last illness and burial or one thousand five hundred dollars, whichever is less.~~

(iv) ~~Gifts (cash or otherwise), support and alimony payments.~~

(v) ~~Rent—Rent represents compensation in cash or in kind for the use of real or personal property, for example, land, an apartment, a room, machinery. Only ordinary and necessary "out of pocket" expenses incurred in operating the property are deducted from the gross rent).~~

(4) (~~Institution—An establishment which furnishes food and shelter to four or more persons unrelated to the proprietor and, in addition, provides some treatment or~~



~~services which meet some need beyond the basic provision of food and shelter. This would include hospitals, skilled nursing facilities (extended care facilities or skilled nursing homes), and intermediate care facilities, but does not include correctional institutions.~~

~~(5)) Resources - Cash or other liquid assets or any real or personal property that an individual or spouse, if any, owns and could convert to cash to be used for support or maintenance.~~

~~(a) If an individual can reduce a liquid asset to cash, it is a resource.~~

~~(b) If an individual cannot reduce an asset to cash, it is not considered ((a)) an available resource.~~

~~(c) Liquid - Properties that are in cash or are financial instruments which are convertible to cash such as, but not limited to, cash in hand, stocks, savings, checking accounts, mutual fund shares, mortgage, promissory notes.~~

~~(d) Nonliquid - All other property both real and personal shall be evaluated according to the price the item can reasonably be expected to sell for on the open market in the particular geographical area involved.~~

~~((6) Retroactivity - The provision to make payment for unpaid medical bills for covered services for an applicant for FAMCO or Title XVI benefits, provided that such applicant is determined to have been eligible at the time services were received. The retroactive period shall begin no earlier than the first day of the third month prior to the month of application and shall extend up to the date of application. (See WAC 388-84-005(2) and 388-87-015(3) and (4)).~~

~~(7) SSA - Social security administration.~~

~~(8) SSI - Supplemental security income under Title XVI of the social security act.~~

~~(9) State supplement - Amount paid in addition to SSI under Title XVI of the social security act.~~

~~(10) Title SSI - A national program to provide supplemental security income (SSI) to individuals who have attained age sixty-five, or are blind, or disabled.))~~

AMENDATORY SECTION (Amending Order 1476, filed 1/16/80)

WAC 388-92-015 ((GENERAL)) ELIGIBILITY DETERMINATION-SSI. (1) ~~((Citizenship - must be a citizen of the United States or an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States including an alien who is lawfully present in the United States according to specified sections of the Immigration and Nationality Act. (See WAC 388-26-120).~~

~~(2) Residence - see WAC 388-83-025.~~

~~((3)) For the purposes of medical assistance related to ((Title XVI)) SSI, the applicant must be:~~

~~(a) Age 65 or over, or~~

~~(b) Blind, with central visual acuity of 20/200 or less in the better eye with the use of a correcting lens, or with a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees; or~~

~~(c) Disabled, that is, unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be~~

~~expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months or, in the case of a child under the age of 18, if he suffers from any medically determinable physical or mental impairment of comparable severity((A physical or mental impairment is an impairment that results from anatomical, physiological, or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic technique, except that an applicant for disability who is medically determined to be a drug addict or alcoholic shall be ineligible for any month unless such individual is undergoing any treatment that may be appropriate for his condition as a drug addict or alcoholic at an institution or facility approved for that purpose (so long as such treatment is available) and demonstrates compliance with the terms, conditions and requirements of such treatment)). Decisions on ((Title XVI)) SSI related disability are ((made by)) the responsibility of the office of disability insurance benefits, division of medical assistance.~~

~~((4) Temporary absence:~~

~~(a) If a resident of the state of Washington is temporarily in another state and requires medical care, and is eligible for medical assistance, the responsibility for medical payment rests with the state of Washington. The standard of care will be no different than that authorized within the state.~~

~~((b)) (2) A resident of Washington who requires medical assistance outside the United States will be provided care according to chapter 388-82 WAC ((388-82-030)).~~

AMENDATORY SECTION (Amending Order 1542, filed 9/9/80)

WAC 388-92-025 COMPUTATION OF AVAILABLE INCOME. (1) ~~((Income shall be defined as in WAC 388-92-005.~~

~~((a)) Total income of a beneficiary of supplemental security income, except for institutionalized recipients, is not considered an available resource.~~

~~((b)) (2) Income and resources are considered jointly for spouses who live together in a common household and blind or disabled children who live with their parent(s). Income and resources are considered separately when spouses and/or children and parents cease to live together except for purposes of eligibility determination only, then income and resources are considered mutually available~~

~~(i) for the first six months after the month they cease to live together where both spouses apply ((for FAMCO)) as SSI related (aged, blind or disabled),~~

~~(ii) for the month of separation where only one spouse applies ((for FAMCO)) as SSI related (aged, blind, or disabled), or where blind or disabled children are separated from parents.~~

~~((c) If a minor applies for medical care the parent legally responsible for the support of the child is also by law financially responsible for the payment for medical provided to the child. In such case the standards in WAC 388-83-035 shall apply to determine available income to meet the medical needs of the child. See also WAC 388-24-550.~~

~~(d) For a pregnant minor see WAC 388-82-015.~~

~~(c) Even if state law confers adult status at age eighteen (see WAC 388-24-550), the department must consider parental income and resources as available for a child if he is living with the parent until he becomes twenty-one.~~

~~(2) Net cash income shall be determined as for the Title XVI category to which the applicant for FAMCO is relocatable according to WAC 388-92-015(3).)~~

~~(3) For SSI related individuals, age eighteen to twenty-one, parents income is not considered available unless actually contributed.~~

~~(4) For SSI related individuals under age eighteen, parents' income is deemed available.~~

~~(5) When the spouse of an SSI related applicant is ineligible or does not apply, the exclusions in (6) below shall be applied to his/her income in determining the amount to be deemed to the applicant. If the remaining income of the ineligible spouse exceeds the single monthly state supplement benefit all the remaining income shall be deemed to the applicant.~~

~~((3) To arrive at available)) (6) Exclusions from income(;;). The following items shall be excluded sequentially from income:~~

~~(a) Any amount received from any public agency as a return or refund of taxes paid on real property or on food purchased by such individual or spouse;~~

~~(b) State public assistance based on financial need;~~

~~(c) Any portion of any grant, scholarship, or fellowship received for use in paying the cost of tuition and fees at any educational institution;~~

~~(d) Income that is not reasonably anticipated, or received infrequently or irregularly, if such income does not exceed twenty dollars per month if unearned, or ten dollars per month if earned;~~

~~(e) Any amounts received for the foster care of a child, who is not an eligible individual, but who is living in the same house as such individual and was placed in such home by a public or nonprofit private child-placement or child-care agency;~~

~~(f) One-third of any payment for child support received from an absent parent will be excluded;~~

~~(g) The first twenty dollars per month of earned or unearned income, not otherwise excluded above, for a person at home. The exclusion is considered only once for a husband and wife. There is no exclusion on income which is paid on the basis of need of the eligible individual, such as VA pension and cash from private charitable organizations. For a person in an institution, ((the)) all exclusions ((is considered)) apply in determining eligibility ((and)); they are then allocated as participation in cost of medical care. ((See WAC 388-92-035 for employed institutionalized individuals;))~~

~~(h) Tax exempt payments received by Alaska natives under the Alaska Native Claims Settlement Act;~~

~~(i) Tax rebates or special payments exempted by federal regulations will be exempted and publicized by numbered memoranda from the state office;~~

~~(j) Compensation provided to volunteers in ACTION programs established by Public Law 93-113, the Domestic Volunteer Service Act of 1973.~~

(k) When an ineligible minor is in the household of an SSI applicant, an amount will be excluded for such child's needs. The exclusions will be the difference between the SSI couple cash benefit and the SSI individual cash benefit.

(l) Veteran's aid and attendance allowance is to be excluded in determining financial eligibility.

(i) If the sum is paid to a spouse, it is considered that individual's earned income and may be deemed to the applicant.

(ii) For institutionalized applicants, the amount subsequently is considered in the cost of institutional care.

((4)) (7) An ineligible or nonapplying individual under the age of twenty-one who is a student regularly attending a school, college or university or pursuing a course of vocational or technical training designed to prepare him for gainful employment will have all earned income excluded unless that income is actually contributed to the applicant.

((5)) (8) ((For a recipient at home, disregard the following)) Earned income ((a) If such individual is blind and under age sixty-five,)) exclusions for SSI related individuals shall be the first sixty-five dollars per month of earned income not excluded according to subsection ((3)) (6), plus one-half of the remainder(;

(b) If such an individual is disabled but not blind and is under age sixty-five, the first sixty-five dollars per month of earned income not excluded according to subsection (3), plus one-half of the remainder;

(c) If such an individual is age sixty-five or over, the first sixty-five dollars per month of earned income not excluded according to subsection (3), plus one-half the remainder;

(d) If a spouse of an eligible individual applies in his or her own right and can meet the appropriate criteria under Title XVI, the "disregards" are considered only once for the husband and wife)).

#### AMENDATORY SECTION (Amending Order 1537, filed 8/25/80)

WAC 388-92-030 MONTHLY ((MAINTENANCE)) STANDARD((=PERSON NOT IN INSTITUTION)). (1) After computing available income according to WAC ((388-92-035(1) through (6))) 388-92-025 for ((Title XVI)) SSI related ((federal and medical care only, the monthly maintenance standards in subsections (3) and (4))) individuals, the monthly standard shall be ((allowed for an individual not in an institution or for dependents maintaining the family home of an institutionalized recipient effective July 1, 1980)) the state supplement standard.

(2) ((Deleted.)) The monthly maintenance standard for SSI related couples (both applying) shall be the state supplement standard for a couple.

(3) ((Monthly standard)) When computing available income for a family of three or more the relative responsibility requirement of the appropriate cash assistance program shall be applied, except that relative responsibility shall be limited to spouse for spouse and parent for child.

((Family size — Standard

<del>1</del>	<del>\$282</del>
<del>2</del>	<del>402</del>
<del>3</del>	<del>458</del>

(4) ~~((To the standards in subsection (3) for a family of 3, \$78 shall be added for each additional member.))~~  
In mixed households (AFDC and SSI related members) two separate determinations must be made.

AMENDATORY SECTION (Amending Order 1233, filed 8/31/77)

WAC 388-92-040 AVAILABILITY OF RESOURCES. In establishing eligibility for medical assistance, only those resources actually available or "in hand", or expected to be "in hand", within a three month period shall be considered. In cases of retroactive coverage, the three month period includes the month in which covered medical services were initiated. ~~((The department's rules for disregarding or setting aside any resources for future needs will be applied.))~~

AMENDATORY SECTION (Amending Order 1439, filed 9/25/79)

WAC 388-92-045 EXCLUDED RESOURCES. Applicants or recipients may transfer or exchange an exempt resource. Cash received from the sale of an exempt resource is excluded provided the total amount of cash is used to replace or reinvest in another exempt resource within three months. Any remaining portion in excess of allowed resources shall be considered a nonexempt resource if the individual's eligibility continues without a break in certification. In determining the resources of an individual and spouse, if any, the following items shall be excluded up to the dollar limit, if any, as indicated:

(1) ~~((The home as defined in WAC 388-28-420.))~~  
The home or the proceeds from the sale of a home, which is an excluded resource, will also be excluded to the extent that they are re-invested in the purchase of another home which is similarly excluded within three months of the date of receipt of proceeds.

(2) Household goods and personal effects ~~((as defined in WAC 388-28-430(1))).~~

(3) An automobile will be totally excluded if it is used for employment or for the individual's medical treatment; otherwise, the current retail market value up to \$((1,200))4,500, any excess to be counted against the resource limit ~~((in WAC 388-92-050)).~~

(4) Property of a trade or business which is essential to the means of self-support; however, it shall not include liquid resources as defined in WAC 388-92-005 even though such liquid resource may be producing income. This property means items commonly referred to as tangible business assets such as land and buildings, equipment and supplies, inventory, cash on hand, accounts receivable, etc. The current market value shall not exceed limits which take into account the nature of the business and the gross and net income such business may be expected to produce in light of such property.

(5) Nonbusiness property which is essential to the means of self-support. This shall include:

(a) Nonliquid (see WAC 388-92-005), nonbusiness property if it is relied upon by the individual as a significant factor in producing income on which he can live, or is used to produce goods, or provide services essential to the individual's support.

(b) Property used exclusively to produce items for home consumption provided the items are significant factors for support and maintenance of the individual.

(c) Tools, equipment, uniforms and similar items required by the individual's employer.

(d) A motor vehicle (in addition to that already excluded) which is essential because of climate, terrain, or similar factors, or special modification, and required to provide necessary transportation. The limitation on value of such vehicle is the same as (3) above.

(6) Resources of a blind or disabled individual which are necessary to ~~((fulfill))~~ fulfill an approved plan for achieving self-support for so long as such plan remains in effect.

(7) Shares of stock held in a regional or village corporation during the period of twenty years ending January 1, 1992, in which such stock is inalienable pursuant to the Alaska Native Claims Settlement Act.

(8) Life insurance owned by an individual and spouse, if any, to the extent of its cash surrender value, provided that the total face value of policies held by each individual is \$1500 or less, in which case the cash surrender value is not evaluated. If the face value of policy(ies) is over \$1500, cash surrender value must be applied to resource limitations ~~((in WAC 388-92-050 and the excess must be applied to participation)).~~ Term or burial insurance with no cash surrender value is not considered in determining face value.

(9) Restricted allotted land owned by an enrolled member and spouse, if any, of an Indian tribe, if such land cannot be sold, transferred or otherwise disposed of without permission of other individuals, his tribe or an agency of the federal government.

(10) Cash received from an insurance company for purposes of repairing or replacing an excluded resource that is lost, damaged, or stolen, etc., is excluded as a resource provided the total amount of the cash is used to repair or replace such excluded resource within ~~((three))~~ nine months ~~((if the resource is personal property, and six months if the resource is real property))~~ that period may be extended based on circumstances beyond the control of the applicant to a maximum of nine additional months. Any such cash not so used within such time periods is considered as an available resource.

(11) Other resources excluded by federal statute.

AMENDATORY SECTION (Amending Order 898, filed 1/25/74)

WAC 388-92-050 LIMITATION OF RESOURCES. The total value of resources allowed and not otherwise excluded shall not exceed \$1,500 for a single individual or \$2,250 for a ~~((family of two))~~ couple. ~~((The maximum amount shall be increased by \$50 for each additional member in the household.~~

<u>FAMILY SIZE</u>	<u>TOTAL ALLOWED</u>
1	\$1,500
2	2,250
3	2,300
4	2,350
5	2,400
6	2,450
7	2,500
8	2,550
9	2,600
10	2,650))

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

- (1) WAC 388-92-010 DESCRIPTION OF PROGRAM.
- (2) WAC 388-92-020 APPLICATION FOR MEDICAL CARE.
- (3) WAC 388-92-035 MONTHLY PERSONAL NEEDS ALLOWANCE—PERSON IN INSTITUTION.
- (4) WAC 388-92-055 ALLOCATION OF INCOME AND RESOURCES.
- (5) WAC 388-92-060 AUTHORIZATION.
- (6) WAC 388-92-065 TERMINATION OF SSI BENEFICIARY.
- (7) WAC 388-92-070 PERSON CONVERTED INTO TITLE XVI.

**WSR 81-06-043  
EMERGENCY RULES  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES  
(Public Assistance)**

[Order 1603—Filed February 27, 1981]

I, David A. Hogan, Director, Client and Community Relations Division, of the Department of Social and Health Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to medical assistance, amending chapters 388-86, 388-87 and 388-91 WAC.

I, David A. Hogan, find that an emergency exists and that the foregoing order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting such emergency is:

WHEREAS legislation known as SHB 206 and SHB 245 (chapter 8, Laws of 1981) was recently enacted by the Legislature and signed into law by the Governor; and,

WHEREAS that legislation provided for a supplemental budget appropriation for the Department of Social and Health Services and made certain changes in the programs administered by that department; and

WHEREAS RCW 43.88.290 expressly forbids the department from over-expending or over-encumbering any appropriation made by law, or expending funds contrary to the terms, limits, or conditions of any appropriation made by law,

NOW, THEREFORE, I, David A. Hogan, Director, Client and Community Relations Division of the department and by virtue of the authority vested in and required by the secretary of the department by chapters 43.88 and 43.20A RCW, do hereby find that emergency adoption of these rules is necessary under RCW 34.04.030.

Such rules are therefore adopted as emergency rules to take effect on March 1, 1981.

This rule is promulgated under the general rule-making authority of the secretary of Department of Social and Health Services as authorized in RCW 74.08.090.

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED February 27, 1981.

By David A. Hogan

Director, Client and Community Relations Division

**Reviser's Note:** The material contained in this filing will appear in a subsequent issue of the Register as it was received after the applicable closing date for this issue for agency typed material exceeding the volume limitations of WAC 1-12-035 or 1-13-035, as appropriate.

**WSR 81-06-044**

**NOTICE OF PUBLIC MEETINGS  
TRAFFIC SAFETY COMMISSION**

[Memorandum, Director—February 26, 1981]

The March meeting of the Washington Traffic Safety Commission has been changed from March 12, 1981, to March 11, 1981, at 2:00 p.m. in the Governor's Conference Room, Legislative Building.

**WSR 81-06-045**

**PROPOSED RULES  
CHIROPRACTIC DISCIPLINARY BOARD**

[Filed February 27, 1981]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Chiropractic Disciplinary Board intends to adopt, amend, or repeal rules concerning New Section WAC 113-12-200, Scope of practice—Revocation or suspension of license authorized for practice outside scope.

(NOTE: Some wording has been added to the proposed rule as a result of testimony and written submissions received at previous hearings.);

that such agency will at 10:00 a.m., Thursday, April 16, 1981, in the Banquet Room of the Holiday Motor Hotel, 1300 North 1st Street, Yakima, WA, conduct a hearing relative thereto;

and that the adoption, amendment, or repeal of such rules will take place at 10:00 a.m., Thursday, April 16, 1981, in the Banquet Room of the Holiday Motor Hotel, 1300 North 1st Street, Yakima, WA.

The authority under which these rules are proposed is RCW 18.26.110.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to April 16, 1981, and/or orally at 10:00 a.m., Thursday, April 16, 1981, Banquet Room of the Holiday Motor Inn, 1300 North 1st Street, Yakima, WA.

This notice is connected to and continues the matter noticed in Notice Nos. WSR 80-16-046, 81-01-066 and 81-04-020 filed with the code reviser's office on 11/4/80, 12/16/80 and 1/29/81.

Dated: February 27, 1981

By: Joanne Redmond  
Assistant Administrator

#### NEW SECTION

**WAC 113-12-200 SCOPE OF PRACTICE—REVOCATION OR SUSPENSION OF LICENSE AUTHORIZED FOR PRACTICE OUTSIDE SCOPE.** (1) The chiropractic disciplinary board finds that over the past few years there has been an increasing number of persons licensed as chiropractors who have been practicing other healing arts while holding themselves out to the public as chiropractors to the detriment of the public health and welfare of the state of Washington and contrary to the legislative directive contained in RCW 18.26.010(5). The board further finds and deems it necessary to carry out the provisions of chapter 18.26 RCW that this rule be adopted to give guidance to members of the profession, and the public, in interpreting the scope of health care which comes within the definition of chiropractic in RCW 18.25.005 and which is authorized under a license to practice chiropractic in the state of Washington.

(2) RCW 18.25.005 defines the term "chiropractic" for purposes of chapters 18.25 and 18.26 RCW, as that practice of health care which deals with the detection of subluxations, which shall be defined as any alteration of the biomechanical and physiological dynamics of contiguous spinal structures which can cause neuronal disturbances, the chiropractic procedure preparatory to, and complementary to the correction thereof, by adjustment or manipulation of the articulations of the vertebral column and its immediate articulation for the restoration and maintenance of health; it includes the normal regimen and rehabilitation of the patient, physical examination to determine the necessity for chiropractic care, the use of x-ray and other analytical instruments generally used in the practice of chiropractic: PROVIDED, That no chiropractic shall prescribe or dispense any medicine or drug nor practice obstetrics or surgery nor use x-rays for therapeutic purposes: PROVIDED, HOWEVER, That the term "chiropractic" as defined in this act shall not prohibit a practitioner licensed under chapter 18.71 RCW from performing accepted medical procedures, except such procedures shall not include the adjustment by hand of any articulation of the spine: AND PROVIDED FURTHER, That nothing herein shall be construed to prohibit the rendering of dietary advice.

(3) The board finds that the following diagnostic techniques and procedures, by whatever name known, are not within the definition of "chiropractic" as specified in (2) above and in RCW 18.25.005, and, consequently, a license to practice chiropractic does not authorize their use:

- (a) The use of x-rays or other forms of radiation for any other reason than to determine the necessity for chiropractic care.
- (b) The use of any form of electrocardiogram.
- (c) The testing and reduction to mathematical formulae of sputum and/or urine (commonly known as "Reams" testing).
- (d) Hair analysis.
- (e) The use of a vasculizer of plethysmograph (commonly known as plethysmography) or any similar test or procedure whereby body temperature, heart beat and blood circulation or pressure are analyzed, displayed, recorded or graphed mechanically.
- (f) The use of iridology.

(g) The obtaining and analysis of blood or urine samples or the references of a patient to an outside laboratory to have this done.

(h) The use of applied kinesiology ("Touch for Health"). The above list is not to be considered exhaustive or to limit the board in any way from finding under the statutory definition in RCW 18.25.005 that any other diagnostic technique or procedure is outside the scope of chiropractic practice.

(4) The board finds that the following treatment modalities, by whatever name known, are not within the definition of "chiropractic" as specified in (2) above and in RCW 18.25.005 and, consequently, a license to practice chiropractic does not authorize their use:

(a) Any treatment therapy used as a separate therapy (i.e., not in conjunction with an adjustment), such as ultrasound, diathermy, traction, high voltage galvanic therapy, hydrotherapy, spinolator, X-rays or other radiation, or vitamin therapy.

(b) Colonic irrigation.

(c) Foot levelers and lifts.

(d) Supportive belting or strapping.

(e) Extremity adjusting.

(f) Electrotherapy.

(g) The use of a transcutaneous electrical nerve stimulator (TENS).

(h) The use of the endonasal technique.

(i) The use of any type of casting.

(j) The use of meridian therapy (whether known as "acupressure", "trigger point therapy" or the same type of therapy under any other name.)

(k) The prescribing or selling of specific food supplements (i.e., dietary therapy as opposed to dietary advice).

(l) The treatment, in whatever form, of any condition or disease other than a subluxation.

(m) The use of hypnosis in any form.

(n) The use of clinical herbology.

(o) The use of applied kinesiology as a therapy.

The above list is not to be considered exhaustive or to limit the board in any way from finding under the statutory definition in RCW 18.25.005 that any other treatment modalities are outside the scope of chiropractic practice.

(5) In accord with the legislative directive of RCW 18.26.010(5), the use by a chiropractor of diagnostic techniques or procedures or treatment modalities which are outside the definition of chiropractic in RCW 18.25.005, whether or not listed in this rule, or the use by a chiropractor of any of the diagnostic techniques and procedures listed in (3) above or the use by a chiropractor of any of the treatment modalities listed in (4) above shall constitute good and sufficient cause for revocation or suspension of that chiropractor's license to practice chiropractic in Washington.

**WSR 81-06-046  
EMERGENCY RULES  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES  
(Public Assistance)**

[Order 1615—Filed February 27, 1981]

I, David A. Hogan, Director, Client and Community Relations Division, of the Department of Social and Health Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to the amending of chapters 388-24, 388-29, 388-37, 388-42, 388-52 and 388-57 WAC, Public assistance; New chapter 388-40 WAC, Alcoholism detoxification program; and the repeal of chapter 388-35 WAC, Noncontinuing general assistance.

I, David A. Hogan, find that an emergency exists and that the foregoing order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting such emergency is:

WHEREAS legislation known as SHB 206 and SHB 245 (chapter 8, Laws of 1981) was recently enacted by the Legislature and signed into law by the Governor; and,

WHEREAS that legislation provided for a supplemental budget appropriation for the Department of Social and Health Services and made certain changes in the programs administered by that department; and

WHEREAS RCW 43.88.290 expressly forbids the department from over-expending or over-encumbering any appropriation made by law, or expending funds contrary to the terms, limits, or conditions of any appropriation made by law,

NOW, THEREFORE, I, David A. Hogan, Director, Client and Community Relations Division of the department and by virtue of the authority vested in and required of the secretary of the department by chapters 43.88 and 43.20A RCW, do hereby find that emergency adoption of these rules is necessary under RCW 34.04.030.

Such rules are therefore adopted as emergency rules to take effect on March 1, 1981.

This rule is promulgated under the general rule-making authority of the secretary of Department of Social and Health Services as authorized in RCW 74.08.090.

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED February 27, 1981.

By David A. Hogan

Director, Client and Community Relations Division

**Reviser's Note:** The material contained in this filing will appear in a subsequent issue of the Register as it was received after the applicable closing date for this issue for agency typed material exceeding the volume limitations of WAC 1-12-035 or 1-13-035, as appropriate.

**WSR 81-06-047**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
**(Public Assistance)**

[Order 1616—Filed February 27, 1981]

I, David A. Hogan, Director, Client and Community Relations Division, of the Department of Social and Health Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to AFDC and GAU—Grant or vendor payment, amending chapter 388-33 WAC.

I, David A. Hogan, find that an emergency exists and that the foregoing order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting such emergency is the state treasurer will no longer process immediate warrants (instant cash).

Such rules are therefore adopted as emergency rules to take effect on March 1, 1981.

This rule is promulgated under the general rule-making authority of the secretary of Department of Social and Health Services as authorized in RCW 74.08.090.

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED February 27, 1981.

By David A. Hogan

Director, Client and Community Relations Division

AMENDATORY SECTION (Amending Order 906, filed 2/14/74)

WAC 388-33-020 PAYMENT OF GRANT—MONTHLY BASIS. ~~((†))~~ Continuing grants shall be based upon ~~((a monthly assistance plan))~~ monthly standards of assistance and payment made accordingly, except as provided in WAC 388-33-382 to comply with the advance notification requirement.

~~((2) For one-time grants see WAC 388-33-595. For emergency assistance payments see WAC 388-33-630.)~~

AMENDATORY SECTION (Amending Order 534, filed 3/31/71)

WAC 388-33-080 GRANT AUTHORIZATION, REAUTHORIZATION AND COMPUTATION—AUTHORIZING DOCUMENTS. ~~((†—A1))~~ Payments and changes in continuing public assistance grants are reported and authorized by the ~~((welfare eligibility examiner))~~ financial services technician by signature on:

~~((a))~~ (1) Forms 5822-M to authorize;

~~((†))~~ (a) Initial, adjusting and regular payment of a prepaid continuing assistance grant and subsequent changes in the amount of grant;

~~((††))~~ (b) Postpayment to a vendor for nursing home care in a licensed classified private nursing home, or for care in an intermediate care facility((:));

~~((b))~~ (2) Form 5822-G for one-time grant, ((public assistance-emergency assistance warrants,)) child care payments, and vendor payments.

AMENDATORY SECTION (Amending Order 906, filed 2/14/74)

WAC 388-33-085 GRANT AUTHORIZATION, REAUTHORIZATION AND COMPUTATION—LOCAL OFFICE FUNCTION. (1) The terms "~~((welfare eligibility examiner))~~ financial services technician", "community service office", "local office", or "~~((local))~~ CSO administrator or his designee" are used interchangeably in chapter 388-33 WAC.

(2) All grants to new, reopened and reinstated cases shall be authorized for payment by the local office. The authorization of grant form shall be signed and dated by the ~~((welfare eligibility examiner))~~ financial services technician who prepares it, as indicated in WAC 388-

33-080. In signing the form the ~~((welfare eligibility examiner))~~ financial services technician attests in behalf of the state of Washington and the department that the eligibility of the individual(s) listed on the form has been established and that a decision has been made as of the effective date to grant assistance in an amount determined by the recipient's circumstances according to department standards.

(3) All changes in grants shall be certified by the worker specifying the change(s) in circumstances except as provided in WAC 388-33-095. The state office authorizes payment of the changed grant as determined by the certified circumstances of the recipient.

(4) The term "regular grant" includes "initial grant" and "adjusting grant". The regular grant authorization includes the initial or adjusting grant and does not require separate authorization. See definitions in WAC 388-22-030.

(5) The effective date of eligibility is determined and specified by the worker when authorizing new, reopened, reinstated, and one-time grants as provided in WAC 388-33-115 and 388-33-120. When grant recomputation is certified, the effective date is determined according to the rules in WAC 388-33-135 through 388-33-190.

(6) Payment of a grant shall continue in the amount authorized unless and until a change in amount, suspension or termination is certified.

(7) When eligibility factors indicate that an applicant will be eligible for not to exceed approximately a ~~((30))~~ thirty day period, the local office shall authorize on the certification and computation of grant form an opening and closing date and determine the amount of assistance for which the applicant is eligible according to the department's monthly continuing assistance standards prorated for the period for which eligibility is authorized. ~~((Assistance is paid in cash to an eligible applicant as indicated in WAC 388-33-630. The certification and computation of grant form is forwarded to the state office as in any continuing case with the proper entry indicating that payment has been made to the applicant.))~~ The local office shall issue the applicant an award letter, including the date of opening, the amount of assistance and the date of termination. See WAC 388-33-380 regarding additional content of this notice relative to termination.

AMENDATORY SECTION (Amending Order 906, filed 2/14/74)

WAC 388-33-090 GRANT AUTHORIZATION, REAUTHORIZATION AND COMPUTATION—STATE OFFICE FUNCTION. (1) ~~((Except as specified in WAC 388-33-085(7)))~~ Continuing assistance as authorized by the local office shall be computed by the state office. The amount of a grant (regular and initial or adjusting) shall be computed from the data on the certification and computation of grant form according to the department's ~~((cost))~~ standards ~~((for requirements))~~ of assistance.

~~((2) The personal and household data shown on the authorization of grant form shall be converted into~~

~~money amounts without changing the information recorded by the local office on the form. The result of this computation shall show on the certification and computation of grant form in a manner which permits verification of amount by comparison with the department's cost standards.))~~

~~((3))~~ (2) The certification and computation of grant form prepared by the state office shall be sent to the ~~((local office))~~ CSO and retained in the financial case record until further action is indicated.

~~((4))~~ (3) The state office prepares the regular or supplemental warrant registers and the warrants, and completes the payment process. No change may be made by the state office except as described in WAC 388-33-090 and 388-33-095.

AMENDATORY SECTION (Amending Order 906, filed 2/14/74)

WAC 388-33-125 NOTIFICATION OF GRANT APPROVAL. ~~((1) Except as indicated in WAC 388-33-085(7))~~ A continuing assistance applicant or recipient shall be notified when the local office authorizes payment of his/her first regular grant or a change in grant. ~~((The state office mails form 5822-M-4, notice of grant approval, to the payee not later than three working days after receipt of the authorization. Form 5822-M-4 is mailed to the payee independently of his warrant.~~

(2) The procedure in subsection (1) applies to grant authorizations submitted to the state office by the local office for new, reopen, reinstate, program change and recompute transactions. For recompute transactions resulting in a changed grant amount, the notice of grant approval shows the former grant amount and the new grant amount. The notice of grant approval is sent to a recipient each time a change in grant is recomputed. See WAC 388-34-180 for notification to an applicant or recipient in an institution.

(3) The notice of grant approval is printed and mailed at the same time that the certification and computation of grant form is issued and sent to the local office. The receipt of this form by the local office is notification that the recipient has been notified of the change in amount of grant.))

AMENDATORY SECTION (Amending Order 906, filed 2/14/74)

WAC 388-33-190 EFFECTIVE DATE OF GRANT—MONTHLY DEDUCTION OF OVERPAYMENT. (1) A deduction from the monthly grant when required by WAC 388-44-145 takes effect with the first regular warrant following state office receipt of the certification and computation of grant form, taking into account the warrant roll deadline date and the advance notice period provided in WAC ~~((388-33-380))~~ 388-33-376.

(a) The certification and computation of grant form shall not be submitted to start the monthly deduction until after the advance notice period has expired, and it has been confirmed that a fair hearing has not been requested.

(b) If, during the ten day period, the recipient requests a fair hearing regarding the monthly deduction of overpayment, no monthly deduction can be made until after the decision on the fair hearing has been made or the hearing request is withdrawn in writing by the claimant or abandoned.

(2) The local office shall certify discontinuance of the monthly deduction as soon as restitution is completed.

(3) A one-time grant shall be authorized expeditiously to compensate the recipient for an underpayment due to an erroneous monthly deduction. Also see WAC 388-33-595(2)(c)(vii).

AMENDATORY SECTION (Amending Order 747, filed 12/7/72)

WAC 388-33-370 TERMINATION OF SUSPENDED GRANT. ~~((+))~~ A suspended grant shall be terminated when:

~~((a))~~ (1) The individual dies while the grant is suspended;

~~((b))~~ (2) The individual does not request reinstatement of grant within fifteen days after leaving an institution, or completing restitution of overpayment by monthly grant deduction((-));

~~((c))~~ (3) The individual's resources and/or income increase during the suspension period to the extent he would not be eligible for medical care;

~~((d))~~ (4) A period of temporary ineligibility has ended and individual is ineligible for some other reason.

AMENDATORY SECTION (Amending Order 700, filed 7/27/72)

WAC 388-33-448 PROTECTIVE OR VENDOR PAYMENT DUE TO MISMANAGEMENT OF AFDC GRANT—PERIODIC REVIEW OF PLAN. ~~((+))~~ The social services supervisor or local office administrator shall review the conditions relating to the protective or vendor payment plan every three months or more often, if indicated. The review includes evaluation whether:

~~((a))~~ (1) Conditions justify continuation of the plan or its modification,

~~((b))~~ (2) Protective payee's responsibilities are being carried out appropriately,

~~((c))~~ (3) The relative payee can be expected to resume the payee function,

~~((d))~~ (4) A court appointed guardian or foster care is needed because the relative payee cannot learn the payee functions and it appears the plan will continue beyond two years.

AMENDATORY SECTION (Amending Order 1054, filed 9/25/75)

WAC 388-33-460 PAYMENT TO VENDOR OF GOODS AND SERVICES. (1) A vendor payment may be used in place of a one-time payment to provide assistance for an individual who is in emergent need ~~((from the date his continuing assistance grant is authorized to the date of payment of such grant when public assistance emergency assistance fund warrant or state office cash payment is not feasible. The vendor payment~~

~~shall be deducted from the initial and/or regular grant and shall not exceed the standards for the continuing program. No vendor payment is authorized to the extent the recipient can meet his emergent need from his exempt cash savings. Payment is restricted to those basic items for which the emergency exists, that is, food, shelter, utilities. See WAC 388-33-630.)) only if:~~

~~(a) The individual has been served a sheriff's notice of eviction, and~~

~~(i) It is verified that the landlord will not forestall eviction until a one-time payment is received, and~~

~~(ii) It is verified that the landlord will not evict the individual after receiving the vendor payment; or~~

~~(b) The individual has been served a utility shut-off notice, and~~

~~(i) It is verified that the vendor will not forestall shut-off until a one-time grant is received, and~~

~~(ii) It is verified that the vendor will not shut off the utility after the vendor payment is received; or~~

~~(c) The individual is requesting transportation to his/her state of residence and the means of transportation is provided by a vendor who will accept vendor payment.~~

~~(d) The individual requests in writing that a vendor payment be made.~~

~~(2) Vendor payments listed in item (1) of this section shall:~~

~~(a) Be deducted from the initial and/or regular grant, unless they are issued in place of one-time grant as specified in WAC 388-33-595(2)(c).~~

~~(b) Not be authorized to the extent that the individual can meet the emergent need from his/her cash savings.~~

~~((2)) (3) A vendor payment may be used to provide assistance when a recipient dies before receiving or endorsing a warrant due him and owes for personal and household service, housekeeping service, or board and room. The amount authorized for vendor payment shall equal the portion of the cancelled warrant actually owed to the vendor.~~

~~((3) A vendor payment may be used to provide assistance for any individual or family eligible for general assistance when cash payment is not possible or practical.~~

~~(4) A vendor payment may be used to provide assistance for a person repeatedly convicted of criminal offenses. Repeated convictions for criminal offenses lead to a presumption of the inability of the individual to utilize a cash grant in a manner that is beneficial to the individual and to the community. This presumption can be overcome by showing that there is no relationship between the types of offenses committed and the ability to handle cash. If a presumption is not overcome, alternative plans, if possible, are made along the following lines:~~

~~(a) Appointment and payment to a legal guardian following a determination of incompetency by the court;~~

~~(b) Payment to another relative with whom the recipient lives (general assistance or aid to families with dependent children);~~

~~(c) Appointment and payment to a protective payee;~~

~~(d) Vendor payment;~~

~~(e) A person adjudged "a common drunk" and eligible for public assistance for whom subsection (4)(a), (b),~~



and (c) are not practical or possible, may be granted assistance as follows:

~~(i) Board and room paid directly to a boarding home or mission(s). The disbursing order is written to authorize an expenditure on a daily basis. The vendor bills the department at the end of the designated period for the cost of the board and room.~~

~~(ii) Clothing according to the assistance standard purchased by voucher or authorized as a cash payment to the recipient.~~

~~(iii) A cash payment to the recipient for personal items and necessary incidentals.~~

~~(5) A vendor payment may be used under the conditions described in WAC 388-33-595 when direct cash payment is not feasible.~~

~~(6)) (4) A vendor payment may be used for an AFDC recipient when:~~

(a) The local office determines that protective payments are necessary due to mismanagement of the grant by the relative payee - see WAC 388-33-440.

(b) A person certified to the WIN program is determined by the state employment service to have refused employment or to participate in the WIN program without good cause, and vendor payments are the necessary form of payment - see WAC 388-33-450.

(c) A parent or other caretaker relative refuses to assign support rights, to cooperate in identifying and locating absent parents, establishing paternity or obtaining support payments.

~~((7)) (5) A vendor payment may be used to provide assistance for a recipient in a licensed and classified nursing home - see WAC 388-34-035 through 388-34-055, or for a recipient in an intermediate care facility - see WAC 388-34-370 through 388-34-384.~~

AMENDATORY SECTION (Amending Order 1331, filed 8/24/78)

WAC 388-33-576 LOSS, THEFT OR DESTRUCTION OF WARRANT PAYABLE TO RECIPIENT. (1) The legal authority for issuing a duplicate warrant is found in RCW 43.08.064 and 43.08.066.

(2) A recipient payee reporting to the ((ESSO)) CSO that he has not received his warrant or that his unendorsed warrant has been lost, stolen or destroyed is given full consideration. The ((ESSO)) CSO shall have the recipient payee complete an affidavit or affidavits attesting to the reported facts.

(3) The ((ESSO)) CSO shall secure all facts surrounding the nonreceipt or loss reported in subsection (2), assess the reported facts and make a judgment as to the validity of the report, determine a course of appropriate action, and inform the recipient, record the details of the report and the decision in the financial record.

(4) In cases where the facts surrounding the nonreceipt or loss are clear and the ((ESSO)) CSO is satisfied a loss has occurred a replacement warrant shall be issued.

(5) In cases where the facts surrounding the nonreceipt or loss are not clear and question remains as to the

validity of the nonreceipt or loss, a request for replacement is made directly to the disbursements section. Replacement will be made only after further investigation is completed and validity of the nonreceipt or loss is verified.

(6) A report which indicates a warrant is lost in the mail system will be held in abeyance for ((five)) ten working days from the mailing date of the warrant to allow the warrant to be delivered or returned to the ((ESSO)) CSO. If the recipient has an emergent situation, the ((five)) ten day period may be waived by the ((ESSO)) CSO administrator.

(7) Replacement must be requested directly from disbursements when a loss or nonreceipt is reported to the ((ESSO)) CSO sixty days or more after the mailing date of the warrant.

(8) An unendorsed warrant which is lost, stolen or destroyed shall be replaced in full. Restrictively or specially endorsed warrants shall be deemed to be unendorsed warrants for the purposes of this subsection.

(9) An endorsed warrant which is lost, stolen or destroyed shall be considered under the rules in WAC 388-33-577 for lost, stolen or destroyed proceeds from the warrant.

(10) The state and economic and social service offices shall take appropriate action to protect the state from loss if the original unendorsed warrant is redeemed by the state treasurer.

AMENDATORY SECTION (Amending Order 1332, filed 8/25/78)

WAC 388-33-595 ONE-TIME GRANT—AUTHORIZATION—DISBURSEMENT. (1) See WAC 388-22-030 for definition of "one-time grant."

(2) A one-time grant may be authorized and disbursed in the amount necessary subject to the following rules:

(a) A one-time grant shall be authorized for a recipient of continuing assistance only.

(b) A one-time grant authorization is a single payment procedure. It expires when the warrant is mailed. It does not change the amount of the continuing (regular) grant currently authorized.

(c) A one-time grant shall be authorized when:

(i) An additional requirement recognized by department standards will be needed.

(ii) Income or assistance budgeted as available to the assistance unit or family is not received.

(iii) Supplemental assistance is needed from the date a recipient leaves an institution to the receipt of the regular, adjusting, or reinstated grant.

(iv) The fair hearing decision or the court decision on an appeal requires initiating, reinstating or increasing a grant.

(v) A recipient is to be compensated for an underpayment due to erroneous monthly deduction(s).

(vi) Any one-time grant that is approved by the state office under chapter 388-20 WAC for reasons other than those listed in this section.

(vii) A person who is added to an assistance unit requires assistance prior to the effective date of his inclusion in a regular grant.

(viii) A canceled warrant is to be reissued and the recipient cannot wait for payment by adjusting grant.

(ix) A change in the basic requirements which results in an increase in the regular grant occurs.

(x) Assistance is being continued in compliance with the 10-day advance notice rules on reduction, suspension or termination of a grant and a partial month payment is required.

(xi) Underpayment due to the departmental error is to be corrected. Such payment shall be limited to the amount due for not to exceed twelve months including the month in which the corrective payment is authorized.

(d) Except as provided in items (2)(c)(iv), (2)(c)(v), and (2)(c)(xi), a retroactive one-time grant shall not cover a period of more than sixty days before the date of authorization.

(e) The effective date of a one-time grant shall be the ((authorization)) date the circumstances change, subject to the limitations and conditions stated in this section.

**REPEALER**

The following section of the Washington Administrative Code is repealed.

(1) WAC 388-33-630 IMMEDIATE WARRANTS ISSUED BY ESSO.

**WSR 81-06-048  
PROPOSED RULES  
DEPARTMENT OF ECOLOGY  
[Filed February 27, 1981]**

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Ecology intends to adopt, amend, or repeal rules concerning NPDES delegation, adopting WAC 173-06-065;

and that the adoption, amendment, or repeal or such rules will take place at 9:30 a.m., Tuesday, April 7, 1981, in Room 273, Department of Ecology Headquarters, St. Martin's College Campus, Lacey, Washington.

The authority under which these rules are proposed is RCW 43.21A.090.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to April 3, 1981, and/or orally at 10:00 a.m., Tuesday, March 24, 1981, Room 273, Department of Ecology Headquarters, St. Martin's College Campus, Lacey, Washington.

Dated: February 27, 1981  
By: Donald W. Moos  
Director

**STATEMENT OF PURPOSE**

Title: Adopting WAC 173-06-065, NPDES delegation.

Description of purpose: The state of Washington, Department of Ecology, administers the National Pollutant Discharge Elimination System of the Federal Water Pollution Control Act in accordance with

approval of the Administrator of the U.S. Environmental Protection Agency. Section 304(i) of that act provides that this national permit program may not be administered by any person who received a substantial portion of his income over the last two years from an activity which is licensed under the national system. Therefore, Donald W. Moos, Director of the Washington State Department of Ecology, is not qualified to administer the national program in this state. Arrangements have been made with the U.S. Environmental Protection Agency whereby the responsibility for administration of the program may be delegated by the director to John F. Spencer, Deputy Director, who does qualify to administer the program in the state of Washington, and in Mr. Spencer's absence, to Bruce A. Cameron, who also qualifies.

Statutory authority: RCW 43.21A.090.

Summary of rule: The new section delegates administration of the state administered National Pollutant Discharge Elimination System to the Deputy Director of the Department of Ecology in order to meet the requirements of the Federal Water Pollution Control Act.

Reasons supporting proposed action: See description of purpose above.

Agency personnel responsible for drafting, implementing and enforcement: John F. Spencer, Department of Ecology, Mailstop PV-11, Olympia, WA 98504, 753-2240.

Person or organization proposing rule, and whether public, private, or governmental: Department of Ecology - state government.

Agency comments or recommendations regarding statutory language, implementation, enforcement, fiscal matters: None.

Whether rule is necessary as a result of federal law or federal or state court action: (If so, attach a copy of law or court decision.)

Yes. Cite: 33 U.S.C. 1314(i).

**NEW SECTION**

WAC 173-06-065 NPDES DELEGATION. The sole and complete responsibility for administration of the National Pollutant Discharge Elimination System permit program is delegated by the director to John F. Spencer, the deputy director, and, in the absence of John F. Spencer, to Bruce A. Cameron, an assistant director, both of whom qualify under 33 U.S.C. 1314(i) and implementing regulations to administer the program.

**WSR 81-06-049  
EMERGENCY RULES  
DEPARTMENT OF ECOLOGY  
[Order DE 81-6-Filed February 27, 1981]**

I, Donald W. Moos, director of the Department of Ecology, do promulgate and adopt at the Department of

Ecology, Lacey, Washington, the annexed rules relating to NPDES delegation, adopting WAC 173-06-065.

I, Donald W. Moos, find that an emergency exists and that the foregoing order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting such emergency is the state of Washington, Department of Ecology, administers the National Pollutant Discharge Elimination System of the Federal Water Pollution Control Act in accordance with approval of the Administrator of the Environmental Protection Agency. Section 304(i) of that act provides that this national permit program may not be administered by any person who received a substantial portion of his income over the last two years from activity which is licensed under the national system. Donald W. Moos, the new director of the Department of Ecology does not qualify under section 304(i) to administer the national program in this state. Therefore, arrangements have been made with the U.S. Environmental Protection Agency whereby the responsibility for administration of the program may be delegated by the director to John F. Spencer, deputy director, and in his absence, to Bruce A. Cameron, an assistant director.

Such rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 43.21A-.090 and is intended to administratively implement that statute.

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), as appropriate, and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED February 27, 1981.

By Donald W. Moos  
Director

#### NEW SECTION

WAC 173-06-065 NPDES DELEGATION. *The sole and complete responsibility for administration of the National Pollutant Discharge Elimination System permit program is delegated by the director to John F. Spencer, the deputy director, and, in the absence of John F. Spencer, to Bruce A. Cameron, an assistant director, both of whom qualify under 33 U.S.C. 1314(i) and implementing regulations to administer the program.*

**Reviser's Note:** Errors of punctuation or spelling in the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

#### WSR 81-06-050

##### ADOPTED RULES

#### DEPARTMENT OF ECOLOGY

[Order DE 81-1—Filed February 27, 1981]

I, Donald W. Moos, director of the Department of Ecology, do promulgate and adopt at the Department of Ecology, Lacey, Washington, the annexed rules relating to Yakima County, amending WAC 173-19-470.

This action is taken pursuant to Notice No. WSR 81-02-051 filed with the code reviser on January 7, 1981. Such rules shall take effect pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 90.58.120 and 90.58.200 and is intended to administratively implement that statute.

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), as appropriate, and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED February 24, 1981.

By Donald W. Moos  
Director

AMENDATORY SECTION (Amending Order DE 79-34, filed 1/30/80)

WAC 173-19-470 YAKIMA COUNTY. Yakima County master program approved September 5, 1974. Revision approved September 8, 1977. Revision approved February 24, 1981.

#### WSR 81-06-051

##### ADOPTED RULES

#### DEPARTMENT OF ECOLOGY

[Order DE 81-2—Filed February 27, 1981]

I, Donald W. Moos, director of the Department of Ecology, do promulgate and adopt at the Department of Ecology, the annexed rules relating to Seattle, City of, amending WAC 173-19-2521.

This action is taken pursuant to Notice No. WSR 81-02-050 filed with the code reviser on January 7, 1981. Such rules shall take effect pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 90.58.120 and 90.58.200 and is intended to administratively implement that statute.

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), as appropriate, and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED February 24, 1981.

By Donald W. Moos  
Director

AMENDATORY SECTION (Amending Order DE 80-34, filed 9/10/80)

WAC 173-19-2521 SEATTLE, CITY OF. City of Seattle master program approved June 30, 1976. Revision approved March 11, 1977. Revision approved August 12, 1980. Revision approved February 24, 1981.

**WSR 81-06-052****ADOPTED RULES****DEPARTMENT OF ECOLOGY**

[Order DE 81-3—Filed February 27, 1981]

I, Donald W. Moos, director of the Department of Ecology, do promulgate and adopt at the Department of Ecology, Lacey, Washington, the annexed rules relating to Spokane County, amending WAC 173-19-400.

This action is taken pursuant to Notice No. WSR 81-02-050 filed with the code reviser on January 7, 1981. Such rules shall take effect pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 90.58.120 and 90.58.200 and is intended to administratively implement that statute.

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), as appropriate, and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED February 24, 1981.

By Donald W. Moos  
Director

AMENDATORY SECTION (Amending Order DE 79-34, filed 1/30/80)

WAC 173-19-400 SPOKANE COUNTY. Spokane County master program approved January 15, 1975. Revision approved September 6, 1977. Revision approved August 15, 1979. Revision approved February 24, 1981.

**Reviser's Note:** RCW 34.04.058 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.

**WSR 81-06-053****PROPOSED RULES****DEPARTMENT OF PERSONNEL****(Personnel Board)**

[Filed March 2, 1981]

Notice is hereby given in accordance with the provisions of RCW 34.04.025 and 41.06.040, that the State Personnel Board intends to adopt, amend, or repeal rules concerning Salaries—Reduction-in-force register appointment, amending WAC 356-14-085;

that such agency will at 10:00 a.m., Thursday, April 9, 1981, in the Board Hearing Room, 600 South Franklin, Olympia, WA 98504, conduct a hearing relative thereto;

and that the adoption, amendment, or repeal of such rules will take place at 10:00 a.m., Thursday, April 9, 1981, in the Board Hearing Room, 600 South Franklin, Olympia, WA 98504.

The authority under which these rules are proposed is RCW 41.06.040 and 41.06.050.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to April 7, 1981, and/or orally at 10:00 a.m., Thursday, April 9, 1981, Board Hearing Room, 600 South Franklin, Olympia, WA 98504.

Dated: February 25, 1981

By: Leonard Nord  
Secretary

**STATEMENT OF PURPOSE**

Amend WAC 356-14-085.

Title: Salaries—Reduction-in-force register appointment.

Purpose: Prescribes, in order to maintain uniformity, the salaries for employees appointed as eligible from the R.I.F. registers.

Statutory Authority: RCW 41.06.150(18).

Summary: Proposed new language would allow agencies to continue the previously approved practices for setting periodic increase dates when the employees have been involved in cyclic lay offs.

Reasons: The practices aid in recruiting experienced employees who face cyclic lay offs.

Responsibility for drafting: Lee Lovrien, Personnel Officer, Department of Natural Resources, Public Lands Building, Olympia, Phone: 753-5310; implementation and enforcement: Standards and Surveys Division, Department of Personnel, 600 South Franklin, Olympia.

Proposed by: Department of Natural Resources, Governmental Organization.

Comments: The Department of Personnel is for supporting a rule that provides for a continuation of previously approved practices.

AMENDATORY SECTION (Order 150, filed 12/12/80)

WAC 356-14-085 SALARIES—REDUCTION-IN-FORCE REGISTER APPOINTMENT. When an eligible is appointed from a certification off of a reduction-in-force register, his/her salary will be set as follows:

(1) The salary will be the basic dollar amount the employee was being paid at the time he/she left the range to which he/she is being appointed, plus, whatever the periodic increases and the salary adjustments that would have been made had the employee remained in that classification and range. Separations due to reduction-in-force will not be regarded as a break in service, but time during which employees are off the payroll will not be used in computing periodic increases except for practices for setting periodic increment dates for employees involving recurring reduction-in-force in effect prior to date October 14, 1980. The eligible will not be entitled to further increases in salary based on promotion as prescribed in WAC 356-14-140.

(2) Such increases above the basic dollar amount in (1) above shall not place the employee higher than the maximum salary for the range, except general salary increase specifically granted to Y-rated employees.

**WSR 81-06-054**  
**PROPOSED RULES**  
**BOARD OF**  
**PILOTAGE COMMISSIONERS**

[Filed March 2, 1981]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Board of Pilotage Commissioners intends to adopt, amend, or repeal rules concerning Pilotage Rates for the Puget Sound Pilotage District, WAC 296-116-300;

that such agency will at 9:00, Thursday, April 9, 1981, in the Conference Room, Washington State Ferries, Pier 52, conduct a hearing relative thereto;

and that the adoption, amendment, or repeal of such rules will take place immediately thereafter in the same location.

The authority under which these rules are proposed is RCW 88.16.035.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to the hearing and/or orally at the hearing.

This notice is connected to and continues the matter noticed in Notice No. WSR 81-03-072 filed with the code reviser's office on January 21, 1981.

Dated: March 2, 1981

By: Marjorie Smitch  
 Assistant Attorney General

**WSR 81-06-055**  
**PROPOSED RULES**  
**PARKS AND RECREATION**  
**COMMISSION**

[Filed March 3, 1981]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Parks and Recreation Commission intends to adopt, amend, or repeal rules concerning campsite reservation system, amending WAC 352-32-035. This rule will be publicly reviewed at least every four years;

that such agency will at 9:00 a.m., Thursday, April 16, 1981, in the Hearthstone Inn Motel, 4320 Kitsap Way, Bremerton, WA 98310, conduct a hearing relative thereto;

and that the adoption, amendment, or repeal of such rules will take place at 9:00 a.m., Thursday, April 16, 1981, in the Hearthstone Inn Motel, 4320 Kitsap Way, Bremerton, WA 98310.

The authority under which these rules are proposed is RCW 43.51.040 and 43.51.060.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to Wednesday, April 15, 1981, and/or

orally at 9:00 a.m., Thursday, April 16, 1981, Hearthstone Inn Motel, 4320 Kitsap Way, Bremerton, WA 98310.

Dated: March 3, 1981

By: D. W. Lowell  
 Rules Coordinator

**STATEMENT OF PURPOSE**

Title: The proposed amendatory section to chapter 352-32 WAC changes the existing park campsite reservation program from a computerized to a manual system.

Statutory authority: RCW 43.51.040 and 43.51.060.

Summary: The amendatory section changes the reservation system from computerized to manual operation. This is necessary to reduce the overall cost of the system while at the same time providing reservations service to the camping public. The system will provide for campers to request reservations in designated parks 14 days in advance of the first camping date by writing directly to the park where the reservation is desired. A camper can also make the reservation in person 24 hours in advance of the first camping date. The section will outline restrictions on the use of the system, establish a procedure for cancellation of reservations, and detail the effect of a failure to claim a reserved campsite by specified time. Recreation, camping and reservation information will be available by calling a campsite information center on a toll-free telephone number established for that purpose.

Agency staff who are responsible for the drafting, implementation, and enforcement of the rule: Lynn Genasci, Assistant Director for Operations, Washington State Parks and Recreation Commission, 7150 Cleanwater Lane, Olympia, WA 98504 KY-11, Telephone number: 753-5761.

Proposing: Washington State Parks and Recreation Commission.

Agency comments: Recommended statutory language is contained in the proposed amendatory section shown below. The rule will be implemented and enforced by existing staff supplemented by seasonal employees.

Federal law/court action: N/A.

**AMENDATORY SECTION** (Amending Order 44, filed 4/4/80)

**WAC 352-32-035 CAMPSITE RESERVATION.** (1) Advance campsite reservations will be available in certain state parks as designated by the director.

(2) The period during which campsites may be reserved is from the Friday before Memorial Day through Labor Day.

(3) ~~((Reservations may not be made more than 30 days or less than 24 hours in advance of the camping date. No reservations may be made prior to the first Monday of May:))~~ Requests for reservations may be made in writing, which must be postmarked a minimum of 14 days in advance. Reservations may be made in person, at the park where camping is to occur, up to 24 hours in advance of the first

camping day requested. Written requests may be made from the second Monday in January and up to 14 days in advance of Labor Day.

(4) ~~(Reservations can be made within the state of Washington by calling the reservation center on the toll-free telephone number established for that purpose.)~~ Reservation requests must be made for camping dates within the same calendar year only.

(5) There will be ~~((one))~~ a \$2.00 nonrefundable fee charged for each reservation made at each park, in addition to the standard camp~~(ing)~~site fee~~(s)~~, regardless of the number of days reserved. Payment of the \$2.00 nonrefundable reservation fee and first night's camping fee must accompany the reservation request.

(6) ~~((To reserve any part of a regular weekend, the reservation must include Friday and Saturday nights. To reserve any part of a holiday weekend, the reservation must include Friday and Saturday nights and the night before the holiday.))~~ Recreation, camping and reservation information may be obtained by calling the Campsite Information Center on the toll-free telephone number established for that purpose. No reservation may be made by telephone.

(7) No individual may reserve a campsite in more than one state park, for one or more of the same days.

(8) Reservations for a specific campsite within a park will not be guaranteed.

(9) Unreserved campsites may be used for one night at a time on a first-come-first-served basis without a reservation.

(10) A refund, in the form of a raincheck, shall be made for a confirmed reservation that will not be used provided a cancellation request is made by calling the Campsite Information Center or the park in which the site is reserved, no less than 24 hours in advance of the first day of the reservation, or in writing to the park, postmarked seven days in advance of the first day of the reservation.

~~((10))~~(11) ~~((Confirmed reservations which will not be used must be cancelled 24 hours in advance of the first reserved camping day by calling the toll-free reservation telephone number.))~~ Campers will be declared no-show and forfeit their reservation as well as the reservation fee and the first night's camping fee if they have not cancelled or if the reservation~~((s are))~~ is not claimed by 6 p.m. on Sunday through Thursday, ~~((and))~~ or 9 p.m. on Friday, Saturday, and the night before a holiday. After these hours your site may be reassigned unless specific arrangements are made with the park to arrive later. ~~((If declared a no-show, the camper will lose the remaining reservation at that park. Campers who are declared no-shows will be billed for the reservation fee, and will not be allowed to make further reservations until their account is credited.))~~

**WSR 81-06-056**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
**(Public Assistance)**

[Order 1617—Filed March 2, 1981]

I, Dave Hogan, Director, Client and Community Relations Division of the Department of Social and Health Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to Eligibility—Chore services, amending WAC 388-15-020.

I, David A. Hogan, find that an emergency exists and that the foregoing order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting such emergency is SHB 245 signed into law by the Governor takes effect immediately and reduces chore services income eligibility.

Such rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated under the general rule-making authority of the secretary of Department of Social and Health Services as authorized in RCW 74.08.090.

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED March 2, 1981.

By David A. Hogan  
Director, Client and  
Community Relations Division

AMENDATORY SECTION (Amending Order 1581, filed 12/19/80)

WAC 388-15-020 ELIGIBLE PERSONS. (1) Individuals eligible for services are:

(a) Recipients of aid to families with dependent children (AFDC recipients).

(b) Individuals whose needs were taken into account in determining the needs of AFDC recipients.

(c) Recipients of supplemental security income or state supplementary payments related to age, blindness or permanent and total disability.

(d) Recipients of federal aid medical care only categorically related to Title XVI supplemental security income or AFDC, provided gross family income does not exceed 80% of the state median gross income for a family of four, adjusted for family size.

(e) Any individual or family regardless of age, blindness or disability, whose gross family income does not exceed 80% of the state median income for a family of four, adjusted for family size, except that:

(i) No individual or family is eligible for ~~((chore services.))~~ family planning or alcoholism services whose gross family income is in excess of 50% of the state median income for a family of four, adjusted for family size ~~((, except that a single individual may receive chore services if his median gross income does not exceed 57% of the state's median gross income for a family of four adjusted for family size.))~~.

(ii) No individual or family is eligible on a group basis for developmental disabilities, case services, developmental disabilities home-aid resources, developmental disabilities developmental centers or extended sheltered employment unless at least 75% of persons given these services are members of families whose gross monthly income do not exceed 90% of the state median income, adjusted for family size.

(iii) Information and referral services, services to children in their own home or protective service may be given to any individual regardless of the level of gross family income. Child protective services are provided without charge. Where ancillary services such as chore services or homemaker services are an integral but subordinate part of a protective service plan for children or adults, they may be provided without regard to the level of gross family income.

(iv) No individual or family is eligible for chore services who is not an adult recipient of supplemental security income and/or state supplementation or who has

income above the state standards for supplemental security income and state supplementation.

Clients receiving chore services (income eligibility determined, client review questionnaire administered, and hours authorized) as of February 28, 1981, but who have income above the standards for supplemental security income and state supplementation shall have services continued, reduced, or terminated as determined by the department. Clients receiving chore services as of February 28, 1981, whose gross family income is in excess of fifty percent of the state median income for a family of four, adjusted for family size, or fifty-seven percent of the state median income adjusted for family size for a single person, are not eligible to receive chore services.

Clients receiving attendant care services from the bureau of community and residential care as of February 28, 1981, (income eligibility determined, client review questionnaire administered, and monthly rate authorized) will continue to receive service through June 30, 1981, or until such time as gross family income is in excess of fifty percent of the state median income for a family of four, adjusted for family size or fifty-seven percent of the state median income adjusted for family size for a single person.

(2) Gross median income for a family of four in the state of Washington effective October 1, 1980 is \$21,494. 80% = \$17,195.

(a) Income tables for 80% gross median income:

Number in Family	Monthly Income	Annual Income
1	745	8,942
2	974	11,693
3	1,204	14,444
4	1,433	17,195
5	1,662	19,946
6	1,892	22,698

(b) Income tables for 57% gross median income, one-person family only.

Family Size	Monthly Income	Annual Income
1	531	6,370

(c) Income table for 52% gross median income:

Family Size	Monthly Income	Annual Income
2	633	7,600
3	782	9,389
4	931	11,177
5	1,080	12,965
6	1,229	14,753

(d) Income tables for 50% gross median income:

Family Size	Monthly Income	Annual Income
1	466	5,588
2	609	7,308
3	752	9,027
4	896	10,747
5	1,039	12,467
6	1,182	14,186

(e) Income tables for 38% gross median income:

Family Size	Monthly Income	Annual Income
1	354	4,247
2	463	5,554
3	572	6,861
4	681	8,168
5	790	9,475
6	898	10,781

(f) See WAC 388-29-100 for grant standards.

(3) Family means two or more persons related by blood, marriage or adoption, residing in the same household, and may include a dependent residing in a separate household for whom support is paid.

(a) Husband and wife are considered a two-person family.

(b) Related adults residing together, other than spouses, are each considered a separate family.

(c) An individual living alone or only with unrelated persons is considered a one-person family. An individual living alone or with unrelated persons may include in his/her application a dependent living in a separate household for whom support is paid.

(d) A child living with legally nonresponsible relatives, a minor living independently and a child living under the care of unrelated persons are also considered one-person families.

(e) A school age parent residing in parent's home with child is considered a separate family unit for purpose of determining family income.

(4) Persons applying to provide day care or foster care facilities or a person or persons applying to adopt a child are resources to our primary client, the child. Financial eligibility for these individuals is not required.

(5) Child welfare services may also be provided under Title IV-B of the Social Security Act.

**Reviser's Note:** The typographical errors in the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

**WSR 81-06-057**

**EMERGENCY RULES**

**DEPARTMENT OF**

**NATURAL RESOURCES**

**(Board of Natural Resources)**

[Order 351, Resolution 333—Filed March 3, 1981]

Be it resolved by the Board of Natural Resources, acting at Olympia, Washington, that it does promulgate and adopt the annexed rules relating to the rate of interest to be charged for real estate contracts.

We, the Board of Natural Resources, find that an emergency exists and that the foregoing order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting such emergency is several sales of real estate are pending. A recent opinion from the Attorney General's Office indicates that the present version of WAC 332-100-050 may be usurious.

The proposed amendment is intended to allow a legal rate of interest to be charged for real estate contracts in accordance with the law.

Such rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

This rule is promulgated pursuant to RCW 79.01.216 and is intended to administratively implement that statute.

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), as appropriate, and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED March 3, 1981.

By Brian J. Boyle  
Commissioner of Public Lands  
Executive Secretary, Board of Natural Resources

AMENDATORY SECTION (Amending Order 346, filed 8/11/80)

WAC 332-100-050 RATE OF INTEREST FOR CONTRACTS. *The interest rate to be charged on all contracts requiring the same pursuant to RCW 79.01-.216 shall be ((the average rate of interest charged in the general area of the property to be sold by the six largest lending institutions in such area for conventional mortgages on the first day of the last full quarter preceding approval of a contract by the Board of Natural Resources. Said rate shall not be less than six percent.)) at a comparable rate of interest as charged in the general area of the property to be sold by reference to current sales. Such determination of contract interest rates shall be made thirty days prior to Board action on the proposed sale. Interest rates for contracts established pursuant to this section shall be consistent with usury laws that may now or hereafter apply to land sale contracts.*

**WSR 81-06-058**  
**ADOPTED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
**(Public Assistance)**

[Order 1619—Filed March 4, 1981]

I, David A. Hogan, Director, Client and Community Relations Division of the Department of Social and Health Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to AFDC-R—Deprivation due to continued absence from home, amending WAC 388-24-070.

This action is taken pursuant to Notice No. WSR 81-03-011 filed with the code reviser on January 9, 1981. Such rules shall take effect pursuant to RCW 34.04.040(2).

This rule is promulgated under the general rule-making authority of the secretary of Department of Social and Health Services as authorized in RCW 74.08.090.

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED March 4, 1981.

By David A. Hogan  
Director, Client and  
Community Relations Division

AMENDATORY SECTION (Amending Order 1338, filed 9/18/78)

WAC 388-24-070 AID TO FAMILIES WITH DEPENDENT CHILDREN—REGULAR—DEPRIVATION DUE TO CONTINUED ABSENCE FROM HOME. (1) Determination whether a child has been deprived of parental support or care is made in relation to a child's natural parent, adoptive parent, or stepparent and the term parent as used in this section refers to any of those relationships.

(2) Continued absence of a parent from the home establishes deprivation of parental support or care when

(a) The parent is living out of the home in which the child resides, and

(b) The nature of the absence interrupts or terminates the parent's functioning as a provider of maintenance, physical care or guidance for the child, and

(c) The known or indefinite duration of the absence precludes counting on the parent's performance of his function in planning for the present support or care of the child.

(3) Absence from the home is considered as "being continued" when the situation has, or is likely to have, a degree of permanency in contrast to a purely temporary disruption of family life. The following situations are examples of situations which are considered to meet this requirement:

(a) Absence as the result of legal action

(i) The parents are divorced or divorce action has been filed; or the marriage has been annulled; or a petition has been filed requesting dissolution of the marriage because the marriage is irretrievably broken; or a separation contract has been filed with the court containing provisions for maintenance, property disposition, custody of children, support, and visitation; or a written separation contract has been published in a legal newspaper, in lieu of a court decree.

(ii) Absence due to divorce is overcome by remarriage of the child's natural or adoptive parent with whom he lives.

(iii) If the natural or adoptive parents, in spite of the legal action, resume living together, there is no longer deprivation on the basis of absence.

(b) Absence due to separation, desertion or abandonment

(i) There is a clear disassociation of one or both parents from their normal family relationship and no indication that the absence is for the purpose of seeking employment, working, or of technically qualifying for assistance.

(ii) If the separation, desertion or abandonment has existed at least thirty days prior to application and there



is no indication that the absence will not continue, deprivation is considered established.

(iii) Deprivation may be established if the absence has existed for less than thirty days prior to application only when there is sufficient information as determined by the ((local office)) CSO showing the absence can be expected to continue. The type of information and basis of determination must be documented in the case record.

(iv) If application is made by a nonresponsible relative on behalf of a child who has not been placed in his custody through a court order, whose parent or parents though able have failed to support the child, apparent abandonment shall be assumed and the policies outlined in WAC 388-24-114 shall apply.

(c) Absence of unmarried parents  
If the parents have not maintained a home together, deprivation is established. If the parents have maintained a home together and one parent has left the home, the situation should be evaluated as provided in ((subsection)) subdivision (3)(b).

(d) Absence due to other reasons  
(i) Parent serving in military service and will be absent from the home more than thirty days.

(ii) Parent confined to an institution and is expected to remain for more than thirty days. A parent who is incarcerated but participating in a work release program is considered to be in an institution.

(iii) Parent has been deported.  
(iv) Parent has been convicted of an offense and has been required by the court to perform unpaid work or community service during the workday while being permitted to reside in the family home.

(A) The basis of deprivation will be continued absence, and the needs of the convicted parent will not be included in the determination of eligibility or the payment of the family grant.

(B) A convicted parent earning income outside of the hours of sentenced unpaid work or community service shall have such earnings treated in accordance with WAC 388-28-500.

**WSR 81-06-059**  
**ADOPTED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
**(Public Assistance)**

[Order 1620—Filed March 4, 1981]

I, David A. Hogan, Director, Client and Community Relations Division of the Department of Social and Health Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to Food stamps—Issuance—Monthly allotments, amending WAC 388-54-785.

This action is taken pursuant to Notice No. WSR 81-03-025 filed with the code reviser on January 12, 1981.

Such rules shall take effect pursuant to RCW 34.04.040(2).

This rule is promulgated pursuant to RCW 74.04.510 and is intended to administratively implement that statute.

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED March 4, 1981.

By David A. Hogan  
Director, Client and  
Community Relations Division

AMENDATORY SECTION (Amending Order 1543, filed 9/17/80)

WAC 388-54-785 ISSUANCE—MONTHLY ALLOTMENTS. (1) The maximum allowable income standards for determining eligibility for all households are as follows:

Household Size	Maximum Allowable Monthly Income Standards 48 States and D.C.
1	\$ 316
2	418
3	520
4	621
5	723
6	825
7	926
8	1,028
9	1,130
10	1,232
Each additional member	+102

(2) To determine the benefit households shall receive:

(a) Subtract 30 percent of the household's net monthly income from the thrifty food plan for that household size.

Household Size	Thrifty Food Plan Amounts
1	\$ ((63))70
2	((+15))128
3	((+65))183
4	((209))233
5	((248))277
6	((298))332
7	((329))367
8	((376))419
9	472
10	525
Each additional member	((+47))53

(b) All one and two person households shall receive a minimum monthly allotment of \$10.00.

**WSR 81-06-060**  
**ADOPTED RULES**  
**UTILITIES AND TRANSPORTATION**  
**COMMISSION**

[Order R-159, Cause No. TV-1431—Filed March 4, 1981]

In the matter of amending WAC 480-12-250, relating to classification of common and contract carriers for purposes of accounting and reporting.

This action is taken pursuant to Notice No. WSR 81-03-074 filed with the Code Reviser on January 21, 1981. The rule changes hereinafter adopted shall take effect pursuant to RCW 34.04.040(2).

This rule-making proceeding is brought on pursuant to RCW 80.01.040, 81.80.130, 81.80.140 and 81.80.290 and is intended to administratively implement these statutes.

This rule-making proceeding is in compliance with the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), the State Register Act (chapter 34.08 RCW), and the State Environmental Policy Act of 1971 (chapter 43.21C RCW).

Pursuant to Notice No. WSR 81-03-074 the above matter was scheduled for consideration at 8:00 a.m., Wednesday, March 4, 1981, in the Commission's Conference Room, Seventh Floor, Highways-Licenses Building, Olympia, Washington, before Chairman Robert W. Bratton and Commissioners Robert C. Bailey and A. J. Benedetti.

Under the terms of said notice, interested persons were afforded the opportunity to submit data, views, or arguments to the commission in writing prior to February 27, 1981. Under the terms of said notice, interested persons were afforded the opportunity to submit data, views, or arguments orally at 8:00 a.m., Wednesday, March 4, 1981, in the Commission's Conference Room, Seventh Floor, Highways-Licenses Building, Olympia, Washington.

At the March 4, 1981, meeting the commission considered the amendment of WAC 480-12-250. No written or oral comments opposing the amendment were received.

The amendment to WAC 480-12-250 affects no economic values.

In reviewing the entire record herein, it has been determined that WAC 480-12-250 should be amended to read as set forth in Appendix A attached hereto and by this reference made a part hereof. WAC 480-12-250 as amended will conform as to Classes III and IV common and contract carriers with the Interstate Commerce Commission classification for purposes of accounting and reporting. The Class III carrier classification is being revised and the Class IV carrier classification is being deleted to accommodate those common and contract carriers who file annual reports with the Washington Utilities and Transportation Commission as well as the Interstate Commerce Commission.

**ORDER**

WHEREFORE, IT IS ORDERED That WAC 480-12-250, as set forth in Appendix A, be amended as rules of the Washington Utilities and Transportation Commission to take effect pursuant to RCW 34.04.040(2).

IT IS FURTHER ORDERED That the order and the annexed rules after being first recorded in the order register of the Washington Utilities and Transportation Commission, shall be forwarded to the Code Reviser for filing pursuant to chapter 34.04 RCW and chapter 1-12 WAC.

DATED at Olympia, Washington, this 4th day of March, 1981.

Washington Utilities and Transportation Commission

Robert C. Bratton, Chairman

Robert W. Bailey, Commissioner

A. J. Benedetti, Commissioner

**APPENDIX A**

AMENDATORY SECTION (Amending Order R-154, Cause No. TV-1404, filed 12/10/80)

WAC 480-12-250 ACCOUNTS—UNIFORM SYSTEM ADOPTED—REPORTS. (1) The "Uniform System of Accounts" adopted by the Interstate Commerce Commission is hereby prescribed for the use of Class I and II Common and Contract Carriers in the state of Washington operating under chapter 81.80 RCW. A "Uniform System of Accounts" is hereby prescribed for the use of Class III (~~and IV~~) Common and Contract Carriers in the state of Washington.

(2) Classification of carriers:

(a) For purposes of the accounting and reporting regulations, common and contract carriers of property shall be divided into the following four classes:

- Class I — Carriers having average annual gross operating revenues (including interstate and intrastate) of \$5,000,000 or more from operations as motor carriers of property.
- Class II — Carriers having average annual gross operating revenues (including interstate and intrastate) of \$1,000,000 but less than \$5,000,000 from operations as motor carriers of property.
- Class III — Carriers having average annual gross operating revenues (including interstate and intrastate) of ~~(\$100,000 but)~~ \$1,000,000 or less ~~((than \$1,000,000))~~ from operations as motor carriers of property.
- ~~((Class IV — Carriers having average annual gross operating revenues (including interstate and intrastate) of less than \$100,000 from operations as motor carriers of property.))~~

(b) The class to which any carrier belongs shall be determined by the average of its annual gross operating

revenues derived from motor carrier operations as a carrier of property for the past three calendar years.

(c) Any carrier may, at its option, adopt the methods of a group higher than the one in which it falls on the basis of its average annual gross operating revenues. Notice of such action shall be promptly filed with the Commission.

(3) Each Class III (~~and Class IV~~) Common or Contract Carrier must secure from the commission a copy of "Uniform System of Accounts" applicable to its business and keep its accounts and other records in conformity therewith to the end that its records may be kept and the annual report required to be filed by it may be compiled in accordance therewith.

(4) For purposes of rendering annual reports, Common and Contract Carriers shall secure from the commission the proper forms and make and file with the commission annual report as soon after the close of the calendar year as possible, but in no event later than April 1st of the succeeding year.

(5) All Class I and Class II Common and Contract Carriers in the state of Washington shall file, in addition to the annual report referred to herein, quarterly reports on forms which they shall secure from the commission for that purpose. Each such report shall be submitted to the commission within 30 days after the close of the period which it covers.

(6) Registered carriers operating exclusively in interstate or foreign commerce shall not be required to file annual or quarterly reports.

(7) Annual reports filed by carriers holding Garbage and/or Refuse Collection Certificates and Common and/or Contract Carrier Permits must comply with reporting requirements provided in WAC 480-70-230.

#### WSR 81-06-061

#### ADOPTED RULES

#### UTILITIES AND TRANSPORTATION COMMISSION

[Order R-157, Cause No. TV-1429—Filed March 4, 1981]

In the matter of amending WAC 480-04-030 and 480-04-100, relating to commission field office addresses and copying cost to the public for copying of public documents.

This action is taken pursuant to Notice No. WSR 81-03-073 filed with the Code Reviser on January 21, 1981. This amendment hereinafter adopted shall take effect pursuant to RCW 34.04.040(2).

This rule amendment proceeding is brought on pursuant to RCW 80.01.040(1) and (4) and is intended to administratively implement this statute.

This rule-making proceeding is in compliance with the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), the State Register Act (chapter 34.08 RCW), and the Environmental Policy Act of 1971 (chapter 43.21C RCW).

Pursuant to Notice No. WSR 81-03-073 the above matter was scheduled for amendment at 8:00 a.m.,

Wednesday, March 4, 1981, in the Commission's Conference Room, Seventh Floor, Highways-Licenses Building, Olympia, Washington, before Chairman Robert W. Bratton and Commissioners Robert C. Bailey and A. J. Benedetti.

Under the terms of said notice, interested persons were afforded the opportunity to submit data, views, or arguments to the commission in writing prior to February 27, 1981. Under the terms of said notice, interested persons were also afforded the opportunity to submit data, views, or arguments orally at 8:00 a.m., Wednesday, March 4, 1981, in the Commission's Conference Room, Seventh Floor, Highways-Licenses Building, Olympia, Washington.

At the March 4, 1981 meeting, the rules the commission considered for adoption were the amendments to WAC 480-04-030 and 480-04-100. The amendments affect no economic values.

In viewing the entire record herein, it has been determined that WAC 480-04-030 and 480-04-100 should be amended to read as set forth in Appendix "A," attached hereto and made a part hereof by reference. WAC 480-04-030, as amended, changes some of the field section addresses of the commission.

WAC 480-04-100, as amended, changes the cost to the public for copying of public documents. In addition, the amendment would levy no charges on copies of ten pages or less.

#### ORDER

WHEREFORE, IT IS ORDERED That WAC 480-04-030 relating to commission field office addresses, and WAC 480-04-100, relating to copying cost to the public for copying of public documents, be, and the same are, hereby amended as set forth in Appendix "A," as permanent rules of the Washington Utilities and Transportation Commission to take effect pursuant to RCW 34.04.040(2).

IT IS FURTHER ORDERED That this order and the annexed rules, after being first recorded in the order register of the Washington Utilities and Transportation Commission, shall be forwarded to the Code Reviser for filing pursuant to chapter 34.04 RCW and chapter 1-12 WAC.

DATED at Olympia, Washington, this 4th day of March, 1981.

Washington Utilities and Transportation Commission

Robert W. Bratton, Chairman

Robert C. Bailey, Commissioner

A. J. Benedetti, Commissioner

#### APPENDIX A

AMENDATORY SECTION (Amending Order R-43, filed 4/5/73)

WAC 480-04-030 DESCRIPTION OF CENTRAL AND FIELD ORGANIZATION OF WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION. (1) Washington Utilities and Transportation Commission. The Washington Utilities

and Transportation Commission is a regulatory agency. The administrative offices of the Washington Utilities and Transportation Commission and its staff are located at the Seventh Floor, Highways-Licenses Building, Olympia, Washington 98504.

(a) The commission is limited by RCW 80.01.010 to three (3) members, of whom one (1) member is designated as chairman.

(b) The office of Administrative Manager and Secretary and the Executive Officer are responsible directly to the commission. All departmental divisions and sections normally respond to the commission through the office of Administrative Manager and Secretary. As required on occasion, the following departments may respond directly to the commission: The Hearing Examiners, the Accounting Section, the Administrator of the Utilities Division, and the Administrator of the Transportation Division.

(c) Pursuant to RCW 80.01.100, the Attorney General Division is assigned to the commission to represent the people of the state of Washington and the commission in all actions or proceedings involving any question under Titles 80 and 81 RCW or in reference to any act or order of the commission.

(d) Sections and individuals responsible directly to the Administrative Manager and Secretary are: The Personnel Officer, the Controller, the Data Research and Planning Section, and the Machine Operations Section.

(e) Sections responsible directly to the Utilities Administrator are: The Utilities Tariff Section, the Utilities Finance Section, and the Utilities Engineering Section.

(f) Sections responsible directly to the Administrator of Transportation are: The Transportation Permit and Insurance Section, the Transportation Tariff Section, the Transportation Research Section, the Railroad Section, and the Transportation Enforcement or Field Section.

(2) Field organization.

(a) The Field Section is composed of six (6) districts, each of which is in the charge of a supervisor.

Office	Address	Office Hours
(i) Seattle District No. 1	1231 Andover Park East, Tukwila WA 98188	Mon. thru Fri. 8-5
(ii) Vancouver District No. 1	<del>((510 Esther St. #8))</del> 110-A "Y" Street P.O. Box 1119 Vancouver, WA 98660	Mon. Thru Fri. 8-5
(iii) Yakima District No. 2	<del>((1 North Ninth St.))</del> 3006 Main Street <del>((Yakima, WA 98901))</del> Union Gap, WA 98903	Mon. thru Fri. 8-5
(iv) Spokane District No. 4	<del>((So. 110 Sheridan))</del> <del>((St.)) East 6204 Dean</del> Spokane, WA <del>((99202))</del> 99201	Mon. thru Fri. 8-5
(v) Olympia District No. 5	<del>((Restover Truck))</del> <del>((Stop))</del> <del>((Lathrop Road))</del> <del>((P.O. Box 413))</del> 4320 Martin Way Olympia, WA <del>((98507))</del> 98506	Mon. thru Fri. 8-5
(vi) Pasco District No. 6	<del>((1600 North Chase))</del> 1600-C West Clark Pasco, WA 99301	Mon. thru Fri. 8-5

(b) The various special investigators, investigators and truck inspectors (at ports of entry) in each district are responsible to the district supervisor.

(c) Each district maintains a district office and one or more field offices; the addresses and office hours of the various field offices are available at the district offices and the administrative offices of the commission during customary office hours.

AMENDATORY SECTION (Amending Order R-112, filed 1/11/78)

WAC 480-04-100 COPYING COSTS. ((No fee shall be charged for the inspection of public records.)) The commission shall charge a fee of ((eight)) twelve cents per page of copy, ((subject to a minimum charge of two dollars for twenty-five or fewer pages, on each occasion on which copies are requested. This charge is the amount necessary to reimburse the commission for its actual costs incident to such copying)) provided that no charge shall be made for less than ten copies.

**WSR 81-06-062  
PROPOSED RULES  
UTILITIES AND TRANSPORTATION  
COMMISSION  
[Filed March 4, 1981]**

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington Utilities and Transportation Commission intends to adopt, amend, or repeal rules concerning the amending of WAC 480-90-231, 480-90-241 and 480-90-246, concerning certain prohibitions by natural gas distributors to install outdoor lighting fixtures or provide natural gas to its nonresidential customers for outdoor lighting and procedures for requesting exemption. The proposed rules as amended are shown below as Appendix A, Cause No. U-81-13. Written and/or oral submissions may also contain data, views, and arguments concerning the effect of the proposal on economic values pursuant to chapter 43.21H RCW and WAC 480-08-050(17);

and that the adoption, amendment, or repeal of such rules will take place at 8:00 a.m., Wednesday, April 8, 1981, in the Commission's Conference Room, Seventh Floor, Highways-Licenses Building, Olympia, Washington.

The authority under which these rules are proposed is RCW 80.01.040(4) and 80.04.160.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to April 3, 1981, and/or orally at 8:00 a.m., Wednesday, April 8, 1981, Commission's Conference Room, Seventh Floor, Highways-Licenses Building, Olympia, Washington.

Dated: March 2, 1981  
By: David Rees  
Secretary

## STATEMENT OF PURPOSE

In the matter of amending WAC 480-90-231, 480-90-241 and 480-90-246, all relating to prohibition and exemptions for outdoor gas lighting.

The amendment of WAC 480-90-231, 480-90-241 and 480-90-246 is proposed on this date as permanent rules of the Washington Utilities and Transportation Commission.

WAC 480-90-231 as amended will allow an exemption from the prohibition in WAC 480-90-201 and/or 480-90-216 based on commercial outdoor lighting of a traditional nature rather than proof that commercial lighting was of historical significance. WAC 480-90-241 as amended will allow an exemption from the prohibition in WAC 480-90-216 on the basis that it is essential to prevent an increase in the likelihood of bodily injury or damage to property or occurrence of crime. WAC 480-90-246 as amended will allow an exemption from the prohibition in WAC 480-90-216 on the basis that compliance with WAC 480-90-216 would entail substantial expense and such expense would outweigh benefit to be derived from compliance, and WAC 480-90-246 as amended will apply not only to local distribution companies, but also to an individual user.

David Rees, Secretary, Seventh Floor, Highways-Licenses Building, Olympia, Washington, (telephone number (206) 753-6512) and members of his staff were responsible for the drafting of the amended rule and are responsible for implementation and enforcement of the amended rule.

The proponent of the rule is the Washington Utilities and Transportation Commission. There are no opponents to the rule who are known to the commission.

There are no comments or recommendations by the commission regarding statutory language, implementation, enforcement, and fiscal matters pertaining to the rule.

This certifies that copies of this statement are on file with the commission, are available for public inspection, and that three copies of this statement are this date being forwarded to the Secretary of the Senate and three copies to the Chief Clerk of the House of Representatives.

## APPENDIX A

AMENDATORY SECTION (Amending Order R-133, Cause No. U-79-45, filed 11/7/79)

WAC 480-90-231 EXEMPTIONS—PROHIBITED SERVICE—COMMERCIAL LIGHTING OF ((HISTORICAL SIGNIFICANCE)) A TRADITIONAL NATURE. Any interested person using natural gas for outdoor lighting which is used for commercial purposes and which is of a traditional nature and conforms with the cultural or architectural style of the area in which it is located, may petition the commission for an exemption from the prohibition set

forth in WAC 480-90-216 ((on the basis that the outdoor lighting is of historical significance or is of a traditional nature and conforms with the cultural or architectural style of the area. Petitioner shall certify that the specifically identified natural gas outdoor lighting fixture(s) directly contributes to the quality of significance of the specifically identified property or district and an exemption will be granted upon a finding that the specifically identified property or district:

(1) Is listed on the National Register of Historic Places maintained by the Heritage Conservation and Recreation Service, Department of Interior, or is officially determined eligible for listing by the Secretary of Interior, pursuant to the National Historic Preservation Act (16 U.S.C. § 470 as amended), applicable regulations (36 C.F.R., Parts 60 and 63), and Executive Order No. 11593; or

(2) Is in a district whose state or local statutes are certified as providing adequate protection of historic places by the Secretary of the Department of Interior, pursuant to the Tax Reform Act of 1976 (26 U.S.C. § 191, § 280B), and applicable regulations; or

(3) Is recognized by the local governing body as being of a traditional nature and having cultural or architectural significance)).

(1) In the case of a petition for an exemption from the general prohibition on installation of natural gas outdoor lighting fixtures, WAC 480-90-201, an exemption shall be granted only to replace a natural gas outdoor lighting fixture(s) which had been installed prior to November 9, 1978. Such replacement shall include:

(a) Replacement of an existing natural gas light; or

(b) Replacement of a natural gas light which does not presently exist but which existed at some previous time upon the specified property.

A petition pursuant to WAC 480-90-201 or 480-90-216 shall certify that the specifically identified natural gas outdoor lighting fixture(s) is used for commercial purposes and is of a traditional nature and conforms with the cultural or architectural style of the area in which such light is located, presently exists or will be used to replace a natural gas lighting fixture of traditional nature.

(2) The filing of a petition for exemption shall result in a stay from the prohibition set forth in WAC 480-90-201 provided the petitioner has certified that the specifically identified natural gas outdoor lighting fixture(s) used for commercial purposes:

(a) Is of a traditional nature and conforms with the cultural or architectural style of the area in which such light(s) is located, and

(b) Presently exists or will be used to replace a natural gas lighting fixture of a traditional nature.

AMENDATORY SECTION (Amending Order R-133, Cause No. U-79-45, filed 11/7/79)

WAC 480-90-241 EXEMPTIONS—PROHIBITED SERVICE—SAFETY OF PERSONS AND PROPERTY. A local distribution company or an interested person may petition the commission for an exemption from the prohibition set forth in WAC 480-90-216 on the basis of ((the)) a necessity to protect the safety of persons and property if ((such natural gas was being supplied on November 9, 1978. Petitioner shall certify that)) it is demonstrated that such exemption for the natural gas fixture(s) is essential:

(1)((a) Compliance with the prohibition would significantly increase the chance)) To prevent an increase in the likelihood of bodily injury or damage to property; ((or

(b) Compliance with the prohibition would significantly increase the chance)) (2) To prevent an increase in the likelihood of the occurrence of crime in the location served by the light; or

((c) The lighting is necessary)) (3) Because other existing lighting in the location does not provide lighting adequate to ((ensure)) insure conformance with American National Standards Institute (ANSI) Standard No. D 12.1. "The American National Standard Practice ((or)) For Roadway Lighting(;)") ((and

(2)(a) Would impose a substantial hardship on a person other than a local distribution company, a pipeline company, or a company that manufactures or supplies natural gas outdoor lighting fixtures, in terms of personal income or savings; or

(b) Would not be justified by the savings likely to be accrued over the useful life of the substitute lighting facility)).

AMENDATORY SECTION (Amending Order R-133, Cause No. U-79-45, filed 11/7/79)

WAC 480-90-246 EXEMPTIONS—PROHIBITED SERVICE—SUBSTANTIAL EXPENSE AND NOT COST JUSTIFIED. A local distribution company, an individual user or an interested person may petition the commission for an exemption from the prohibition

set forth in WAC 480-90-216 on the basis (~~of substantial expense which~~) that compliance with the prohibition entails substantial expense and would not be cost justified, if ((such)) the natural gas use at issue was being supplied on November 9, 1978. Petitioner shall certify that compliance with the prohibition set forth in WAC 480-90-216 would ((substantially and negatively affect the profit margin, return on investment, or rates of a local distribution company and an exemption shall be granted upon a finding to this effect)) entail substantial expense and that such expense would outweigh the benefits to be derived from compliance.

**WSR 81-06-063**  
**ADOPTED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
**(Public Assistance)**

[Order 1618—Filed March 4, 1981]

I, David A. Hogan, Director, Client and Community Relations Division of the Department of Social and Health Services, do promulgate and adopt at Olympia, Washington, the annexed rules relating to chore services, amending chapter 388-15 WAC.

This action is taken pursuant to Notice Nos. WSR 81-01-109 and 81-06-006 filed with the code reviser on December 24, 1980 and February 19, 1981. Such rules shall take effect pursuant to RCW 34.04.040(2).

This rule is promulgated under the general rule-making authority of the secretary of Department of Social and Health Services as authorized in RCW 74.08.090.

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED February 27, 1981.

By David A. Hogan  
Director, Client and  
Community Relations Division

NEW SECTION

WAC 388-15-207 CHORE SERVICES FOR ADULTS—LEGAL BASIS—PURPOSE—GOALS.

(1) The legal basis for the chore services program is RCW 74.08.530 through 74.08.560.

(2) The purpose of the program is:

(a) To enable the elderly, the chronically ill, the mentally ill, retarded or otherwise disabled adult to remain in or return to his/her own home among familiar surroundings whenever possible.

(b) To permit an adult to remain at home, or to return home sooner than he/she otherwise could from an institution.

(c) To keep the family together while the natural homemaker is incapacitated, either in or out of the home.

(3) Goals for chore services for adults and families shall be limited to those specified in WAC 388-15-010 (1)(b), (c), and (d). Also see WAC 388-15-010 (2).

NEW SECTION

WAC 388-15-208 DEFINITIONS. (1) "Chore services" consist of light household tasks and/or personal care, as defined by the department, which eligible persons are unable to do for themselves.

(2) "Protective supervision" is a service provided through the chore program when it is dangerous for a client to be left alone. Protective supervision does not include responsibilities that a legal guardian should assume.

(3) "Contracted program" denotes that method of chore service delivery where the contractor is responsible for recruiting, supervising, training, and paying the chore provider.

(4) "Individual-provider-program" denotes that method of chore service delivery where the client employs and supervises the chore provider. Payment is made to the client, who in turn pays the provider.

(5) "Own home" shall mean the individual's present or intended place of residence whether that is in a building rented or owned by the client or in the home of another person. Chore services are provided within the confines of the home property except for essential shopping and errands and transportation necessary for the completion of authorized tasks. An adult family home or children's foster home is not considered own home for purposes of the chore program, except as provided in WAC 388-15-215(2).

(6) The "Client Review Questionnaire" is an adult assessment form which determines the amount and type of chore services to be provided. The form is used by department staff to identify, document and score the allowable chore service needs of all eligible persons.

(7) The "CRQ Authorization Ceiling Chart" indicates the maximum number of hours that can be authorized for a client's score.

(8) "Personal care" shall mean such tasks as dressing/undressing, care of appearance, body care, bed transfer, ambulation, wheelchair transfer, bathing, toileting, and reminding to take medicines which a person would normally provide for himself/herself and are necessary to maintain a person in his/her own home. Sterile procedures and administering medications by injection are not authorized personal care tasks, unless the individual provider program worker is a licensed health practitioner or a member of the client's immediate family.

(9) "Attendant care" is the service provided to a client who requires assistance with unscheduled tasks, i.e., toileting, ambulation, and wheelchair transfer.

(10) "Shared living arrangement" occurs when two or more adults share expenses and live together in their own home with common facilities, such as living, cooking and eating areas.

NEW SECTION

WAC 388-15-209 CHORE SERVICES—ELIGIBLE INDIVIDUALS. (1) Service Eligibility.

(a) Chore services are primarily for adults, although in some instances families may be served.

(b) Chore services are determined through the completion and scoring of the Client Review Questionnaire. (Refer to WAC 388-15-212).

(c) Families may receive chore services when the normal caretaker of the children:

(i) Is in the home but unable to physically care for the children;

(ii) Is in the home and physically unable to perform the necessary household tasks;

(iii) Is out of the home temporarily, as defined by the department.

(2) Financial Eligibility.

(a) Persons receiving chore services must meet the financial eligibility requirements established by the department. Refer to WAC 388-15-020.

(b) For families to receive services, the total family income must be at or below the financial eligibility requirements established by the department. Children are not financially eligible in their own right. They are part of the family unit.

**AMENDATORY SECTION** (Amending Order 1361, filed 12/21/78)

**WAC 388-15-212 SERVICE DETERMINATIONS.** (1) Chore services need and amount determination((s)) for all applicants and recipients of ~~((the))~~ chore services will be made by ~~((utilizing a total functional ability rating process))~~ using the Client Review Questionnaire on each ~~((individual))~~ adult.

(2) ~~((The total functional ability of each individual shall be defined as that person's))~~ Department staff will administer the Client Review Questionnaire.

(3) When administering the Client Review Questionnaire, department staff will take into account the client's ability to perform activities of daily living, living conditions and arrangements, and the availability and use of alternative ~~((services))~~ resources, including immediate family, other relatives, neighbors, friends and community programs.

~~((3) The department will utilize a total functional ability rating process in determining service need and amount. The functional ability rating tool will be available at the CSO of the department.))~~

(4)(a) The Client Review Questionnaire is a series of questions designed to determine the client's need for the tasks which are available from the chore program. In answering each question, either "N", "M", "S", or "T" is circled to indicate the extent of assistance the client needs from the chore program for each task. "N", "M", "S", or "T" are defined as:

(i) N = Needs No Assistance: The client is either able to perform this task without help or is already receiving all the help needed from other sources.

(ii) M = Needs Minimal Assistance: The client cannot perform this task without help and needs a minimal amount of assistance from the chore program in addition to whatever help may or may not be received from other sources.

(iii) S = Needs Substantial Assistance: The client cannot perform this task without help and needs a substantial amount of assistance from the chore program in

addition to whatever help may or may not be received from other sources.

(iv) T = Needs Total Assistance: Client is completely unable to perform this task and is not now receiving any help and needs total assistance from the chore program.

(b) Points are awarded for each task based on the degree of assistance needed from the chore services program. The number of points available for each task is set forth in subsection (5) of this section. The point total is converted into maximum allowable hours using the table set forth in subsection (6) of this section. For clients needing protective supervision or attendant care, as defined in subsection (5) of this section, the amount of services authorized is based on the total number of hours per month the chore provider must be with the client.

(5) The allowable chore services program tasks, as defined by the department, are scored as follows:

(a) Escort/Transport to Medical Services. The scoring is as follows, based on the need and frequency of service: N = 0, M = 1, S = 2, T = 3.

(b) Essential Shopping and Errands. The scoring is based on need and frequency of service: N = 0, M = 5, S = 10, T = 15. When the chore provider must perform these tasks for the client because the client is unable to go along, the scoring is N = 0, M = 1, S = 3, and T = 5.

(c) Essential Telephoning. The scoring is N = 0, M = 1, S = 2, T = 3. When there is no telephone in the home where the client lives, additional points are allowed so that the chore provider or client may use a telephone elsewhere. The additional scoring is N = 0, M = 1, S = 2, and T = 3.

(d) Essential Writing. The scoring is N = 0, M = 1, S = 2, and T = 3.

(e) Noncosmetic Yard Care. The scoring is N = 0, M = 1, S = 2, and T = 3.

(f) Splitting/Stacking/Carrying Wood. The scoring is N = 0, M = 3, S = 5, and T = 7.

(g) Simple Household Maintenance. The scoring is N = 0, M = 1, S = 2, and T = 3.

(h) Laundry. The scoring is N = 0, M = 1, S = 2, and T = 3. If there are no laundry facilities in the client's own home, additional points are awarded. The scoring for the additional points is N = 0, M = 3, S = 5, and T = 7.

(i) Housework. Housework is limited to tasks necessary to protect the client's health and safety and to those areas of the home actually used by the client. The scoring is N = 0, M = 3, S = 5, and T = 7. An additional three points is awarded if the client lives in a house which is unusually difficult to maintain and/or lacks housecleaning equipment necessary to keep the home clean.

(j) Cooking. The scoring is based on the preparation of three meals, as follows:

(i) Breakfast N = 0, M = 4, S = 7, T = 10.

(ii) Light Meal N = 0, M = 4, S = 7, T = 10.

(iii) Main Meal N = 0, M = 5, S = 10, T = 15.

(k) Feeding. The scoring is based on feeding three meals, as follows:

(i) Breakfast N = 0, M = 4, S = 7, T = 10.

(ii) Light Meal N = 0, M = 4, S = 7, T = 10.

(iii) Main Meal N = 0, M = 5, S = 10, T = 15.

(l) Dressing/Undressing. The scoring is N = 0, M = 4, S = 7, and T = 10.

(m) Care of Appearance. The scoring is N = 0, M = 1, S = 3, and T = 5.

(n) Body Care. The scoring is N = 0, M = 5, S = 10, and T = 15.

(o) Bed Transfer. The scoring is N = 0, M = 1, S = 3, and T = 5.

(p) Ambulation. The scoring is N = 0, M = 4, S = 7, and T = 10.

(q) Wheelchair Transfer. The scoring is N = 0, M = 1, S = 3, and T = 5.

(r) Bathing. The scoring is N = 0, M = 4, S = 7, and T = 10.

(s) Toileting. The scoring is N = 0, M = 5, S = 10, and T = 15.

(t) Remind to Take Medicines. The scoring for reminding to take medication is N = 0, M = 1, S = 2, and T = 3.

(u) Family Care. The family care question has four parts. Each part considers the ages, number, and level of responsibility of the children and the presence of a spouse when determining the need for chore services.

(i) Part one determines the need for additional help cleaning the household because of the presence of children. The scoring is N = 0, M = 4, S = 7, and T = 10.

(ii) Part two determines the need for escort and transportation, laundry services, meal preparation and shopping, and bathing and dressing for the client's children. The scoring is N = 0, M = 5, S = 10, and T = 15

(iii) Part three determines the need for physical supervision of the children. When the client is in the home, but unable to supervise, the scoring is N = 0, M = 5, S = 10, and T = 15.

(iv) Part four determines the need for supervision of children when the client is temporarily absent from the home because of hospitalization. This question is not scored. The number of days and the number of hours per day that the children need supervision is recorded. The monthly authorization is the total number of hours required for supervision. The chore provider performs household and personal care tasks for the children during the hours of supervision. Supervision of children when the client is absent from the home must not exceed two weeks.

(v) Protective Supervision/Attendant Care. The chore provider supervises or watches the client when he/she cannot safely be left alone. Protective supervision may be necessary when a person:

(i) May hurt himself/herself, others, or damage property if left alone, or

(ii) Is confused and may wander away, turns on a stove and forgets to turn it off, becomes easily disoriented, or forgets to take necessary medication.

The chore provider performs any household or personal care tasks or gives assistance with activities of daily living during the hours of supervision. The scoring is based on the number of days per month and hours per day during which the chore provider must be with a client in need of protective supervision. The authorization

is the total number of protective supervision hours required by the client each month. In attendant care, the chore provider is available to help a client who requires assistance with such unscheduled tasks as toileting, ambulation, and wheelchair transfer. The chore provider performs any household or personal care tasks or gives assistance with activities of daily living during the hours of attendance to the client. The scoring is based on the number of days per month and hours per day during which the chore provider must be with a client in need of attendant care. The authorization is the total number of attendant care hours required by the client each month.

(6) Except for cases where protective supervision, attendant care, or supervision of children when the client is temporarily absent are required, as defined in subsection (5)(v) of this section, the amount of hours of chore services authorized per month shall be determined by translating the total number of points awarded on the Client Review Questionnaire into a monthly authorization, utilizing the following CRQ Authorization Ceiling Chart:

CRQ SCORE	CEILINGS HOURS PER MONTH
1-4	5
5-9	8
10-14	11
15-19	14
20-24	18
25-29	21
30-34	24
35-39	28
40-44	31
45-49	34
50-54	37
55-59	41
60-64	44
65-69	47
70-74	51
75-79	54
80-84	57
85-89	60
90-94	64
95-99	67
100-104	70
105-109	74
110-114	77
115-119	80
120-124	83
125-129	87
130-134	90
135-139	93
140-144	97
145-149	100
150-154	103
155-159	106
160-164	110
165-169	113
170-174	116
175-179	120
180-184	123
185-189	126
190-194	129
195-199	132
200-205	135
206-209	138
210-214	142
215-219	145
220-224	148
225-229	151
230-234	155
235-239	158
240-244	161



CRQ SCORE	CEILINGS HOURS PER MONTH
245-249	165
250-254	168
255-259	171
260-264	174

The service worker may authorize fewer hours according to the client's individual circumstances. Protective supervision, attendant care, and supervision of children when the client is temporarily absent are authorized for the number of days per month and hours per day the services are required.

(7) The client/applicant may request approval from the department to exceed the ceiling hours authorized per month, as determined in subsection (6) of this section. The department shall authorize the number of additional hours necessary to maintain the client/applicant in his/her own home when:

(a) There are circumstances of a demonstrated duration, frequency, or severity which require additional hours of allowable chore services to avoid adverse effects to his/her health or safety; and,

(b) The need for additional hours is specific and clearly measurable.

(8) All clients/applicants shall be informed in writing of the process as defined in subsection (7) of this section and shall have the right to request from the department approval to exceed the authorized hours as set forth in subsection (6) of this section.

(9) When the department denies a request for additional hours or makes approval for fewer additional hours than requested, the client/applicant shall receive notice of his/her right to contest the decision pursuant to chapter 388-08 WAC. The department shall approve or deny requests within thirty days.

~~((4))~~ (10) Chore services may be provided either through ~~((direct client payments))~~ the individual-provider-program or through the contracted ~~((services))~~ program, as deemed most appropriate by ~~((the))~~ department policy established by the state office.

#### AMENDATORY SECTION (Amending Order 1238, filed 8/31/77)

WAC 388-15-213 PAYMENT. (1) Payment may be made ~~((to))~~ for services performed by a ~~((spouse, father, son or daughter when he or she))~~ relative, but payment to a spouse, father, mother, son or daughter can be made only when the person:

(a) Has to give up paid employment (more than thirty hours per week) to give the service, or

(b) Would otherwise need to take paid employment (more than thirty hours per week), or

(c) Would otherwise be eligible to receive general assistance to meet his/her own financial need.

(2) ~~((The monthly standard for chore service shall be the actual hourly or monthly cost (including FICA tax when applicable) but not to exceed the prevailing rate.~~

~~((3))~~ ~~((The monthly standard for chore service))~~ Payment to the spouse providing chore services to an incapacitated, eligible client shall not exceed the amount of ~~((her~~

~~requirements if she were eligible))~~ a one-person standard for a continuing general assistance grant. Refer to WAC 388-29-100.

(3) In the contracted program, payment is made to the contractor who directly pays the chore provider. ~~((Refer to WAC 388-15-208.))~~

(4) In the individual-provider-program, payment is made to the client who pays the chore provider. ~~((Refer to WAC 388-15-208.))~~

(a) An hourly wage is paid for the actual number of hours worked on all chore services tasks, except for protective supervision, attendant care, and supervision of children when the client is temporarily absent.

(i) The hourly wage rate must at least comply with federal minimum wage guidelines.

(ii) The maximum hourly wage rate shall not exceed the amount set by the Community Services Office (CSO) administration and should consider the prevailing rate in the community for similar services.

(b) A monthly rate is paid for protective supervision, attendant care, and supervision of children. The monthly rate is determined by the service worker after discussion with the client and chore provider, but it shall not exceed a maximum rate set by the department. It will be prorated by days and hours of service.

(c) An individual-provider-program eligible client/applicant may request approval from the department to exceed the maximum monthly rate set by the department or the maximum hourly wage established by the Community Services Office. The department shall authorize a higher payment rate necessary to maintain the client/applicant in his/her own home when:

(i) The need for the higher payment is specific and clearly measurable; and,

(ii) The client/applicant provides documentation that services are not available at the established maximum payment rate; and,

(iii) The client/applicant has made a reasonable effort to find a qualified provider at the established maximum payment rate; and,

(iv) The total cost for the chore services does not exceed ninety percent of the total cost for care in a skilled nursing facility; except that this limitation on the maximum monthly cost shall not apply for a period of ninety consecutive days from the date of the request to exceed the maximum monthly rate.

(d) All clients/applicants shall be informed in writing of the process as defined in subsection (c) of this section and shall have the right to request from the department approval to exceed the maximum monthly or hourly rate.

(e) When the department denies a request to exceed the maximum payment rates or makes approval at a lesser rate than requested by the client/applicant, the client/applicant shall receive notice of his/her right to contest the decision pursuant to chapter 388-08 WAC. The department shall approve or deny requests within thirty days.

~~((4))~~ (f) When the ~~((eligible person))~~ client provides ~~((meals, or a "live-in" arrangement as part of the case plan providing for supervised living.))~~ board and room to the chore provider, the department may make a

payment ((may be made to cover the cost of the meals; or the expenses associated with a "live-in" arrangement)) to partially reimburse the cost of this expense. The payment shall not exceed an allowance established by the department and shall be prorated by days of service.

(g) Payment is made only after service delivery has been verified.

AMENDATORY SECTION (Amending Order 1238, filed 8/31/77)

WAC 388-15-215 LIMITATIONS ON PROGRAM. (1) The chore services program is not a teaching or companionship program and cannot be used for the purpose of delivering skilled nursing care or developing social, behavioral, recreational, communication or other type skill. Companionship means being with a person in his/her home for the purpose of preventing loneliness or to accompany him/her outside the home, except on basic errands or medical appointments or activities of daily living for protective supervision/attendant care.

(2) Chore services cannot be ((approved)) provided in a group home, ((CCF, ICF or SNF, and)) congregate care facility, intermediate care facility or skilled nursing facility, but can be provided in an adult family home or foster home ((only)) on an emergency((-, time-limited)) basis, not to exceed two weeks. Shared living arrangements are not considered group ((living)) homes.

(3) Chore services ((is)) are provided for the person needing and authorized to receive the service, not for other household members unless they are part of the total chore services plan which includes them as eligible service clients. ((Services include arranging for eligible individuals to receive chore services, and providing information about individuals in need of chore service to community resources:))

(4) Chore services are not provided when community resources or family, neighbors, or friends are available and willing to provide the service without charge.

(5) All approvals for additional hours and higher payment rates are reevaluated by the department after a period of up to one year, as determined by the department. These reevaluations are continued, denied, or altered to correspond with the client's present chore services need. The client shall receive notice of his/her right to contest reevaluations which are denied or approved at a lower rate of payment or fewer service hours than initially approved.

(6) Chore services cannot be used for child care for working parent(s).

(7) In family care, the chore services provider may not act as a parent substitute or make major decisions affecting the children.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

(1) WAC 388-15-210 CHORE SERVICES FOR ADULTS AND FAMILIES.

(2) WAC 388-15-211 CHORE SERVICES FOR FAMILIES.

**WSR 81-06-064**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
**(Public Assistance)**  
 [Filed March 4, 1981]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services intends to adopt, amend, or repeal rules concerning:

Rep ch. 388-35 WAC Noncontinuing general assistance.  
 Rep WAC 388-29-190 Transportation to state of legal residence.  
 Amd ch. 388-37 WAC Continuing general assistance.  
 Amd ch. 388-57 WAC Employment and training—Work incentive.

These rules were adopted on an emergency basis effective March 1, 1981.

Correspondence concerning this notice and proposed rules attached should be addressed to:

David A. Hogan, Director  
 Client and Community Relations Division  
 Department of Social and Health Services  
 Mailstop OB-44  
 Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact William B. Pope, Chief, Office of Administrative Regulations, at State Office Building #2, 12th and Jefferson, Olympia, Washington, Phone (206) 753-7015, by March 26, 1981. The meeting site is in a location which is barrier free;

that such agency will at 10:00 a.m., Thursday, April 9, 1981, in the Auditorium, General Administration Building, Olympia, Washington, conduct a hearing relative thereto;

and that the adoption, amendment, or repeal of such rules will take place at 9:00 a.m., Wednesday, April 22, 1981, in William B. Pope's office, 4th floor, Office Building #2, 12th and Franklin, Olympia, Washington.

The authority under which these rules are proposed is RCW 74.08.090.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to April 9, 1981, and/or orally at 10:00 a.m., Thursday, April 9, 1981, Auditorium, General Administration Building, Olympia, Washington.

Dated: March 3, 1981

By: David A. Hogan  
 Director, Client and  
 Community Relations Division

#### STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Repealing chapter 388-35 WAC and WAC 388-29-190, and amending chapters 388-37 and 388-57 WAC.

Purpose of the rule or rule change is to make changes necessary to implement the supplemental budget.

The reason(s) these rules are necessary is to comply with chapters 5 and 8, Laws of 1981.

Statutory authority: RCW 74.08.090.

Summary of the rule or rule change:

WAC 388-29-190: Transportation to state of legal residence is eliminated.

Chapter 388-35 WAC: Noncontinuing general assistance is repealed.

WAC 388-37-010: Makes persons who are eligible to receive federal aid grants ineligible for general assistance. Also changes the minimum duration for incapacity from 30 to 60 days. Eliminates SSI separated spouses from GA-U eligibility.

WAC 388-37-030: Removes grandfathered GA-U families in training. Removes 18 year olds in school and redefines incapacity.

WAC 388-37-035: Redefines incapacity and clarifies incapacity review waivers for persons in substance abuse treatment.

Chapter 388-57 WAC: References to GAN and AFDC-E are deleted.

Person or persons responsible for the drafting, implementation and enforcement of the rule:

Name of initiator: Mick Reynolds.

Title: Administrator.

Office: Policy Development Section.

Mailstop: OB-31 C.

Phone: 3-7037.

The person or organization (if other than DSHS) who proposed these rules is: None.

These rules are not necessary as a result of federal laws, federal court decisions or state court decisions.

#### REPEALER

The following sections of the Washington Administrative Code are each hereby repealed.

- |     |                |   |
|-----|----------------|---|
| (1) | WAC 388-35-010 | Conditions of eligibility                     |
| (2) | WAC 388-35-020 | Determination of financial need               |
| (3) | WAC 388-35-030 | Certification period                          |
| (4) | WAC 388-35-050 | Assistance units—Eligible persons             |
| (5) | WAC 388-35-060 | Reapplication                                 |
| (6) | WAC 388-35-070 | Noncontinuing general assistance—Requirements |
| (7) | WAC 388-29-190 | Transportation to state of legal residence    |

#### AMENDATORY SECTION (Amending Order 1536, filed 8/25/80)

WAC 388-37-010 CONTINUING GENERAL ASSISTANCE—EXCLUSIONS. (1) Continuing general assistance is a state financed program which provides for the needs of some persons who are not eligible for ~~((or are not receiving))~~ a federal aid grant; except as provided in WAC 388-37-010(2) and whose need is expected to continue for more than a ((30)) sixty day period, except as provided in WAC 388-37-030(3)(d).

(2) Continuing general assistance cannot be granted to a person eligible for or receiving AFDC or to a person eligible for or whose needs are being met by supplemental security income with the following exceptions:

(a) An applicant who appears to be eligible for SSI may receive continuing general assistance payments until the date of receipt of the initial SSI payment provided that:

- (i) The applicant applies;

(ii) The applicant assigns the initial SSI payment to DSHS up to the amount of the GA-U provided to the applicant pending approval of the SSI application;

(iii) The applicant meets all other general assistance eligibility requirements.

(b) If the amount of the initial SSI payment recovered by DSHS ((under subdivision (6)(a))) does not meet the amount paid as GA-U, the balance must be treated as an overpayment.

If the SSI benefit is less than the GAU payment standard because the SSI is based on a different living arrangement than that authorized under the GAU program, the difference will not be considered an overpayment, provided the applicant has appealed the SSI determination and lost the final appeal.

(c) An AFDC parent in need of intensive treatment (thirty days or less) in an approved alcoholic treatment facility may be granted continuing general assistance for the cost of treatment. This payment is made through the vendor billing procedure.

~~((d) An SSI eligible spouse whose need is not being met by SSI because of separation from a spouse. Such persons are exempt from assigning the initial SSI payment to DSHS as provided in (2)(a)(ii) above.))~~

(3) Continuing general assistance cannot be granted to a recipient of supplemental security income when he is subject to any sanction for failure to comply with SSI eligibility requirements.

#### AMENDATORY SECTION (Amending Order 1471, filed 1/9/80)

WAC 388-37-030 CONTINUING GENERAL ASSISTANCE—ELIGIBLE PERSONS. When other eligibility has been established, continuing general assistance shall be granted to:

~~((1) Deleted~~

~~(2) Families ineligible for AFDC-E solely because neither parent/stepparent meets the work quarters requirement and one parent/stepparent is regularly attending a vocational training course approved by the CSO in accordance with WAC 388-57-028.~~

~~(a) Disapproval of a training plan shall make the family ineligible for GAU.~~

~~(b) The CSO shall approve no more than twenty-four continuous months of training per family.~~

~~(3) A person who at the time of attaining the age of eighteen years is a recipient of public assistance and attending a state approved high school or vocational or technical institution:~~

~~(a) Assistance is continued while the person (if otherwise eligible) continually attends school on a full-time basis. Assistance is continued through the end of the school year immediately following the person's eighteenth birthday.~~

~~(b) If in the opinion of the CSO administrator one additional year of schooling will lead to completion of a secondary education, assistance is continued for one additional school year.))~~

~~((4)) (1) Incapacitated ((unemployable)) persons. As used in this section ((unemployable)) incapacitated person means a person who is sixty-five years of age or older or a person who is physically or mentally ((incapacitated by)) unable to work as a result of a condition expected to continue for at least ((thirty)) sixty days from date of application. ((Unemployability)) Incapacity refers to the individual's capacity to earn income by employment. It does not refer to the availability or lack of job opportunities. Eligible individuals are:~~

~~(a) An ((unemployable)) incapacitated single ((adult)) person age 18 or older.~~

~~(b) A married couple if both persons are ((unemployable)) incapacitated.~~

~~(c) The ((unemployable)) incapacitated spouse in the case of a married couple when only one person is employable. The income and resources of the employable spouse shall be considered as described in WAC 388-28-500(2)(a) and (b).~~

~~(d) Persons in approved drug or alcoholism treatment programs may be eligible for less than a sixty-day period in accordance with the terms of their treatment plan.~~

~~((5) The spouse and children of a sixty-five year old beneficiary of supplemental security income when deprivation due to incapacity or unemployment cannot be established.))~~

~~((6)) (2) These rules shall be effective ((November 10, 1979)) March 1, 1981.~~

**AMENDATORY SECTION** (Amending Order 1536, filed 8/25/80)

**WAC 388-37-035 INCAPACITY.** (1) The term "incapacity" refers to the existence of a physiological (~~(-emotional)~~) and/or mental impairment which renders the person incapable of gainful employment.

(a) Such incapacity must be verified by medical evidence.

(b) The person must be substantially prevented by reason of the impairment from engaging in a useful occupation. Reasons for unemployment other than incapacity, such as individual employer preferences, business and economic conditions, social handicaps, etc. are not factors to be considered in determining his inability to obtain and continue in employment.

(2) The source of evidence for physiological incapacity will be a written report from a physician or chiropractor; for a mental (~~(and/or emotional)~~) incapacity, the source may be a report from a psychiatrist or clinical psychologist. Medical evidence may be obtained (~~(by)~~) from other DSHS institutions and agencies from which the individual is receiving or has received services. Such reports must include a diagnosis and prognosis for the incapacitating condition and the effect of the condition on the individual's ability to function.

(3) The determination of incapacity will be made on the facts of each case. This requires evaluation of the severity of the impairment and its effect on the individual, and consideration of the individual's abilities so that it can be determined whether there remains a capacity to engage in a useful occupation.

(4) Incapacity due to mental (~~(or emotional)~~) disorders shall be determined on the basis of actual and specific impairment of faculties necessary for the person to be able to engage in gainful employment. The fact that an individual may be receiving treatment for a mental health problem is not in itself evidence that incapacity exists.

(a) Such persons must be diagnosed as psychotic or psychotic in remission, or

(b) Mentally retarded as evidenced by a score of

(i) Eighty-four or less on the Wechsler Adult Intelligence Scale or on the Vineland Social Maturity Scale, or

(ii) Eighty-three or less on the Stanford-Binet Intelligence Scale.

~~((\*)~~(c) Such incapacity will be determined on the basis of evidence that the individual

(i) Is unable to exercise judgment and make decisions necessary to obtain and maintain employment.

(ii) Is unable to sustain an adequate attention span.

(iii) Manifests bizarre or inappropriate behavior patterns beyond his capability to control.

(iv) Does not have the degree of physical and motor control required to sustain employment.

(v) Does not have perception and memory to the degree necessary to obtain and sustain employment.

(vi) Is unable to follow directions or to learn to the degree necessary to obtain and sustain employment.

(vii) Is under medication which impairs functioning.

(viii) Any one or a combination of the conditions in items (i) through (vii) may be sufficient to establish incapacity.

(5) Incapacity will be considered to be established without an incapacity review team decision for applicants for and recipients of services in a congregate care facility when the person

(a) Deleted;

(b) Has been determined to be eligible for any benefits (including FAMCO) based on social security administration disability criteria (~~(or veterans benefits based on disability of 50% or more)~~) except for persons with mental or emotional illness;

(c) Is eligible for services from the bureau of developmental disabilities(~~;~~);

~~((c) Is being released from a state or community psychiatric hospital;))~~

~~(6) ((Incapacity following hospitalization for mental health reasons will be considered to be established for only sixty days; assistance shall not be continued beyond the initial sixty days without an incapacity review team decision;))~~

~~((7))~~ Incapacity due to alcoholism will be considered to be established when an individual is (~~(accepted)~~) admitted as a resident into either intensive or long-term (~~(residential)~~) treatment at an alcoholism treatment center as defined in WAC 275-19-020.

~~((8))~~(7) Incapacity due to abuse of drugs other than alcohol will be considered to be established for a designated period when an individual is ((accepted)) admitted as a resident into a certified residential

~~drug treatment program, or ((a certified methadone (or approved substitute) maintenance or)) certified detoxification program or is accepted into a certified methadone (or approved substitute) maintenance program.~~

(a) In accordance with the above criteria, incapacity will be considered to be established for the following maximum periods of time:

(i) Detoxification—~~((30))~~ thirty days

(ii) Maintenance—~~((60))~~ sixty days

(iii) Residential treatment—~~((60))~~ sixty days

(b) Assistance shall not be continued beyond the initial period of time described in subdivision (7)(a) without an incapacity review team decision.

~~((9))~~(8) If the person ((has not been referred to the ESSO by an alcoholism or certified drug treatment program)) claiming incapacity due to alcoholism or drug abuse does not meet the criteria in (6) or (7) above, incapacity will be determined by evidence that

(a) Pathological or demonstrable organic damage has resulted from chronic alcoholism or drug abuse, or

(b) The individual, as a result of the addiction, has his judgment so impaired that he is incapable of realizing and making a rational decision with respect to his need for treatment and constitutes a danger to himself, to any other person, or to property.

~~((10))~~(9) Individuals who are found to be incapacitated due to alcoholism or drug abuse ((will)) must be ((required to accept referral to a community)) participating in an approved alcoholism ((center)) or certified drug treatment program ((for evaluation and recommendation related to treatment)).

~~((11))~~(10) An individual who refuses to accept and follow through on available treatment when such treatment is recommended shall not be eligible.

~~((12))~~(11) The use of drugs or alcohol of itself is not evidence that an incapacitating condition exists.

~~((13) Incapacity shall be considered to be established without an incapacity review team decision for an SSI recipient whose needs are not being met by SSI because of separation from a spouse;))~~

**AMENDATORY SECTION** (Amending Order 1444, filed 10/23/79)

**WAC 388-57-015 UTILIZATION OF EMPLOYMENT SECURITY DEPARTMENT DES—REGISTRATION.** ~~((1) An employable applicant/recipient of general assistance shall be currently registered for employment with DES prior to granting of assistance.~~

~~(2) An AFDC-E parent or stepparent who qualifies the assistance unit for the program shall be registered for employment as specified in WAC 388-24-135(5).~~

~~(3) An ((AFDC-E)) AFDC mandatory registrant, WAC 388-24-107, shall be registered for WIN with DES through the CSO at the time of granting of assistance. This requirement shall not affect the eligibility of the children for ((AFDC-R)) ADFC.~~

**Reviser's Note:** The typographical errors in the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

**AMENDATORY SECTION** (Amending Order 1444, filed 10/23/79)

**WAC 388-57-020 UNEMPLOYMENT COMPENSATION STATUS—VERIFICATION.** (1) An applicant for or recipient of ~~((AFDC-R, AFDC-E or general assistance))~~ AFDC who is potentially eligible for unemployment compensation as determined by the CSO based on work history and availability for employment, shall apply for unemployment compensation unless he/she furnishes written verification that he/she is receiving, or not eligible to receive, unemployment compensation.

(2) A recipient of ~~((AFDC-R, AFDC-E or general assistance))~~ AFDC who becomes potentially eligible for unemployment compensation is required to comply with the provisions of subsection (1) within 30 days.

~~((3) The spouse of the AFDC-E applicant/recipient who is potentially eligible for unemployment compensation is required to comply with the provisions of subsections (1) and (2).))~~

**AMENDATORY SECTION** (Amending Order 1472, filed 1/9/80)

**WAC 388-57-032 EMPLOYMENT AND TRAINING (E&T) PROGRAM.** (1) The employment and training (E&T) program is a department of social and health services designated program which is complimentary to and consistent with the work incentive (WIN) program as described in this chapter. It is designed to provide services to

employable recipients of AFDC who are not receiving work incentive (WIN) program services (~~(and to employable applicants/recipients of general assistance)~~).

(2) The WIN rules, including all responsibilities, exemptions, sanctions and protections in chapter 388-57 WAC apply to the employment and training (E&T) program except as outlined in WAC 388-57-032 and 388-57-036.

(3) The following services will be available through the E&T program to recipients in both WIN and non-WIN localities:

- (a) Placement in employment;
  - (b) Referral to other programs offering public service employment (PSE) or training;
  - (c) Self-support services.
- (4) In WIN areas, recipients of AFDC are required to satisfy WIN program requirements prior to being considered for E&T. Persons certified to WIN may be suspended to E&T.

#### AMENDATORY SECTION (Amending Order 1472, filed 1/9/80)

WAC 388-57-036 EMPLOYMENT AND TRAINING (E&T)—DEFINITIONS. The terms in chapter 388-57 WAC apply in the E&T program except:

(1) "Certification" means acceptance for E&T services of (~~(GA-N applicants/recipients and)~~) AFDC recipients in non-WIN areas. The form is retained by the CSO rather than being sent to DES;

(2) "Registrant" means a recipient who is registered for E&T services;

(3) "Self-support services" means counseling, child care, transportation, miscellaneous expense and medical payments during the certification period to assist the recipient in obtaining employment and training (E&T). These departmental payments are exempt;

(4) "DES-DSHS joint case responsibility" is not applicable in the E&T program;

(5) The thirty dollar incentive payment is not applicable in the E&T program;

(6) A sixty-day counseling period according to WAC 388-57-062 shall be provided to AFDC recipients who have failed or refused training or employment in the employment and training program without good cause.

(7) Protective or vendor payments shall not be imposed upon noncooperating ((AFDC-R)) AFDC recipients not certified to WIN((:)).

((8) Registration to the E&T program does not satisfy the requirement to register for employment with DES:))

**Reviser's Note:** The typographical errors in the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

#### AMENDATORY SECTION (Amending Order 1444, filed 10/23/79)

WAC 388-57-056 REFUSAL TO COOPERATE IN APPRAISAL PRIOR TO CERTIFICATION. A WIN registrant, unless a volunteer, who is determined to have failed or refused without good cause to appear for appraisal or otherwise cooperate during the appraisal process will be de-registered from WIN by DES. An E&T registrant, unless a volunteer, who is determined to have failed or refused without good cause to appear for appraisal or otherwise cooperate during the appraisal process will be de-registered from E&T by the CSO.

((1) If the de-registered recipient is the parent who qualified the assistance unit for AFDC-E, the entire assistance unit shall be terminated unless the other parent can qualify the family for AFDC-E (see WAC 388-24-135).

(a) Once a parent who first qualifies the assistance unit for AFDC-E is de-registered, a sanction period is established in accordance with WAC 388-57-061. This person's needs shall be reinstated in the grant after the sanction period is completed or earlier if exempt status is acquired;

(b) The other parent who becomes the qualifying parent must satisfy all eligibility criteria for the AFDC-E program.

((2)) Any ((other)) de-registered ((recipient)) mandatory registrant shall be removed from the AFDC grant for failure to participate. This person's needs shall be reinstated in the grant after the sanction period is completed or earlier if exempt status is acquired.

#### AMENDATORY SECTION (Amending Order 1444, filed 10/23/79)

WAC 388-57-057 WORK INCENTIVE PROGRAM—CERTIFICATION OF AFDC RECIPIENT TO STATE EMPLOYMENT SERVICE. (1) An AFDC recipient registered with WIN shall be certified to the state employment service when requested by the state employment service.

(2) Self-support services required by the individual shall be provided and continued as needed during the individual's participation in all WIN components, and for a thirty-day period from the start of full time, continuous employment. The thirty-day limitation following employment shall include "WIN on-the-job training", "WIN public service employment", and WIN "suspense" to CETA "on-the-job training" and "public service employment".

~~(3) ((An unemployed parent who qualifies the family for AFDC-E must be certified to WIN/E&T within thirty days of receipt of assistance whether or not requested by the state employment service.~~

~~((4)) A certified mandatory registrant may not refuse supportive services if such refusal prevents the individual from accepting an appropriate work or training assignment. Such refusal shall be treated as a refusal to participate without good cause.~~

#### AMENDATORY SECTION (Amending Order 1444, filed 10/23/79)

WAC 388-57-061 REFUSAL OF TRAINING OR EMPLOYMENT UNDER WIN/E&T WITHOUT GOOD CAUSE. (1) This section does not apply to a voluntary WIN/E&T registrant who discontinues participation in the program.

(2) If and for so long as ((an individual)) a mandatory registrant certified to the WIN/E&T program has been determined by DES/DSHS to have refused without good cause to participate in the WIN/E&T program or to accept a bona fide offer of employment in which he/she is able to engage;

~~((a) If such individual is the unemployed parent who qualifies the assistance unit for the AFDC-E program, assistance for the entire assistance unit shall be terminated, unless the other parent can qualify the remaining members of the assistance unit for AFDC-E;~~

~~(b) If such individual is a caretaker relative other than the qualifying parent receiving AFDC-E, his/her needs shall not be taken into account in determining the family's need for assistance;~~

~~((c)) (a) If such individual is a caretaker relative ((receiving AFDC-E)), his/her needs shall not be taken into account in determining the family's need for assistance. Assistance in the form of protective or vendor payments will be provided to WIN-related registrants only;~~

~~((d)) (b) If such individual is the only dependent child in the family, assistance for the family will be terminated; and~~

~~((e)) (c) If such individual is one of several dependent children in the family, assistance for such child will be terminated and his/her needs will not be taken into account in determining the family's need for assistance.~~

(3) The specified sanctions in subsection (2) of this section shall not be applied during the period of sixty days in which the individual is being provided the counseling described in WAC 388-57-062 except that in the case of the caretaker relative receiving AFDC, assistance in behalf of himself/herself and his/her family will be provided in the form of protective or vendor payments as described in WAC 388-33-450.

(4) In the event an individual certified to the WIN/E&T program refuses to accept employment offered to him/her by an employer, whether directly or through the employment service, the determination as to whether the offer was bona fide or there was good cause to refuse the offer will be made by DES/DSHS and will be binding on the department.

(5) In the event an individual certified to DES/DSHS E&T should need to be referred back to the CSO as having good cause for not continuing on a training plan or job, the CSO should promptly restore the assistance payment to the individual if otherwise eligible or make other necessary payment adjustments.

**Reviser's Note:** RCW 34.04.058 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.

**Reviser's Note:** The typographical errors in the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

**AMENDATORY SECTION** (Amending Order 1472, filed 1/9/80)

WAC 388-57-090 REFUSAL OF TRAINING OR EMPLOYMENT UNDER WIN/EMPLOYMENT AND TRAINING WITHOUT GOOD CAUSE—FAIR HEARINGS. (1) An AFDC applicant who claims to be exempt from WIN/employment and training (E&T) registration as provided in WAC 388-24-107 shall be considered exempt until his/her status is finally determined.

(2) An individual who is dissatisfied with the determination that he/she must register for the work incentive (WIN) program or the employment and training (E&T) program as provided in WAC 388-24-107 may request a fair hearing.

(3)(a) DES has responsibility for hearing and deciding disputes over their decisions involving refusal or failure without good cause on the part of a registrant or participant to accept employment or to participate in the work incentive (WIN) program or the employment and training (E&T) program upon suspension from the WIN program.

(b) DSHS has responsibility for hearing and deciding disputes over their decisions involving registrant/participant refusal or failure to accept employment or to participate in the employment and training (E&T) program without good cause only when he/she is not certified to the WIN program. Refer to WAC 388-57-061.

~~((4) This section is applicable to applicants/recipients of general assistance who are employable and are required to participate in the E&T program.))~~

**REPEALER**

The following section of the Washington Administrative Code is repealed.

- (1) 388-57-025 ACCEPTANCE OF FULL OR PART-TIME EMPLOYMENT—EFFECT OF REFUSAL ON ELIGIBILITY.

**WSR 81-06-065  
PROPOSED RULES  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES  
(Public Assistance)  
[Filed March 4, 1981]**

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services intends to adopt, amend, or repeal rules concerning:

- Amd ch. 388-24 WAC Emergency assistance.
- Amd ch. 388-29 WAC AFDC and GAU—Eligibility—Standards of assistance.
- New ch. 388-40 WAC Alcoholism detoxification program.
- Amd ch. 388-42 WAC Funeral expense.
- Amd ch. 388-52 WAC Services involving other agencies.

These rules were adopted on an emergency basis effective March 1, 1981.

Correspondence concerning this notice and proposed rules attached should be addressed to:

David A. Hogan, Director  
Client and Community Relations Division  
Department of Social and Health Services  
Mailstop OB-44  
Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact William B. Pope, Chief, Office of Administrative Regulations, at State Office Building #2, 12th and Jefferson, Olympia, Washington, Phone (206) 753-7015, by March 26,

1981. The meeting site is in a location which is barrier free;

that such agency will at 10:00 a.m., Thursday, April 9, 1981, in the Auditorium, General Administration Building, Olympia, Washington, conduct a hearing relative thereto;

and that the adoption, amendment, or repeal of such rules will take place at 9:00 a.m., Wednesday, April 22, 1981, in William B. Pope's office, 4th Floor, Office Building #2, 12th and Franklin, Olympia, Washington.

The authority under which these rules are proposed is RCW 74.08.090.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to April 9, 1981, and/or orally at 10:00 a.m., Thursday, April 9, 1981, Auditorium, General Administration Building, Olympia, Washington.

Dated: March 3, 1981

By: David A. Hogan  
Director, Client and

Community Relations Division

**STATEMENT OF PURPOSE**

This statement is filed pursuant to RCW 34.04.045.

Amend chapters 388-24, 388-29, 388-42 and 388-52 WAC and new chapter 388-40 WAC.

Purpose of the rule or rule change is to implement the supplemental budget.

The reason(s) these rules are necessary is to comply with chapters 5 and 8, Laws of 1981.

Statutory authority: RCW 74.08.090.

Summary of the rule or rule change: WAC 388-24-250 Changes Federal Emergency Assistance (FEA) requirements to food, medical care, transportation to runaway minors, and emergency foster care effective March 1, 1981. WAC 388-24-255 Clarifies financial need for FEA. WAC 388-24-260 Changes the cross reference to the new FEA standards of assistance and eliminates a reference to immediate warrants. WAC 388-24-270 Eliminates FEA for transportation to a job site. WAC 388-29-010 and 388-29-080 Redefines standards of assistance and the method by which they are determined. WAC 388-29-100 Establishes new tables for the standards of assistance by family size. WAC 388-29-110 Eliminates maximum grants. WAC 388-29-112 Establishes new standards of assistance for federal emergency assistance. Chapter 388-40 WAC Establishes a new chapter entitled alcoholism detoxification program which has the same eligibility criteria as those which existed for medical-only detoxification. WAC 388-42-020 Redefines "burial" and clarifies treatment of contributions from third parties. WAC 388-42-050 Eliminates a dollar reference for V. A. burial benefits.

WAC 388-52-166 Eliminates references to the AFDC-E program.

Person or persons responsible for the drafting, implementation and enforcement of the rule:

Name of initiator: Mick Reynolds

Title: Administrator

Office: Policy Development Section

Mailstop: OB-31 C

Phone: 3-7037.

The person or organization (if other than DSHS) who proposed these rules is: None.

These rules are not necessary as a result of federal laws, federal court decisions or state court decisions.

AMENDATORY SECTION (Amending Order 1565, filed 11/3/80)

WAC 388-24-250 EMERGENCY ASSISTANCE TO NEEDY FAMILIES WITH CHILDREN. (1) Emergency assistance provides assistance in meeting specific emergent needs of a child(ren) and needy caretaker relative(s).

(2) Effective ~~((November 1, 1980))~~ March 1, 1981, emergency assistance shall be provided for only the following requirements:

- (a) Food,
- (b) Medical care as defined in chapter 388-86 WAC,
- (c) Transportation ~~((as specified in WAC 388-24-270))~~ for run-away minors,
- (d) Emergency foster care as described in WAC 388-70-044(~~(:)~~),
- ~~((3))~~ (e) Mass feeding and clothing distribution shall not be provided.
- ~~((4))~~ (3) Emergency assistance shall be used to meet these specified requirements for children and families not eligible for AFDC.

AMENDATORY SECTION (Amending Order 1565, filed 11/3/80)

WAC 388-24-255 EMERGENCY ASSISTANCE—ELIGIBILITY. Emergency assistance shall be provided when the child:

- (1) Is under 18 years of age, and
- (2) Is living with a parent or other relative as specified in WAC 388-24-125(1)(a)(i), or
- (3) Has lived with such relative within the six months prior to the month in which assistance is requested;
- (4) Is in financial need for federal emergency assistance ~~((see WAC 388-28-005))~~ (see WAC 388-29-112) and the financial need is not due to his or such relative's refusal without good cause to accept employment or training for employment.

AMENDATORY SECTION (Amending Order 1565, filed 11/3/80)

WAC 388-24-260 EMERGENCY ASSISTANCE—STANDARDS—DURATION. (1) Effective ~~((November 1, 1980))~~ March 1, 1981, the standards for requirements shall be as provided in ~~((WAC 388-35-070))~~ WAC 388-29-112 and 388-29-190.

- (2) Emergency assistance:
  - (a) ~~((May be paid to the recipient by immediate warrant or by vendor payment:~~
  - ~~(b))~~ (b) May only be granted during one period of thirty consecutive days in any twelve consecutive months.
  - ~~((c))~~ (b) Shall be utilized for AFDC recipients from another state only when such individuals are:
    - (i) Detained in Washington for reasons beyond their control and as a result of events which could not have been reasonably anticipated; or
    - (ii) They have decided to become residents.

AMENDATORY SECTION (Amending Order 1338, filed 9/18/78)

WAC 388-24-270 EMERGENCY ASSISTANCE TO NEEDY FAMILIES WITH CHILDREN—TRANSPORTATION. (1) Transportation for the child ~~((or family))~~ shall be provided for:

- (a) Returning a runaway child ~~((or family))~~ to state of former residence when they do not intend to reside in this state and have no resources available to pay for transportation.
- (b) ~~((Reaching the location of a job when the availability of the job to the specific individual has been verified, or in the case of migrant~~

families whose usual employment is agricultural, it is known that seasonal jobs are available:

~~(c))~~ (c)) Reaching a place where relatives will assume responsibility when the facts have been verified.

(2) Transportation will be paid according to the standard specified in WAC 388-29-190.

AMENDATORY SECTION (Amending Order 1241, filed 9/23/77)

WAC 388-29-010 STANDARDS FOR REQUIREMENTS—PERSON IN OWN HOME. (1) The public assistance law directs the department to establish a cost of living standard for use in determining whether or not an applicant needs money and if so how much he needs.

(2) The law specifies ~~((how this standard shall be made. The standard shall, except in special circumstances, be limited to "reasonable allowances for shelter, fuel, food, clothing, household maintenance and operation, personal maintenance, and necessary incidentals.")~~ that grants shall be awarded on a state-wide basis in accordance with standards of assistance established by the department and may vary by geographical areas.

(3) The law also ~~((contains a measurement of what the legislature considers to be "reasonable allowances" for the cost of the items mentioned above))~~ specifies that, except for the federal emergency assistance program, the standards of assistance for any family size shall be equal to the difference between: (a) The community services administration non-farm poverty level income, and (b) The sum of the food stamp benefit and the low income energy assistance benefit.

(4) The law requires that for the purpose of establishing standards of assistance; (a) the low income energy assistance benefit shall be prorated to determine a monthly amount, and (b) state supplements for supplemental security income recipients shall be no less than the levels specified in 42 U.S.C. Section 1618.

(5) ~~((In developing this standard the department has used the best sources of objective and authoritative information available, including reports and studies by:~~

- (a) Federal and state departments and agencies
- (b) Private research foundations
- (c) Trade associations
- (d) Universities and colleges
- (e) Various other experts in specific fields)) The department may prescribe maximums and rateable reductions for grants.

~~((6))~~ Establishment and maintenance of this standard involves deciding what quantity and quality of goods and services will be included, placing a monthly cost on the items and keeping this currently valid on a statewide basis.)

~~((4))~~ (6) ~~((In line with this legal directive the department has devised and adopted a cost of living standard which is used to measure need and to determine the amount of the grant which will be given:))~~ The amount of the grant which is given is the difference between the monthly dollar value of the standard adjusted for the maximum grant limitation when in effect, and the resource value or income which the applicant or recipient possesses, or can obtain.

(7) ~~((The costs of the items are secured from representative vendors in both small and large communities throughout the state. These costs are then averaged out for each item in order to establish a standard cost or costs which can be used throughout the state. In some cases the majority cost rather than the average is used:))~~

~~((8))~~ (8) The recipient who receives a cash grant uses his own discretion in spending the total funds available to him (grant plus his other income) thus giving him freedom and responsibility in personal planning and variations in taste.

AMENDATORY SECTION (Amending Order 1248, filed 10/25/77)

WAC 388-29-080 MONTHLY COST OF BASIC REQUIREMENTS—MAXIMUMS—PERSON IN OWN HOME—PERSON IN MEDICAL INSTITUTION. (1) The standards for basic requirements in WAC 388-29-100 apply to a person in his own home. The standards in WAC 388-29-150 through 388-29-230 are additional requirements for persons with circumstances as specified.

(2) Individuals in an AFDC or continuing GA assistance unit ~~((require each of))~~ shall be provided the basic requirements.

(3) Basic requirements for a person in his own home are food, clothing, personal maintenance and necessary incidentals, shelter, ~~((and))~~ household maintenance and energy. The monthly cost standards and maximums thereto, if in effect, are based upon the number of recipients in the assistance unit. When two or more assistance units share a common dwelling, the monthly standard for each is based upon

the number of members of that assistance unit. A person receiving Title XVI benefits (SSI) is not considered as a member of an assistance unit.

(4) When a person is in a medical institution basic requirements of food, shelter and household maintenance are not computed in the grant but are paid as a medical care cost.

(5) The monetary allowance for the basic requirements, as determined by the standards in WAC 388-29-100, shall be reduced to the amounts in WAC 388-29-110 when maximum amounts are in effect.

AMENDATORY SECTION (Amending Order 1550, filed 10/2/80)

WAC 388-29-110 MAXIMUMS TO MONTHLY STANDARDS FOR BASIC REQUIREMENTS. ~~((+) Grants to families of 7 or more shall not exceed the following maximums. In computing the grant amount nonexempt income and resources which are available to meet need shall be deducted from the monthly standard specified in WAC 388-29-100.~~

	Number of recipients in household					
	7	8	9	10	11	12
Maximum	\$740	\$772	\$802	\$830	\$856	\$880
	13	14	15	16	17	18
Maximum	\$902	\$922	\$940	\$956	\$970	\$982

~~((2) These standards are effective November 1, 1980))~~ Currently, there are no maximums to monthly standards established.

NEW SECTION

WAC 388-29-112 FEDERAL EMERGENCY ASSISTANCE—STANDARDS OF ASSISTANCE. Effective March 1, 1981 the state-wide monthly standards for the federal emergency assistance program are:

1	\$ 70
2	128
3	183
4	233
5	277
6	332
7	367
8	419
9	472
10	525
Each additional member+53	

AMENDATORY SECTION (Amending Order 1550, filed 10/2/80)

WAC 388-29-100 MONTHLY STANDARDS FOR BASIC REQUIREMENTS—AFDC AND CONTINUING GENERAL ASSISTANCE. (1) Effective ~~((July 1, 1980))~~ March 1, 1981 the state-wide monthly ~~((need))~~ standards for food, clothing, personal maintenance and necessary incidentals, household maintenance, ~~((and))~~ shelter, and energy for those owning (including life estate), buying or renting an apartment or house are:

<del>((+))</del> Recipients in Household	State Standard	Area Differential for King, Pierce, Snohomish, Kitsap and Thurston Counties	State Standard Plus Area Differential for King, Pierce, Snohomish, Kitsap and Thurston Counties	<u>Energy Amount Designated for both Areas I and II</u>
1	<del>((244))</del> 241	<del>((15))</del> 21	<del>((259))</del> 262	78
2	<del>((339))</del> 264	<del>((37))</del> 53	<del>((376))</del> 317	84
3	<del>((425))</del> 342	<del>((33))</del> 47	<del>((458))</del> 389	89
4	<del>((503))</del> 421	<del>((33))</del> 47	<del>((536))</del> 468	94
5	<del>((581))</del> 509	<del>((33))</del> 47	<del>((614))</del> 556	99
6	<del>((659))</del> 581	<del>((33))</del> 47	<del>((692))</del> 628	104
7	<del>((737))</del> 680	<del>((33))</del> 47	<del>((770))</del> 727	109
8	<del>((815))</del> 757	<del>((33))</del> 47	<del>((848))</del> 804	114
9	<del>((893))</del> 833	<del>((33))</del> 47	<del>((926))</del> 880	119
10	<del>((971))</del> 910	<del>((33))</del> 47	<del>((1,004))</del> 957	124
11	<del>((1,049))</del> 986	<del>((33))</del> 47	<del>((1,082))</del> 1,033	129
12	<del>((1,127))</del> 1,063	<del>((33))</del> 47	<del>((1,160))</del> 1,110	134
13	<del>((1,205))</del> 1,139	<del>((33))</del> 47	<del>((1,238))</del> 1,186	139
14	<del>((1,283))</del> 1,215	<del>((33))</del> 47	<del>((1,316))</del> 1,263	144
15	<del>((1,361))</del> 1,292	<del>((33))</del> 47	<del>((1,394))</del> 1,339	149
16	<del>((1,439))</del> 1,368	<del>((33))</del> 47	<del>((1,472))</del> 1,415	154
17	<del>((1,517))</del> 1,445	<del>((33))</del> 47	<del>((1,550))</del> 1,492	159
18 or more	<del>((1,595))</del> 1,521	<del>((33))</del> 47	<del>((1,628))</del> 1,568	164

~~((b))~~ (2) Household with supplied shelter.

The monthly standard for supplied shelter includes requirements for food, clothing, personal maintenance and necessary incidentals, and household maintenance.

~~((2) Effective November 1, 1980, the state-wide monthly payment standards reflecting 96% of the needs standards shall be:~~

Recipients in household - all counties	<u>Energy Amount Designated for both Areas I and II</u>
1	\$ <del>((159))</del> 153
2	<del>((231))</del> 222
3	<del>((306))</del> 294
4	<del>((381))</del> 366
5	<del>((456))</del> 438
6	<del>((531))</del> 510
7	<del>((606))</del> 582
8	<del>((681))</del> 654
9	<del>((756))</del> 726
10	<del>((831))</del> 798
11	<del>((906))</del> 870
12	<del>((981))</del> 942
13	<del>((1,056))</del> 1,014
14	<del>((1,131))</del> 1,086
15	<del>((1,206))</del> 1,158
16	<del>((1,281))</del> 1,230
17	<del>((1,356))</del> 1,302
18 or more	<del>((1,431))</del> 1,374



(a) Recipients in Household	State Standard	Area Differential for King, Pierce, Snohomish, Kitsap and Thurston Counties	State Standard Plus Area Differential for King, Pierce, Snohomish, Kitsap and Thurston Counties
1	234	15	249
2	325	36	361
3	408	32	440
4	483	32	515
5	558	32	590
6	633	32	665
7	708	32	740
8	783	32	815
9	858	32	890
10	933	32	965
11	1,008	32	1,040
12	1,083	32	1,115
13	1,158	32	1,190
14	1,233	32	1,265
15	1,308	32	1,340
16	1,383	32	1,415
17	1,458	32	1,490
18 or more	1,533	32	1,565

(b) Household with supplied shelter:

The monthly standard for supplied shelter includes requirements for food, clothing, personal maintenance and necessary incidentals, and household maintenance.

Recipients in household — all counties

1	\$ 153
2	222
3	294
4	366
5	438
6	510
7	582
8	654
9	726
10	798
11	870
12	942
13	1,014
14	1,086
15	1,158
16	1,230
17	1,302
18 or more	1,374))

NEW SECTION

WAC 388-40-010 ELIGIBLE PERSONS. (1) Persons receiving three-day detoxification services for acute alcoholic condition shall be eligible for the Alcoholism Detoxification Program provided they meet the following eligibility criteria:

(a) He/she is not eligible for or receiving a federal aid grant or medical assistance.

(b) His/her income and or nonexempt resources do not exceed the standards of assistance in WAC 388-29-100(1).

(c) He/she has not transferred resources within two years prior to the date of application without having received adequate consideration according to the provisions of WAC 388-28-461.

(2) The following resources shall be exempt for the Alcoholism Detoxification Program:

- (a) A home.
- (b) Used and useful household furnishings and personal clothing.
- (c) Personal property of great sentimental value.
- (d) Livestock or similar property owned by children when profit is reserved for education.
- (e) Other personal property used to reduce need for assistance or for rehabilitation.
- (f) One cemetery plot for each member of the assistance household.
- (g) A used and useful automobile.

(3) The following resources are not exempt:

(a) Cash, marketable securities and any other resource not specifically exempted that can be converted to cash.

(b) The potential earning power of the applicant or recipient. Even if an applicant has no cash resources, current employment or possibility of employment in the future, as evidenced by past opportunities, may be such that he/she could be reasonably expected to pay all or part of the cost of detoxification out of future earnings.

(4) The following shall be deducted or exempted from income:

(a) Mandatory deductions of employment.

(b) Total income and resources of a noninstitutionalized SSI beneficiary.

(c) Support payments paid under a court order.

(d) Payments to a wage earner plan specified by a court in bankruptcy proceedings, or previously contracted major household repairs if failure to make such payments would result in garnishment of wages or loss of employment.

(5) Recipients receiving detoxification services shall not be required to incur a deductible as a factor of eligibility for the covered period of detoxification.

(6) (a) Eligibility for the Alcoholism Detoxification Program shall be determined on the basis of information shown on the department's application forms.

(b) Supplemental forms, verification procedures, and/or face-to-face interviews shall be required only in cases where there is a positive reason for requiring further verification of eligibility.

(7) When the department is notified within seven days of the date detoxification began, certification shall cover this period if all eligibility factors have been met.

(8) The effective period of eligibility shall be continued from the date detoxification treatment began through the end of the month in which the three-day treatment was completed.

(9) Services must meet the following criteria to be paid through the Alcoholism Detoxification Program:

(a) Such services must be directly related to detoxification, and

(b) Such services must be performed in a certified detoxification center or a general hospital with certified detoxification facilities.

AMENDATORY SECTION (Amending Order 1340, filed 9/22/78)

WAC 388-42-020 FUNERAL EXPENSES—DEFINITIONS AND STANDARDS. (1) "Funeral" shall mean the proper preparation and care of the remains of a deceased person with needed facilities and appropriate memorial services(~~(-including)~~).

(2) "Burial" shall mean necessary costs of a lot or cremation and all services related to interment and the customary memorial marking of a grave.

((2)) (3) Two types of funeral services shall be available: A regular service and a minimum service.

(a) The minimum service shall include:

- (i) Transportation of the body from place of death to mortuary;
- (ii) Proper preparation and care of the remains of the deceased person for immediate disposition by cremation or burial;
- (iii) Preparation and filing of death certificate and permits;
- (iv) A wooden container of sufficient durability to transport the remains from the mortuary to the crematorium or cemetery;
- (v) Transportation of the remains from the mortuary to the crematorium or cemetery;
- (vi) Use of the funeral director's staff and facilities when requested for a memorial service;
- (vii) The cost for these services shall not exceed the standard in WAC 388-42-150(1)(a).

(b) The regular service shall include all the services of the minimum service plus:

- (i) Service car (first call);
- (ii) Embalming and care of the body;
- (iii) Casket of octagon shape cut panel board top, or square with raised top, covered with crepe or flannel cloth, trimmed with full art lining and six bail handles;
- (iv) Use of reposing rooms, chapel, casket coach, one car for family and personal services;
- (v) The cost of these services shall not exceed the standard in WAC 388-42-150(1)(b).

((3)) (4) Payment for the regular service shall be authorized only upon request by someone who wishes the deceased to have a regular funeral service and who plans to attend the service. Otherwise, only the minimum service shall be authorized.

((4)) (5) Disposition of the body shall be by cremation or burial.

(a) Burial services shall include:

- (i) Burial plot if not previously provided;
- (ii) Minimum grave marker;

- (iii) Liner and endowed care if either or both are required;
- (iv) Cost of the lot purchased within thirty days prior to burial shall be included in cemetery costs;
- (v) Opening and closing grave;
- (vi) Items available under a prepaid plan shall be utilized for the purpose intended. The original cost or current market value of the prepaid items or service need not be computed;
- (vii) The cost of burial services shall not exceed the standard in WAC 388-42-150(2)(a).
- (b) Cremation services shall include:
  - (i) Cremation;
  - (ii) An urn of metal or other substantial material;
  - (iii) Marker;
  - (iv) Space for disposition of the remains either in a mausoleum or cemetery;
  - (v) Disposition of cremated remains;
  - (vi) Costs for cremation services shall not exceed the standard in WAC 388-42-150(2)(b).
- (6) Payment made for any funeral or burial service by relatives, friends, or any other third party shall be deducted from the payment made by the department.

~~((5)) (7) ((The local office shall not authorize nor shall the funeral director, cemetery or crematory accept any supplemental payment for goods and services furnished in excess of the department's standard.))~~ Donated flowers, music and ministerial service shall not be ~~((considered as supplementation))~~ deducted from the department's payment. However, if these services are provided by the funeral director they are considered as part of the funeral director's services and their cost must be included in the department's standard.

**AMENDATORY SECTION** (Amending Order 538, filed 3/31/71, effective 5/1/71)

**WAC 388-42-050 FUNERAL EXPENSE—VETERANS' BURIAL BENEFIT.** The United States veterans' administration pays ~~((5250))~~ burial benefits for a war veteran who has not been dishonorably discharged and to certain other veterans as provided by veterans' administration regulations. Application should be made to the veterans' administration in all instances except when it is obvious there is no entitlement. The funeral director, if unpaid, or who paid the veteran's funeral expense, may claim the reimbursement from the veterans' administration. If there is any possibility that a veterans' burial benefit is available, it is essential that a claim be made prior to payment by the department. ~~The ((L0))~~ local office shall authorize only the difference between the cost of the funeral and the death benefit. If the claim for reimbursement is denied, the original authorization shall be cancelled and payment reauthorized in the corrected amount. The department cannot claim reimbursement from the veterans' administration.

**Reviser's Note:** RCW 34.04.058 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 Order 1368, filed 2/15/79)

**WAC 388-52-166 COMPREHENSIVE EMPLOYMENT AND TRAINING PROGRAM—PARTICIPATION OF RECIPIENT.** (1) If ~~((the))~~ an AFDC participant is certified and assigned to the CETA program by WIN, WIN rules regarding participation requirements are applicable.

(2) ~~((If the participant is enrolled on the basis of an independent plan, or if the participation of an AFDC-E recipient is part of a local office approved training plan, WAC 388-24-090(1)(c), 388-57-025 and 388-57-030 are applicable.))~~

(3) ~~((An AFDC-R recipient))~~ He/She is required to participate only if assigned by WIN/E&T.

**Reviser's Note:** The typographical errors in the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

**WSR 81-06-066**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
**(Public Assistance)**  
 [Filed March 4, 1981]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services intends to adopt, amend, or repeal rules concerning AFDC—Eligibility, amending chapter 388-24 WAC.

These rules were adopted on an emergency basis effective March 1, 1981.

Correspondence concerning this notice and proposed rules attached should be addressed to:

David A. Hogan, Director  
 Client and Community Relations Division  
 Department of Social and Health Services  
 Mailstop OB-44 D  
 Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact William B. Pope, Chief, Office of Administrative Regulations, at State Office Building #2, 12th and Jefferson, Olympia, Washington, Phone (206) 753-7015, by March 26, 1981. The meeting site is in a location which is barrier free;

that such agency will at 10:00 a.m., Thursday, April 9, 1981, in the Auditorium, General Administration Building, Olympia, Washington, conduct a hearing relative thereto;

and that the adoption, amendment, or repeal of such rules will take place at 9:00 a.m., Wednesday, April 22, 1981, in William B. Pope's office, 4th floor, Office Building #2, 12th and Franklin, Olympia, Washington.

The authority under which these rules are proposed is RCW 74.08.090.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to April 9, 1981, and/or orally at 10:00 a.m., Thursday, April 9, 1981, Auditorium, General Administration Building, Olympia, Washington.

Dated: March 3, 1981

By: David A. Hogan  
 Director, Client and Community Relations Division

**STATEMENT OF PURPOSE**

This statement is filed pursuant to RCW 34.04.045.

Amend chapter 388-24 WAC.

Purpose of the rule or rule change is to implement the supplemental budget by eliminating the AFDC-E program.

The reason(s) these rules are necessary is to comply with chapters 5 and 8, Laws of 1981.

Statutory authority: RCW 74.08.090.

Summary of the rule or rule change: The AFDC-E program is eliminated. Unemployment will no longer establish eligibility for AFDC.

Person or persons responsible for the drafting, implementation and enforcement of the rule:

Name of initiator: Mick Reynolds.

Title: Administrator.

Office: Policy Development Section.

Mailstop: OB-31 C.

Phone: 3-7037.

The person or organization (if other than DSHS) who proposed these rules is: None.

These rules are not necessary as a result of federal laws, federal court decisions or state court decisions.

#### AMENDATORY SECTION (Amending Order 1444, filed 10/23/79)

WAC 388-24-040 AID TO FAMILIES WITH DEPENDENT CHILDREN—SUMMARY OF ELIGIBILITY CONDITIONS. AFDC shall be granted in behalf of a needy child((†));

(1) Who is under the age of eighteen years;

(a) AFDC may be granted on behalf of an unborn child. Medical confirmation of pregnancy is required;

(b) AFDC shall be continued through the month in which the child reaches the maximum age;

(2) Who is a resident of the state of Washington, or who lives with a parent or other relative who is a resident of the state of Washington—see WAC 388-26-050 through 388-26-105;

(3) Who is deprived of parental care and support because of death, continued absence, or incapacity of a parent or stepparent—see WAC 388-24-055 through ((388-24-075)) 388-24-070; ((If unemployment of a parent or stepparent is the basis of deprivation, all provisions in WAC 388-24-135 apply;))

(4) Whose parent or stepparent, if incapacitated, does not refuse available medical treatment without good cause as specified in WAC 388-24-065(6);

(5)(a) Who is living in the home of a relative of specified degree, except for a temporary period, as provided in WAC 388-24-125;

(b) Who, as a result of judicial action, was removed from his home and placed in foster care after April 30, 1961, and who meets the conditions specified in WAC 388-24-207;

(6) Who is a citizen or an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States as described in WAC 388-26-120;

(7) Whose parent or stepparent has not transferred property contrary to law or DSHS rules in WAC 388-28-457 through 388-28-465;

(8) Who is in financial need—see chapters 388-28 and 388-33 WAC;

(9) The applicant's written statement of application for AFDC must include all children under eighteen years of age living in the home who are full or half brothers or sisters or stepbrothers or stepsisters whether or not financial assistance is being requested for all of the children. Total resources and income available for all such children and their parents or stepparents in the home must be declared by the person applying in behalf of the children;

(10) For persons to be included in the AFDC assistance unit, see WAC 388-24-050.

**Reviser's Note:** RCW 34.04.058 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 Order 1444, filed 10/23/79)

WAC 388-24-050 AID TO FAMILIES WITH DEPENDENT CHILDREN—ASSISTANCE UNIT. ((AFDC-R/E)) AFDC is paid to eligible persons on an assistance unit basis. Assistance units shall be composed of groups of persons residing together as follows:

(1) A single assistance unit shall be established for:

(a) The eligible child(ren); and

(i) The eligible natural or adoptive parent(s) or stepparent(s) with whom the child(ren) lives; or

(ii) In lieu of a parent, one needy relative caretaker of specified degree with whom the child lives and whose eligibility depends solely on caring for the child(ren)((:));

(b) Only the eligible child(ren) when:

(i) The child(ren)'s parent(s) is not eligible;

(ii) The child(ren) lives with a nonneedy relative of specified degree who is not legally responsible for the support of the child(ren);

(iii) The child(ren) lives with a needy nonresponsible relative of specified degree who receives SSI;

(iv) The child(ren) is a recipient of AFDC-FC;

(c) Only the eligible parent(s), or needy caretaker relative of specified degree, when the only child, or all the children, has been deleted from the grant because of receiving income from SSI;

(d) Only the eligible parent(s) when the only child is unborn.

(2) Two assistance units are necessary when:

(a) The responsible relative must temporarily reside apart from his or her family to secure training in accordance with an approved plan. Refer to WAC 388-24-125;

(i) One assistance unit is maintained for the family members in the home;

(ii) A separate assistance unit is established for the relative in training;

(b) The child lives with a nonresponsible relative of specified degree who is a member of another assistance unit.

(3) Two or more assistance units are necessary when two or more persons not married to each other, each has his/her own child(ren) and there is no child in common; a separate assistance unit is established for each parent and his/her eligible child(ren);

(4) When a relative of specified degree is eligible to receive assistance for two or more children for whom he/she is not legally responsible;

(a) One assistance unit is established for each group of children who are siblings;

(b) A separate assistance unit(s) is established for each of the other nonliving children.

**Reviser's Note:** The typographical errors in the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

#### AMENDATORY SECTION (Amending Order 1191, filed 2/18/77)

WAC 388-24-065 AID TO FAMILIES WITH DEPENDENT CHILDREN((-REGULAR))— DEPRIVATION DUE TO INCAPACITY. (1) A child is considered to be deprived of parental support and care by reason of parental incapacity when he/she lives with two natural or adoptive parents or one natural or adoptive parent and one stepparent and one or both parents are substantially incapacitated.

(2) "Incapacity" refers to the existence of a physiological, emotional and/or mental impairment, defect, illness, or loss.

(a) "Substantially incapacitated" shall mean that the person can be expected to work at gainful employment for no more than one-half the time customarily required of fully employable persons; or that the person cannot perform necessary homemaking activities and/or provide adequate care for the children without help from other individuals.

(b) An exception to the rule in subdivision (2)(a) may be made when a person with limited skill and abilities is working more than half time in a special workshop or special work arrangement for handicapped individuals and the work is not fully competitive. Incapacity may continue to exist if the person is incapable of work in competitive work arrangements with full wages.

(c) Incapacity can be of a permanent or temporary nature, but must be expected to last for a period of at least 30 days from the date of application.

(3) A claim of incapacity shall be substantiated by competent medical testimony.

(a) A physiological incapacity will be documented by a report from a physician or chiropractor.

(b) A mental or emotional incapacity will be documented by a report from a psychiatrist, a clinical psychologist, or a mental health clinic when the report is signed by the clinic director.

(c) All medical testimony shall be in writing and must include a diagnosis and prognosis for the incapacity and a description of the effect of the condition on the individual's ability to function.

(4) Mental or emotional incapacity shall be determined on the basis of distinct impairments which substantially reduce a parent's ability to engage in activities necessary to carry on full-time specified responsibilities, such as employment, home management and/or adequate care of children. Evidence of any one or a combination of the following conditions may be sufficient to establish incapacity:

(a) Inability to exercise judgment, make decisions, sustain an adequate attention span, follow directions or learn to the degree necessary to sustain full-time employment, homemaking activities or care of the children.

(b) Bizarre or inappropriate behavior beyond his/her capability to control.

(c) Significant loss of physical and motor control.

(d) Inadequate perception and memory.

(e) Use of medication which impairs functioning.

(5) Incapacity due to alcoholism or drug addiction shall be determined by medical evidence that:

(a) Pathological or organic damage has resulted from chronic alcohol and/or drug abuse, or

(b) The use of alcohol or drugs has substantially reduced the parent's ability to engage in full-time employment or homemaking activities.

(6) Individuals who are determined to be incapacitated due to alcoholism or drug abuse shall be required to accept referral to a community alcoholism or drug treatment program for evaluation and recommendation for treatment. (See subsection 12)

(7) The medical testimony shall be supported by an objective appraisal of all factors relevant to the individual's situation.

(a) Consideration shall be given to the individual's age, emotional health, aptitudes, adjustment to and acceptance of the incapacity, family circumstances, employment history, education and the extent to which the individual is able to carry out specified responsibilities such as employment or homemaking. Social or educational deficiencies do not of themselves establish incapacity but may have a bearing on an individual's ability to overcome an incapacity.

(b) If an individual has an obvious incapacity for which medical evidence verifies inability to engage in gainful employment such an appraisal is not required.

(8) Deprivation due to incapacity shall be determined by the ((ESSO)) CSO incapacity review team in accordance with the criteria in subsections (1) through (7). The review team shall:

(a) Consider medical and other related evidence of the incapacitating condition and make a decision confirming or denying the existence of incapacity within thirty days of the date of application, except in circumstances beyond the control of the agency such as delay on the part of the applicant, the examining physician or other source of documentation.

(b) Request additional information when necessary.

(c) Consult with the medical consultant as necessary for evaluation of medical data.

(d) Determine probable duration of incapacity. The probable duration shall be related to the prognosis for the condition as predicted by the medical evidence but shall not exceed twelve months without a re-determination of incapacity.

(9) Eligibility cannot be established if an applicant or recipient fails to cooperate in obtaining information documenting incapacity.

(10) Cost of necessary medical reports to determine incapacity shall be paid by the department. Payment for such reports shall not be made to DSHS agencies.

(11) Eligibility of either parent or stepparent in the home for veterans benefits based on disability of 50((%)) percent or more or for any social security administration benefit based on disability shall establish incapacity for aid to families with dependent children benefits, without further documentation or referral to the incapacity review team.

(12) Acceptance of available medical treatment

(a) Deprivation cannot be established when an AFDC parent or stepparent whose incapacity deprives his/her ((or)) child(ren) or stepchild(ren) of parental support or care, refused without good cause to accept available medical treatment which would reasonably be expected to render him/her ((or)) employable.

(i) "Available medical treatment" shall mean and include medical, surgical, psychiatric therapy, treatment in an alcoholism or drug treatment center, or any combination thereof.

(ii) "Reasonably be expected to render him/her employable" shall mean that, in the opinion of the medical consultant the recommended medical, surgical or psychiatric therapy, or any combination thereof, is

of such a nature and prognosis that, in the specific instance of the individual involved, medical experience indicates that the recommended treatment will restore or substantially improve the individual's ability to work for pay in a regular and predictable manner, or to resume care of the home or children.

(iii) "Refuses without good cause" shall mean that the ((ESSO)) CSO shall determine whether the individual is justified in refusing recommended medical treatment.

(b) An individual is justified in refusing recommended medical treatment when, according to the best objective judgment of the ((ESSO)) CSO review team confirmed by the ((ESSO)) CSO administrator and the medical consultant, such refusal is based upon one or more of the following conditions:

(i) The individual is genuinely fearful of undergoing recommended treatment even though such fear may appear to be unrealistic or irrational;

(ii) The individual could use a faculty, or the remaining use of a faculty he now has, and refuses to accept the risk;

(iii) The individual will not accept recommended medical treatment because of religious scruples.

Reviser's Note: RCW 34.04.058 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 Order 1444, filed 10/23/79)

WAC 388-24-090 ELIGIBILITY CONDITIONS APPLICABLE TO ((AFDC-R AND AFDC-E)) AFDC-EMPLOYMENT OR TRAINING. ((1) For a child to be eligible for AFDC-E his/her unemployed parent or stepparent who qualifies the assistance unit for the program shall:

(a) Be currently registered for employment with DES as indicated in WAC 388-24-135(5);

(b) Show evidence of unemployment benefit status as specified in WAC 388-57-020 and 388-24-135(6);

(c) Accept employment or training for employment as indicated in WAC 388-57-025 and 388-57-030 unless certified to WIN/E&T.)

((2)) (1) All AFDC applicants and recipients are subject to WIN or employment and training (E&T) registration as provided in WAC 388-24-107.

((3)) (2) A WIN/E&T registrant, unless a volunteer, who fails to cooperate in appraisal prior to certification shall be subject to the provisions of WAC 388-57-056.

((4)) (3)(a) An AFDC recipient, unless a volunteer, who has been certified for the work incentive (WIN) program and who is determined by DES to have refused employment or training or participation in the WIN program without good cause shall be subject to provisions of WAC 388-57-061.

(b) An AFDC recipient, unless a volunteer, who has been certified for the E&T program and who is determined by DSHS to have refused employment, training or participation in the E&T program without good cause shall be subject to provisions of WAC 388-57-061.

((5)) (4) A child's eligibility is not affected by the WIN/E&T registration requirement for the parent or needy caretaker relative ((in the AFDC-R program)). ((A child's eligibility is affected by the WIN/E&T requirement for the unemployed parent in the AFDC-E program:))

((6)) (5) An individual who has been determined to be exempt from registration for WIN/E&T on the basis of documented incapacity shall be referred to DVR. See also WAC 388-52-150 through 388-52-155.

#### AMENDATORY SECTION (Amending Order 1499, filed 4/16/80)

WAC 388-24-107 ELIGIBILITY CONDITIONS APPLICABLE TO ((AFDC-R AND AFDC-E)) AFDC-REGISTRATION FOR WIN/EMPLOYMENT AND TRAINING. (1) As a condition of eligibility for AFDC, every individual shall register for the WIN or employment and training (E&T) program unless such individual is:

(a) Under age sixteen or age sixteen but not yet eighteen who is enrolled as, or has been accepted for enrollment as, a full-time student for the next school term,

(b) A person who is ill, incapacitated, or sixty-five years of age or older. Cost of a physical or psychiatric examination is authorized when the examination is to determine employability for registration or participation in the WIN/E&T program,

(i) Temporary illness or incapacity (a condition lasting not more than ninety days) provides WIN/E&T exemption only for the period of a documented condition of unemployability. Exemption terminates when the condition ceases.

(ii) Persons who have been determined to be exempt from registration on the basis of permanent incapacity shall be referred for services under the vocational rehabilitation program.

(c) A person residing outside a WIN/E&T area or at a location so remote from a WIN/E&T project that his/her effective participation is precluded,

(d) A person whose presence in the home is required because of illness or incapacity of another member of the household,

(e) A parent or other needy caretaker relative of a child under the age of six who is caring for the child,

(f) A mother of an unborn child((:));

~~(g) A parent caretaker of a child, when the other parent or stepparent is in the home and is not exempted by (a), (b), (c) or (d) of this subsection.~~

(2) Any applicant or recipient has a right to a fair hearing to contest a determination of nonexempt status and shall be considered as exempt until his/her status is finally determined. (See WAC 388-57-090).

~~((3) Any parent who qualifies the assistance unit for AFDC-E and the entire assistance unit shall be determined ineligible if that parent fails or refuses to register for the WIN/E&T program. When both parents meet the eligibility criteria, they have the option as to who shall qualify the assistance unit. When the parent who has qualified the assistance unit fails or refuses to register, the other parent shall register. The requirements of the noncooperating parent shall not be taken into account in determining the requirements of the assistance unit and the amount of assistance. (See WAC 388-57-056:))~~

~~((4) (3) The requirements of any individual ((other than the parent who qualifies the assistance unit for AFDC-E)) who fails to register as required under subsection (1) of this section shall not be taken into account in determining the requirements of the assistance unit and the amount of assistance, and assistance will be granted to the eligible members of the assistance unit.~~

~~((5)) (4) An exempt parent caretaker of a child or unborn child under the age of six shall be advised of her/his option to register if she/he so desires, and of the fact that child care will be provided if needed. Other exempted individuals may volunteer to register, subject to acceptance of such registration by DES.~~

~~((6)) (5) Effective January 1, 1980 when an AFDC recipient who has been classified as exempt from WIN/E&T registration reports any change which affects the exempt status, he/she shall be registered within thirty days after the report. If a change is not reported, exempt or nonexempt status will be determined at the next review.~~

~~((7)) (6) The department's income maintenance unit (IMU) shall determine which AFDC applicants/recipients are exempt from registration and which are required to register as a condition of eligibility.~~

**Reviser's Note:** The typographical errors in the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

#### AMENDATORY SECTION (Amending Order 1054, filed 9/25/75)

~~WAC 388-24-108 ELIGIBILITY CONDITIONS APPLICABLE TO ((AFDC-R AND AFDC-E)) AFDC-ASSIGNMENT OF RIGHTS TO SUPPORT. (1) As a condition of eligibility each applicant for or recipient of AFDC shall assign to the office of support enforcement any and all right, title and interest in any support obligation the applicant or recipient may have in his/her ((or)) own behalf or on the behalf of any family member for whom application is being made; such assignment shall include rights in support payments which have accrued prior to the time assignment is made, and shall require the applicant/recipient to promptly remit to the office of support enforcement any payments received directly from the person legally responsible to pay support.~~

~~(2) If the parent or other caretaker relative with whom the child is living fails or refuses to comply with the requirement in subsection (1), the caretaker relative shall be ineligible to receive assistance and any assistance for which the children may be eligible shall be provided by protective payment as specified in WAC 388-33-453; the determination of requirements for the child(ren) shall be computed without regard to the requirements of the caretaker relative.~~

~~(3) The requirement of subsection (1) shall be applicable to recipients no later than the next regular redetermination of eligibility.~~

#### AMENDATORY SECTION (Amending Order 1330, filed 8/22/78)

~~WAC 388-24-109 ELIGIBILITY CONDITIONS APPLICABLE TO ((AFDC-R AND AFDC-E)) AFDC-COOPERATION IN OBTAINING SUPPORT FROM ABSENT PARENTS. As a condition of eligibility each applicant for or recipient of AFDC shall be required to cooperate as specified in WAC 388-14-200 except as specified in WAC 388-24-111.~~

#### AMENDATORY SECTION (Amending Order 1417, filed 7/19/79)

~~WAC 388-24-125 ELIGIBILITY CONDITIONS APPLICABLE TO ((AFDC-R AND AFDC-E)) AFDC-LIVING IN HOME OF RELATIVE OF SPECIFIED DEGREE. (1) Relationship of child to relative~~

~~(a) A dependent child to be eligible for ((AFDC-R)) AFDC must be living with one or more of the following relatives in a place of residence the relative(s) maintains as his or her own home:~~

~~(i) Blood relatives (including those of half-blood); father, mother, brother, sister, uncle, aunt, first cousin, nephew or niece. Relationships to persons of preceding generations as denoted by the prefixes of grand, great, or great-great are within this definition.~~

~~(ii) Stepfather, stepmother, stepbrother and stepsister. Adoption of a child by a stepparent changes the relationship from stepparent to adoptive parent.~~

~~(iii) Persons who legally adopt a child. Relatives of persons who adopt children are included within the definition of "relative" above.~~

~~(iv) Spouse of any persons named in the above groups are within the scope of this provision, although the marriage is terminated by death or divorce.~~

~~((b) A child eligible for AFDC-E must be living with both natural or adoptive parents, or a parent and stepparent, as defined in WAC 388-24-135. A child of unmarried parents is included. In order to determine members of the assistance unit, see WAC 388-24-050 also:))~~

~~((c)) (b) A child eligible for AFDC-FC must live in a licensed family foster home, nonprofit group home, or nonprofit child care institution.~~

~~((d)) (c) The unborn child is considered to be living with the mother.~~

~~(2) Verification of relationships - relative to child and parents to each other.~~

~~(3) Other considerations in determining when child is living in home of relative of specified degree.~~

~~(a) "Living in home of relative" means that the child is an accepted member of a family unit, and therefore, has a close and direct relationship with a specified relative who has assumed parental responsibility for the care, guidance and control of the child.~~

~~(b) The "home" is a family setting which is maintained or is in the process of being established for the benefit of the family group. A home exists as long as the responsible relative exercises responsibility for the care and control of the child, even though circumstances may require the temporary absence of either the child or the responsible relative from the customary family setting. Such temporary separations include:~~

~~(i) Temporary care of the child or the responsible relative in a hospital or public or private institution when the illness is such that a return to the family can be expected and parental responsibility continues. If the temporary care exceeds ninety days the monthly grant standard shall be as specified in WAC 388-29-125.~~

~~(ii) Attendance of a child in school when the purpose is primarily for obtaining an education or vocational training, the responsible relative retains full responsibility for the child and the child returns home during a year's period, at least for summer vacation. The monthly grant standard for a child attending school away from home shall be as specified in WAC ((388-28-142)) 388-29-145. However, even temporary absence of a child from his home for this purpose makes a child ineligible for AFDC unless the attendance at the school is due to~~

~~(A) Need for specialized education and training not available in the child's home community, and such specialized education is recommended by local school authorities, or~~

~~(B) Isolation of the child's home making it necessary for him to be away from home to attend school.~~

~~(iii) Visits in which the child or responsible relative is away from home for ninety days or less, including visits of a child to a parent residing away from the child's customary family home. If the responsible relative or child leaves the home for more than ninety days, eligibility is redetermined in accordance with the new circumstances.~~

(iv) Attendance in a vocational training program when it is necessary for a responsible relative to reside temporarily apart from his or her family to secure the training. Absence is considered temporary for the period of time required to complete the training program, if the responsible relative retains parental responsibility for the child during the absence and plans to return to the home upon completion of training.

(A) CSO approval is required for the training plan. (See WAC 388-57-028(2)).

(B) A separate assistance unit shall be established for the responsible relative in training away from home.

(v) Temporary placement of the child in foster care while the parent is temporarily receiving care in a residential treatment facility, where such absences do not exceed thirty days.

(c) An AFDC payment can be made for a child who is a ward of the juvenile court, or other agency to whom the court has delegated authority, if all other eligibility factors have been met and the relative of specified degree actually carries out the everyday care, control and supervision of the child.

(d) An AFDC payment cannot be made if the court, or other agency to whom the court has delegated authority, has physical custody of the child and carries out the actual day-to-day care, control and supervision of the child.

(e) An AFDC payment can be made to the caretaker relative in behalf of a child even if the child is in foster care. The caretaker relative can apply for and receive AFDC for him/herself and the child for thirty days, even though the child is not physically in the custody of the relative if:

(i) The caretaker relative is otherwise eligible,

(ii) The child is returned to the relative's home before the end of that thirty day assistance period,

(iii) No AFDC payments are being made for the child, either in another relative's home or through AFDC-FC in that same thirty day period.

**Reviser's Note:** RCW 34.04.058 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 Order 1444, filed 10/23/79)

**WAC 388-24-137 CONTINUATION OF ASSISTANCE WHEN DEPRIVATION CEASES.** (1) When deprivation due to incapacity or absence ceases and the family remains in need, the CSO shall determine if any other basis for deprivation exists.

(2) If there is no deprivation due to death(~~(-unemployment)~~) or incapacity after deprivation due to absence ceases, and the family remains in need and otherwise eligible, assistance may be continued for a temporary period as follows:

(a) Assistance will be discontinued at the end of the next calendar month after deprivation due to absence ceases unless some other type of deprivation exists.

(b) Assistance will be continued only when the change in circumstances has been reported as specified in WAC 388-38-255.

(3) If there is no other basis for deprivation after incapacity ceases and the family remains in need and otherwise eligible for (~~(AFDC-R)~~) AFDC, assistance may be continued until the end of the month following the month in which the parent's or stepparent's incapacity ceases to exist.

~~((a) When a formerly incapacitated parent or stepparent who qualifies the assistance unit for AFDC-E obtains employment, subsection (4) is applicable.~~

~~(4) If there is no other basis for deprivation, when an unemployed parent or stepparent who qualifies the assistance unit for AFDC-E obtains fulltime employment as defined in WAC 388-24-135(1)(a) or (b), assistance is continued, if otherwise eligible, until the end of the month in which he/she receives his/her pay for the first one hundred hours of employment or until the end of the next calendar month whichever is earlier.)~~

**REPEALER**

The following sections of the Washington Administrative Code are repealed.

- (1) WAC 388-24-075 AID TO FAMILIES WITH DEPENDENT CHILDREN-REGULAR-

- (2) WAC 388-24-135 MULTIPLE DEPRIVATION FACTORS. AID TO FAMILIES WITH DEPENDENT CHILDREN-EMPLOYABLE PARENT SUMMARY OF ELIGIBILITY CONDITIONS.

**WSR 81-06-067  
PROPOSED RULES  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES  
(Public Assistance)  
[Filed March 4, 1981]**

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services intends to adopt, amend, or repeal rules concerning Eligibility—Chore services, amending WAC 388-15-020.

These rules were adopted on an emergency basis effective March 1, 1981.

Correspondence concerning this notice and proposed rules attached should be addressed to:

David A. Hogan, Director  
Client and Community Relations Division  
Department of Social and Health Services  
Mailstop OB-44 D  
Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact William B. Pope, Chief, Office of Administrative Regulations, at State Office Building #2, 12th and Jefferson, Olympia, Washington, Phone (206) 753-7015, by March 26, 1981. The meeting site is in a location which is barrier free;

that such agency will at 10:00 a.m., Thursday, April 9, 1981, in the Auditorium, General Administration Building, Olympia, Washington, conduct a hearing relative thereto;

and that the adoption, amendment, or repeal of such rules will take place at 9:00 a.m., Wednesday, April 22, 1981, in William B. Pope's office, 4th floor, Office Building #2, 12th and Franklin, Olympia, Washington.

The authority under which these rules are proposed is RCW 74.08.090.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to April 9, 1981, and/or orally at 10:00 a.m., Thursday, April 9, 1981, Auditorium, General Administration Building, Olympia, Washington.

Dated: March 3, 1981

By: David A. Hogan  
Director, Client and  
Community Relations Division

**STATEMENT OF PURPOSE**

This statement is filed pursuant to RCW 34.04.045.

Amend WAC 388-15-020.

The purpose of this rule change is to revise the chore services income eligibility.

SHB 245 signed into law by the Governor takes effect immediately and reduces chore services income eligibility.

Statutory authority: RCW 74.08.090.

SHB 245 reduces chore services income eligibility for new applicants immediately.

Persons responsible for the drafting, implementation, and enforcement of the rule:

Names of initiator: Kathy Leitch, 753-3163 and Phil Wozniak, 754-2968.

Title: Community Services Program Manager II.

Bureau of Aging, MS OB-43G.

Bureau of Community and Residential Care, MS OB-42A.

The legislature in SHB 245.

These rules are not necessary as a result of federal laws, federal court decisions or state court decisions.

These rules must be adopted by emergency because they are necessary to implement a new state law.

**AMENDATORY SECTION (Amending Order 1581, filed 12/19/80)**

WAC 388-15-020 ELIGIBLE PERSONS. (1) Individuals eligible for services are:

(a) Recipients of aid to families with dependent children (AFDC recipients).

(b) Individuals whose needs were taken into account in determining the needs of AFDC recipients.

(c) Recipients of supplemental security income or state supplementary payments related to age, blindness or permanent and total disability.

(d) Recipients of federal aid medical care only categorically related to Title XVI supplemental security income or AFDC, provided gross family income does not exceed 80% of the state median gross income for a family of four, adjusted for family size.

(e) Any individual or family regardless of age, blindness or disability, whose gross family income does not exceed 80% of the state median income for a family of four, adjusted for family size, except that:

(i) No individual or family is eligible for (~~chore services~~) family planning or alcoholism services whose gross family income is in excess of 50% of the state median income for a family of four, adjusted for family size (~~except that a single individual may receive chore services if his median gross income does not exceed 57% of the state's median gross income for a family of four adjusted for family size~~).

(ii) No individual or family is eligible on a group basis for developmental disabilities, case services, developmental disabilities home-aid resources, developmental disabilities developmental centers or extended sheltered employment unless at least 75% of persons given these services are members of families whose gross monthly income do not exceed 90% of the state median income, adjusted for family size.

(iii) Information and referral services, services to children in their own home or protective service may be given to any individual regardless of the level of gross family income. Child protective services are provided without charge. Where ancillary services such as chore services or homemaker services are an integral but subordinate part of a protective service plan for children or adults, they may be provided without regard to the level of gross family income.

(iv) No individual or family is eligible for chore services who is not an adult recipient of supplemental security income and/or state supplementation or who has income above the state standards for supplemental security income and state supplementation.

Clients receiving chore services (income eligibility determined, client review questionnaire administered, and hours authorized) as of February 28, 1981, but who have income above the standards for supplemental security income and state supplementation shall have services continued, reduced, or terminated as determined by the department. Clients receiving chore services as of February 28, 1981, whose gross family income is in excess of fifty percent of the state median income for a family of four, adjusted for family size, or fifty-seven percent of

the state median income adjusted for family size for a single person, are not eligible to receive chore services.

Clients receiving attendant care services from the bureau of community and residential care as of February 28, 1981, (income eligibility determined, client review questionnaire administered, and monthly rate authorized) will continue to receive service through June 30, 1981, or until such time as gross family income is in excess of fifty percent of the state median income for a family of four, adjusted for family size or fifty-seven percent of the state median income adjusted for family size for a single person.

(2) Gross median income for a family of four in the state of Washington effective October 1, 1980 is \$21,494. 80% = \$17,195.

(a) Income tables for 80% gross median income:

Number in Family	Monthly Income	Annual Income
1	745	8,942
2	974	11,693
3	1,204	14,444
4	1,433	17,195
5	1,662	19,946
6	1,892	22,698

(b) Income tables for 57% gross median income, one-person family only.

Family Size	Monthly Income	Annual Income
1	531	6,370

(c) Income table for 52% gross median income:

Family Size	Monthly Income	Annual Income
2	633	7,600
3	782	9,389
4	931	11,177
5	1,080	12,965
6	1,229	14,753

(d) Income tables for 50% gross median income:

Family Size	Monthly Income	Annual Income
1	466	5,588
2	609	7,308
3	752	9,027
4	896	10,747
5	1,039	12,467
6	1,182	14,186

(e) Income tables for 38% gross median income:

Family Size	Monthly Income	Annual Income
1	354	4,247
2	463	5,554
3	572	6,861
4	681	8,168
5	790	9,475
6	898	10,781

(f) See WAC 388-29-100 for grant standards.

(3) Family means two or more persons related by blood, marriage or adoption, residing in the same household, and may include a dependent residing in a separate household for whom support is paid.

(a) Husband and wife are considered a two-person family.

(b) Related adults residing together, other than spouses, are each considered a separate family.

(c) An individual living alone or only with unrelated persons is considered a one-person family. An individual living alone or with unrelated persons may include in his/her application a dependent living in a separate household for whom support is paid.

(d) A child living with legally nonresponsible relatives, a minor living independently and a child living under the care of unrelated persons are also considered one-person families.

(e) A school age parent residing in parent's home with child is considered a separate family unit for purpose of determining family income.

(4) Persons applying to provide day care or foster care facilities or a person or persons applying to adopt a child are resources to our primary client, the child. Financial eligibility for these individuals is not required.

(5) Child welfare services may also be provided under Title IV-B of the Social Security Act.

**WSR 81-06-068**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
**(Public Assistance)**  
 [Filed March 4, 1981]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services intends to adopt, amend, or repeal rules concerning medical assistance, amending chapters 388-80, 388-81, 388-82, 388-83, 388-84, 388-85 and 388-92 WAC.

These rules were adopted on emergency basis effective March 1, 1981.

Correspondence concerning this notice and proposed rules attached should be addressed to:

David A. Hogan, Director  
 Client and Community Relations Division  
 Department of Social and Health Services  
 Mailstop OB-44 D  
 Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact William B. Pope, Chief, Office of Administrative Regulations, at State Office Building #2, 12th and Jefferson, Olympia, Washington, Phone (206) 753-7015, by March 26, 1981. The meeting site is in a location which is barrier free;

that such agency will at 10:00 a.m., Thursday, April 9, 1981, in the Auditorium, General Administration Building, Olympia, Washington, conduct a hearing relative thereto;

and that the adoption, amendment, or repeal of such rules will take place at 9:00 a.m., Wednesday, April 22, 1981, in William B. Pope's office, 4th Floor, Office Building #2, 12th and Franklin, Olympia, Washington.

The authority under which these rules are proposed is RCW 74.08.090.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to April 9, 1981, and/or orally at 10:00 a.m., Thursday, April 9, 1981, Auditorium, General Administration Building, Olympia, Washington.

Dated: March 3, 1981

By: David A. Hogan  
 Director, Client and

Community Relations Division

**STATEMENT OF PURPOSE**

This statement is filed pursuant to RCW 34.04.045.

Amending chapters 388-80, 388-81, 388-82, 388-83, 388-84, 388-85 and 388-92 WAC.

Purpose of the rule or rule change is to implement changes in the medical assistance program.

The reason(s) these rules are necessary is to comply with chapters 5 and 8, Laws of 1981.

Statutory Authority: RCW 74.08.090.

Summary of the rule or rule change: WAC 388-80-005(9) clarifies the definition of "categorically needy". WAC 388-80-005(20) adds the definition of "delayed certification". WAC 388-80-005(41) limits medical assistance to recipients of AFDC or SSI, individuals in special living arrangements, and persons who are eligible for but not receiving cash assistance. All chapter 388-81 WAC changes are editorial. WAC 388-82-010 limits eligibility for the H category to individuals in foster care, subsidized adoption, nursing homes or inpatient psychiatric facilities or those whose income is less than one person AFDC standard. WAC 388-83-010 Editorial. WAC 388-83-130 restates eligibility factors for AFDC-related and SSI-related applicants in keeping with federal requirements. WAC 388-83-140 explains personal needs allowance and allocation of income for AFDC-related and SSI-related recipients. All chapter 388-84 WAC changes are editorial. WAC 388-85-105 establishes the time for eligibility review of medical assistance as the same as for the cash assistance program to which the recipient is related. WAC 388-92-005 simplifies the definition on unearned income. Definitions of retroactivity, SSA and SSI are moved to chapter 388-80 WAC. WAC 388-92-010 is repealed. Description of the program is included elsewhere. WAC 388-92-015 clarifies the description of eligibility determination factors. WAC 388-92-020 is repealed. Description of the application process is included elsewhere. WAC 388-92-025 adds criteria for consideration of veterans aid and attendance allowance, parental income of SSI-related individuals under age 21 and income of the non-applying spouse of an SSI-related applicant. WAC 388-92-030 adds procedures for determining the monthly standard for SSI-related individuals, SSI-related couples and mixed (SSI and AFDC-related) households. WAC 388-92-035 is deleted. The personal needs allowance for institutionalized recipients is included elsewhere. WAC 388-92-040 Editorial. WAC 388-92-045 extends from three months to nine months the period in which a recipient may repair or replace a damaged or destroyed excluded resource with cash received in an insurance settlement. WAC 388-92-050 simplifies the description on limitation of resources. WAC 388-92-055 is



repealed. Allocation of income and resources are discussed elsewhere. WAC 388-92-065 is repealed. This section is no longer required. WAC 388-92-070 is repealed. This section is no longer required as part of chapter 388-92 WAC.

Person or persons responsible for the drafting, implementation and enforcement of the rule:

Name of initiator: Patsy Brittain

Title: Unit Supervisor

Office: Medical Assistance Division

Mailstop: LK-11

Phone: 3-7313.

The person or organization (if other than DSHS) who proposed these rules is: None.

These rules are not necessary as a result of federal laws, federal court decisions or state court decisions.

#### AMENDATORY SECTION (Amending Order 1542, filed 9/9/80)

WAC 388-80-005 DEFINITIONS. (1) "Acute and emergent" (~~signify an acute condition, defined as having a short and relatively severe course, not chronic, and an emergent condition, defined as occurring unexpectedly and demanding immediate action~~) medical care for GAU, see WAC 388-86-120.

(2) (~~"Applicant" is any person who has made an application or on behalf of whom an application has been made to the department for medical care.~~)

(3) ~~"Applicant-recipient" or "A/R" is an applicant for or recipient of medical care provided according to these rules.~~

(4) "Application" shall mean a written request for ((medical care made to the CSO)) financial or medical assistance from the department of social and health services made by a person in his/her own behalf or in behalf of another person. ((A verbal application must be reduced to writing before considered complete unless the death of the applicant intervenes.))

((5)) (3) "Assignment" is the method by which the provider receives payment for services under Part B of medicare.

(4) "Assistance unit" means a person or members of a family unit who are eligible for cash or medical assistance under a federally matched program including state supplement.

(5) "Authorization" means an official approval of a departmental action.

(a) "Authorization date" means the date the prescribed form authorizing assistance for a new, reopened or reinstated case is signed.

(b) "Authorization of grant" means attesting the applicant's eligibility for assistance in an amount as determined by his/her circumstances and department standards and giving authority to make payment accordingly.

(6) (~~"Available income" is income available to meet the cost of medical care after deducting from net income items specified by the rules.~~)

(7) "Beneficiary" is an eligible individual who receives a federal cash benefit and/or state supplement under Title XVI.

((8)) (7) "Benefit period" is ((the term used by social security administration to denote a period of consecutive days during which services furnished to a patient, up to a certain specified maximum amount, can be paid for by the hospital insurance plan. The term applies to medicare beneficiaries only. See also "spell of illness") the time period used in determining whether medicare can pay for covered Part A services. A benefit period begins the first day a beneficiary is furnished inpatient hospital or extended care services by a qualified provider. It ends when the beneficiary has not been an inpatient of a hospital or other facility primarily providing skilled nursing or rehabilitation services for sixty consecutive days. There is no limit to the number of benefit periods a beneficiary can have.

((9)) (8) "Carrier" is ((the agency having a contract to serve as a third-party agency in behalf of the federal government for)) an organization who has a contract with the federal government to process claims under Part B of medicare.

((10)) (9) "Categorically ((related)) needy" refers to a resident of the state of Washington whose income and resources are evaluated as for cash assistance and who is:

(a) ((A recipient of a federal aid grant, or

(b) A child receiving foster care, or

(c) An individual who meets the eligibility requirements for a federal aid grant, except that his income and/or resources exceed budgetary standards for a federal aid grant.)) Receiving cash assistance.

(i) Aid to Families of Dependent Children (AFDC).

(ii) Supplemental Security Income (SSI), including grandfathered individuals and individuals with essential spouses.

(iii) State supplement.

(b) Eligible for but not receiving assistance.

(i) AFDC.

(ii) SSI and/or state supplemental.

(iii) Special categories.

(c) A financially eligible person under twenty-one who would be eligible for AFDC but does not qualify as a dependent child including but not limited to:

(i) Foster care, or

(ii) Subsidized adoption, or

(iii) A skilled nursing home, intermediate care facility, or intermediate care facility for mentally retarded, or

(iv) An inpatient psychiatric facility.

(d) Individuals related to category (a) above in institutions who would not be eligible for such assistance if they were not institutionalized.

((11)) (10) "Central disbursements" is the state office section which audits nonmedicaid medical claims for payment (~~on form DSHS 6-06 (A-19))~~).

((12)) (11) "Certification ((is a document confirming that an applicant has met the financial and medical eligibility requirements for the federal aid medical assistance (MA) or fully state-financed care services (MS) programs)) date" means the date the worker certifies changes in a recipient's circumstances and authorizes an action.

(12) "CFR" means the code of federal regulations and is a codification of the general and permanent rules published in the federal register by the executive departments and agencies of the federal government.

(13) "Child" or "minor child" means a person under eighteen years of age.

(14) "Chiropractor" is a person licensed by the state of Washington to practice chiropractic according to chapter 18.25 RCW.

((14)) "Coinsurance" is a portion of the medicare cost for covered services, after the deductible is met, which the patient must pay.

(15) "CSO" (community service office) is an office of the department which administers the medical care program at the county level.

(16) "Deductible" is the initial cost of medical care for which the recipient is responsible. It applies specifically to:

(a) All recipients who are beneficiaries of Title XVIII medicare. This is the amount the individual accrues on a yearly basis and is paid by the department to the social security administration for authorized recipients;

(b) Applicants or recipients of medical only. Medical assistance can be certified after such recipients have accrued medical expenses as prescribed in WAC 388-83-045(2)(c).)

(15) "Client" means an applicant or recipient of financial and/or social services provided by the department of social and health services.

(16) "Coinsurance" means the portion of reimbursable hospital and medical expenses, after subtraction of any deductible, which medicare does not pay. Under Part A, coinsurance is a per day dollar amount, and under Part B, is twenty percent of reasonable charges.

(17) "CSO" (community service office) is an office of the department which administers the various social and health services at the county level.

(18) "Continuing assistance" means payments to persons who presumably will be eligible for and receive, from the date of authorization, regular monthly grants on a prepayment basis. Continuing assistance includes federal aid and continuing general assistance grants to unemployable persons.

(19) "Deductible" means an initial specified amount that is the responsibility of the applicant and/or recipient.

(a) Part A of medicare - Inpatient hospital deductible - an initial amount in each benefit period which medicare does not pay.

(b) Part B of medicare - The first sixty dollars in expenses which must be incurred before medicare starts to pay.

(20) "Delayed certification" shall mean the date of certification for medicaid and date of application for SSI are the same for an SSI beneficiary whose eligibility decision was delayed due to administrative action.

~~((17))~~ (21) "Department" shall mean the state department of social and health services.

~~((18) "Detoxification" (alcohol) means three-day treatment of acute alcoholism for which the department will pay under the medical care program.~~

~~(19))~~ (22) "Division of medical assistance" shall mean the single state agency authorized to administer the Title XIX medical (care) assistance program.

(23) "Eligible couple" means an eligible individual and eligible spouse.

(24) "Eligible individual" means an aged, blind or disabled person as defined in Title XVI of the Social Security Act. If two such persons are husband and wife (and have not been living apart for more than six months), only one of them may be considered an eligible individual.

~~((20))~~ (25) "EPSDT" shall mean a program providing early and periodic screening, diagnosis and treatment to persons under 21 years of age who are eligible under Title XIX of the Social Security Act.

~~((21))~~ (26) "Essential person" ((is the "grandfathered" spouse of a former OAA, AB, or DA recipient for whom a cash allowance is included in the SSI benefit of a beneficiary)) means a person whose needs were taken into account in determining the need of OAA, AB, or DA recipient for December, 1973, who continues to live in the home of such recipient, and continues to be an essential person.

~~((22) "ESSO" (economic and social service office) see "CSO".~~

~~(23))~~ (27) "Extended care facility" (ECF) See "skilled nursing facility".

~~((24))~~ (28) "Extended care patient" is a recently hospitalized medicare patient who needs relatively short-term skilled nursing and rehabilitative care in a skilled nursing facility.

(29) "Fair hearing" means an administrative proceeding by which the department hears and decides the appeal of an applicant/recipient from an action or decision of the department.

~~((25))~~ (30) "Federal aid" ((shall)) means the ((medical)) assistance ((or aid to families with dependent children programs for which the state receives matching funds)) grant programs for which funds-in-aid are received by the state from the federal government.

~~((26) "Federal aid medical care only" (FAMCO) is medical care provided to a person not eligible for a federal aid grant or for foster care but who can otherwise be categorically related or who is otherwise eligible under the "H" category.~~

~~(27) "Financially eligible" shall mean the determination by the department that an applicant meets the financial requirements to receive medical care under the medical assistance (MA) or state medical care services (MS) programs.~~

~~(28) "Fiscal intermediary" is the agency having a contract to serve as fiscal agent for Part A of medicare.)~~

(31) "Fraud" shall mean a deliberate, intentional and wilful act, with the specific purpose of deceiving the department with respect to any material, fact, condition, or circumstances affecting eligibility or need.

(32) "General assistance - continuing" (GAU) means assistance to unemployable persons who are not eligible for or not receiving federal aid assistance.

~~((29))~~ (33) "Grandfathering" refers to ((certain individuals specified below who on December 31, 1973, were receiving medical assistance (or had an application pending which was subsequently approved) and who continue to be eligible under Title XVI for purposes of medicaid beginning January 1, 1974)):

(a) A noninstitutionalized individual who meets all current requirements for medicaid eligibility except the criteria for blindness or disability; and

(i) As eligible for medicaid in December, 1973, as blind or disabled, whether or not he/she was receiving cash assistance in December, 1973; and

(ii) For each consecutive month after December, 1973, continue to meet the criteria for blindness and disability and other conditions of eligibility used under the medicaid plan in December, 1973; and

(iii) The needs of the "essential person" shall only be considered when he/she is living with such person in the same household.

(b) An institutionalized individual who was eligible for medicaid in December, 1973, or any part of that month, as an inpatient of a medical institution or resident of intermediate care facility that was participating in the medicaid program and for each consecutive month after December, 1973:

(i) Continued to meet the requirements for medicaid eligibility that were in effect under the state's plan in December, 1973, for institutionalized individuals; and

(ii) Remained institutionalized.

~~((a) Aged, blind and disabled recipients of FAMCO.~~

~~(b) Disabled recipients of categorical cash assistance who did not meet Title XVI disability criteria.~~

~~(c) Essential persons in adult federal-aid grant programs. All individuals above remain "grandfathered" as long as they continue to meet original program criteria or continue to be an essential person to the same individual who was converted to SSI, and as long as the latter remains eligible.~~

~~(30) "H category" is a federal aid category in the medical assistance (MA) program. An applicant under this category is an individual under 21, or a pregnant woman of any age, who cannot be categorically related but whose income and/or resources are insufficient to meet the cost of medical care.~~

~~(31) "Home" shall mean real property owned and used by an applicant-recipient as a place of residence, together with reasonable amount of property surrounding or contiguous thereto which is used and useful to him.~~

~~(32))~~ (34) "Home health agency" is an agency or organization certified under medicare to provide skilled nursing and other therapeutic services to the patient in his/her place of residence.

~~((33))~~ (35) "Hospital" shall mean any institution licensed as a hospital by the official state licensing authority.

~~((34))~~ (36) "Institution" shall mean an establishment which furnishes food and shelter to four or more persons unrelated to the proprietor and, in addition provides medically related services and medical care. This would include hospitals, skilled nursing facilities, intermediate care facilities and institutions for the mentally retarded, but does not include correctional institutions.

(37) "Intermediary" is an organization who has an agreement with the federal government to process medicare claims under Part A.

~~((35))~~ (38) "Intermediate care facility" shall mean a licensed facility certified to provide intermediate care for which an agreement has been executed.

~~((36))~~ (39) "Intermediate care facility/IMR" shall mean a state institution or a licensed nursing home either of which has been certified by state office (SO) as meeting ((HMR)) the CFR regulations to provide ((24)) twenty-four hour health-related care and services to mentally retarded persons or persons with related conditions.

~~((37))~~ (40) "Legal dependents" are persons whom an individual is required by law to support.

~~((38) "Local office". See CSO.~~

~~(39))~~ (41) "Medicaid" or "Medical assistance" ((or)) "MA" shall mean the federal aid Title XIX program under which medical care is provided to:

(a) A recipient of ((a federal aid grant or of SSI benefit or an eligible child receiving foster care)) AFDC.

(b) A recipient of ((a continuing general assistance grant who is categorically related)) SSI.

(c) A recipient of ((a continuing general assistance grant who is eligible for care under the "H" category)) state supplement.

(d) A ((categorically related recipient or a recipient under the "H" category who is eligible for federal aid medical care only (ineligible for a grant)) financially eligible person under twenty-one including, but not limited to individuals in:

(i) Foster care, or

(ii) Subsidized adoption, or

(iii) A skilled nursing home, intermediate care facility, or intermediate care for mentally retarded, or

(iv) An inpatient psychiatric facility.

(e) Individuals related to category (b) above in institutions who would not be eligible for cash assistance solely because of the level of their income if they were not institutionalized.

(f) Individuals who are eligible but not receiving cash assistance under (a), (b), or (c) above.

~~((c) The spouse of an aged, blind or disabled beneficiary for whom a cash allowance is included in the SSI benefit.~~

~~(40) "Medical audit". See "provider services".~~

~~(41) "Medical care program" is the total program under which medical care is provided through medical assistance (MA) and medical care services (MS) according to the rules in chapters 388-80 through 388-95 WAC.~~

~~(42) "Medical care services" or "MS" shall mean the fully state-financed program under which medical care is provided to:~~

~~(a) A recipient of a continuing general assistance grant who cannot be categorically related;~~

~~(b) A recipient of general assistance who does not qualify in the "H" category;~~

~~(c) A recipient of medical only (MO).~~

~~(43)) (42) "Medical consultant" shall mean a physician employed by the department at the CSO level.~~

~~(43) "Medical facility" see "Institution".~~

~~(44) "Medically necessary" is a term for describing requested service which is reasonably calculated to prevent, diagnose, correct, cure, alleviate or prevent the worsening of conditions that endanger life, or cause suffering or pain, or result in illness or infirmity, or threaten to cause or aggravate a handicap, or cause physical deformity or malfunction, and there is no other equally effective more conservative or substantially less costly course of treatment available or suitable for the recipient requesting the service. For the purpose of this section "course of treatment" may include mere observation or, where appropriate, no treatment at all.~~

~~(45) "Medicare" is a commonly used term for the federal government health insurance program for certain aged or disabled recipients under Titles II and XVII of the Social Security Act.~~

~~(46) "Nursing care consultant" shall mean a qualified and licensed registered nurse employed by the department at the CSO level.~~

~~(47) "Outpatient" is a nonhospitalized patient receiving care in an outpatient or emergency department of a hospital, or away from a hospital such as in a physician's office or the patient's own home.~~

~~(48) "Part A" is the hospital insurance portion of medicare.~~

~~(49) "PAS" - professional activity study is a compilation of inpatient hospital data by diagnosis and age, conducted by the commission of professional and hospital activities, which resulted in the determination of an average length of stay for patients. These data were published in a book entitled "Length of Stay in PAS Hospitals, Western". The department has adopted this book as the basis for authorizing payment for the maximum number of inpatient hospital days for recipients of state funded programs, or where no memorandum of understanding with a PSRO exists.~~

~~(50) "Part B" is the supplementary medical insurance benefit (SMIB) or the "doctor portion" of medicare.~~

~~(51) ("Participation" is that part of the cost of medical care which the recipient who has available resources must pay.~~

~~(52)) "Physician" is a doctor of medicine, or osteopathy ((or podiatry)) who is legally authorized to perform the functions of his profession by the state in which he performs them.~~

~~((53)) (52) "Professional standards review organization" (PSRO). See "Washington state professional standards review organization".~~

~~((54)) (53) "Provider" or "provider of service" means ((those)) an institution(s), ((agencies)) agency, or individual(s) furnishing) who has a signed agreement to furnish medical care and goods and/or services to recipients and who ((are)) is eligible to receive payment from the department. ((See also "vendor".))~~

~~((55)) (54) "Provider services" shall mean the office of the division of medical assistance which ((authorizes)) processes claims for payment ((for medical billings)) under Title XIX and state funded programs.~~

~~((56) "Recipient of continuing assistance" is a person certified by the CSO as eligible to receive a continuing maintenance grant, that is, a recipient of federal aid or continuing general assistance (GAU) or a child-receiving foster care.~~

~~(57) "Recipient of medical assistance" (MA) is a resident of the state of Washington who is receiving medical care as a recipient of a federal aid grant or SSI benefit, as a foster child, as a recipient of general assistance categorically related or under the H category, as an "essential person", or who has been certified as eligible to receive federal aid medical care only (FAMCO).~~

~~(58) "Recipient of medical only" (MO) is an individual who is not eligible for a grant or for medical assistance (MS), and who has been certified for the treatment of acute and emergent conditions only, under that part of the state funded medical care services (MS) program known as "medical only".~~

~~(59) "Recipient of noncontinuing general assistance" is a person certified by the department as eligible to receive temporary general assistance (GAN).))~~

~~((60)) (55) Residence ((=the)), state ((which officially meets one or more)) of ((the following)) means:~~

~~(a) The state where the applicant/recipient is living with the intent to remain there permanently or for an indefinite period;~~

~~(b) The state which he/she entered with a job commitment or to seek employment, whether or not currently employed;~~

~~(c) The state making a state supplementary payment;~~

~~(d) The state making placement in an out-of-state institution;~~

~~(e) The state of the parents or legal guardian, if one has been appointed, of an institutionalized individual who is under age twenty-one or is age twenty-one or over and who became incapable of determining residential intent before age twenty-one;~~

~~(f) The state where the person over age twenty-one judged to be legally incompetent is living.~~

~~((61) "Resource" is any asset which could be applied toward meeting the costs of medical care. A nonexempt resource is one which is available to meet the costs of medical care. An exempt resource is not considered available to meet the costs of medical care.~~

~~(62)) (56) "Retroactivity" ((is the process used to certify applicant/recipients related to federal programs no earlier than the first day of the third month prior to the month of application to cover unpaid bills for covered medical care)) means the period of no more than three months prior to month of application during which an individual applying under medicaid may be certified.~~

~~((63)) (57) "Skilled nursing facility" shall mean a licensed facility certified to provide skilled nursing care for which an agreement has been executed.~~

~~((64)) (58) "Skilled nursing home", unless otherwise described, shall mean any institution or facility licensed by the department as a nursing home, or is a nursing home unit of a hospital licensed by the state department of social and health services. Also known as "skilled nursing facility".~~

~~((65)) (59) "Spell of illness" ((benefit period) begins on the first day a person eligible for medicare receives covered services in a hospital or extended care facility. A spell of illness ends as soon as he has been out of any hospital, extended care facility, or a nursing home providing skilled nursing service, for sixty consecutive days) - see benefit period.~~

~~((66)) (60) "Spouse" -~~

~~(a) "Eligible spouse" ((is a person in a two-person household who, in addition to the eligible individual, is eligible for cash benefits under SSI. This person is automatically eligible for medicaid)) means an aged, blind or disabled individual who is the husband or wife of an eligible individual and who has not been living apart from such eligible individual for more than six months.~~

~~(b) "Ineligible spouse" ((is a person in a two person household of an eligible individual who is not eligible for a cash benefit under SSI. This person is not automatically eligible for medicaid and must apply in his or her own right)) means the husband or wife of an eligible individual who is not aged, blind or disabled; or although aged, blind or disabled has not applied for such assistance.~~

~~(c) "Nonapplying spouse" means the husband or wife of an eligible individual who although aged, blind or disabled has not applied for such assistance.~~

~~(61) "State-funded medical care" shall mean medical care, as defined by DSHS, provided to eligible persons on continuing general assistance.~~

~~((67)) (62) "State office" or "SO" shall mean the division of medical assistance of the department.~~

~~((68)) (63) "Supplementary ((security income)) payment" ((is a cash benefit provided as a federal payment and/or state supplement under Title XVI for the aged, blind and disabled)) means the state money payment to individuals receiving benefits under Title XVI (or who would, but for their income, be eligible for such benefits) as assistance based on need in supplementation of SSI benefits. This payment includes:~~

~~(a) "Mandatory state supplement" means the state money payment with respect to individuals who, for December, 1973, were recipients of money payments under the department's former programs of old age assistance, aid to the blind and disability assistance.~~

~~(b) "Optional state supplement" means the elected state money payment to individuals eligible for SSI benefits or who except for the level of their income would be eligible for such benefits.~~

~~((69))~~ "Title XVI" is a program administered by the social security administration which provides supplementary security income to the aged, blind and disabled.

(70) "Transfer of property" shall mean any act or any omission to act whereby title to property is assigned or set over or otherwise vested or allowed to vest in another person, including delivery of personal property, bills of sale, deeds, mortgages, pledges, or any other instrument conveying or relinquishing whole or partial title of property.

(71) "Vendor" is a provider of medical goods or services under these rules:)

(64) "Supplemental security income (SSI) program, Title XVI," means the federal program of supplemental security income for the aged, blind, and disabled established by section 301 of the social security amendments of 1972, and subsequent amendments, and administered by the Social Security Administration (SSA).

(65) "Third party" means any entity that is or may be liable to pay all or part of the medical cost of injury, disease, or disability of an applicant or recipient of medicaid.

~~((72))~~ (66) "Washington State Professional Standards Review Organization" (WSPSRO) is the state level organization responsible for determining whether health care activities are medically necessary, meet professionally acceptable standards of health care, and are appropriately provided in an out-patient or institutional setting for (~~recipients of federally related programs~~) beneficiaries of medicare and recipients of medicaid and maternal and child health.

((NOTE\* Specific definitions applicable to: Medical assistance to the aged and those under 21 years of age in mental institutions are in WAC 388-95-005, Title XVI related recipients are in WAC 388-92-005, and "Grandfathered" recipients are in WAC 388-93-005:))

#### AMENDATORY SECTION (Amending Order 1542, filed 9/9/80)

WAC 388-81-005 MEDICAL CARE PROGRAM. The department of social and health services provides a medical care program, administered through the division of medical assistance, designed to meet the health care needs of eligible individuals who (~~do not have resources to meet the full cost of medical care. This medical care program is offered through use of certified providers of medical services as described in WAC 388-87-007~~) have been determined eligible as defined in WAC 388-80-105.

#### AMENDATORY SECTION (Amending Order 1542, filed 9/9/80)

WAC 388-81-025 ELIGIBILITY—GENERAL. (1) Financial eligibility is established when the department certifies that the applicant meets the appropriate financial requirements in chapter 388-83 WAC.

(2) The department shall be responsible for payment of medical care provided within the scope of the program to (~~recipients of medical assistance (MA), to recipients of continuing general assistance (GAU) who cannot be categorically related, and to recipients of medical only (MO) who have an acute and emergent medical need. Services provided and limitations thereto are specified in chapter 388-86 WAC~~) eligible persons.

#### AMENDATORY SECTION (Amending Order 1542, filed 9/9/80)

WAC 388-81-040 FAIR HEARING. (1) Any applicant for or recipient of medical care provided under chapter 74.09 RCW who feels aggrieved by a decision rendered by the department has a right to a fair hearing as provided by chapter 388-08 WAC.

(2) When the fair hearing request calls into question a decision of a medical consultant or when eligibility is being determined in the (~~federal aid medical care only or medical only programs~~) medicaid category or state funded medical program, a prehearing review is the responsibility of the division of medical assistance.

(3) Chapter 388-08 WAC applies when a request for a fair hearing is related to medical care.

(4) The medical director or his designee shall review all fair hearing requests referred by the examiner to determine:

(a) Whether or not the appellant's request for service was filed according to the applicable rules and regulations,

(b) Whether or not the decisions have been made upon complete and accurate evaluation of the facts, existing standards, regulations, and policies.

(5) All records and information necessary to determine the validity of the appellant's fair hearing request shall be furnished upon request

to the reviewing authority and forwarded not later than ten days from such request.

(6) An (~~independent~~) medical assessment by a professionally qualified person and/or persons not a party to the action being appealed may be obtained at the request of the examiner or the appellant.

(7) Upon receipt of the necessary material, evidence, or reports, the designated reviewing authority shall evaluate the appellant's request in accord with existing rules, regulations, and policies of the department. The reviewing authority:

(a) May reverse the decision when such adverse decision has been made contrary to rules, regulations and policies of the division;

(b) May resolve a situation resulting in the fair hearing request by adjustment.

(8) In providing a system for fair hearings for applicants or recipients of medical care, the rules in chapter 388-08 WAC shall be adhered to and, where appropriate, other portions of WAC which are applicable to the particular circumstances of the appellant.

#### AMENDATORY SECTION (Amending Order 1265, filed 1/13/78)

WAC 388-81-050 RESTITUTION. (1) If a recipient of medical care was not eligible for such care or comes into possession of resources which he/she fails to disclose to the department, the amount of such medical care payment made by the department on his/her behalf which could have been met by his/her undisclosed resources shall be an overpayment and a debt due the department. (See chapter 388-44 WAC for definition of overpayment and procedures pertaining to repayment by grant recipients.) Reimbursement cannot be collected from a grant for vendor payments incorrectly paid for medical care.

(2) If repayment is not obtained from a nongrant recipient, the case and the files relative thereto shall be forwarded to the office of reimbursements for such further action as deemed necessary. However, in no event shall a lien be filed while the ineligible recipient or (~~his~~) the dependent spouse is still living unless the claim has been reduced to judgment in a superior court of the state of Washington.

#### AMENDATORY SECTION (Amending Order 299, filed 9/6/68)

WAC 388-81-055 FRAUD. Any person who by means of willfully false statement or representation or by impersonation or other fraudulent device or failure to reveal resources as required obtains or attempts to obtain or aids or abets any person to obtain medical care to which he/she is not entitled shall be guilty of larceny. See WAC 388-44-020 for procedures to be followed in cases involving fraud.

#### AMENDATORY SECTION (Amending Order 911, filed 3/1/74)

WAC 388-81-060 SUPPLEMENTARY MEDICAL INSURANCE "BUY IN". The department will purchase supplementary medical insurance Part B, under Title XVIII of the social security act for an eligible individual who is a recipient of a federal aid grant (~~or federal aid medical care only and who~~

(1) is entitled to hospital insurance benefits under Part A, or  
(2) has attained the age of 65 and is either a citizen or an alien lawfully admitted for permanent residence who has resided in the United States continuously during the five years immediately preceding the month in which he applies for assistance, or

(3) is under age 65 and has been entitled to disability insurance benefit annuities under the social security act for not less than twenty-four consecutive months on the basis of a disability for which compensation is being paid by the social security administration, or

(4) is a beneficiary of medicare because of chronic renal disease requiring hemodialysis or kidney transplantation)).

#### NEW SECTION

WAC 388-82-006 MEDICAL ASSISTANCE. Medical assistance is the Title XIX funded medical program that provides full scope medical care to eligible individuals.

#### AMENDATORY SECTION (Amending Order 1542, filed 9/9/80)

WAC 388-82-010 PERSONS ELIGIBLE FOR MEDICAL ASSISTANCE. Medical assistance (~~is provided for~~) is available to any individual who is categorically needy.

(1) (~~A recipient of AFDC (including AFDC foster child) or beneficiary of supplemental security income who has applied for medical assistance;~~

~~(2) The essential person of a converted supplemental security income beneficiary as defined in WAC 388-92-070;~~

~~(3) A child, other than AFDC-FC foster child, for whom the department is making a foster care payment and who is determined eligible for medical assistance;~~

~~(4) An individual qualifying for the "H" federally aided category;~~

~~(5) A recipient of a continuing general assistance grant who can be categorically related;~~

~~(6) An individual who qualifies for federal aid medical care only (FAMCO) by meeting the eligibility standards in~~

~~(a) Chapter 388-83 WAC, and~~

~~(b) WAC 388-24-040(1) through (7), 388-24-050(2) through (7), and 388-24-550, for aid to families with dependent children, except for WIN registration; or~~

~~(c) Chapter 388-93 WAC for age, blindness or disability certified before January 1, 1974, or~~

~~(d) Chapter 388-92 WAC for age, blindness or disability certified after January 1, 1974.)~~ Individuals receiving or eligible to receive a cash assistance payment. Categories under which individuals may qualify include:

(a) Aid to families with dependent children (AFDC);

(b) Supplemental security income (SSI);

(c) State supplemental payment; and

(d) Individuals under age twenty-one whose income is less than the one person AFDC standard, including but not limited to those individuals who are in:

(i) Foster care; or

(ii) Subsidized adoption; or

(iii) Skilled nursing home, intermediate care facility, or intermediate care facility for mentally retarded (ICF/MR); or

(iv) Inpatient psychiatric facilities.

(2) Individuals in medical facilities:

(a) Who would be eligible for cash assistance if they were not institutionalized. This includes all categorically needy groups;

(b) Who would not be eligible for cash assistance if they were not institutionalized. This includes only aged, blind, and disabled groups.

#### NEW SECTION

WAC 388-82-115 SPECIAL CATEGORIES ELIGIBLE FOR MEDICAL ASSISTANCE. (1) Persons who, in August, 1972, received OAA, AB, AFDC, or APTD, and also received RSDI benefits, and who became ineligible for OAA, AB, AFDC or APTD solely because of the twenty percent increase in social security benefits under Public Law 92-336, shall be eligible for medical aid as categorically needy. The provision applies to both current cash applicants and recipients. Program description and eligibility determination are described in chapter 388-93 WAC.

(2) Applicants for SSI or AFDC who were entitled to RSDI benefits in August, 1972, and would have been ineligible solely because of the social security benefits under Public Law 92-336 shall have the twenty percent increase disregarded in determining financial eligibility.

(3) An AFDC family unit which becomes ineligible solely because of increased hours or increased income from employment shall remain categorically eligible for medical assistance (MA) for four calendar months beginning with the month of ineligibility provided that:

(a) The family received AFDC in at least three of the six months immediately preceding the month of ineligibility.

(b) A member of such family continues to be employed, and

(c) The family is otherwise eligible for AFDC except for increased hours or increased income from employment.

(4) Current recipients who become ineligible for SSI benefits and/or state supplementary payments after April 1, 1977, solely because of OASDI cost-of-living benefit increases under PL 94-566, section 503, shall remain categorically eligible for medical assistance (MA). Any subsequent OASDI cost-of-living benefit must be considered available income. This disregard does not apply to:

(a) New applicants (i.e., who were not receiving SSI/SSP prior to increase).

(b) Persons who were not actually receiving SSI/SSP payments for some other reason.

(c) Persons who would have received SSI/SSP if they had applied.

(d) Persons who would have received SSI/SSP if they were not living in a medical or intermediate care facility.

#### NEW SECTION

WAC 388-82-125 RECIPIENTS IN MEDICAL INSTITUTIONS ELIGIBLE UNDER TITLE XIX. Medical assistance is available to an otherwise eligible individual who is in a Title XIX certified medical facility defined as:

(1) A general hospital,

(2) A skilled nursing home,

(3) An intermediate care facility,

(4) An intermediate care facility for mentally retarded, and

(5) In state mental institutions, only eligible individuals age sixty-five and over.

#### NEW SECTION

WAC 388-82-126 STATE FUNDED MEDICAL CARE PROGRAM. (1) State-funded medical care is a more limited scope of medical care provided to eligible individuals. State-funded medical care services are defined in chapter 388-86 WAC.

(2) Continuing general assistance recipients in skilled nursing homes, intermediate care facilities or intermediate care facilities for mentally retarded shall be provided medical care to the same extent as a recipient of medical assistance.

#### NEW SECTION

WAC 388-82-130 MEDICAL CARE PROVIDED IN BORDERING CITIES. Medical care will be provided to eligible individuals in a bordering city on the same basis as in-state care. The only recognized bordering cities are Moscow, Sandpoint and Lewiston, Idaho; Portland, The Dalles, Hood River, Rainier, Milton-Freewater, and Astoria, Oregon.

#### NEW SECTION

WAC 388-82-135 OUT-OF-STATE MEDICAL CARE. (1) A categorically needy resident of the state of Washington temporarily out of the state may be provided medical assistance within the scope of the medical aid program.

(2) When an eligible individual goes to another state, excluding bordering cities, expressly to obtain medical care that is available within the state of Washington, medical assistance will only be provided on an emergency basis.

(3) Medical assistance will be provided to persons who enter the state and are determined to be financially eligible, provided the residency requirements in chapter 388-80 WAC are met.

(4) State-funded medical care is not provided out-of-state except in designated bordering cities.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

(1) WAC 388-82-005 MEDICAL CARE—GENERAL DESCRIPTION OF PROGRAMS.

(2) WAC 388-82-015 "H" CATEGORY (FEDERAL AID).

(3) WAC 388-82-020 MEDICAL CARE SERVICES.

(4) WAC 388-82-025 INSTITUTIONAL STATUS.

(5) WAC 388-82-030 STATE OF WASHINGTON RESIDENT REQUIRING CARE OUT-OF-STATE.

(6) WAC 388-82-035 OUT-OF-STATE RESIDENT REQUIRING MEDICAL CARE IN WASHINGTON STATE.

(7) WAC 388-82-045 MEDICAL CARE FOR UNITED STATES CITIZEN RETURNED FROM FOREIGN COUNTRY.

#### AMENDATORY SECTION (Amending Order 1203, filed 4/1/77)

WAC 388-83-005 ((GENERAL)) MEDICAL ASSISTANCE ELIGIBILITY. The department shall provide medical ((care)) assistance within the limitations set forth under these rules and regulations to any individual who has been certified ((as eligible to receive such care under the medical care program, that is, certified as eligible for federal aid medical assistance (MA), or state-financed medical care services (MS). Any person who has been so certified may obtain approved medical care from any eligible provider who undertakes to provide services under the rules and regulations of the department)) Title XIX eligible. The recipient shall be responsible for furnishing the provider with a medical identification coupon or other adequate notification of eligibility provided by the department.

NEW SECTION

WAC 388-83-006 STATE-FUNDED MEDICAL CARE SERVICES. The department shall provide state-funded medical care within the limitations set forth under these rules and regulations to any individual who has been certified as eligible to receive such services as a continuing general assistance recipient. The recipient shall be responsible for furnishing the provider with a medical identification coupon or other adequate verification of eligibility provided by the department.

AMENDATORY SECTION (Amending Order 1542, filed 9/9/80)

WAC 388-83-010 ((USE OF)) ALTERNATIVE SOURCES FOR MEDICAL CARE. (1) All third party resources for medical care available to the applicant or recipient must be utilized to the fullest possible extent in the payment for the medical care prior to participation by the department.

(2) Any payment, additional payment(s) or contribution(s) by or on behalf of an applicant((, a)) recipient, ((or other person)) meant to increase the overall level of care beyond that ((normally provided with)) included in the amount, duration or scope of medical care shall be considered as a nonexempt resource and will be applied against the cost of medical care ((normally)) provided under the program.

(3) The department makes agreements with providers of prepaid medical plans. Eligible recipients who choose to participate in a prepaid program are required to utilize such providers of service exclusively except for certain noncovered services for which the department may be responsible under the medical care program. See WAC 388-87-010(4).

AMENDATORY SECTION (Amending Order 967, filed 8/29/74)

WAC 388-83-015 CITIZENSHIP AND ALIENAGE. ((+)) An applicant ((for federal aid medical care only)) must be a citizen of the United States or an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law including an alien who is lawfully present in the United States according to specified sections of the immigration and nationality act. (See WAC 388-26-120)

((2) This requirement does not apply to the medical only program.))

AMENDATORY SECTION (Amending Order 1056, filed 9/25/75)

WAC 388-83-017 SOCIAL SECURITY NUMBER. (1) ((An applicant for federal aid medical care only)) A categorically needy applicant shall be encouraged to provide a social security number on the application form and shall be assisted to secure such number if he/she wishes to secure one.

(2) ((An applicant who is otherwise eligible shall not be denied medical assistance because of failure or refusal to disclose or apply for a social security number, and the individual shall be so informed.)) There is no Title XIX enumeration requirement.

AMENDATORY SECTION (Amending Order 264 (part), filed 11/24/67)

WAC 388-83-020 AGE. No age requirements is imposed as a condition of eligibility in regard to ((the)) medical ((Care Program)) assistance. The age of the applicant is established to determine whether the individual may be related to a federal aid category, or may be eligible for the under ((the "H")) age twenty-one category.

AMENDATORY SECTION (Amending Order 1470, filed 1/3/80)

WAC 388-83-025 RESIDENCE. An applicant or recipient of the benefits of the medical care program must be a resident of the state of Washington ((see exception in WAC 388-82-035(1))); an applicant-recipient need not be a resident of the county in which medical care is ((sought)) obtained. ((See definitions, chapter 388-80 WAC.))

AMENDATORY SECTION (Amending Order 1402, filed 5/16/79)

WAC 388-83-028 ((EXTENDED)) ELIGIBILITY FACTORS FOR SPECIAL CATEGORIES. (1) ((Persons who, in August, 1972, received OAA, AFDC, AB, or DA and also received RSDI benefits,

and who became ineligible for OAA, AFDC, AB or DA solely because of the twenty percent increase in social security benefits under Public Law 92-336, shall be eligible for federal aid medical care only (FAMCO). The provisions of WAC 388-83-045(8)(a) shall apply.)) Cash recipients of OAA, AB or APTD who became ineligible because of the twenty percent increase in RSDI benefits in August, 1972, must have that increase disregarded in determining current eligibility. If the sole reason for their income exceeding the cash standard is the August, 1972, increase, then they are categorically eligible for Medicaid. Medicaid eligibility determinations for this group must include this factor.

(2) ((Applicants for FAMCO or AFDC who were entitled to RSDI benefits in August, 1972)) Persons who were eligible under federal cash assistance programs (AFDC, AB or APTD but were not receiving assistance, and would have been ineligible solely because of the ((social security benefits under Public Law 92-336)) August, 1972, RSDI twenty percent increase shall have the twenty percent increase disregarded in determining financial eligibility ((for FAMCO. The provisions of WAC 388-83-045(8)(b) shall apply.))

(3) An AFDC ((grant assistance)) family unit which becomes ineligible solely because of increased hours or increased income from employment shall remain categorically eligible for medical assistance (MA) for four calendar months beginning with the month of ineligibility provided that:

(a) The family received AFDC in at least three of the six months immediately preceding the month of ineligibility,

(b) A member of such family continues to be employed, and

(c) The family is otherwise eligible for AFDC except for increased hours or increased income from employment,

(d) Participation shall not be required.

(4) ((Persons)) Current recipients who become ineligible for SSI benefits and/or state supplementary payments in ((July)) April, 1977, solely because of OASDI cost-of-living benefit increases under PL 94-566, section 503 shall remain categorically eligible for medical assistance (MA). Any subsequent OASDI cost-of-living benefit must be considered available income. This disregard does not apply to:

(a) New applicants (i.e., who were not receiving SSI/SSP prior to increase).

(b) Persons who were not actually receiving SSI/SSP payments for some other reason.

(c) Persons who would have received SSI/SSP if they had applied.

(d) Persons who would have received SSI/SSP if they were not living in a medical or intermediate care facility, etc.

(5) Persons who were "grandfathered" into SSI January 1, 1974, and continue to meet the definition in chapter 388-80 WAC are eligible for medical assistance. Termination and reapplication does not reinstate the "grandfathered" status. Program and eligibility factors are described in chapter 388-93 WAC.

NEW SECTION

WAC 388-83-130 ELIGIBILITY DETERMINATION—NONINSTITUTIONAL. (1) Eligibility determination for AFDC shall be as follows:

(a) Applicants who are eligible but not receiving cash assistance shall be determined as for the appropriate cash assistance category.

(b) Individuals under age twenty-one not SSI related shall have eligibility determination based on the AFDC standard for one person.

(i) When an under twenty-one person resides in the same family unit with parents, their income is considered available whether or not actually contributed.

(ii) The AFDC earned income exemption of \$30 + 1/3 of remainder does not apply to individuals applying solely for medical assistance.

(2) Eligibility for SSI related applicants who are eligible but not receiving cash assistance shall be determined as for the appropriate SSI cash assistance category. See chapter 388-92 WAC for income and resources computation.

NEW SECTION

WAC 388-83-135 MONTHLY STANDARD—INSTITUTIONAL. The monthly standard for SSI/state supplement related individuals in medical facilities shall have their eligibility determined by:

(1) Comparing the maximum gross income to three hundred percent of the SSI benefit (the SSI cap).

(2) Using other SSI financial criteria for consideration of resources as defined in chapter 388-92 WAC.

NEW SECTION

WAC 388-83-140 ALLOCATION OF INCOME—INSTITUTIONALIZED RECIPIENT. (1) All institutionalized recipients will retain \$32.50 personal needs allowance.

(2) The AFDC related individual in a medical facility is eligible to receive an amount as a cash assistance payment sufficient to bring income up to the personal needs allowance.

(3) SSI related recipients may retain the current personal needs allowance plus wages received for work approved by the department as part of a training or rehabilitative program designed to prepare the individual for less restrictive placement. The total personal needs allowance including the initial \$32.50 may not exceed the monthly noninstitutional state supplement standard. There are no deductions for expenses of employment. When the total amount of wages received plus the initial personal needs allowance exceeds the monthly standard, the excess wages are applied to the cost of care.

(4) In addition to the allocations in (1) and (3) above, SSI related individuals residing in a medical facility throughout a calendar month are entitled to the following allocations of income as applicable:

(a) Maintenance needs of spouse not to exceed state supplement standard,

(b) Maintenance needs of family adjusted for number of family members living at home, but not to exceed highest need standard for a family of same size under AFDC,

(c) Amounts for incurred medical expenses not subject to third-party payment including but not limited to:

(i) Health insurance premiums, co-insurance or deductible charges,  
(ii) Necessary medical care recognized under state law but not covered under medicaid.

(d) For a single person, maintenance of the home where the individual has been certified by a physician to need institutional care for no more than six consecutive months,

(i) Income thus exempted must be used to retain the independent living situation of an individual with no dependents through payment of such requirements as rent or mortgages, real estate taxes, insurance, gas, electricity, oil, water or sewer necessary to maintain the home,

(ii) Up to one hundred eighty dollars per month may be exempted from the individual's actual income based on the verified actual cost to retain the home during six consecutive months,

(iii) The six-month period begins on the first of the month following date of admission for medicaid eligible recipients or the date of eligibility for individuals changing from private to medicaid, and ceases when the patient is discharged to an independent living arrangement or at the end of six months if the recipient has not been discharged,

(iv) CSO social service staff shall document initial need for the income exemption and review the individual's circumstances after ninety days.

(5) Income remaining in (1), (2), (3) or (4) will be used to compute payment of the participation amount (that income remaining after allocation of income) shall be a matter solely between the recipient and the medical facility.

REPEALER

The following sections of the Washington Administrative Code are repealed:

(1) WAC 388-83-030 COMPUTATION OF AVAILABLE INCOME AND RESOURCES.

(2) WAC 388-83-035 MONTHLY MAINTENANCE STANDARD—APPLICANT LIVING IN OWN HOME.

(3) WAC 388-83-045 ALLOCATION OF AVAILABLE INCOME AND NONEXEMPT RESOURCES.

(4) WAC 388-83-050 AVAILABILITY OF RESOURCES.

(5) WAC 388-83-055 EXEMPT RESOURCES.

(6) WAC 388-83-060 NONEXEMPT RESOURCES.

(7) WAC 388-83-065 TRANSFER OF RESOURCES WITHIN TWO YEARS PRIOR TO APPLICATION.

NEW SECTION

WAC 388-84-105 MEDICAL ASSISTANCE. (1) All individuals wishing to make application for medical assistance shall have the opportunity to do so without delay.

(a) Applicants will be provided with:

(i) An explanation of the civil rights act,  
(ii) Fair hearing information,

(iii) Information on early and periodic screening, diagnosis and treatment, when appropriate,

(iv) Information on family planning, when appropriate.

(b) The application shall mean verbal or written request; verbal application must be reduced to writing.

(c) If death of applicant intervenes, the application may be completed by a relative or interested person(s).

(2) Individuals who receive cash assistance payment under AFDC, SSI or state supplement are eligible without a separate application.

(3) A spouse ineligible for SSI benefits solely because of the level of his/her income must apply individually for medical assistance.

(4) A resident of the state of Washington temporarily out of the state may make application directly to the community services office (CSO) in his/her area of the state through either an individual or agency acting in his/her behalf.

NEW SECTION

WAC 388-84-110 APPLICATION—DISPOSITION. (1) Time-ly determination standards are:

(a) Sixty days for applicants based on disability,

(b) Forty-five days for all other categories,

(c) Certain unusual circumstances beyond the administrative control of the CSO may delay a decision on an application.

(2) For cash assistance, approval of the medical assistance is concurrent.

(3) Notification of approval for all other applicants for medical assistance will be by means of an award letter.

(4) Denial of the application for a categorically needy individual will follow cash assistance standards and criteria. The denial notice will include the right to a fair hearing.

(5) Withdrawal of an application will follow WAC 388-38-172.

NEW SECTION

WAC 388-84-115 EFFECTIVE DATE OF APPLICATION. (1) The effective date of eligibility for medical assistance shall be no later than the third month before the month of application provided:

(a) The medical services received were covered.

(b) Individual would have been eligible had he/she applied.

(c) Applicant met all eligibility factors in chapter 388-83 WAC.

(2) Eligibility effective date for medical assistance is the first day of the month if the individual was eligible at any time during that month.

(3) The month of application for SSI beneficiaries for purposes of determining eligibility for medical assistance shall be the month they apply for SSI.

(4) The AFDC related, under age twenty-one, and SSI related individuals may be issued a temporary medical coupon by the CSO until the state office issued coupon arrives.

NEW SECTION

WAC 388-84-120 APPLICATION FOR STATE FUNDED MEDICAL CARE. (1) Individuals ineligible for a categorically needy program (AFDC, aged, blind, disabled, or under twenty-one) may be provided medical care under the state-funded program of continuing general assistance.

(2) Approval and effective date of state-funded medical care is concurrent with notice of certification for cash assistance.

(3) Termination of state-funded medical occurs with termination of continuing general assistance grant.

(4) The CSO may issue temporary medical coupons until state office issued coupons arrive.

REPEALER

The following sections of the Washington Administrative Code are repealed:

(1) WAC 388-84-005 RIGHT TO APPLY.

(2) WAC 388-84-010 DISPOSITION OF APPLICATION.

(3) WAC 388-84-015 APPROVAL OF APPLICATION.

(4) WAC 388-84-020 DENIAL OF APPLICATION.

(5) WAC 388-84-025 WITHDRAWAL.

Chapter 388-85 WAC  
MEDICAL CARE—(~~AUTHORIZATION OF ELIGIBILITY~~)  
CERTIFICATION

**NEW SECTION**

**WAC 388-85-105 CERTIFICATION OF ELIGIBILITY.** Entitlement to medical assistance continues until the individual is determined ineligible for cash assistance.

(1) When eligibility for AFDC is terminated:

(a) For AFDC cash assistance due to increased income or increased hours from employment, medical assistance shall continue for four calendar months beginning with month of ineligibility.

(b) Because an individual has been removed from AFDC cash assistance due to reaching state legal age of majority, a redetermination of eligibility for medical assistance for those under twenty-one shall be made.

(c) For lack of cooperation in WIN or lack of school attendance, redetermination of eligibility for medical assistance will be made according to appropriate cash.

(2) Redetermination of eligibility for medical assistance shall be the same as for the cash assistance program to which an individual is related.

(3) Any change in circumstances relating to the individual's financial or medical eligibility must be promptly reported to the CSO.

**NEW SECTION**

**WAC 388-85-110 SSI/STATE SUPPLEMENT TERMINATION.** (1) When an SSI/state supplemental beneficiary is terminated by SSA because of failure to meet blindness and disability criteria under Title XVI, medical assistance shall be terminated at the end of the second month following the month in which eligibility ceases if the beneficiary has filed a timely request for a hearing from SSA regarding eligibility for cash assistance.

(2) Individuals in medical facilities who are not receiving cash assistance shall be notified in writing when eligibility ceases.

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

- (1) ~~WAC 388-85-005 CERTIFICATION DOCUMENT.~~
- (2) ~~WAC 388-85-010 AUTHORIZATION PROCEDURE.~~
- (3) ~~WAC 388-85-015 PERIOD OF CERTIFICATION.~~
- (4) ~~WAC 388-85-020 REDETERMINATION OF ELIGIBILITY.~~

(5) ~~WAC 388-85-025 NOTIFICATION—INITIAL CERTIFICATION, REDETERMINATION OF ELIGIBILITY AND CHANGE OF CIRCUMSTANCES.~~

(6) ~~WAC 388-85-027 EFFECTIVE DATE OF CHANGE IN ELIGIBILITY.~~

## Chapter 388-92 WAC

**MEDICAL CARE FOR PERSONS RECEIVING BENEFITS UNDER TITLE XVI OF SOCIAL SECURITY ACT—ELIGIBILITY—INCOME AND RESOURCE STANDARDS FOR APPLICANTS IN OWN HOME**

**AMENDATORY SECTION** (Amending Order 1402, filed 5/16/79)

**WAC 388-92-005 DEFINITIONS.** The definitions in ((~~WAC 388-92-005~~)) this section apply only to ((~~chapter 388-92 WAC~~)) SSI related applicants.

(1) Beneficiary - A person who receives a cash benefit under Title XVI and/or state supplement.

(2) ((~~Deleted~~)) SSI related - Eligible for but not receiving cash assistance.

(3) Income - The receipt by an individual of any property or service which he can apply either directly, by sale, or conversion to meet his basic needs for food, clothing, and shelter.

(a) Earned income means gross wages for services rendered and/or net earnings from self-employment. Earned income received at predictable intervals other than monthly or in unequal amounts will be converted to a monthly basis. If income is weekly, the amount is multiplied by 4.3 to arrive at a monthly figure.

(b) Unearned income means all other income ((~~including but not limited to~~

(i) ~~Support and maintenance furnished in cash or kind.~~

(ii) ~~Prizes and awards - This includes prizes won in a contest, lottery, or game of chance or awards received as the result of a decision~~

or judgment of a court, a board of arbitration, or the like, but not ordinarily from a competition. When a prize or award is not in cash, the current fair market value of the item is counted as unearned income.

(iii) ~~Proceeds of any life insurance policy to the extent that they exceed the amount expended for the purposes of the insured individual's last illness and burial or one thousand five hundred dollars, whichever is less.~~

(iv) ~~Gifts (cash or otherwise), support and alimony payments.~~

(v) ~~Rent - Rent represents compensation in cash or in kind for the use of real or personal property, for example, land, an apartment, a room, machinery. Only ordinary and necessary "out of pocket" expenses incurred in operating the property are deducted from the gross rent).~~

(4) ((~~Institution - An establishment which furnishes food and shelter to four or more persons unrelated to the proprietor and, in addition, provides some treatment or services which meet some need beyond the basic provision of food and shelter. This would include hospitals, skilled nursing facilities (extended care facilities or skilled nursing homes), and intermediate care facilities, but does not include correctional institutions.~~

(5)) ~~Resources - Cash or other liquid assets or any real or personal property that an individual or spouse, if any, owns and could convert to cash to be used for support or maintenance.~~

(a) If an individual can reduce a liquid asset to cash, it is a resource.

(b) If an individual cannot reduce an asset to cash, it is not considered ((~~an~~)) available resource.

(c) Liquid - Properties that are in cash or are financial instruments which are convertible to cash such as, but not limited to, cash in hand, stocks, savings, checking accounts, mutual fund shares, mortgage, promissory notes.

(d) Nonliquid - All other property both real and personal shall be evaluated according to the price the item can reasonably be expected to sell for on the open market in the particular geographical area involved.

((~~6~~)) Retroactivity - The provision to make payment for unpaid medical bills for covered services for an applicant for FAMCO or Title XVI benefits, provided that such applicant is determined to have been eligible at the time services were received. The retroactive period shall begin no earlier than the first day of the third month prior to the month of application and shall extend up to the date of application. ((~~See WAC 388-84-005(2) and 388-87-015(3) and (4).~~))

(7) ~~SSA - Social security administration.~~

(8) ~~SSI - Supplemental security income under Title XVI of the social security act.~~

(9) ~~State supplement - Amount paid in addition to SSI under Title XVI of the social security act.~~

(10) ~~Title SSI - A national program to provide supplemental security income (SSI) to individuals who have attained age sixty-five, or are blind, or disabled.)~~

**AMENDATORY SECTION** (Amending Order 1476, filed 1/16/80)

**WAC 388-92-015 ((GENERAL)) ELIGIBILITY DETERMINATION—SSI.** (1) ((~~Citizenship - must be a citizen of the United States or an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States including an alien who is lawfully present in the United States according to specified sections of the Immigration and Nationality Act. (See WAC 388-26-120).~~

(2) ~~Residence - see WAC 388-83-025.~~

(3)) For the purposes of medical assistance related to ((~~Title XVI~~)) SSI, the applicant must be:

(a) Age 65 or over; or

(b) Blind, with central visual acuity of 20/200 or less in the better eye with the use of a correcting lens, or with a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees; or

(c) Disabled, that is, unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months or, in the case of a child under the age of 18, if he suffers from any medically determinable physical or mental impairment of comparable severity ((~~- A physical or mental impairment is an impairment that results from anatomical, physiological, or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic technique, except that an applicant for disability who is medically determined to be a drug addict or alcoholic shall be ineligible for any month unless such individual is undergoing any~~



treatment that may be appropriate for his condition as a drug addict or alcoholic at an institution or facility approved for that purpose (so long as such treatment is available) and demonstrates compliance with the terms, conditions and requirements of such treatment)). Decisions on ~~((Title XVI))~~ SSI related disability are ~~((made by))~~ the responsibility of the office of disability insurance benefits, division of medical assistance.

~~((4))~~ Temporary absence:

(a) If a resident of the state of Washington is temporarily in another state and requires medical care, and is eligible for medical assistance, the responsibility for medical payment rests with the state of Washington. The standard of care will be no different than that authorized within the state.

(b)) (2) A resident of Washington who requires medical assistance outside the United States will be provided care according to chapter 388-82 WAC ((388-82-030)).

#### AMENDATORY SECTION (Amending Order 1542, filed 9/9/80)

WAC 388-92-025 COMPUTATION OF AVAILABLE INCOME. (1) ~~((Income shall be defined as in WAC 388-92-005.~~

(a)) Total income of a beneficiary of supplemental security income, except for institutionalized recipients, is not considered an available resource.

~~((b))~~ (2) Income and resources are considered jointly for spouses who live together in a common household and blind or disabled children who live with their parent(s). Income and resources are considered separately when spouses and/or children and parents cease to live together except for purposes of eligibility determination only, then income and resources are considered mutually available

(i) for the first six months after the month they cease to live together where both spouses apply ~~((for FAMCO))~~ as SSI related (aged, blind or disabled),

(ii) for the month of separation where only one spouse applies ~~((for FAMCO))~~ as SSI related (aged, blind, or disabled), or where blind or disabled children are separated from parents.

~~((c))~~ If a minor applies for medical care the parent legally responsible for the support of the child is also by law financially responsible for the payment for medical provided to the child. In such case the standards in WAC 388-83-035 shall apply to determine available income to meet the medical needs of the child. See also WAC 388-24-550.

~~(d)~~ For a pregnant minor see WAC 388-82-015.

~~(e)~~ Even if state law confers adult status at age eighteen (see WAC 388-24-550), the department must consider parental income and resources as available for a child if he is living with the parent until he becomes twenty-one.

(2) Net cash income shall be determined as for the Title XVI category to which the applicant for FAMCO is related according to WAC 388-92-015(3):)

(3) For SSI related individuals, age eighteen to twenty-one, parents income is not considered available unless actually contributed.

(4) For SSI related individuals under age eighteen, parents' income is deemed available.

(5) When the spouse of an SSI related applicant is ineligible or does not apply, the exclusions in (6) below shall be applied to his/her income in determining the amount to be deemed to the applicant. If the remaining income of the ineligible spouse exceeds the single monthly state supplement benefit all the remaining income shall be deemed to the applicant.

~~((3))~~ ~~To arrive at available))~~ (6) Exclusions from income(;;). The following items shall be excluded sequentially from income:

(a) Any amount received from any public agency as a return or refund of taxes paid on real property or on food purchased by such individual or spouse;

(b) State public assistance based on financial need;

(c) Any portion of any grant, scholarship, or fellowship received for use in paying the cost of tuition and fees at any educational institution;

(d) Income that is not reasonably anticipated, or received infrequently or irregularly, if such income does not exceed twenty dollars per month if unearned, or ten dollars per month if earned;

(e) Any amounts received for the foster care of a child, who is not an eligible individual, but who is living in the same house as such individual and was placed in such home by a public or nonprofit private child-placement or child-care agency;

(f) One-third of any payment for child support received from an absent parent will be excluded;

(g) The first twenty dollars per month of earned or unearned income, not otherwise excluded above, for a person at home. The exclusion is considered only once for a husband and wife. There is no exclusion on income which is paid on the basis of need of the eligible individual, such as VA pension and cash from private charitable organizations. For a person in an institution, ~~((the))~~ all exclusions ~~((is considered))~~ apply in determining eligibility ~~((and));~~ they are then allocated as participation in cost of medical care. ~~((See WAC 388-92-035 for employed institutionalized individuals;))~~

(h) Tax exempt payments received by Alaska natives under the Alaska Native Claims Settlement Act;

(i) Tax rebates or special payments exempted by federal regulations will be exempted and publicized by numbered memoranda from the state office;

(j) Compensation provided to volunteers in ACTION programs established by Public Law 93-113, the Domestic Volunteer Service Act of 1973.

(k) When an ineligible minor is in the household of an SSI applicant, an amount will be excluded for such child's needs. The exclusions will be the difference between the SSI couple cash benefit and the SSI individual cash benefit.

(l) Veteran's aid and attendance allowance is to be excluded in determining financial eligibility.

(i) If the sum is paid to a spouse, it is considered that individual's earned income and may be deemed to the applicant.

(ii) For institutionalized applicants, the amount subsequently is considered in the cost of institutional care.

~~((4))~~ (7) An ineligible or nonapplying individual under the age of twenty-one who is a student regularly attending a school, college or university or pursuing a course of vocational or technical training designed to prepare him for gainful employment will have all earned income excluded unless that income is actually contributed to the applicant.

~~((5))~~ (8) ~~((For a recipient at home, disregard the following))~~ Earned income ~~((a) If such individual is blind and under age sixty-five;))~~ exclusions for SSI related individuals shall be the first sixty-five dollars per month of earned income not excluded according to subsection ~~((3))~~ (6), plus one-half of the remainder(;

~~(b) If such an individual is disabled but not blind and is under age sixty-five, the first sixty-five dollars per month of earned income not excluded according to subsection (3), plus one-half of the remainder;~~

~~(c) If such an individual is age sixty-five or over, the first sixty-five dollars per month of earned income not excluded according to subsection (3), plus one-half the remainder;~~

~~(d) If a spouse of an eligible individual applies in his or her own right and can meet the appropriate criteria under Title XVI, the "disregards" are considered only once for the husband and wife)).~~

#### AMENDATORY SECTION (Amending Order 1537, filed 8/25/80)

WAC 388-92-030 MONTHLY ((MAINTENANCE)) STANDARD((PERSON NOT IN INSTITUTION)). (1) After computing available income according to WAC ((388-92-035(1) through (6))) 388-92-025 for ~~((Title XVI))~~ SSI related ~~((federal and medical care only, the monthly maintenance standards in subsections (3) and (4)))~~ individuals, the monthly standard shall be ~~((allowed for an individual not in an institution or for dependents maintaining the family home of an institutionalized recipient effective July 1, 1980))~~ the state supplement standard.

~~((Deleted.))~~ (2) ~~The monthly maintenance standard for SSI related couples (both applying) shall be the state supplement standard for a couple.~~

~~((Monthly standard))~~ (3) When computing available income for a family of three or more the relative responsibility requirement of the appropriate cash assistance program shall be applied, except that relative responsibility shall be limited to spouse for spouse and parent for child.

((Family size ——— Standard

1	\$282
2	402
3	458)

~~((To the standards in subsection (3) for a family of 3, \$78 shall be added for each additional member.))~~ In mixed households (AFDC and SSI related members) two separate determinations must be made.

AMENDATORY SECTION (Amending Order 1233, filed 8/31/77)

WAC 388-92-040 AVAILABILITY OF RESOURCES. In establishing eligibility for medical assistance, only those resources actually available or "in hand", or expected to be "in hand", within a three month period shall be considered. In cases of retroactive coverage, the three month period includes the month in which covered medical services were initiated. ~~((The department's rules for disregarding or setting aside any resources for future needs will be applied.))~~

AMENDATORY SECTION (Amending Order 1439, filed 9/25/79)

WAC 388-92-045 EXCLUDED RESOURCES. Applicants or recipients may transfer or exchange an exempt resource. Cash received from the sale of an exempt resource is excluded provided the total amount of cash is used to replace or reinvest in another exempt resource within three months. Any remaining portion in excess of allowed resources shall be considered a nonexempt resource if the individual's eligibility continues without a break in certification. In determining the resources of an individual and spouse, if any, the following items shall be excluded up to the dollar limit, if any, as indicated:

(1) ~~((The home as defined in WAC 388-28-420.))~~ The home or the proceeds from the sale of a home, which is an excluded resource, will also be excluded to the extent that they are re-invested in the purchase of another home which is similarly excluded within three months of the date of receipt of proceeds.

(2) Household goods and personal effects ~~((as defined in WAC 388-28-430(1))).~~

(3) An automobile will be totally excluded if it is used for employment or for the individual's medical treatment; otherwise, the current retail market value up to ~~\$(+200)~~4,500, any excess to be counted against the resource limit ~~((in WAC 388-92-050)).~~

(4) Property of a trade or business which is essential to the means of self-support; however, it shall not include liquid resources as defined in WAC 388-92-005 even though such liquid resource may be producing income. This property means items commonly referred to as tangible business assets such as land and buildings, equipment and supplies, inventory, cash on hand, accounts receivable, etc. The current market value shall not exceed limits which take into account the nature of the business and the gross and net income such business may be expected to produce in light of such property.

(5) Nonbusiness property which is essential to the means of self-support. This shall include:

(a) Nonliquid (see WAC 388-92-005), nonbusiness property if it is relied upon by the individual as a significant factor in producing income on which he can live, or is used to produce goods, or provide services essential to the individual's support.

(b) Property used exclusively to produce items for home consumption provided the items are significant factors for support and maintenance of the individual.

(c) Tools, equipment, uniforms and similar items required by the individual's employer.

(d) A motor vehicle (in addition to that already excluded) which is essential because of climate, terrain, or similar factors, or special modification, and required to provide necessary transportation. The limitation on value of such vehicle is the same as (3) above.

(6) Resources of a blind or disabled individual which are necessary to ~~((fulfill))~~ fulfill an approved plan for achieving self-support for so long as such plan remains in effect.

(7) Shares of stock held in a regional or village corporation during the period of twenty years ending January 1, 1992, in which such stock is inalienable pursuant to the Alaska Native Claims Settlement Act.

(8) Life insurance owned by an individual and spouse, if any, to the extent of its cash surrender value, provided that the total face value of policies held by each individual is \$1500 or less, in which case the cash surrender value is not evaluated. If the face value of policy(ies) is over \$1500, cash surrender value must be applied to resource limitations ~~((in WAC 388-92-050 and the excess must be applied to participation)).~~ Term or burial insurance with no cash surrender value is not considered in determining face value.

(9) Restricted allotted land owned by an enrolled member and spouse, if any, of an Indian tribe, if such land cannot be sold, transferred or otherwise disposed of without permission of other individuals, his tribe or an agency of the federal government.

(10) Cash received from an insurance company for purposes of repairing or replacing an excluded resource that is lost, damaged, or stolen, etc., is excluded as a resource provided the total amount of the cash is used to repair or replace such excluded resource within

~~((three))~~ nine months ~~((if the resource is personal property, and six months if the resource is real property))~~ that period may be extended based on circumstances beyond the control of the applicant to a maximum of nine additional months. Any such cash not so used within such time periods is considered as an available resource.

(11) Other resources excluded by federal statute.

AMENDATORY SECTION (Amending Order 898, filed 1/25/74)

WAC 388-92-050 LIMITATION OF RESOURCES. The total value of resources allowed and not otherwise excluded shall not exceed \$1,500 for a single individual or \$2,250 for a ~~((family of two))~~ couple. ~~((The maximum amount shall be increased by \$50 for each additional member in the household.))~~

<u>FAMILY SIZE</u>	<u>TOTAL ALLOWED</u>
1	\$1,500
2	2,250
3	2,300
4	2,350
5	2,400
6	2,450
7	2,500
8	2,550
9	2,600
10	2,650

REPEALER

The following sections of the Washington Administrative Code are repealed:

- (1) WAC 388-92-010 DESCRIPTION OF PROGRAM.
- (2) WAC 388-92-020 APPLICATION FOR MEDICAL CARE.
- (3) WAC 388-92-035 MONTHLY PERSONAL NEEDS ALLOWANCE—PERSON IN INSTITUTION.
- (4) WAC 388-92-055 ALLOCATION OF INCOME AND RESOURCES.
- (5) WAC 388-92-060 AUTHORIZATION.
- (6) WAC 388-92-065 TERMINATION OF SSI BENEFICIARY.
- (7) WAC 388-92-070 PERSON CONVERTED INTO TITLE XVI.

**WSR 81-06-069**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
**(Public Assistance)**  
 [Filed March 4, 1981]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services intends to adopt, amend, or repeal rules concerning Medical care—Scope and content of care, amending chapter 388-86 WAC.

These rules were adopted on an emergency basis effective March 1, 1981.

Correspondence concerning this notice and proposed rules attached should be addressed to:

David A. Hogan, Director  
 Client and Community Relations Division  
 Department of Social and Health Services  
 Mailstop OB-44 D  
 Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact William B. Pope, Chief, Office of Administrative Regulations, at

State Office Building #2, 12th and Jefferson, Olympia, Washington, Phone (206) 753-7015, by March 26, 1981. The meeting site is in a location which is barrier free;

that such agency will at 10:00 a.m., Thursday, April 9, 1981, in the Auditorium, General Administration Building, Olympia, Washington, conduct a hearing relative thereto;

and that the adoption, amendment, or repeal of such rules will take place at 9:00 a.m., Wednesday, April 22, 1981, in William B. Pope's office, 4th floor, Office Building #2, 12th and Franklin, Olympia, Washington.

The authority under which these rules are proposed is RCW 74.08.090.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to April 9, 1981, and/or orally at 10:00 a.m., Thursday, April 9, 1981, Auditorium, General Administration Building, Olympia, Washington.

Dated: March 3, 1981

By: David A. Hogan

Director, Client and  
Community Relations Division

#### STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Amend chapter 388-86 WAC.

Purpose of the rule or rule change is to implement changes in the medical assistance program.

The reason(s) these rules are necessary is to comply with chapters 5 and 8, Laws of 1981.

Statutory authority: RCW 74.08.090.

Summary of the rule or rule change: WAC 388-86-005(7) lists those services no longer available to recipients. WAC 388-86-020 is revised to abolish dental services for adults and to establish conditions under which dental care is provided to EPSDT recipients. WAC 388-86-023 is repealed. Chiropractic services are deleted from the medical program. WAC 388-86-027 rephrases explanation of EPSDT services. There are no changes in the program. WAC 388-86-035 Editorial. WAC 388-86-040 Editorial. WAC 388-86-050 Editorial. WAC 388-86-067 clarifies who is eligible for mental health center services. WAC 388-86-075 deletes reference to recipients of MO and of GA-U. WAC 388-86-085 adds criteria for the provision of medically necessary air transportation. Deletes reference to MO. WAC 388-86-096 Repealed. Podiatric services are deleted from the medical program. WAC 388-86-115(b) No out-of-state medical care provided on the state-funded program except in designated bordering cities. WAC 388-86-120 defines medical services available to recipients of continuing general

assistance grants. The MO program is deleted.

Person or persons responsible for the drafting, implementation and enforcement of the rule:

Name of initiator: Patsy Brittain

Title: Unit Supervisor

Office: Medical Assistance Division

Mailstop: LK-11

Phone: 3-7313.

The person or organization (if other than DSHS) who proposed these rules is: None.

These rules are not necessary as a result of federal laws, federal court decisions or state court decisions.

#### AMENDATORY SECTION (Amending Order 1554, filed 10/9/80)

WAC 388-86-005 SERVICES AVAILABLE TO RECIPIENTS OF MEDICAL ASSISTANCE. (1) For recipients of medical assistance (MA), the department shall authorize early and periodic screening diagnosis and treatment services including dental, vision, and hearing services, to eligible individuals under twenty-one years of age, family planning services, home health agency services, inpatient and outpatient hospital care, other laboratory and x-ray services, skilled nursing home care, and physicians' services in the office or away from the office as needed for necessary and essential medical care. The department may authorize medically justified ambulance service and other approved transportation.

(2) The following additional services shall also be authorized when medically necessary: anesthetization services; blood; ~~((limited))~~ dental services to EPSDT recipients; drugs and pharmaceutical supplies; eye-glasses and examination; hearing aids and examinations; oxygen; physical therapy services; special-duty nursing services; surgical appliances, prosthetic devices, and certain other aids to mobility.

(3) Treatment, transplants, dialysis, equipment and supplies for acute and chronic nonfunctioning kidneys are provided in the home, hospital and kidney center. See WAC 388-86-050(5).

(4) Organ transplants, other than kidney transplants are not provided as a part of physician services or hospital care authorized under the medical assistance program.

(5) Treatment to detoxify narcotic addiction cases in a hospital or on an outpatient basis is not provided as a part of the medical care program. The department will provide treatment for concurrent diseases and complications.

(6) Detoxification of an acute alcoholic condition will be provided only in a certified detoxification center or in a general hospital with certified detoxification facilities.

(7) ~~((Orthodontic treatment is not provided except for EPSDT recipients. See WAC 388-86-020(7)))~~ The following medical services are not provided:

(a) Adult dental services,

(b) Chiropractic services, and

(c) Podiatry.

(8) Treatment for obesity is not provided as part of the medical care program. The department will provide treatment for concurrent diseases and complications.

(9) Where evidence is obtainable to establish medical necessity, as defined in WAC 388-80-005, the department shall approve the request if the recipient or provider submits sufficient objective clinical information (including, but not limited to, a physiological description of the disease, injury, impairment or other ailment; pertinent laboratory findings; x-ray reports; and patient profiles).

(10) A request for medical services may be denied by the department if the requested service is not medically necessary as defined by WAC 388-80-005, is generally regarded by the medical profession as experimental in nature or as unacceptable treatment, unless the recipient can demonstrate through sufficient objective clinical evidence the existence of particular circumstances which render the requested service medically necessary.

(11) The department shall approve or deny all requests for medical services within fifteen days of the receipt of the request, except that if additional justifying information is necessary before a decision can be

made, the request shall be neither approved nor denied but shall be returned to the provider within five working days of the original receipt. If additional justifying information is not returned within thirty days of the date it was returned to the provider, then the original request shall be approved or denied. However, if such information is returned to the department, the request shall be acted upon within five working days of the receipt of the additional justifying information.

(12) Whenever the department denies a request for medical services the department shall, within five working days of the decision, give written notice of the denial to the recipient and the provider. In order to fully inform the recipient, the notice shall state:

(a) The specific reasons for the department's conclusion to deny the requested service.

(b) If a fair hearing is requested, a medical assessment other than that of the person or persons involved in making the original decision may be obtained at the expense of the department of social and health services, and instructions on how to obtain such assessment.

(c) The recipient has a right to a fair hearing if the request is made within ninety days of receipt of the denial, with the instruction on how to request the hearing.

(d) The recipient may be represented at the hearing by legal counsel or other representative.

(e) That upon request, the CSO shall furnish the recipient the name and address of the nearest legal services office.

#### AMENDATORY SECTION (Amending Order 1554, filed 10/9/80)

WAC 388-86-020 DENTAL SERVICES. (1) The department shall provide dental (care subject to limitations and conditions set forth below and further defined in current departmental memoranda and dental schedule of maximum allowances. For out-of-state dental care, see WAC 388-86-115(5)) services to recipients of EPSDT.

(2) ((Dental coverage for recipients of medical assistance and continuing general assistance, who are not eligible for EPSDT, is limited to the following services)) Services will include:

(a) ((Restorative care will include:)) Initial and periodic oral examinations.

(b) Treatment necessary for the relief of pain and infection, restoration of teeth, and maintenance of dental health.

(c) Orthodontic treatment is defined as the use of any appliance, intra oral or extra oral, removable or fixed, or any surgical procedure designed to move teeth. The following limitations apply:

(i) ((fractured, new or lost fillings)) Prior approval must be obtained from the office of medical policy and procedure,

(ii) ((repair or replacement of broken dentures.)) Treatment is limited to medically necessary services as defined in chapter 388-80 WAC.

((iii)) relines of dentures.

(b) Prophylaxis and topical application of fluoride are provided.

(c) Oral surgery with prior approval to correct extreme conditions.

(d) Treatment for pain and infection, including gingivitis and extractions.

(e) Dentures, full or partial with prior approval.

(f) Initial and periodic oral examinations are provided.

(3) EPSDT dental services include treatment necessary for the relief of pain and infection, restoration of teeth, and maintenance of dental health. See subsection (7) of this section:

(4) Dental services for recipients of Medical Only (M.O.) who have satisfied the deductible are subject to the following limitations:

(a) Dental treatment is limited to the relief of pain, which may or may not involve extraction, and surgical repair of the maxilla and/or mandible.

(b) No care is provided outside the state of Washington except in border situations as specified in WAC 388-82-030(4).

(5) Dentures provided by the department but subsequently lost will not be replaced except where medical necessity is clearly demonstrated and prior approval given by the chief of the office of medical assistance or his designee.

(6) Hospitalization for dental conditions, other than acute and emergent, requires prior approval of the chief of the office of medical policy and procedure or his designee. Hospitalization for acute and emergent dental conditions requires approval.

(7) Orthodontic treatment is defined as the use of any appliance, intraoral or extraoral, removable or fixed, or any surgical procedure designed to move teeth. The service is not provided except for EPSDT recipients. The following limitations apply to EPSDT related orthodontic treatment:

(a) Prior approval must be obtained from the office of medical policy and procedure.

(b) Treatment is limited to medically necessary services. See WAC 388-86-005.

(8) Recipients residing in nursing homes are eligible for dental care subject to the same regulations as those in the general recipient population with the following additional qualifications:

(a) The patient's attending physician will initiate a referral for dental care when a significant dental problem is identified by that physician, the patient, family, nursing home staff or nursing care consultant.

(b) The patient shall have freedom of choice of dentists, including referral to a dentist who has provided services to the patient in the past. The staff dentist may be called when the patient has no choice of dentists and concurs with the request.

(c) The department may approve bedside dental care when sufficient justification exists to show transporting the patient is inappropriate.

(d) Treatment of a nonemergent nature in a nursing home, congregate care facility or group home requires prior approval for each patient. Payment for multiple screening examinations of patients in these settings will not be made.))

#### AMENDATORY SECTION (Amending Order 1554, filed 10/9/80)

WAC 388-86-027 EARLY AND PERIODIC SCREENING, DIAGNOSIS AND TREATMENT OF ELIGIBLE INDIVIDUALS UNDER TWENTY-ONE YEARS OF AGE. (1) ((The)) To the extent provided under these rules, the department will make available to categorically needy individuals under twenty-one years of age ((who are recipients of medical assistance (MA))), early and periodic screening and diagnosis to ascertain their physical and/or mental defects(;) and ((preventive health care and)) will authorize treatment to correct or ameliorate the defects and chronic conditions discovered thereby(;) to the extent provided under these rules)). There will be freedom of choice in obtaining screening services from among participating providers. The following services are included in the program:

(a) Screening by providers of screening services ((that)) who have been authorized by the division of medical assistance to provide ((at least the following items in)) an unclothed physical examination including at least:

(i) medical history

(ii) assessment of physical growth and nutritional status

(iii) developmental assessment (physical and mental)

(iv) inspection for obvious defects

(v) inspection of ears, nose, mouth, teeth and throat

(vi) visual screening; auditory testing

(vii) screening for cardiac abnormalities

(viii) screening for anemia

(ix) urine screening

(x) blood pressure (children twelve years of age or older)

(xi) assessment of immunization status and updating immunization

(xii) referral to a dentist for examination, diagnosis and treatment for children three years of age and over.

(b) When indicated by screening findings, providers of screening services will provide, or refer eligible children for more definitive diagnostic study and/or treatment.

(c) Treatment shall be limited to the same duration and scope of care available to other recipients of medical assistance, except regardless of any such limitations, treatment for visual and hearing defects including eyeglasses and hearing aids, and at least such dental care as is necessary for relief of pain and infection and for restoration of teeth and maintenance of dental health shall be provided, subject to such utilization controls as may be imposed by the department.

((c)) (d) See WAC 388-86-005((7)) and 388-86-020((3) and (7)) for limitations of the dental program(;) ((See)) WAC 388-86-030 for eyeglasses and examinations and 388-86-040((4)) for management of hearing defects.

(2) The EPSDT requirement applies to all individuals under twenty-one years of age who are determined to be ((eligible for medical assistance (MA))) categorically needy.

#### AMENDATORY SECTION (Amending Order 1203, filed 4/1/77)

WAC 388-86-035 FAMILY PLANNING. The department shall make known to clients the availability of family planning services. The department shall provide to eligible categorically needy recipients ((of medical assistance (MA))) necessary physicians' services, clinic or hospital services, supplies and drugs needed in conjunction with family

planning. See WAC 388-15-240(~~(3)~~) for Title XX services for non-recipients including minors.

**AMENDATORY SECTION** (Amending Order 1554, filed 10/9/80)

**WAC 388-86-040 HEARING AIDS.** (1) The department shall provide to categoryally needy recipients (~~(who are eligible for federal assistance grants or FAMCO)~~):

- (a) One new hearing aid under the following conditions:
    - (i) On prescription of an otolaryngologist, or the attending physician where no otolaryngologist is available in the community, within six months prior to receiving hearing aid dispenser services, and
    - (ii) With a minimum of 50 decibel loss in the better ear based on auditory screening at 500, 1000, 2000 and 4000 Hertz (Hz) with effective masking as indicated, and
    - (iii) When covered by a one year warranty, and/or
  - (b) One-time repair of a state purchased or privately owned hearing aid when covered by a ninety day warranty.
- (2) Prior approval is required for the purchase or trial period rental of hearing aids and for one-time repair of a state purchased or privately owned hearing aid.
- (3) After expiration of warranties, the owner is responsible for repairs and for purchase of batteries, any attachments and replacements.
- (4) Individuals under age twenty-one must be referred to the Crippled Children's Service Conservation of Hearing Program.
- (5) Individuals twenty-one years of age and over may sign a waiver statement declining the medical evaluation for religious or personal beliefs that preclude consultation with a physician.
- (6) Hearings aids are not provided to recipients of continuing general assistance grants (~~(or medical only (M.O.))~~).

**AMENDATORY SECTION** (Amending Order 1542, filed 9/9/80)

**WAC 388-86-050 INPATIENT HOSPITAL CARE.** (1) The department will provide hospitalization for recipients under age sixty-five and for recipients sixty-five and over who have exhausted medicare benefits. With exceptions and limitations listed below, the recipient will have free choice of hospitalization.

- (2) Hospitalization for services covered by the program requires approval by:
- (a) The local medical consultant for:
    - (i) Prior approval of nonemergent surgery;
    - (ii) Admission and length of stay for recipients on the GAU (~~(and MO)~~) program(s);
    - (iii) Retroactive certification and out-of-state care, including hospitalization in (~~(border)~~) bordering cities, for categoryally needy recipients (~~(on federal aid programs)~~);
  - (b) The Washington state professional standards review organization (WSPSRO) by certification, when previous agreement with the department and the PSRO exists, and when review is timely and concurrent with hospitalization, for:
    - (i) Medical illness and emergent surgery for recipients on federal programs;
    - (ii) Admission and length of stay for categoryally needy recipients (~~(on federal programs)~~).
- (3) Department authorization for inpatient hospital care for eligible individuals shall be limited to the lesser of the minimum number of days consistent with practice normally followed in the community or the maximum number of days established at the 75th percentile in the edition adopted by the department of the publication "Length of Stay in PAS Hospitals, by Diagnosis United States Western Region", unless prior contractual arrangements are made by the department for a specified length of stay (as defined in WAC 388-80-005 and 388-87-013(~~(2)~~)). Hospital stays shall be subject to the same utilization review as established for private patients in the community. A daily list of all recipient inpatients with diagnostic information shall be submitted by the hospital to the local medical consultant. When hospitalization of a recipient of GA-U (~~(or MO)~~) exceeds the maximum number of days specified in PAS, an extension request shall be presented with adequate justification by the attending physician to the chief, office of medical policy and procedure or his designee within sixty days of final service. The Washington state professional standards review organization (WSPSRO) will certify days of stay and/or services (i.e., approve as necessary, appropriate, and of acceptable quality) for categoryally needy recipients (~~(of federally-related programs)~~).
- (a) Eligible recipients are covered for involuntary admissions for acute psychiatric conditions up to a maximum of seventeen days under the Involuntary Treatment Act in hospitals certified as evaluation and

treatment facilities. If an involuntarily committed recipient reverts to voluntary status, PAS days are computed from day of admission and applied to any period exceeding the mandatory seventeen days. If PAS days are less than seventeen, the maximum of seventeen days will prevail.

(b) No payment will be made for care in a private psychiatric hospital that has not been certified under Title XVIII. Authorization for admission of an eligible individual to a private psychiatric hospital shall be under the same conditions and program limitations as for treatment of psychiatric conditions in a general hospital.

(c) Medicaid payment will be made for care in a state mental institution for AFDC recipients or SSI beneficiaries under age twenty-one and for all categoryally needy recipients age sixty-five and older. Other age groups are covered under the Involuntary Treatment Act and/or other state funded programs. See WAC 388-82-025.

(4) The department is prohibited from paying for hospitalization of any individual for the treatment of tuberculosis in a general hospital after such a diagnosis has been established. See WAC 388-82-025.

(5) Hospitalization for the treatment of acute and chronic renal failure shall be provided, except that the department shall pay only deductibles and coinsurance for a recipient who is a medicare beneficiary and who is hospitalized for such treatment or for kidney transplant.

(6) Except for an emergency no hospital admission shall be made on Friday or Saturday for scheduled surgery on Monday. The attending physician may admit the recipient on Sunday to accomplish the necessary preoperative work-up.

(7) Approval for hospitalization of a recipient shall be based on the recipient's need for semi-private accommodations and reimbursement made at the multiple occupancy rate regardless of accommodations provided by the hospital. Special rates may be established for recipients covered by the Involuntary Treatment Act. Semi-private accommodations shall mean not less than two nor more than a four-bed room.

**AMENDATORY SECTION** (Amending Order 1402, filed 5/16/79)

**WAC 388-86-067 MENTAL HEALTH CENTER SERVICES.**

(1) The department shall provide mental health or day health care services to a cash (~~(beneficiary)~~) assistance recipient under (~~(Title XVI);~~) SSI, state supplement or AFDC and an eligible recipient of a state funded continuing (~~(state or federal aid grant or federal aid medical care only)~~) general assistance grant. The services provided through these agencies are not subject to the limitation on the number of visits under the provisions of WAC 388-86-095(~~(5)~~).

(2) Community mental health services provided shall be as specified in a contract between the department and the participating center.

(3) For the purposes of this section, community mental health center shall mean an agency or program which meets the following criteria:

(a) Is included as a part of the approved county mental health plan, or is approved by the department to hold a subcontract from the area agency on aging to provide day health care.

(b) Receives state grant-in-aid funds as authorized by the Community Mental Health Services Act, chapter 71.24 RCW, and as described in WAC 275-25-030, or receives money through a contractual agreement with the area agency on aging for the provision of day health care.

(c) Provides treatment by, or under the direction of, a licensed doctor of medicine who has sufficient knowledge of the caseload and clinical program to be assured that the quality of the service is satisfactory.

(4) An agency or program must be either:

(a) An outpatient clinic, with its own governing body, administration and staff, or

(b) A county-administered outpatient clinic, or

(c) A separate identifiable outpatient clinic of a general hospital or psychiatric inpatient facility, or

(d) An outpatient clinic with a residential component within its administrative structure, or

(e) A separate identifiable outpatient clinical program of an agency which has other service functions.

(5) Agencies which have functions in addition to outpatient care (see items (4)(c), (d) and (e)) shall adhere to the following criteria:

(a) Specific staff are delineated to provide outpatient clinical services exclusively,

(b) Outpatient clinical records are separated from other service records of the agency,

(c) The center's accounting and bookkeeping procedures are such that:

(i) If the center has an existing contract, a review or audit finds that these procedures assure adequate fiscal accountability. Audits will be conducted by either the department or the office of the state auditor.

(ii) If an agency is applying for a contract, the application will be accompanied by a statement from a licensed or certified public accountant reflecting the accountant's unqualified opinion of the adequacy, accuracy and accountability of the agency's records.

(6) The final decision regarding a mental health center's participation in this program shall be made by the department.

(7) Mental health service records—content:

An adequate clinical record shall be maintained for each eligible client receiving outpatient mental health services in a mental health center. The clinical records at a minimum shall contain the following:

- (a) History
- (b) Diagnostic/evaluative statements
- (c) Treatment plan
- (d) Treatment notes
- (e) Periodic treatment review
- (f) Documentation of case conferences
- (g) Clinical summaries on termination of service
- (8) Subcontracts:

An agency which has a contract under this section shall not enter into subcontracts for any work agreed upon under the contract without obtaining prior written approval of the department from the office of medical assistance.

#### AMENDATORY SECTION (Amending Order 1554, filed 10/9/80)

WAC 388-86-075 OUTPATIENT AND EMERGENCY CARE. ~~((+))~~ No authorization is required for categorically needy recipients ~~((of federal assistance grants or federal aid medical care only))~~ to receive outpatient service, acute and emergent outpatient surgical care and other emergency care performed on an outpatient basis in a hospital. Justification for the service must be presented for payment.

~~((2) Local medical consultant approval is required for all services provided to recipients of medical only and continuing general assistance.))~~

#### AMENDATORY SECTION (Amending Order 1554, filed 10/9/80)

WAC 388-86-085 PATIENT TRANSPORTATION. (1) The department will assure the availability of necessary transportation for recipients to and from medical care providers.

(2) Ambulance or cabulance transportation shall be provided when medical necessity is clearly demonstrated or the physical condition of the recipient is such that the use of any other method of transportation is inadvisable.

(3) Transportation by taxi will be provided only when approved by the local medical consultant.

(4) Transportation by private automobile other than owned by recipient is payable at rates established by the department.

~~((The recipient of medical only must have satisfied the deductible of one thousand dollars before transportation is provided for medical reasons))~~ Air transportation may be provided when medical necessity requires this mode of transportation.

(a) Intrastate services must have prior approval of the medical consultant.

(b) Interstate services must have approval of the medical director, office of medical policy and procedure.

(c) Prior approval is required for nonemergent air transportation when:

- (i) Need for medical treatment is justified.
- (ii) A closer location is not available.

(d) Method of reimbursement for air transportation and ancillary services will be published as necessary by the division of medical assistance.

(6) Providers of ambulance, cabulance and private automobile transportation must show medical necessity justification on the billing document.

#### AMENDATORY SECTION (Amending Order 1402, filed 5/16/79)

WAC 388-86-115 MEDICAL CARE PROVIDED OUT-OF-STATE. (1) The department shall authorize and provide comparable medical care services to a recipient of medical assistance (MA) who is temporarily outside the state to the same extent that such medical care

services are furnished to an eligible recipient in the state, subject to the exceptions and limitations in this section.

(2) Border situations mentioned in WAC 388-82-030(4) are not considered "out-of-state" and are excluded from these provisions. However, a recipient who visits another state, other than specified border locations, specifically for the purpose of obtaining medical care is not eligible for such care at the expense of the state of Washington.

(3) A recipient who moves to another state for the purpose of establishing residence in that state is not eligible for medical care after eligibility has been terminated by the department.

(a) When determining the effective date of change in the eligibility of a categorically needy recipient ~~((of a federal aid grant))~~, see WAC 388-33-365 for appropriate guidelines. Medical care coverage terminates the same date as termination of the grant.

~~((The date of termination of eligibility for medical care for a recipient of FAMCO is the date the change is reported on the appropriate certification form to the state office or the end of the month during the month in which notification is made, whichever is earlier))~~ State funded medical care is not provided out-of-state. Medical services in designated bordering cities may be authorized.

(4) The medical consultant shall review all cases involving out-of-state medical care to determine whether the services are within the scope of the medical assistance program.

~~((5) Dental care out-of-state is limited to treatment of acute and emergent conditions only. However, a dentist in another state licensed to practice in Washington, may render services to persons residing in Washington to the same extent as if practicing in Washington. (See WAC 388-86-020).))~~

~~((6) For limitations on eligibility for nursing home care out-of-state, see WAC 388-82-030(2).))~~

#### AMENDATORY SECTION (Amending Order 1554, filed 10/9/80)

WAC 388-86-120 STATE FINANCED MEDICAL CARE ((SERVICES)). ~~((+))~~ A recipient of a continuing general assistance grant who cannot be related to a federal aid category ~~((and a recipient of medical only shall be eligible for treatment of acute and emergent conditions only which requires medical consultant approval. Coverage for the recipient of continuing general assistance shall be termed "major medical."))~~

(a) An "acute condition" is defined as having a short and relatively severe course, not chronic; and an "emergent condition" is defined as occurring unexpectedly and demanding immediate action, either of which includes:

(i) Rabies prevention inoculation. Initial treatment may be started on an emergency basis; however, the approval of the medical consultant must be requested within fourteen days, including date treatment was initiated. Rabies serum shall be requested from the epidemiology section of the department's division of health services, Olympia.

(ii) Hospitalization for acute and/or emergent psychiatric or mental conditions. Voluntary admissions in an acute or emergent phase of psychiatric or mental illness and involuntary commitments by the court are covered by the program for eligible recipients. (See WAC 388-86-050(3)(a) and (b) for limitations of stay).

(b) Major medical coverage includes service in response to an acute and emergent need applicable to the recipient of a continuing general assistance grant and includes those conditions of less urgency where medical experience indicates a failure to treat will usually result in the rapid development of an emergent condition. Certain nonacute and nonemergent conditions that are covered and may be approved by the medical consultant are:

(i) Specific maintenance drugs:

(A) Certain necessary drugs for conditions such as cardiovascular disease, diabetes, mental illness, epilepsy, nephritis, and carcinoma may be prescribed subject to approval by the local medical consultant. Examples of such drugs are cardiac control agents, insulin and oral antidiabetic tablets, anticonvulsant agents, psychotropic drugs, urinary antiinfective agents.

(B) Drugs for former patients of state mental institutions. Tranquilizers, antidepressants, antiepileptics, and agents used for treatment of drug-induced Parkinsonism may be provided to former patients of state hospitals and schools for the mentally retarded. The attending physician prescribes the necessary drugs on Form 6-02 mental hospitals for the mentally retarded and mails the prescription directly to the institution.

(ii) Nonemergent care, subject to approval of the medical consultant, if such care:

(A) Will avoid the need for hospitalization, or

~~(B) Is medically indicated in unusual circumstances by the attending physician and concurred with by the medical consultant.~~

~~(2) Limitations on medical services for eligible recipients of a continuing general assistance grant:~~

~~(a) Hearing aids are not provided.~~

~~(b) Care outside the state of Washington is not provided except in bordering states as specified in WAC 388-82-030(4).~~

~~(c) All treatment and drugs must be approved by the medical consultant. See WAC 388-87-025(1).~~

~~(d) Dental coverage as is described in WAC 388-86-020.~~

~~(e) Mental health services are provided only in local community mental health centers.~~

~~(3) One physician office call a month will be provided.~~

~~(4) When an applicant indicates that an urgent undefined medical illness exists, the condition will be regarded as acute and emergent and one office visit for diagnosis will be allowed, provided all financial eligibility criteria have been met. Treatment will be contingent upon the criteria for acute and emergent having also been met.~~

~~(5) Eligibility factors applicable to the recipient of medical only are:~~

~~(a) The applicant must have acquired one thousand dollars in unpaid medical expenses over a twelve-month period.~~

~~(b) The one thousand dollars in unpaid medical expenses is the deductible. This amount plus any participation is the responsibility of the recipient of medical only.~~

~~(c) Recipients undergoing detoxification for an acute alcohol condition are not required to incur the one thousand dollars deductible as an eligibility factor for the covered period of detoxification. When any other medical need is identified, the requirements for acute and emergent need and one thousand dollars deductible shall apply.~~

~~(d) Citizenship is not a requirement of eligibility.~~

~~(6) Additional factors applicable to the recipient of medical only are:~~

~~(a) Maternity care is covered for persons not categorically retable or eligible under the "H" program. This will usually apply only to nonresidents who have no medical coverage through the state of residence and for out-of-state child welfare service cases. Care may include prenatal, delivery, post partum, and such ancillary medical services as may be requested by the attending physician and approved by the medical consultant.~~

~~(b) Hospitalization is covered for acute and/or emergent psychiatric or mental conditions. Voluntary admissions in an acute or emergent phase of psychiatric or mental illness and involuntary commitments by the court are covered by the program for eligible recipients. (See WAC 388-86-050(3) (a) and (b) for limitations on stay.)~~

~~(c) Hearing aids and eyeglasses are not provided.~~

~~(d) Care outside the state of Washington is not provided except in bordering states as specified in WAC 388-82-030(4).~~

~~(e) All treatment and drugs must be approved by the medical consultant. (See WAC 388-87-025(1).)~~

~~(f) Dental service is limited to the relief of pain.~~

~~(g) Mental health clinic services are not provided.~~

~~(h) Certification covers the acute and emergent condition (including specified exceptions only) is eligible to receive the same scope of care (WAC 388-86-005) as a recipient of medicaid, except that no care will be provided outside the state of Washington other than in bordering states as specified in WAC 388-82-030(4), and shall be subject to the following medical program limitations. Continuing general assistance medical coupons bear the imprint "GAU".~~

~~(1) Elective hospital admissions and elective surgery requests require prior medical consultant approval.~~

~~(2) Criteria used to determine that the proposed surgery is elective are:~~

~~(a) Medical necessity must be established. Definition in chapter 388-80 WAC applies.~~

~~(b) Procedure cannot reasonably be delayed.~~

~~(3) Prescribed drugs are limited to specific therapeutic classifications. Lists are published through the Drug Formulary and/or official memoranda.~~

~~(4) Mental health services will be provided only in community mental health centers.~~

~~(5) Hearing aids are not provided.~~

#### REPEALER

The following section of the Washington Administrative Code is repealed.

(1) WAC 388-86-023 CHIROPRACTIC SERVICES.

**WSR 81-06-070**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
**(Public Assistance)**  
[Filed March 4, 1981]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services intends to adopt, amend, or repeal rules concerning:

Amd ch. 388-87 WAC Medical care—Payment.

Amd ch. 388-91 WAC Medical care—Drugs.

Rep WAC 388-86-096 Podiatry.

These rules were adopted on an emergency basis effective March 1, 1981.

Correspondence concerning this notice and proposed rules attached should be addressed to:

David A. Hogan, Director  
Client and Community Relations Division  
Department of Social and Health Services  
Mailstop OB-44 D  
Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact William B. Pope, Chief, Office of Administrative Regulations, at State Office Building #2, 12th and Jefferson, Olympia, Washington, Phone (206) 753-7015, by March 26, 1981. The meeting site is in a location which is barrier free;

that such agency will at 10:00 a.m., Thursday, April 9, 1981, in the Auditorium, General Administration Building, Olympia, Washington, conduct a hearing relative thereto;

and that the adoption, amendment, or repeal of such rules will take place at 9:00 a.m., Wednesday, April 22, 1981, in William B. Pope's office, 4th floor, Office Building #2, 12th and Franklin, Olympia, Washington.

The authority under which these rules are proposed is RCW 74.08.090.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to April 9, 1981, and/or orally at 10:00 a.m., Thursday, April 9, 1981, Auditorium, General Administration Building, Olympia, Washington.

Dated: March 3, 1981

By: David A. Hogan

Director, Client and  
Community Relations Division

#### STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Amend chapters 388-87 and 388-91 WAC. Purpose of the rule or rule change is to implement changes in the medical assistance program.

The reason(s) these rules are necessary is to comply with chapters 5 and 8, Laws of 1981.

Statutory authority: RCW 74.08.090.

Summary of the rule or rule change: WAC 388-87-005 removes chiropractors and podiatrists from list of eligible providers. WAC 388-87-010 deletes reference to medical only program. WAC 388-87-011 deletes reference to FAMCO program. WAC 388-87-012 Editorial change. WAC 388-87-013 Medical consultant approval required for nonemergent hospitalization of recipients of state-funded programs. WAC 388-87-025 deletes references to medical only program. WAC 388-87-027 Editorial changes. WAC 388-87-030 simplifies procedure for hospital billing. WAC 388-87-047 is repealed. Chiropractic services are deleted from the medical program. WAC 388-87-070 deletes references to FAMCO and medical only programs. WAC 388-87-077 removes reference to medical only program. WAC 388-87-105 Editorial changes. WAC 388-91-010(3) References to FAMCO and medical only are deleted from drug program. Establishes limitations on maintenance medications under state-funded medical care. WAC 388-91-016 prohibits payments for drugs listed in federal register as "ineffective" or "possibly ineffective". Permits reimbursement to physicians who provide drugs incidental to office calls. WAC 388-91-035 Editorial changes.

Person or persons responsible for the drafting, implementation and enforcement of the rule:

Name of initiator: Patsy Brittain

Title: Unit Supervisor

Office: Medical Assistance Division

Mailstop: LK-11

Phone: 3-7313.

The person or organization (if other than DSHS) who proposed these rules is: None.

These rules are not necessary as a result of federal laws, federal court decisions or state court decisions.

#### REPEALER

The following section of the Washington Administrative Code is repealed.

(1) WAC 388-86-096 PODIATRY.

#### AMENDATORY SECTION (Amending Order 1542, filed 9/9/80)

WAC 388-87-005 PAYMENT—ELIGIBLE PROVIDERS DEFINED~~((—GROUNDS FOR TERMINATING PARTICIPATION))~~. (1) Eligible providers are:

(a) Persons currently licensed by the state of Washington to practice medicine, ~~((chiropractic;))~~ osteopathy, dentistry~~(;))~~ or optometry~~((; or podiatry))~~,

(b) Persons currently licensed by the state of Washington as professional or practical nurses, or as physical therapists,

(c) A hospital currently licensed by the department,

(d) A nursing home currently licensed and classified by the department as a skilled nursing or intermediate care facility,

(e) A licensed pharmacy,

(f) A home health services agency certified by the department,

(g) An independent (outside) laboratory qualified to participate under Title XVIII or determined currently to meet the requirements for such participation,

(h) A company or individual (not excluded in subsection (3)) supplying items such as ambulance service, oxygen, eyeglasses, other appliances, or approved services,

(i) A provider of screening services that has signed an agreement with the department to provide such services to eligible individuals in the EPSDT program,

(j) A certified center for the detoxification of acute alcoholic conditions,

(k) An outpatient clinical community mental health center, drug treatment center or Indian health service clinic,

(l) A medicare certified rural health clinic,

(m) Approved prepaid health maintenance, prepaid health plans and/or health insuring organizations,

(n) An out-of-state provider of services (a) through (g) with comparable qualifications in state of residence or location of practice.

(2) Under the mandatory and discretionary provision of RCW 74.09.530, the services of the following practitioners will not be furnished to applicants or recipients:

Chiropractors

Podiatrists

Sanipractors

Naturopaths

Homopathists

Herbalists

Masseurs or manipulators

Christian Science practitioners or theological healers

Any other licensed or unlicensed practitioners not otherwise specifically provided for in these rules.

#### AMENDATORY SECTION (Amending Order 1542, filed 9/9/80)

WAC 388-87-010 CONDITIONS OF PAYMENT—GENERAL.

(1) The department shall be responsible for payment of service rendered to a recipient only when the services are within the scope of care, properly authorized and the recipient certified as eligible.

(2) The fees and rates established by the department shall constitute the full charge for approved medical care and services provided to recipients by the providers.

(3) When a provider of service furnishes services to a known eligible recipient and does not bill the department for services for which the department is responsible for payment, or fails to satisfy department conditions of payment such as prior approval and timely billing, the recipient is under no obligation to pay the provider.

(4) Payment for any service furnished to a recipient by a provider may not be made to or through a factor who advances money to that provider for accounts receivable.

(5) The department will not be responsible for payment for medical care and goods and/or services provided to a recipient enrolled in a department-contracted, prepaid medical plan who fails to use the provider under contract unless emergency conditions exist or the department has approved payment to another provider for provision of a service not covered by the prepaid plan.

(6) The department will not be responsible for payment of that portion of medical care or services reimbursable within a reasonable time by a third party resource available to the recipient such as health insurance coverage, casualty insurance or when medical needs result from accident or injury caused by another party. See ~~((WAC 388-83-010(t)))~~ chapter 388-83 WAC.

(7) Payment for care on the federally aided medical programs will be retroactive for three months prior to the month of application provided the applicant would have been eligible when the care was received. The applicant to a federally aided program need not be eligible for medical assistance at the time of actual application. ~~((See WAC 388-84-005(2)(b)). Payment for care on the fully state funded medical program may be retroactive for seven days prior to the date of application according to WAC 388-86-120(2)(h). Participation in the cost of medical care must be applied as outlined in WAC 388-83-045(6), and the service must be within the scope of care provided by the program.))~~ Medical services that require approval under the appropriate medical program must be approved by the ~~((ESSO))~~ CSO medical consultant for the retroactive period. ~~((See WAC 388-86-095(6)(a)).))~~



(8) A claim by a provider for payment for services rendered to a person who subsequently is determined to be ineligible at the time service was rendered may be paid under the following conditions only:

(a) The ineligible person must have been certified as both financially and medically eligible,

(b) Payment has not been made from sources outside the department.

(c) A request for such payment must be submitted and approved by the division of medical assistance.

(9) The department reimbursement level will not exceed the maximum rates established by Medicare. Payment for medically necessary services shall be made on the basis of usual and customary charges or the rates established by the department, whichever is lower.

(10) Payment for well baby care is not authorized except as provided under the EPSDT program. See WAC 388-86-027.

#### AMENDATORY SECTION (Amending Order 1112, filed 4/15/76)

**WAC 388-87-011 CONDITIONS OF PAYMENT—MEDICARE DEDUCTIBLE AND COINSURANCE—WHEN PAID BY DEPARTMENT.** The department shall be responsible for the deductible and coinsurance amounts for recipients participating in the benefits of Parts A and B of Medicare (Title XVIII of the Social Security Act) when the following conditions are met:

(1) Total combined reimbursement to the provider from Medicare and the department does not exceed the department's fee schedule, see WAC 388-87-010((2)).

(2) Services provided are within the scope of the medical program(s).

(3) ~~Recipients of federal aid medical care only (FAMCO) participate in the cost of care from available excess resources, see WAC 388-83-045(7), and~~

(4) The provider accepts assignment for Medicare payment.

#### AMENDATORY SECTION (Amending Order 1359, filed 12/8/78)

**WAC 388-87-012 CONDITIONS OF PAYMENT—CONSULTANT'S AND SPECIALIST'S SERVICES AND FEES.** (1) When services of a consultant or specialist are required, whether the patient has been referred by a physician or is being treated by the specialist as the attending physician, the approval of the medical consultant is not necessary. This rule applies to consultation or treatment in the home, office, or medical institution. ~~(See WAC 388-86-095(4)).~~

(2) A copy of the consultation report must accompany the claim for consultant fees. If the report is not submitted with the billing, the fee for an initial office or hospital call will be paid dependent upon where consultation was given.

(3) When a specialist treats a patient for minor conditions or for chronic conditions of long duration, the standard fee for initial and subsequent office calls is allowed.

(4) Consultant's fees shall not be paid when the consulting physician specialist or other provider subsequently performs surgery or renders treatment for which flat fees are applicable, see WAC 388-86-095((4)).

(5) If more than one specialist is called in to examine a patient during a spell of illness, billings are subject to review and approval by the chief of the office of medical assistance. (See WAC 388-87-025((4)).)

(6) Payment will be made for a psychological evaluation only when a physician has obtained the necessary approval to refer an eligible patient, whom he is treating, for such evaluation. Treatment by a psychologist is not provided. (See WAC 388-87-025(2)(n)).

#### AMENDATORY SECTION (Amending Order 1542, filed 9/9/80)

**WAC 388-87-013 CONDITIONS OF PAYMENT—HOSPITAL CARE.** (1) A hospital must request approval of admission for nonemergent conditions from the local medical consultant before payment is made for services provided to recipients of the state funded program(s).

(2) The department will not be responsible for payment for additional days of hospitalization in the case of a hospitalized recipient when the PAS limitations have been exceeded and the provider has not requested an extension within termination of service or an extension request has been denied unless prior contractual arrangements are made by the department for a specified length of stay. Payment for the

additional days spent in the hospital would then depend upon any private agreement or contract between the provider and the patient.

(3) A beneficiary of Title XVIII medicare who is not in a state institution shall use his nonrenewable lifetime hospitalization reserve of sixty days before payment for hospitalization will be made from Title XIX funds.

#### AMENDATORY SECTION (Amending Order 1554, filed 10/9/80)

**WAC 388-87-025 SERVICES REQUIRING APPROVAL OF MEDICAL CONSULTANT.** (1) ~~All services rendered recipients of continuing general assistance and medical only require approval of the local medical consultant. When a medical emergency is alleged but not apparent, the otherwise eligible applicant for medical only may be referred to a participating physician for diagnosis and medical treatment if indicated. Such applicant may not be authorized this one office call unless one thousand dollars in unpaid medical bills have been accrued prior to application. Subsequent to such denial a medical only applicant has twelve months to incur one thousand dollars in medical costs. For this one office call only, the signature on the authorization form may be by a CSO designee whose signature is on file in the office of provider services.)~~

~~((2)) Services to recipients of medical assistance and continuing general assistance ((requiring)) require certain approvals ((are)).~~

~~((3)) (2) All surgical procedures require approval by the local medical consultant - see WAC 388-86-095((6)) and 388-86-110. ((The requesting physician shall submit form 525-100 to the CSO.)) Only the surgeon need obtain written approval for surgery. The services of the surgical assistant and the anesthesiologist or anesthetist do not require approval. Their billings for payment, however, must show the patient's diagnosis and a cross reference to the surgeon. ((For approval of nonemergent surgery see WAC 388-87-027.))~~

~~((4)) (3) Requests for medical appliances and prosthetic devices must have prior approval ((with the following exceptions:)) according to WAC 388-86-100.~~

~~((i) External braces involving neck, trunk and/or extremities.~~

~~((ii) Other nonreusable items costing less than \$150 if provision of the item will expedite a recipient's release from a hospital.~~

~~((c) All requests for reusable medical equipment and requests for surgical appliances provided, other than as described in subdivision (b), must be submitted on form 525-101 for the medical consultant's approval. If approval is received and the material to be supplied is to be billed by another provider of service it is necessary for the physician to transmit the approved form 525-101 to the provider for billing purposes - see WAC 388-86-100.))~~

~~((5)) (4) Requests for allergy testing shall be submitted on appropriate state form for prior approval by the local medical consultant. The extent of service to be provided shall be indicated. In the event an independent laboratory bills for the allergy testings, the requesting physician shall send the approved state form to the laboratory as the billing authority.~~

~~((6)) (5) Drugs not listed in the department's formulary or any single prescription exceeding the maximum limit established - see WAC 388-91-020.~~

~~((7)) (6) Admission to a hospital - see WAC 388-87-070 and 388-86-050((2)).~~

~~((8)) (7) Initial provision of oxygen service for a recipient under sixty-five years of age in his own home. Repeat deliveries of oxygen for the same illness do not require medical consultant approval - see 388-86-080((4)) and 388-87-080.~~

~~((9)) (8) Approval of physical therapy on an outpatient basis or in a nursing home when prescribed by the attending physician - see WAC 388-86-090.~~

~~((10)) (9) For certain bordering ((situations)) cities and out-of-state medical care - see WAC 388-82-030((4) and (5)) and 388-86-115.~~

~~((j) All major appliances - see WAC 388-86-100.))~~

~~((11)) (10) For consultant or specialist referral when such referrals exceed two such consultants or specialists - see WAC 388-86-095((4)).~~

~~((12)) (11) Respiratory therapy in excess of five treatments requires approval.~~

~~((13)) (12) Speech therapy requires an initial evaluation; both the evaluation and subsequent therapy require prior approval - see WAC 388-86-098.~~

~~((14)) (13) Psychological evaluation provided in connection with medical diagnosis and treatment (see WAC 388-87-012((6))).~~

~~((c)) Requests for audiometric evaluation require prior approval. See WAC 388-86-012.)~~

~~((p)) (14) Requests for taxi transportation.~~

AMENDATORY SECTION (Amending Order 1542, filed 9/9/80)

WAC 388-87-027 SERVICES REQUIRING PRIOR APPROVAL BY STATE OFFICE. (1) The following services requiring approval of the local medical consultant shall also receive prior approval of the chief of the office of medical policy and procedure:

(a) Nonemergent surgical procedures - see WAC 388-86-095~~((5))~~;

(b) Prosthetic devices and major appliances - see WAC 388-86-100;

(i) Purchase of reusable medical appliances and aids to mobility costing more than five hundred dollars,

(ii) Purchase of nonreusable surgical appliances or prosthetic devices costing more than five hundred dollars except those described in WAC 388-87-025~~((2)(b))~~.

(2) With the exception of prosthetic devices and major appliances, subsection (1) does not apply to CSOs or regions which have full time medical consultants who are authorized to give approval.

(3) The medical director or designee may approve the purchase of a hearing aid for less than 50 decibel loss if social information justifies the need.

AMENDATORY SECTION (Amending Order 1542, filed 9/9/80)

WAC 388-87-030 RESPONSIBILITY OF PHYSICIAN—PATIENT ADMITTED TO HOSPITAL. ~~((+))~~ Admission to a hospital shall be requested by the attending physician. The signature of the attending physician on the department's hospital invoice is not required; however, the hospital must enter the diagnosis, justification for admission and the physician's name and provider number in the appropriate section of the invoice.

~~((2) The completed hospital invoice shall be forwarded to the CSO for review and appropriate action by the medical consultant.)~~

AMENDATORY SECTION (Amending Order 1554, filed 10/9/80)

WAC 388-87-070 PAYMENT—HOSPITAL CARE. ~~((+))~~ The department will pay hospital costs of eligible persons who are patients in general hospitals when such hospitals meet the criteria as defined in RCW 70.41.020. Except for nonallowable revenue codes, reimbursable cost will be determined according to Medicare cost reimbursement methods. Recipients of Medicaid funded hospital services must have been approved as financially and medically eligible for hospitalization. They are:

~~((a))~~ (1) Recipients of federal aid grants, including essential persons,

~~((b))~~ (2) Children in foster care for whom the department is making payment, who are eligible for medical assistance,

~~((c))~~ (3) Recipients of continuing general assistance~~((:))~~;

~~((d) Recipients of federal aid medical care only;~~

~~((e) Recipients of medical only who cannot be categorically related and who have satisfied the one thousand dollars deductible as specified by WAC 388-83-045(2)(e).~~

(2) Payment shall be based on the satisfaction of the criteria for the minimum deductible of one thousand dollars for recipients of medical only:)

AMENDATORY SECTION (Amending Order 1402, filed 5/16/79)

WAC 388-87-077 PAYMENT—MENTAL HEALTH CENTER SERVICES. ~~((+))~~ Payment for approved mental health center services to eligible recipients as defined in WAC 388-86-067 shall be on the basis of a contract between the department and participating mental health center. Medical consultant approval for these services is not required.

~~((2) No payment shall be allowed for a recipient of medical only. See also WAC 388-86-120.)~~

AMENDATORY SECTION (Amending Order 1542, filed 9/9/80)

WAC 388-87-105 PAYMENT—MEDICAL CARE OUTSIDE STATE OF WASHINGTON. (1) Medical care furnished in ~~designated~~ ~~((border))~~ bordering ~~((states))~~ cities mentioned in WAC 388-82-030~~((4))~~ is not considered to be out-of-state care. Payment is made to the provider of service as for care provided within the state of

Washington. Provider licensure requirements, however, would be those of the state in which care is rendered.

(2) Payment is authorized for out-of-state medical care furnished only to categorically needy recipients ~~((of medical assistance (MA)))~~.

(3) The three month retroactive coverage applies to out-of-state care given to eligible applicants. ~~((See WAC 388-84-005(2)(b)))~~

(4) When out-of-state service is provided (excluding state office approved care in a skilled nursing home) in a state with a Title XIX medical care program, payment shall be authorized at the rate paid by the medical care program of the state in which the service is rendered. If provided in a state without a Title XIX program, payment shall be authorized at the rate charged, but not to exceed the rate paid for the service under Title XVIII medicare.

(5) Out-of-state providers shall be furnished with necessary billing forms and instructions ~~((except dentists whose billings shall be submitted to the Washington Dental Service)).~~

(6) If the deductible or coinsurance portions of medicare are claimed, it will be necessary for the provider to submit his billing to the intermediary or carrier in his own state on the appropriate medicare billing form. If the state of Washington is checked as being responsible for medical billing on the form, the intermediary or carrier may bill on behalf of the provider or may return the billing to the provider for submitting to the state.

(7) Approved care in out-of-state skilled nursing home will be paid either at the rates for care charged in that state for recipients of public assistance, or in an amount not to exceed the rate for skilled nursing home care in the state of Washington, whichever is the lesser amount. Exceptions to the rule in this subsection may be granted only by the director of the bureau of nursing home affairs.

REPEALER

The following section of the Washington Administrative Code is repealed.

(1) WAC 388-87-047 PAYMENT—CHIROPRACTIC SERVICES.

AMENDATORY SECTION (Amending Order 1554, filed 10/9/80)

WAC 388-91-010 DRUGS—PERSONS ELIGIBLE. (1) A drug formulary will list all drug preparations which are provided without prior approval of medical consultant. It will include a description of program limitations, rules and program policy and penalties. The decision to place drugs in the division of medical assistance program drug formulary is based on these criteria:

(a) The drug must be established as a part of necessary and essential care for the condition for which it is to be used.

(b) The drug must be in general use by the physicians practicing in Washington.

(c) The drug must be of moderate cost. Generic forms will be used when listed under DSHS or federal maximum allowable cost (MAC) programs. When two preparations of equal effectiveness but disparate costs are presented, the less expensive one will be selected for the formulary.

(d) Drugs must not be classified "ineffective" or "possibly effective" by the food and drug administration.

(e) The drug must not be experimental.

(2) The following process is used to determine the acceptability of a drug preparation for possible listing in the formulary:

(a) Objective, scientific information and utilization data is reviewed for appropriateness according to the criteria in subsection (1) of this section, by the program medical staff, or,

(b) The secretary may appoint an advisory committee in accordance with RCW 43.20A.360 to review and advise the division of medical assistance on the acceptability of the drug preparation.

(c) The medical director or his designee may make appropriate changes in the formulary ~~((consistence))~~ consistent with subsection (1) of this section, and may accept recommendations of the advisory committee providing that action is in compliance with regulations governing the program and with acceptable management policies.

(d) Acceptable drugs will be included in the next subsequent edition of the formulary.

(3) In accordance with the department's rules and regulations drugs are provided for:

(a) The necessary and essential medical care of recipients of federal assistance grant ~~((or federal aid medical care only (FAMCO)))~~.

(b) ~~((The treatment of acute and emergent conditions of recipients of medical only who cannot be categorically related. These persons are~~

identified by the notation "~~MEDICAL SERVICES LIMITED~~" on their medical identification coupons. Recipients of continuing general assistance will have the notation "~~GAU—major medical—A/E~~" on their coupons. All drugs provided to such recipients require the approval of the local office medical consultant.) Recipients of state-funded medical care are furnished maintenance medications as listed by therapeutic classifications in the current division of medical assistance drug formulary. These persons are identified by the notation "GAU" on their medical identification coupons.

~~((c) Certain necessary drugs such as cardiac control agents, insulin and oral antidiabetic agents, anticonvulsant agents, urinary anti-infective agents, broncho-dilator agents and antineoplastics may be provided to recipients of continuing general assistance and medical only. All such drugs provided require approval of the local office medical consultant.))~~

#### AMENDATORY SECTION (Amending Order 1402, filed 5/16/79)

##### WAC 388-91-016 DRUGS—LIMITATIONS TO PAYMENT.

(1) The department does not provide:

(a) Nonformulary drugs which can be purchased without a prescription such as: Nose drops, cotton, alcohol, vitamins, simple laxatives, advertised antacids such as but not limited to Tums, Roloids, etc.;

(b) Any drug regularly supplied as an integral part of program activity by other public agencies such as the U.S. veterans' administration, U.S. department of health ~~((education and welfare))~~ and human services - division of Indian health, local health department, etc.;

(c) Drugs, biologicals, supplies, appliances, and equipment furnished by an extended care facility under Title XVIII of the Social Security Act;

(d) Drugs ordered for a hospitalized patient. These are to be furnished by the hospital;

(e) Drugs to individuals who have elected to be enrolled in a special group medical coverage contract which includes the provision of drugs as a part of the contract.

(f) Drugs listed in the federal register as "ineffective" or "possibly ineffective." Payment will not be made for such prescriptions under any circumstances.

(2) The department furnishes psychotherapeutic drugs and agents used for treating drug-induced Parkinsonism which are prescribed for eligible former patients of Washington state institutions for the mentally ill and retarded. The attending physician shall mail the prescription, form 6-02, directly to the institution from which the patient has been discharged ~~((; form 13-32 to schools for the retarded or form 6-02 to mental hospitals))~~. The medication is then mailed by the facility pharmacy to the patient. Payment is not made to pharmacist providers in this situation. Coupon confirming eligibility should be attached.

(3) Prescribed nonformulary drugs will be allowed for unusual conditions only when approved by the local medical consultant.

(4) The physician who provides a drug (oral or by ~~((the department))~~ injection) incidental to an office call may include a fee established by the division on the basis of the acquisition cost of the drug in addition to his office call fee. In the event the cost of the drug given the patient exceeds this fee, the physician may include on his invoice for his professional services to the patient the actual cost of the drug indicating name of manufacturer and strength of dosage. ~~((Payment to the physician for the cost of drugs will be limited to:~~

(a) Penicillin and other antibiotics

(b) Estrogens and androgens

(c) Cortisone and derivatives

(d) Treatment of aplastic and pernicious anemia

(e) Antineoplastic preparations

~~((f) Preparations used in the treatment of hypochromic anemias after malabsorption has been clinically demonstrated.))~~

(5) Payment shall not be made for a prescription ordered for an individual recipient and used to replace drugs drawn from the doctor's stock for the treatment of such recipient. Payment shall not be allowed for experimental or controversial medications and those unrelated to the above.

#### AMENDATORY SECTION (Amending Order 1542, filed 9/9/80)

##### WAC 388-91-035 DRUGS—PHARMACIST'S AGREEMENT.

(1) Vendor service agreement, form DSHS 6-48 must be filed with department of social and health services, Olympia, Washington 98504. Forms may be obtained from the department's office of provider services LG 11, Olympia, WA 98504.

(2) To participate in this program, a licensed pharmacy must agree to furnish goods and services in accordance with the department's rules, regulations and payment procedures. Fees and rates established by the department according to WAC 388-91-020(3) shall constitute the full and complete charge for approved medical care and goods and services provided to recipients by the vendor or providers.

(3) All pharmacists and pharmacies agreeing to render goods and services to eligible persons shall submit such charges as agreed upon between the department and the individual or firm monthly and shall present their final charges not more than one hundred twenty days after the termination of their service or as otherwise provided by state law. Bills presented after the required one hundred twenty-day period shall be a charge against the state only when a written extension has been given by the ~~((health services))~~ division of medical assistance before the one hundred twenty-day period ends.

**WSR 81-06-071  
PROPOSED RULES  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES  
(Public Assistance)  
[Filed March 4, 1981]**

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Department of Social and Health Services intends to adopt, amend, or repeal rules concerning AFDC and GAU—Grant or vendor payment, amending chapter 388-33 WAC.

It is the intention of the secretary to adopt these rules on an emergency basis effective March 1, 1981.

Correspondence concerning this notice and proposed rules attached should be addressed to:

David A. Hogan, Director  
Client and Community Relations Division  
Department of Social and Health Services  
Mailstop OB-44 D  
Olympia, WA 98504

Interpreters for people with hearing impairments and brailled or taped information for people with visual impairments can be provided. Please contact William B. Pope, Chief, Office of Administrative Regulations, at State Office Building #2, 12th and Jefferson, Olympia, Washington, Phone (206) 753-7015, by March 25, 1981. The meeting site is in a location which is barrier free;

that such agency will at 2:00 p.m., Wednesday, April 8, 1981, in the Auditorium, Office Building #2, 12th and Franklin, Olympia, Washington, conduct a hearing relative thereto;

and that the adoption, amendment, or repeal of such rules will take place at 9:00 a.m., Wednesday, April 15, 1981, in William B. Pope's office, 4th floor, Office Building #2, 12th and Franklin, Olympia, Washington.

The authority under which these rules are proposed is RCW 74.08.090.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to April 8, 1981, and/or orally at 2:00 p.m., Wednesday, April 8, 1981, Auditorium, Office Building #2, 12th and Franklin, Olympia, Washington.

Dated: March 3, 1981

By: David A. Hogan

Director, Client and  
Community Relations Division

STATEMENT OF PURPOSE

This statement is filed pursuant to RCW 34.04.045.

Amend chapter 388-33 WAC.

Purpose of the rule or rule change is to eliminate "instant cash."

The reason(s) these rules are necessary is because the State Treasurer will no longer process these warrants.

Statutory authority: RCW 74.08.090.

Summary of the rule or rule change: All references to "instant cash" (a warrant written by hand in a local office) are deleted. Also removed are obsolete rules and procedural material.

Person or persons responsible for the drafting, implementation and enforcement of the rule:

Name of initiator: Gerry Nelson.

Title: Program Manager.

Office: Bureau of Income Maintenance.

Mailstop: OB-31 C.

Phone: 3-3177.

The person or organization (if other than DSHS) who proposed these rules is: None.

These rules are not necessary as a result of federal laws, federal court decisions or state court decisions.

AMENDATORY SECTION (Amending Order 906, filed 2/14/74)

WAC 388-33-020 PAYMENT OF GRANT—MONTHLY BASIS. ~~((H))~~ Continuing grants shall be based upon ~~((a-monthly-assistance-plan))~~ monthly standards of assistance and payment made accordingly, except as provided in WAC 388-33-382 to comply with the advance notification requirement.

~~((2))~~ For one-time grants see WAC 388-33-595. For emergency assistance payments see WAC 388-33-630.)

AMENDATORY SECTION (Amending Order 534, filed 3/31/71)

WAC 388-33-080 GRANT AUTHORIZATION, REAUTHORIZATION AND COMPUTATION—AUTHORIZING DOCUMENTS. ~~((H-AH))~~ Payments and changes in continuing public assistance grants are reported and authorized by the ~~((welfare-eligibility-examiner))~~ financial services technician by signature on:

~~((a))~~ (1) Forms 5822-M to authorize;

~~((i))~~ (a) Initial, adjusting and regular payment of a prepaid continuing assistance grant and subsequent changes in the amount of grant;

~~((ii))~~ (b) Postpayment to a vendor for nursing home care in a licensed classified private nursing home, or for care in an intermediate care facility~~((:))~~;

~~((b))~~ (2) Form 5822-G for one-time grant, ~~((public-assistance-emergency-assistance-warrants))~~ child care payments, and vendor payments.

AMENDATORY SECTION (Amending Order 906, filed 2/14/74)

WAC 388-33-085 GRANT AUTHORIZATION, REAUTHORIZATION AND COMPUTATION—LOCAL OFFICE FUNCTION. (1) The terms "~~((welfare-eligibility-examiner))~~ financial services technician", "community service office", "local office", or "~~((local))~~ CSO administrator or his designee" are used interchangeably in chapter 388-33 WAC.

(2) All grants to new, reopened and reinstated cases shall be authorized for payment by the local office. The authorization of grant form

shall be signed and dated by the ~~((welfare-eligibility-examiner))~~ financial services technician who prepares it, as indicated in WAC 388-33-080. In signing the form the ~~((welfare-eligibility-examiner))~~ financial services technician attests in behalf of the state of Washington and the department that the eligibility of the individual(s) listed on the form has been established and that a decision has been made as of the effective date to grant assistance in an amount determined by the recipient's circumstances according to department standards.

(3) All changes in grants shall be certified by the worker specifying the change(s) in circumstances except as provided in WAC 388-33-095. The state office authorizes payment of the changed grant as determined by the certified circumstances of the recipient.

(4) The term "regular grant" includes "initial grant" and "adjusting grant". The regular grant authorization includes the initial or adjusting grant and does not require separate authorization. See definitions in WAC 388-22-030.

(5) The effective date of eligibility is determined and specified by the worker when authorizing new, reopened, reinstated, and one-time grants as provided in WAC 388-33-115 and WAC 388-33-120. When grant recomputation is certified, the effective date is determined according to the rules in WAC 388-33-135 through 388-33-190.

(6) Payment of a grant shall continue in the amount authorized unless and until a change in amount, suspension or termination is certified.

(7) When eligibility factors indicate that an applicant will be eligible for not to exceed approximately a ~~((30))~~ thirty day period, the local office shall authorize on the certification and computation of grant form an opening and closing date and determine the amount of assistance for which the applicant is eligible according to the department's monthly continuing assistance standards prorated for the period for which eligibility is authorized. ~~((Assistance is paid in cash to an eligible applicant as indicated in WAC 388-33-630. The certification and computation of grant form is forwarded to the state office as in any continuing case with the proper entry indicating that payment has been made to the applicant.))~~ The local office shall issue the applicant an award letter, including the date of opening, the amount of assistance and the date of termination. See WAC 388-33-380 regarding additional content of this notice relative to termination.

AMENDATORY SECTION (Amending Order 906, filed 2/14/74)

WAC 388-33-090 GRANT AUTHORIZATION, REAUTHORIZATION AND COMPUTATION—STATE OFFICE FUNCTION. (1) ~~((Except as specified in WAC 388-33-085(7))~~ Continuing assistance as authorized by the local office shall be computed by the state office. The amount of a grant (regular and initial or adjusting) shall be computed from the data on the certification and computation of grant form according to the department's ~~((cost))~~ standards ~~((for requirements))~~ of assistance.

~~((2))~~ The personal and household data shown on the authorization of grant form shall be converted into money amounts without changing the information recorded by the local office on the form. The result of this computation shall show on the certification and computation of grant form in a manner which permits verification of amount by comparison with the department's cost standards.)

~~((3))~~ (2) The certification and computation of grant form prepared by the state office shall be sent to the ~~((local-office))~~ CSO and retained in the financial case record until further action is indicated.

~~((4))~~ (3) The state office prepares the regular or supplemental warrant registers and the warrants, and completes the payment process. No change may be made by the state office except as described in WAC 388-33-090 and 388-33-095.

AMENDATORY SECTION (Amending Order 906, filed 2/14/74)

WAC 388-33-125 NOTIFICATION OF GRANT APPROVAL. ~~((H))~~ Except as indicated in WAC 388-33-085(7)) A continuing assistance applicant or recipient shall be notified when the local office authorizes payment of his/her first regular grant or a change in grant. ~~((The state office mails form 5822-M-4, notice of grant approval, to the payee not later than three working days after receipt of the authorization. Form 5822-M-4 is mailed to the payee independently of his warrant.~~

(2) The procedure in subsection (1) applies to grant authorizations submitted to the state office by the local office for new, reopen, reinstated, program change and recompute transactions. For recompute transactions resulting in a changed grant amount, the notice of grant approval shows the former grant amount and the new grant amount.

The notice of grant approval is sent to a recipient each time a change in grant is recomputed. See WAC 388-34-180 for notification to an applicant or recipient in an institution:

(3) The notice of grant approval is printed and mailed at the same time that the certification and computation of grant form is issued and sent to the local office. The receipt of this form by the local office is notification that the recipient has been notified of the change in amount of grant:))

#### AMENDATORY SECTION (Amending Order 906, filed 2/14/74)

WAC 388-33-190 EFFECTIVE DATE OF GRANT—MONTHLY DEDUCTION OF OVERPAYMENT. (1) A deduction from the monthly grant when required by WAC 388-44-145 takes effect with the first regular warrant following state office receipt of the certification and computation of grant form, taking into account the warrant roll deadline date and the advance notice period provided in WAC ((388-33-380)) 388-33-376.

(a) The certification and computation of grant form shall not be submitted to start the monthly deduction until after the advance notice period has expired, and it has been confirmed that a fair hearing has not been requested.

(b) If, during the ten day period, the recipient requests a fair hearing regarding the monthly deduction of overpayment, no monthly deduction can be made until after the decision on the fair hearing has been made or the hearing request is withdrawn in writing by the claimant or abandoned.

(2) The local office shall certify discontinuance of the monthly deduction as soon as restitution is completed.

(3) A one-time grant shall be authorized expeditiously to compensate the recipient for an underpayment due to an erroneous monthly deduction. Also see WAC 388-33-595(2)(c)(vii).

#### AMENDATORY SECTION (Amending Order 747, filed 12/7/72)

WAC 388-33-370 TERMINATION OF SUSPENDED GRANT. ((+)) A suspended grant shall be terminated when:

((+)) (1) The individual dies while the grant is suspended;

((+)) (2) The individual does not request reinstatement of grant within fifteen days after leaving an institution, or completing restitution of overpayment by monthly grant deduction((-));

((+)) (3) The individual's resources and/or income increase during the suspension period to the extent he would not be eligible for medical care;

((+)) (4) A period of temporary ineligibility has ended and individual is ineligible for some other reason.

#### AMENDATORY SECTION (Amending Order 700, filed 7/27/72)

WAC 388-33-448 PROTECTIVE OR VENDOR PAYMENT DUE TO MISMANAGEMENT OF AFDC GRANT—PERIODIC REVIEW OF PLAN. ((+)) The social services supervisor or local office administrator shall review the conditions relating to the protective or vendor payment plan every three months or more often, if indicated. The review includes evaluation whether:

((+)) (1) Conditions justify continuation of the plan or its modification,

((+)) (2) Protective payee's responsibilities are being carried out appropriately,

((+)) (3) The relative payee can be expected to resume the payee function,

((+)) (4) A court appointed guardian or foster care is needed because the relative payee cannot learn the payee functions and it appears the plan will continue beyond two years.

#### AMENDATORY SECTION (Amending Order 1054, filed 9/25/75)

WAC 388-33-460 PAYMENT TO VENDOR OF GOODS AND SERVICES. (1) A vendor payment may be used in place of a one-time payment to provide assistance for an individual who is in emergent need ((from the date his continuing assistance grant is authorized to the date of payment of such grant when public assistance emergency assistance fund warrant or state office cash payment is not feasible. The vendor payment shall be deducted from the initial and/or regular grant and shall not exceed the standards for the continuing program. No vendor payment is authorized to the extent the recipient can meet his emergent need from his exempt cash savings. Payment is restricted to those basic items for which the emergency exists, that is, food, shelter, utilities. See WAC 388-33-630:)) only if:

(a) The individual has been served a sheriff's notice of eviction, and  
(i) It is verified that the landlord will not forestall eviction until a one-time payment is received, and

(ii) It is verified that the landlord will not evict the individual after receiving the vendor payment; or

(b) The individual has been served a utility shut-off notice, and  
(i) It is verified that the vendor will not forestall shut-off until a one-time grant is received, and

(ii) It is verified that the vendor will not shut off the utility after the vendor payment is received; or

(c) The individual is requesting transportation to his/her state of residence and the means of transportation is provided by a vendor who will accept vendor payment.

(d) The individual requests in writing that a vendor payment be made.

(2) Vendor payments listed in item (1) of this section shall:  
(a) Be deducted from the initial and/or regular grant, unless they are issued in place of one-time grant as specified in WAC 388-33-595(2)(c).

(b) Not be authorized to the extent that the individual can meet the emergent need from his/her cash savings.

((+)) (3) A vendor payment may be used to provide assistance when a recipient dies before receiving or endorsing a warrant due him and owes for personal and household service, housekeeping service, or board and room. The amount authorized for vendor payment shall equal the portion of the cancelled warrant actually owed to the vendor.

((+)) A vendor payment may be used to provide assistance for any individual or family eligible for general assistance when cash payment is not possible or practical:

(4) A vendor payment may be used to provide assistance for a person repeatedly convicted of criminal offenses. Repeated convictions for criminal offenses lead to a presumption of the inability of the individual to utilize a cash grant in a manner that is beneficial to the individual and to the community. This presumption can be overcome by showing that there is no relationship between the types of offenses committed and the ability to handle cash. If a presumption is not overcome, alternative plans, if possible, are made along the following lines:

(a) Appointment and payment to a legal guardian following a determination of incompetency by the court;

(b) Payment to another relative with whom the recipient lives (general assistance or aid to families with dependent children);

(c) Appointment and payment to a protective payee;

(d) Vendor payment;

(e) A person adjudged "a common drunk" and eligible for public assistance for whom subsection (4)(a), (b), and (c) are not practical or possible, may be granted assistance as follows:

(i) Board and room paid directly to a boarding home or mission(s). The disbursing order is written to authorize an expenditure on a daily basis. The vendor bills the department at the end of the designated period for the cost of the board and room:

(ii) Clothing according to the assistance standard purchased by voucher or authorized as a cash payment to the recipient:

(iii) A cash payment to the recipient for personal items and necessary incidentals:

(5) A vendor payment may be used under the conditions described in WAC 388-33-595 when direct cash payment is not feasible:

((+)) (4) A vendor payment may be used for an AFDC recipient when:

(a) The local office determines that protective payments are necessary due to mismanagement of the grant by the relative payee – see WAC 388-33-440.

(b) A person certified to the WIN program is determined by the state employment service to have refused employment or to participate in the WIN program without good cause, and vendor payments are the necessary form of payment – see WAC 388-33-450.

(c) A parent or other caretaker relative refuses to assign support rights, to cooperate in identifying and locating absent parents, establishing paternity or obtaining support payments.

((+)) (5) A vendor payment may be used to provide assistance for a recipient in a licensed and classified nursing home – see WAC 388-34-035 through 388-34-055, or for a recipient in an intermediate care facility – see WAC 388-34-370 through 388-34-384.

#### AMENDATORY SECTION (Amending Order 1331, filed 8/24/78)

WAC 388-33-576 LOSS, THEFT OR DESTRUCTION OF WARRANT PAYABLE TO RECIPIENT. (1) The legal authority

for issuing a duplicate warrant is found in RCW 43.08.064 and 43.08.066.

(2) A recipient payee reporting to the ((ESSO)) CSO that he has not received his warrant or that his unendorsed warrant has been lost, stolen or destroyed is given full consideration. The ((ESSO)) CSO shall have the recipient payee complete an affidavit or affidavits attesting to the reported facts.

(3) The ((ESSO)) CSO shall secure all facts surrounding the non-receipt or loss reported in subsection (2), assess the reported facts and make a judgment as to the validity of the report, determine a course of appropriate action, and inform the recipient, record the details of the report and the decision in the financial record.

(4) In cases where the facts surrounding the nonreceipt or loss are clear and the ((ESSO)) CSO is satisfied a loss has occurred a replacement warrant shall be issued.

(5) In cases where the facts surrounding the nonreceipt or loss are not clear and question remains as to the validity of the nonreceipt or loss, a request for replacement is made directly to the disbursements section. Replacement will be made only after further investigation is completed and validity of the nonreceipt or loss is verified.

(6) A report which indicates a warrant is lost in the mail system will be held in abeyance for ((five)) ten working days from the mailing date of the warrant to allow the warrant to be delivered or returned to the ((ESSO)) CSO. If the recipient has an emergent situation, the ((five)) ten day period may be waived by the ((ESSO)) CSO administrator.

(7) Replacement must be requested directly from disbursements when a loss or nonreceipt is reported to the ((ESSO)) CSO sixty days or more after the mailing date of the warrant.

(8) An unendorsed warrant which is lost, stolen or destroyed shall be replaced in full. Restrictively or specially endorsed warrants shall be deemed to be unendorsed warrants for the purposes of this subsection.

(9) An endorsed warrant which is lost, stolen or destroyed shall be considered under the rules in WAC 388-33-577 for lost, stolen or destroyed proceeds from the warrant.

(10) The state and economic and social service offices shall take appropriate action to protect the state from loss if the original unendorsed warrant is redeemed by the state treasurer.

AMENDATORY SECTION (Amending Order 1332, filed 8/25/78)

WAC 388-33-595 ONE-TIME GRANT—AUTHORIZATION—DISBURSEMENT. (1) See WAC 388-22-030 for definition of "one-time grant."

(2) A one-time grant may be authorized and disbursed in the amount necessary subject to the following rules:

(a) A one-time grant shall be authorized for a recipient of continuing assistance only.

(b) A one-time grant authorization is a single payment procedure. It expires when the warrant is mailed. It does not change the amount of the continuing (regular) grant currently authorized.

(c) A one-time grant shall be authorized when:

(i) An additional requirement recognized by department standards will be needed.

(ii) Income or assistance budgeted as available to the assistance unit or family is not received.

(iii) Supplemental assistance is needed from the date a recipient leaves an institution to the receipt of the regular, adjusting, or reinstated grant.

(iv) The fair hearing decision or the court decision on an appeal requires initiating, reinstating or increasing a grant.

(v) A recipient is to be compensated for an underpayment due to erroneous monthly deduction(s).

(vi) Any one-time grant that is approved by the state office under chapter 388-20 WAC for reasons other than those listed in this section.

(vii) A person who is added to an assistance unit requires assistance prior to the effective date of his inclusion in a regular grant.

(viii) A canceled warrant is to be reissued and the recipient cannot wait for payment by adjusting grant.

(ix) A change in the basic requirements which results in an increase in the regular grant occurs.

(x) Assistance is being continued in compliance with the 10-day advance notice rules on reduction, suspension or termination of a grant and a partial month payment is required.

(xi) Underpayment due to the departmental error is to be corrected. Such payment shall be limited to the amount due for not to exceed

twelve months including the month in which the corrective payment is authorized.

(d) Except as provided in items (2)(c)(iv), (2)(c)(v), and (2)(c)(xi), a retroactive one-time grant shall not cover a period of more than sixty days before the date of authorization.

(e) The effective date of a one-time grant shall be the ((authorization)) date the circumstances change, subject to the limitations and conditions stated in this section.

REPEALER

The following section of the Washington Administrative Code is repealed.

(1) WAC 388-33-630 IMMEDIATE WARRANTS ISSUED BY ESSO.

**WSR 81-06-072  
RULES OF COURT  
STATE SUPREME COURT  
[March 3, 1981]**

IN THE MATTER OF THE  
CORRECTION OF ERRORS  
TO JTIR 6.2.

NO. 25700-A-315  
ORDER

It having come to the attention of the Court that three statutory citations as published in 94 Wn.2d at pages 1178 and 1179 are in error; Now, therefore, it is hereby ORDERED:

(a) That the following corrections are to be published expeditiously in the Washington Reports:

Rules of the Road, 94 Wn.2d 1178

1. Failure to stop (RCW 46.61.050, .210, ~~360~~)

2. Failure to yield the right-of-way (RCW 46.61.180, .190, .205, .210, .235, .300, ~~360~~, 365)

Equipment (RCW 46.37), 94 Wn.2d 1179

2. Defective or modified exhaust systems, mufflers, prevention of noise and smoke (RCW 46.37-090 .390 (1) and (3))

(b) That these corrections shall be effective upon publication.

DATED at Olympia, Washington, this 3rd day of March, 1981.

Robert F. Brachtenbach

Hugh J. Rosellini

Floyd V. Hicks

Fred H. Dore

William H. Williams

Stafford, J.

James M. Dolliver

Robert F. Utter

Carolyn R. Dimmick

**WSR 81-06-073  
PROPOSED RULES  
OFFICE OF  
FINANCIAL MANAGEMENT  
[Filed March 4, 1981]**

Notice is hereby given in accordance with the provisions of RCW 34.04.025, 43.03.050 and 43.03.060, that

the Office of Financial Management intends to adopt, amend, or repeal rules concerning:

- Amd WAC 82-28-050 Per diem allowance in lieu of actual expenses.
- Amd WAC 82-28-06001 Special allowances for higher than usual subsistence and lodging cost areas.
- Amd WAC 82-28-080 Reimbursement for use of privately-owned automobiles;

that such agency will at 9 a.m., Wednesday, April 8, 1981, in Room 2F22, Department of Transportation Building, Olympia, Washington, conduct a hearing relative thereto;

and that the adoption, amendment, or repeal of such rules will take place at 1 p.m., Wednesday, April 8, 1981, in Room 105, House Office Building, Olympia, Washington.

The authority under which these rules are proposed is RCW 43.03.050 and 43.03.060.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to April 8, 1981, and/or orally at 9 a.m., Wednesday, April 8, 1981, Room 2F22, Department of Transportation Building, Olympia, Washington.

Dated: March 4, 1981

By: Joe Taller  
Director

STATEMENT OF PURPOSE

This statement of purpose, prepared in compliance with RCW 34.04.045, accompanies proposed rules to be promulgated by the Office of Financial Management as follows:  
Title: Travel Regulations—Per diem allowance in lieu of actual expenses—Special allowances for higher than usual subsistence and lodging cost areas—Reimbursement for privately-owned automobiles, amending WAC 82-28-050, 82-28-06001 and 82-28-080.

Purpose: The purpose of this action is to propose an increase in the per diem and subsistence rates allowed for travel in the course of official state business. This action will also resolve a conflict within the Washington Administrative Code regarding the determination of the mileage rate to be paid employees using privately-owned vehicles when a state vehicle is available.

Statutory Authority: The Office of Financial Management has the statutory authority to establish per diem and mileage allowance for state officials and employees under RCW 43.03.050 and 43.03.060.

Summary and Purpose of Rule: These amendments are for the purpose of adjusting the travel reimbursement rate for officers and employees to better reflect the current economic conditions. The amendment to WAC 82-28-06001, in addition to modifying the travel reimbursement rates for high cost areas will allow for future changes not

being tied to a specific fiscal period. The amendment to WAC 82-28-080 will eliminate a conflict with WAC 82-28-190 regarding the enactment of the mileage rate to be paid state employees for use of privately-owned vehicles when a state vehicle is available. The change will clarify the present procedure of amending the rate, within the limits imposed by WAC 82-28-080(1), by written notification to state agencies rather than utilizing the Administrative Procedure Act unnecessarily.

Drafter of the Rule, Rule Implementation and Enforcement: Keith L. Clark, Chief, State Accounting Systems Section, State Accounting and Fiscal Services Division, Office of Financial Management, Room 105, House Office Building, Olympia, Washington 98504 (206)753-1814.

Proposer of the Rule: Office of Financial Management, Olympia, Washington 98504.

Comments and Recommendations: Input solicited from administrative staffs of various state agencies supports the need for an increase in travel reimbursement rates.

Federal Law or Court Action Citation: No federal laws involved or action required by the courts.

AMENDATORY SECTION (Amending Order 41, filed 3/12/79)

WAC 82-28-050 ALLOWANCE IN LIEU OF ACTUAL EXPENSES FOR SUBSISTENCE AND LODGING. (1) When reimbursement for subsistence and lodging in a commercial facility (a public facility selling lodging accommodations to travelers) is authorized, a rate of ~~((~~\$35.00~~) \$40.00)~~ \$40.00 per day shall be allowed for travel within the state of Washington and ~~((~~\$40.00~~) \$50.00)~~ \$50.00 per day for travel outside the state of Washington except for those cities in-state and out-of-state designated High Cost Cities—U.S.A. and High Cost Cities—Foreign (see WAC 82-28-06001). When travel is for a period of less than 24 hours but involves lodging in a commercial facility, reimbursement will be at the rate of ~~((~~\$1.46~~) \$1.67)~~ \$1.67 per hour in-state and ~~((~~\$1.67~~) \$2.08)~~ \$2.08 per hour out-of-state. The name of the commercial facility used must be shown on the travel expense voucher.

(2) When lodging expenses are not incurred, per diem that reflects reimbursement for subsistence costs only will be paid. The per diem will be ~~((~~\$1.50~~) \$1.80)~~ \$1.80 and \$2.00 per hour limited to a maximum of 10 hours in any 24 hour period for ~~((~~both~~))~~ in-state and out-of-state travel respectively.

(3) When an employee uses a travel trailer or camper in lieu of commercial lodging facilities for his own convenience, he shall be reimbursed for the actual space rental cost as evidenced by a receipt. Reimbursement for subsistence costs will be at the rate ~~((~~of \$1.50 per hour, limited to a maximum of 10 hours in any 24 hour period~~))~~ established in WAC 82-28-050(2). Under no circumstances, will reimbursement exceed the ~~((~~\$35.00~~) \$40.00)~~ \$40.00 or ~~((~~\$40.00~~) \$50.00)~~ \$50.00 per day maximums established for in-state and out-of-state travel respectively.

(4) Exceptions to subsection (3) above may be made when in the opinion of the agency director suitable commercial lodging is not available, state lodging is not provided, and there is a benefit to the state for the employee to remain at his temporary work station rather than commute to suitable lodging.

With the concurrence of the employee, the agency director may authorize in such circumstances the use of a privately-owned travel trailer or camper, and reimburse the employee at the ~~((~~\$35.00~~) \$40.00)~~ \$40.00 or ~~((~~\$40.00~~) \$50.00)~~ \$50.00 per day maximums established for in-state and out-of-state travel reimbursement. High cost area rates will not apply to reimbursement for use of trailers or campers.

(5) Per diem allowance shall not be authorized under any of the following conditions:

(a) When the employee will not incur expenses for lodging because it is furnished by a state agency.

(b) When an employee will not incur expenses for meals because they will be furnished by a state agency.

(c) When it is evident that actual costs of subsistence and lodging will be significantly less than the per diem allowance.

(6) When per diem is not authorized, employees shall be reimbursed within the limits of these regulations for actual costs which have been incurred for subsistence and lodging.

(7) Where the cost of meals is included in the registration fee of a meeting, conference or convention, an appropriate deduction therefor shall be made from the authorized per diem allowance.

(8) Except as otherwise provided by law, those persons appointed to serve without compensation on any state board, commission or committee, if entitled to reimbursement of travel expenses, shall be reimbursed as follows:

(a) Those individuals who serve on any part-time board, commission, council, committee or other group of similar nature which is established by executive, legislative or judicial branch to participate in state government and whose function is primarily an advisory, coordinating or planning capacity, shall be paid travel expenses at the hourly rate of (~~(\$1.46)~~) \$1.67 or (~~(\$1.67)~~) \$2.08 for in-state or out-of-state respectively, for each hour spent in going to, attendance at the meeting and return to home.

(b) Those individuals who serve on any part-time board, commission, council, committee or other group of similar nature which has rule-making authority, performs quasijudicial functions, has responsibility for the administration or policy direction of a state agency or program, or performs regulatory or licensing functions with respect to a specific profession, occupation, business or industry, shall be paid (~~(\$35.00)~~) \$40.00 or (~~(\$40.00)~~) \$50.00 per day for in-state or out-of-state respectively, for each day or portion thereof spent in the conduct of the board, commission, council, etc., business.

**Reviser's Note:** RCW 34.04.058 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 Order 41, filed 3/12/79)

##### WAC 82-28-06001 SPECIAL ALLOWANCES FOR HIGHER THAN USUAL SUBSISTENCE AND LODGING COST AREAS.

(1) The following categories of cities are considered high cost areas and officials or employees shall be reimbursed subsistence and lodging expenses as follows:

(a) High Cost Cities—U.S.A. The actual cost of lodging as evidenced by a receipt, plus subsistence based on (~~(\$1.50)~~) \$2.30 per hour limited to a maximum of 10 hours in any 24 hour period, total reimbursement for subsistence and lodging not to exceed the maximum reimbursement rate established for a particular city or locality by the federal government and (~~(promulgated annually)~~) published periodically by the office of financial management.

(b) High Cost Cities—Foreign. Reimbursement for subsistence and lodging expense shall be at the maximum rate established for a particular city or locality by the federal government and (~~(promulgated annually)~~) published periodically by the office of financial management. The hourly rate will be determined by dividing the reimbursement rate by 24.

~~((2) The office of financial management shall publish prior to July 1 of each year, the list of cities and maximum allowance for subsistence and lodging for each city as established by the federal government and in effect at the time of publication. The list of cities and allowances shall be effective for the entire ensuing fiscal year.))~~

#### AMENDATORY SECTION (Amending Order 49, filed 5/22/79)

WAC 82-28-080 REIMBURSEMENT FOR USE OF PRIVATELY-OWNED MOTOR VEHICLES. (1) Reimbursement shall be allowed at a rate not to exceed 18 1/2¢ per mile for official travel. Mileage between points in the state shall be determined on the basis of the distances shown on the latest state transportation commission map, and the out-of-state mileage on the basis of standard highway mileage guides or by odometer readings. "Vicinity" miles as determined by odometer readings shall be shown on the voucher as a separate figure for each day's travel.

(2) When an official or employee requests to use a privately-owned vehicle in lieu of a state-owned or operated passenger motor vehicle

that is available for use, and the request is approved by the agency head or designee, the official or employee shall be reimbursed at a rate (~~(not to exceed 14¢ per mile)~~) established pursuant to WAC 82-28-190(2).

(3) Reimbursement shall be payable to only one of two or more employees traveling in the same motor vehicle on the same trip.

#### WSR 81-06-074

##### PROPOSED RULES

#### GAMBLING COMMISSION

[Filed March 4, 1981]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Gambling Commission intends to adopt, amend, or repeal rules concerning the licensing and regulation of gambling activities (copies of rules are shown below, however, changes may be made at the public hearings);

that such agency will at 10 a.m., Thursday, April 9, 1981, in the Ferryman's Inn, 7901 N.E. 6th Avenue, Vancouver, WA, conduct a hearing relative thereto;

and that the adoption, amendment, or repeal of such rules will take place at 10 a.m., Thursday, April 9, 1981, in the Ferryman's Inn, 7901 N.E. 6th Avenue, Vancouver, WA.

The authority under which these rules are proposed is WAC 230-02-210 is promulgated pursuant to RCW 9.46.070(4) and is intended to administratively implement that statute. WAC 230-02-405 is promulgated pursuant to RCW 9.46.070(10) as directed by RCW 9.46.020(18)(e) and is intended to administratively implement those statutes. WAC 230-04-135 is promulgated currently pursuant to RCW 9.46.070(13) which directs that the Washington State Gambling Commission has authority to implement the provisions of chapter 9.46 RCW. There are two bills now pending in the legislature which would grant more specific authority for requirement of bonding which may be adopted by the time of the hearing. WAC 230-04-200, 230-04-203 and 230-04-204 are promulgated pursuant to RCW 9.46.070(5) and are intended to administratively implement that statute. The commission expects this authority to be even clearer if bills now in the legislature are passed by the time of the hearing. WAC 230-04-206 is promulgated currently pursuant to RCW 9.46.070(13) which directs that the Washington State Gambling Commission has authority to implement the provisions of chapter 9.46 RCW. However, there are two bills currently in the legislature which would grant more specific authority respecting penalties for late payment of fees which may be adopted by the time of the hearing.

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to April 9, 1981, and/or orally at 10 a.m., Thursday, April 9, 1981, Ferryman's Inn, 7901 N.E. 6th Avenue, Vancouver, WA.

Dated: March 4, 1981

By: Jeffrey O. C. Lane  
Assistant Attorney General



## STATEMENT OF PURPOSE

## Title:

Amendment to WAC 230-02-210, Distributor defined.

Amendment to WAC 230-02-405, Specific authorized card games.

New rule, WAC 230-04-135, Application for manufacturer or distributor license—Bond.

Amendment to WAC 230-04-200, License fees.

New rule, WAC 230-04-203, Computation and payment of manufacturer's license fee.

New rule, WAC 230-04-204, computation and payment of distributor's license fee.

New rule, WAC 230-04-206, Penalties for delinquency in payment of fees for manufacturer's and distributor's licenses.

## Description of Purpose:

Amendment to WAC 230-02-210. This amendment simply makes clearer the commission's long standing requirement that a manufacturer must license as a distributor as well if he distributes gambling products other than of his own manufacture.

Amendment to WAC 230-02-405. The commission recently itself defined the specific rules by which the various authorized poker card games are played, see WAC 230-40-010. In doing so, it overlooked this rule, which by referring to definitions of those same card games in a commercial publication is now inconsistent with the new commission definitions. This proposed amendment merely makes this rule consistent with WAC 230-40-010 and 230-40-015.

New Section, WAC 230-04-135. The purpose of this new rule is to require a surety bond from manufacturer and distributor licensees who will be paying a portion of their annual license fee each month if the rules discussed below are adopted. The bond would be conditioned upon timely payment of those fees.

Amendment to WAC 230-04-200. This amendment adopts a new licensing fee structure for licenses for manufacturers and distributors of certain gambling equipment and devices. The object of the proposed new structure is to effectively require each participant in businesses respecting punchboards, pull tabs and related equipment in or affecting this state to bear an appropriate proportionate share in overall cost of the commission's operations according to his or her level of participation in the gambling industry. It is anticipated that the cost of these new fees will be passed on directly

down the marketing chain by the manufacturer or distributor licensees so that the impact of the fees will eventually fall upon the operators in direct proportion to their purchase and use of these items. The fee system is structured so as not to give any competitive advantage to any person at any level of marketing because of the new fees. In this way the commission believes it can most fairly and effectively collect the appropriate share of its necessary overall income to support its overall licensing and enforcement activities which is properly allocable to those dealing in punchboards and pull tabs and related devices. Some minor amount of income will be generated effectively falling upon the operators of fund raising events since those holding distributor's licenses may also sell or rent equipment for use at such events.

The new fee structure will be effective July 1, 1981 and will apply to those holding existing licenses as well as new licensees.

New Section, WAC 230-04-203. The purpose of this new section is to detail the new fee structure for manufacturer's licenses, make clear it applies to existing licensees as well as new ones, effective July 1, 1981, and set out provisions for paying the fee on a monthly basis, giving the licensees an opportunity to pass the cost of the fee on down the marketing chain before payments are due. In this way, the licensee is not required to put most of the fees "up front".

New Section, WAC 230-04-204. The purpose of this section is the same as that of new WAC 230-04-203 described above, but for the new fees for distributor's licenses.

New Section, WAC 230-04-206. The purpose of this section is to require payment of certain penalties and interest if license fee monthly payments are not made timely by manufacturer or distributor licensees.

## Statutory Authority:

The statutory authority for the amendment to WAC 230-02-210 is RCW 9.46.070(4). The statutory authority for the amendment to WAC 230-02-405 is RCW 9.46.070(10) as directed by RCW 9.46.020(18)(e). The statutory authority for passage of new section WAC 230-04-135 is currently RCW 9.46.070(13). There are two bills now pending in the legislature which would grant more specific authority for requirement of bonding which may be adopted by the time of the hearing. The statutory authority for the amendment to WAC 230-04-200 and for new sections, WAC 230-04-203 and 230-04-204 is RCW 9.46.070(5). The commission expects this authority to be even clearer if bills now in the legislature are passed by the time of the hearing. Statutory

authority for passage of new section WAC 230-04-206 is currently RCW 9.46.070(13). However, there are two bills currently in the legislature which would grant more specific authority respecting penalties for late payment of fees which may be adopted by the time of the hearing.

**Summary of Rules:**

**Amendment to WAC 230-02-210.** This amendment provides that a manufacturer selling punchboards, pull tabs or devices for the dispensing of pull tabs not manufactured by him as acting as a "distributor". This helps make clear that under such circumstances the manufacturer need be licensed as a distributor as well.

**Amendment to WAC 230-02-405.** This amendment deletes reference to a commercial publication to define card games authorized by the commission, referring instead to the specific rule by which the card games have been directly authorized (and some defined).

**New Section, WAC 230-04-135.** This rule requires an applicant for a license as a manufacturer or distributor, and current licensees, to furnish and maintain a surety bond to the commission before receiving, or continuing to operate under, their license, effective July 1, 1981. The bond would be conditioned upon timely payment of license fees (which would be paid monthly under proposed rules set out below). The bond amount is to be twice the portion of the anticipated fee allocable to the most active two month period of business anticipated during the applicable license year, as determined by the director or his designee. Bonds must be in the amount of \$500 at minimum and shall not be required to exceed \$25,000. The licensee or applicant may deposit cash or negotiable securities in lieu thereof.

**Amendment to WAC 230-04-200.** This amendment adopts, effective July 1, 1981, a new license fee for licenses for manufacturers and distributors of punchboards, pull tabs and pull tab dispensing devices. The new fees are made up of a base fee part and a variable part, which will differ from licensee to licensee depending upon his participation in or impact upon this state's gambling industry, measured by sales, or rentals, of those devices (and respecting distributors, devices for use at fund raising events) in this state or for use in this state.

The new fees are:

**Manufacturer** - \$1250 base fee plus, effective July 1, 1981, (a) four and one-half percent of the dollar amount of the total gross sales by the licensee, of punchboards, pull tabs and devices for the dispensing of pull

tabs, manufactured by the licensee other than directly to operators; and (b) fourteen and nine-tenths percent of the dollar amount of total gross sales of those items by the licensee directly to operators, in this state or for use within the state during the license year.

**Distributor** - \$1000 base fee plus, effective July 1, 1981, nine percent of the value of the total gross sales to operators by the licensee of punchboards, pull tabs and pull tab dispensing devices, and of total gross sales and rentals of equipment to operators for use at fund raising events, in this state or for use within this state during the license year.

Details of computation of the fees are set out in the following two new rules.

**New Section, WAC 230-04-203.** This rule details specifically how the manufacturer license fees are computed and when they are paid. The base portion of the fee is paid upon application for a license or for renewal of the license. The variable portion of the fee, while an annual fee, is paid on a monthly basis, due by the last day of the month following the month respecting which the payment is made.

Only sales in this state or where the relevant product manufactured by the licensee is shipped to or for resale or use in this state are considered in the fee computation. Sales of products returned for refund or credit by buyers are excluded from the computation to the extent a refund or credit is given to the buyer during the same license year.

**New Section, WAC 230-04-204.** This section is nearly identical to WAC 230-04-203 summarized in (5) above but relates to the fee for distributor's licenses.

**New Section, WAC 230-04-206.** This rule imposes penalties and interest for delinquent fee payments. A penalty of one and one-half percent is immediately imposed upon the delinquent amount. If the payment is not received within the next twenty days, a second penalty of ten percent of the delinquent amount, including any accrued interest, is imposed.

Additionally, interest is charged at the rate of one and one-half percent a month on all delinquent payments, penalties and accrued interest. Interest due of less than five dollars is waived, and the director may waive larger amounts if he determines the costs of collection will likely exceed the interest amount. No penalty or interest will be charged when the payment is mailed prior to the date due as shown by the post office cancellation mark on the envelope in which the payment is sent.

**Reasons Supporting Action:**

Amendment to WAC 230-02-210. The proposal simply makes more clear a current commission requirement.

Amendment to WAC 230-02-405. This amendment is necessary to remove an inconsistency in the rules, as to poker games.

Amendment to WAC 230-04-200, and New Sections, WAC 230-04-135, 230-04-203, 230-04-204 and 230-04-206. Over the past few years much of the punchboard and pull tab industry proper share of the costs of the commission's licensing, enforcement and related costs have been paid by a state tax on coin-operated gambling devices such as pull tab machines, see RCW 9.46.115.

That tax was based upon a federal tax which has now expired. The 1980 legislature passed a similar tax to replace it but that was vetoed by the then Governor, leaving a huge gap in the commission's budget. It is clear that license fees must be increased within that segment of permitted gambling activities to replace those lost revenues plus certain other enforcement costs. The question to be determined by the commission then is which fees to raise and in what manner.

After reviewing many possible alternatives, holding many public hearings and discussions, the commission staff believes the fee structure set out above accomplishes the task with the greatest amount of fairness and equity, and the least administrative costs. The burden of these fees will be effectively spread among those in the industry roughly in proportion to their actual participation in the industry.

The accompanying bonding (WAC 230-04-135), penalty and interest (WAC 230-04-206), requirements are necessary to ensure that payment of the license fee will be timely made.

Agency Personnel Responsible for Drafting, Implementing and Enforcing the Rules:

In addition to the Gambling Commissioners themselves, the following agency personnel have responsibility for drafting, implementing and enforcing these rules:

Keith Kisor, Capital Plaza Bldg., 1025 East Union, Olympia, WA, 234-0865 SCAN, 753-0865 Commercial; and

Elwin Hart, Deputy director, Capital Plaza Bldg., 1025 East Union, Olympia, WA, 234-0865 SCAN, 753-0865 Commercial.

Proponents and Opponents: These rules are proposed by the staff of the Washington State Gambling Commission.

Agency Comments: The agency believes the proposed rules are self-explanatory and need no further comment.

These rules were not made necessary as a result of federal law or federal or state court action.

AMENDATORY SECTION (Amending Order No. 80, filed 12/28/77)

WAC 230-02-210 DISTRIBUTOR DEFINED. A "distributor" is any person who purchases or otherwise obtains equipment for use in authorized gambling activities, including but not limited to punchboards or pull tabs, from any person and sells or otherwise furnishes such equipment, with or without merchandise to be awarded as prizes in connection therewith, to another person for the resale of or the display or operation of that equipment.

As used in these rules, the term "distributor" shall include a person who services and repairs pull tab dispensing devices, which shall be authorized so long as the person performing such servicing or repairs is licensed as a distributor or distributor's representative, and makes no addition to, or modification or alteration of, the device.

A manufacturer who sells or otherwise furnishes such equipment not manufactured by him to any other person for resale or for display or operation of that equipment is also a "distributor".

AMENDATORY SECTION (Amending Order No. 29, filed 1/23/75)

WAC 230-02-405 SPECIFIC AUTHORIZED CARD GAMES. These games include, and are limited to, ((E))each card game authorized ((by name)) by the commission under WAC 230-40-010 ((except mah-jongg, means the basic game listed and defined by that name in Hoyle's Modern Encyclopedia of Card Games by Walter B. Gibson, published by Doubleday & Company, Inc., April 1974 edition: PROVIDED, That immaterial modifications to the published definitions may be made by each licensee if each modification is posted upon the premises where it can be clearly seen by the players in the card games)) when played as permitted by that rule.

NEW SECTION

WAC 230-04-135 APPLICATION FOR MANUFACTURER OR DISTRIBUTOR LICENSE - BOND. Before receiving a license from the commission, or continuing to operate under any license previously issued, as a manufacturer or distributor of punchboards, pull tabs and pull tab dispensing devices or other gambling devices or equipment, an applicant or licensee shall file with the commission and maintain a surety bond in a form approved by the director duly executed by the applicant or principal issued by a reputable bonding company authorized to do business in this state. The bond shall be payable to the commission and conditioned for faithful performance of the timely payment of license fees as required by these rules, including any penalties and interest. The total amount of the bond or bonds required of the applicant or licensee shall be fixed by the director or his designee and may be increased from time to time subject to the limitation set out below.

In determining the total amount of the bond or bonds required hereunder the director shall require it or they be in a total amount equivalent to twice the estimated portion of the annual license fee for the most active two consecutive sales months during the license year. This estimate shall be based upon the licensee's past business records where available, together with such other information as is available to the director. Where no such past business record is available, the director shall consider industry norms for companies of the approximate size of the applicant or licensee.

The total amount of the bonds required of any manufacturer or distributor shall never be less than five thousand dollars nor more than twenty-five thousand dollars.

No recoveries on any bond or the execution of any new bond shall invalidate any bond and no revocation of any license shall affect the validity of any bond but the total recoveries under any one bond shall not exceed the amount of the bond.

In lieu of any such bond a licensee or applicant may deposit with the state treasurer through the commission a like amount of lawful money of the United States or bonds or obligations of the United States, the state or any county of the state, of an actual market value not less than the amount so fixed by the director as security for timely payment of license fees.

Any surety on a bond furnished by a manufacturer or distributor as provided herein shall be released and discharged from any and all liability to the state accruing on such bond after the expiration of thirty days from the date upon which such surety has lodged with the director a written request to be released and discharged, but this provision shall not operate to relieve, release, or discharge the surety from any liability already accrued or which shall accrue before the expiration of the thirty day period. The director shall promptly, upon receiving any such request, notify the manufacturer or distributor who furnished the bond; and unless the manufacturer or distributor, on or before the expiration of the thirty day period, files a new bond, or makes a deposit in accordance with the requirements of this section, the director shall forthwith cancel the manufacturer's or distributor's license. Whenever a new bond is furnished by a manufacturer or distributor, the director shall cancel his old bond as soon as the director and the attorney general are satisfied that all liability under the old bond has been fully discharged.

The director may require a manufacturer or distributor to give a new or additional surety bond or to deposit additional securities of the character specified in this section if, in his opinion, the security of the surety bond theretofore filed by such manufacturer or distributor, of the market value of the properties deposited as security by the manufacturer or distributor, shall become impaired or inadequate; and upon the failure of the manufacturer or distributor to give such new or additional surety bond or to deposit additional securities within thirty days after being requested so to do by the director, the director shall forthwith cancel his license.

This requirement for a bond shall become effective July 1, 1981.

**AMENDATORY SECTION** (Amending Order No. 105, filed 1/16/81)

**WAC 230-04-200 LICENSE FEES.** The following fees shall be paid to the commission for licenses, and permits, issued by the commission. For the operation of:

(1) BINGO

(a) Class A - five hundred dollars or less annual net receipts - \$25.

(b) Class B - over five hundred dollars through five thousand dollars annual net receipts - \$75.

(c) Class C - over five thousand dollars through fifteen thousand dollars annual net receipts - \$300.

(d) Class D - over fifteen thousand dollars through twenty-five thousand dollars annual net receipts - \$500.

(e) Class E - over twenty-five thousand dollars through fifty thousand dollars annual net receipts - \$1000.

(f) Class F - over fifty thousand dollars through one hundred thousand dollars annual net receipts - \$2000.

(g) Class G - over one hundred thousand dollars through five hundred thousand dollars annual net receipts - \$4000.

(h) Class H - over five hundred thousand dollars through seven hundred fifty thousand dollars annual net receipts - \$5500.

(i) Class I - over seven hundred fifty thousand dollars through one million dollars annual net receipts - \$8000.

(j) Class J - over one million dollars annual net receipts - \$11,000.

(2) RAFFLES

(a) Class A - five hundred dollars or less annual net receipts - \$25.

(b) Class D - over five hundred dollars but not over five thousand dollars, annual net receipts - \$75.

(c) Class E - over five thousand dollars through fifteen thousand dollars annual net receipts - \$300.

(d) Class F - over fifteen thousand dollars annual net receipts - \$500.

(3) AMUSEMENT GAMES - by bona fide charitable or bona fide nonprofit organizations.

(a) Class A - five hundred dollars or less annual net receipts - \$25.

(b) Class B - over five hundred dollars through one thousand dollars annual net receipts - \$30.

(c) Class C - over one thousand dollars through five thousand dollars annual net receipts - \$50.

(d) Class D - over five thousand dollars through fifteen thousand dollars annual net receipts - \$200.

(e) Class E - over fifteen thousand dollars annual net receipts - \$350.

(4) FUND RAISING EVENT (license year) - by bona fide charitable or bona fide nonprofit organizations.

(a) Class A-1 - one event, one calendar day - \$200.

(b) Class A-1R - one event, one calendar day - recreational - \$5.

(c) Class A-2 - not more than two events, one calendar day each - \$400.

(d) Class B-1 - one event, not more than three calendar days - \$300.

(e) Class B-1R - one event, not more than three calendar days - recreational - \$10.

(5) SPECIAL LOCATION AMUSEMENT GAMES - other than bona fide charitable or bona fide nonprofit organizations.

(a) Class A - one event per year lasting no more than 12 consecutive days - \$500.

(b) Class B - twenty-five thousand dollars or less annual net receipts - \$500.

(c) Class C - over twenty-five thousand dollars through one hundred thousand dollars annual net receipts - \$1500.

(d) Class D - over one hundred thousand dollars through five hundred thousand dollars annual net receipts - \$3000.

(e) Class E - over five hundred thousand dollars annual net receipts - \$5000.

(6) CARD GAMES - bona fide charitable and nonprofit organizations.

(a) Class A - general (fee to play charged) - \$500.

(b) Class B - limited card games - to hearts, rummy, pitch, pinocle, coon-can and/or cribbage (fee to play charged) - \$100.

(c) Class C - tournament only (no more than ten consecutive days) per tournament - \$35.

(d) Class D - general (no fee is charged a player to play cards) - \$35.

(e) Class R - primarily for recreational purposes and meets the standards of WAC 230-04-199 - \$10.

(7) CARD GAMES - commercial stimulant - each licensee per premises.

((b)) (a) Class B - limited card games to hearts, rummy, pitch, pinocle, coon-can and/or cribbage (fee to play charged) - \$100.

((c)) (b) Class C - tournament only (no more than ten consecutive days) - per tournament - \$100.

((d)) (c) Class D - general (no fee is charged a player to play cards) - \$35.

((e)) (d) Class E - general.

(i) up to five tables - \$2000

(ii) up to four tables - \$1500

(iii) up to three tables - \$750

(iv) up to two tables - \$500

(v) one table only - \$250.

(8) BINGO GAME MANAGER.

(a) Receives compensation from licensee - [amount to be determined after hearing].

(b) Receives no compensation from licensee - [amount to be determined after hearing].

(9) PUBLIC CARD ROOM EMPLOYEE - each licensee - \$100, each renewal - \$50.

((9)) (10) PERMITS - for operation by persons of authorized activity at agricultural fair or special property.

(a) Class A - one location and event only - \$10.

(b) Class B - annual permit for specified different events and locations - \$100.

((10)) (11) PUNCHBOARDS AND PULL TABS OPERATOR'S LICENSE - each licensee, per premises - \$300.

((11)) (12) Manufacturer's license - \$1250 base fee plus, effective July 1, 1981:

(a) Four and one-half percent of the dollar amount of the total gross sales by the licensee, of punchboards, pull tabs and devices for the dispensing of pull tabs, manufactured by the licensee other than directly to operators; and

(b) Fourteen and nine-tenths percent of the dollar amount of total gross sales of those items by the licensee directly to operators; in this state or for use within the state during the license year.

((12)) (13) Distributor's license - \$1000 base fee plus, effective July 1, 1981, nine percent of the value of the total gross sales to operators by the licensee of punchboards, pull tabs and pull tab dispensing devices, and of total gross sales and rentals to operators of equipment for use at fund raising events, in this state or for use within this state during the license year.

((13)) (14) Distributor's representative license - \$150, renewal - \$75.

((14)) (15) Manufacturer's representative license - \$150, renewal - \$75.

The term annual net receipts as used above means net receipts from the activity licensed only, during the license year.

**Reviser's Note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

**Reviser's Note:** The typographical errors in the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

#### NEW SECTION

**WAC 230-04-203 COMPUTATION AND PAYMENT OF MANUFACTURER'S LICENSE FEE.** Effective July 1, 1981, the fee for a manufacturer's license consists of a base fee plus a percentage of the volume of the licensee's sales during the license year of certain gambling devices and equipment sold in this state or for resale or use within this state.

(1) **Base Portion of the Fee.** The amount of the base portion of the fee is set out in WAC 230-04-200(12). Applicants for licensure, or renewal of licensure, must submit the base portion of the fee together with the application.

(2) **Variable Portion of the Fee.** (a) The remainder of the license fee is the total of four and one-half percent of the dollar amount of gross sales by the licensee of punchboards, pull tabs and devices for the dispensing of pull tabs manufactured by the licensee to persons other than operators, plus fourteen and nine-tenths percent of the dollar amount of total gross sales of those items by the licensee to operators, during the license year. This variable portion of the license fee shall apply to all persons holding manufacturer's licenses on July 1, 1981 previously issued, as well as to those receiving licenses after that date and shall be effective July 1, 1981. No sales prior to that date shall be used in the computation of any fee payment due.

(b) For the purposes of this rule, the date of sale shall be the date the product is shipped from the manufacturer's plant, or the date of the manufacturer's invoice, whichever is earlier.

(c) Only sales made in this state or where the equipment or devices are shipped or delivered to this state for resale or use within this state, shall be considered in this computation. Sales of products which have been returned to the licensee by the buyer during the same license year shall not be included in this computation to the extent that the licensee has given a refund or a credit to the buyer for those same products.

(d) Payments upon this variable portion of the annual license fee shall be made by the licensee on a monthly basis. The amount due for a particular month shall be determined by applying the calculation set out in (a) above to the applicable sales during that month. Products returned by buyers during that month for which a refund or credit is given by the licensee may be deducted from the total gross sales to the extent of that refund or credit if the sales of those products have been included in the fee calculation for a previous month during that license year.

Each monthly payment shall be accompanied by a completed "license fee report form" for the applicable month, which form shall be obtained from the commission. The form shall be signed by the licensee or its chief executive officer, and shall set out the amount of total sales of the relevant kinds by the licensee necessary for computing the portion of the annual fee attributable to that month.

The portion of the annual license fee for any particular calendar month and the report form for that month shall be due at the commission's Olympia office not later than 5:00 p.m. of the last day of the calendar month immediately following the month for which the payment is due. If that day is a Saturday, Sunday or state holiday, it shall be due at 5:00 p.m. on the next business day.

Fee payments and reports not timely received shall be deemed late, shall be subject to applicable interest and penalties, and shall be grounds for immediate suspension or revocation of the subject license.

#### NEW SECTION

**WAC 230-04-204 COMPUTATION AND PAYMENT OF DISTRIBUTOR'S LICENSE FEE.** Effective July 1, 1981, the fee for a distributor's license consists of a base fee plus a percentage of the volume of the licensee's sales to operators during the license year of certain gambling devices and equipment sold in this state or for use within this state.

(1) **Base Portion of the Fee.** The amount of the base portion of the fee is set out in WAC 230-04-200(13). Applicants for licensure, or renewal of licensure, must submit the base portion of the fee together with the application.

(2) **Variable Portion of the Fee.** (a) The remainder of the license fee is nine percent of the total of the dollar amount of gross sales by the licensee of punchboards, pull tabs and pull tab dispensing devices, together with the dollar amount of gross sales and rentals by the licensee of equipment for use at fund raising events, in this state or for use within this state, to operators during the license year. This variable portion of the license fee shall apply to all persons holding distributor's licenses on July 1, 1981 previously issued, as well as to those receiving licenses after that date and shall be effective July 1, 1981. No sales or rentals prior to that date shall be used in the computation of any fee payment due.

(b) For the purposes of this rule the date of the sale or rental shall be the date the product is delivered to the operator, or the date of the distributor's invoice, whichever is earlier.

(c) Only sales or rentals in this state or where the equipment or devices are shipped or delivered to this state for use within this state shall be considered in the computation. Sales or rentals of products which have been returned to the licensee by the buyer or renter during the same license year shall not be included in this computation to the extent that the licensee has given a refund or a credit to the buyer or renter for those same products.

(d) Payments upon this variable portion of the annual license fee shall be made by the licensee on a monthly basis. The amount due for a particular month shall be determined by applying the calculation set out in (a) above to the applicable sales or rentals during that month. Products returned by buyers or renters during that month for which a refund or credit is given by the licensee may be deducted from the total gross sales or rentals to the extent of that refund or credit if the sales or rentals of those products have been included in the fee calculation for a previous month during that license year.

Each monthly payment shall be accompanied by a completed "license fee report form" for the applicable month, which form shall be obtained from the commission. The form shall be signed by the licensee or its chief executive officer, and shall set out the amount of total sales or rentals of the relevant kinds by the licensee necessary for computing the portion of the annual fee attributable to that month.

The portion of the annual license fee for any particular calendar month and the report form for that month shall be due at the commission's Olympia office not later than 5:00 p.m. of the last day of the calendar month immediately following the month for which the payment is due. If that day is a Saturday, Sunday or state holiday, it shall be due at 5:00 p.m. on the next business day.

Fee payments and reports not timely received shall be deemed late, shall be subject to applicable interest and penalties, and shall be grounds for immediate suspension or revocation of the subject license.

#### NEW SECTION

**WAC 230-04-206 PENALTIES FOR DELINQUENCY IN PAYMENT OF FEES FOR MANUFACTURER'S AND DISTRIBUTOR'S LICENSES.** (1) In the event a manufacturer or distributor fails to timely pay any portion of the license fee there shall immediately be added a penalty of one and one-half percent of the amount delinquent. If such payment is not received within twenty days following the date due an additional penalty to that above set out in the amount of ten percent of the amount delinquent, including any interest due, shall be added.

(2) Any delinquent license fee payments, penalties and interest payable under the provisions of chapter 9.46 RCW and these rules shall bear interest at the rate of one and one-half percent per month from the date of delinquency until the date of payment: PROVIDED, That the interest shall be waived when the total interest is less than five dollars: AND PROVIDED FURTHER, That the director may waive such interest if he determines that the cost of collecting the interest will likely exceed the interest due.

(3) There shall be no penalty or interest imposed under this rule if it is established by post office cancellation mark on the envelope containing the report and/or payment that it had been deposited in the United States mail before the date such report and payment is due in the commission office.

**WSR 81-06-075**  
**PROPOSED RULES**  
**BOARD OF PHARMACY**  
 [Filed March 4, 1981]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Board of Pharmacy intends to adopt, amend, or repeal rules concerning adding new sections WAC 360-17-010, 360-17-020, 360-17-030, 360-17-040, 360-17-050, 360-17-060, 360-17-070, 360-17-080, 360-17-090 and 360-17-100;

that such agency will at 1:00 p.m., Thursday, April 23, 1981, in the Burien Police Department, 14905 6th S.W., Burien, WA, conduct a hearing relative thereto;

and that the adoption, amendment, or repeal of such rules will take place at 1:00 p.m., Thursday, April 23, 1981, in the Burien Police Station, 14905 6th S.W., Burien, WA.

The authority under which these rules are proposed is RCW 18.64.005(11).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to April 23, 1981, and/or orally at 1:00 p.m., Thursday, April 23, 1981, Burien Police Station, 14905 6th S.W., Burien, WA.

Dated: March 4, 1981

By: David C. Campbell, Jr.  
 Executive Secretary

#### STATEMENT OF PURPOSE

Title: WAC 360-17-010 Definitions.

Description of Purpose: This new section sets forth the definitions used in chapter 360-17 WAC, Hospital Pharmacy Rules.

Statutory Authority: RCW 18.64.005(11).

Title: WAC 360-17-020 Applicability.

Description of Purpose: This new section sets forth the facilities to which the rules apply.

Statutory Authority: RCW 18.64.005(11).

Title: WAC 360-17-030 Licensure.

Description of Purpose: This new section sets forth the licensure requirements.

Statutory Authority: RCW 18.64.005(11).

Title: WAC 360-17-040 Personnel.

Description of Purpose: This new section establishes the responsibilities and duties of the hospital pharmacy personnel.

Statutory Authority: RCW 18.64.005(11).

Title: WAC 360-17-050 Absence of Pharmacist.

Description of Purpose: This new section sets forth the procedures for pharmacy accountability on a 24 hour basis.

Statutory Authority: RCW 18.64.005(11).

Title: WAC 360-17-060 Physical Requirements.

Description of Purpose: This new section sets forth the requirements for both equipment and physical areas of the hospital pharmacy.

Statutory Authority: RCW 18.64.005(11).

Title: WAC 360-17-070 Drug Procurement, Distribution and Control.

Description of Purpose: This new section sets forth the requirements for procurement of drugs, hospital record keeping, monitoring of controlled substances, dispensing, labeling, and general distribution of drugs in the hospital.

Statutory Authority: RCW 18.64.005(11).

Title: WAC 360-17-080 Administration of Drugs.

Description of Purpose: This new section establishes the requirements for delivery of drugs to the ultimate user.

Statutory Authority: RCW 18.64.005(11).

Title: WAC 360-17-090 Investigational Drugs.

Description of Purpose: This new section sets forth the procedures for handling, administration, and distribution of investigational new drugs.

Statutory Authority: RCW 18.64.005(11).

Title: WAC 360-17-100 Additional Responsibilities of Pharmacy Service.

Description of Purpose: This new section sets forth other activities to be accomplished by the pharmacy service.

Statutory Authority: RCW 18.64.005(11).

Summary of Rules: WAC 360-17-010 as proposed would define the terms to be used in chapter 360-17 WAC. WAC 360-17-020 as proposed would establish those facilities to which chapter 360-17 WAC would apply. WAC 360-17-030 as proposed would establish licensing requirements. WAC 360-17-040 as proposed would establish the responsibilities of pharmacy personnel and how they will be supervised. WAC 360-17-050 as proposed would establish procedures for continuance of hospital pharmacy service in absence of pharmacist. WAC 360-17-060 as proposed would set forth the minimum physical and equipment requirements to maintain and operate a hospital pharmacy. WAC 360-17-070 as proposed would set standards for the acquisition, storage, and dispensing of drugs in the hospital by the pharmacy service. WAC 360-17-080 as proposed would establish parameters under which drugs would be administered in the hospital. WAC 360-17-090 as proposed would provide minimal standards for the use of new investigational drugs in the hospital. WAC 360-17-100 as proposed would set forth other responsibilities that would be assumed by the pharmacy service.

Reasons Supporting Action: WAC 360-17-010 through 360-17-100 are necessary to replace WAC 360-16-110 (Hospital Pharmacy Standards) which the board is proposing to repeal. The new standards reflect the

modern practice of hospital pharmacy. It has been twenty-one years since these standards have been updated. General standards for hospital pharmacy are being simplified, allowing each hospital and director of pharmacy to operate within the general standards, yet personalize the in-pharmacy policies to their own practice setting.

Agency personnel responsible for drafting, implementing, and enforcing the rule: Charles R. James, Acting Executive Secretary, WEA Building, 319 E. 7th Avenue, Olympia, WA 98504, (206) 234-6834 (SCAN), (206) 753-6834 (COMM).

Name of person or organization proposing the rule: WAC 360-17-010 through 360-17-100 were proposed by the Board of Pharmacy. The board also proposed to repeal WAC 360-16-110.

Agency Comments: This proposal by the board will simplify and modernize the standards for hospital pharmacy.

None of the above sections were made necessary as a result of federal law or federal or state court action.

Chapter 360-17 WAC  
HOSPITAL PHARMACY STANDARDS

WAC	
360-17-010	DEFINITIONS
360-17-020	APPLICABILITY
360-17-030	LICENSURE
360-17-040	PERSONNEL
360-17-050	ABSENCE OF A PHARMACIST
360-17-060	PHYSICAL REQUIREMENTS
360-17-070	DRUG PROCUREMENT, DISTRIBUTION AND CONTROL
360-17-080	ADMINISTRATION OF DRUGS
360-17-090	INVESTIGATIONAL DRUGS
360-17-100	ADDITIONAL RESPONSIBILITIES OF PHARMACY SERVICE

**NEW SECTION**

**WAC 360-17-010 DEFINITIONS.** For the purpose of these rules and regulations, the following definitions apply:

- (1) "Authenticated" or "authentication" means authorization of a written entry in a record by means of a signature which shall include, minimally, first initial, last name, and title.
- (2) "Controlled substance" means those drugs, substances or immediate precursors listed in Schedule I through V, 69.50 RCW, State Uniform Controlled Substance Act, as now or hereafter amended.
- (3) "Device" means instruments, apparatus, and contrivances, including their components, parts and accessories, intended
  - (a) for use in the diagnosis, cure, mitigation, treatment or prevention of diseases in man or other animals; or
  - (b) to affect the structure or any function of the body of man or other animals.
- (4) "Drug" means
  - (a) articles recognized in the official United States pharmacopeia, official homeopathic pharmacopeia of the United States, or official national formulary, or any supplement to any of them; and
  - (b) articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; and
  - (c) articles (other than food) intended to affect the structure or any function of the body of man or other animals; and
  - (d) articles intended for use as a component of any article specified in clause (a), (b), or (c); but not include devices or their components, parts or accessories.
- (5) "Drug administration" means an act in which a single dose of a prescribed drug or biological is given to a patient by an authorized

person in accordance with all laws and regulations governing such acts. The complete act of administration entails removing an individual dose from a previously dispensed, properly labeled container (including a unit dose container), verifying it with the "physician's" orders, giving the individual dose to the proper patient, and properly recording the time and dose given.

(6) "Drug dispensing" means an act entailing the interpretation of an order for a drug or biological and, pursuant to that order, proper selection, measuring, labeling, packaging, and issuance of the drug for a patient or for a service unit of the facility.

(7) "Hospital" means any institution, place, building, or agency which provides accommodations, facilities, and services, over a continuous period of twenty-four hours or more, for observation, diagnosis, or care, of two or more individuals not related to the operator who are suffering from illness, injury, deformity, or abnormality, or from any other condition for which obstetrical, medical, or surgical services would be appropriate for care or diagnosis. "Hospital" as used in this regulation does not include hotels, or similar places furnishing only food and lodging, or simply domiciliary care; nor does it include clinics, or physicians' offices where patients are not regularly kept as bed patients for twenty-four hours or more; nor does it include nursing homes, as defined and which come within the scope of chapter 18.51 RCW; nor does it include maternity homes, which come within the scope of chapter 18.46 RCW; nor does it include psychiatric hospitals, which come within the scope of chapter 71.12 RCW; nor any other hospital, or institution specifically intended for use in the diagnosis and care of those suffering from mental illness, mental retardation, convulsive disorders, or other abnormal mental condition.

(8) "Hospital pharmacy" means that portion of a hospital which is engaged in the manufacture, production, preparation, dispensing, sale, and distribution of drugs, components, biologicals, chemicals, devices and other materials used in the diagnosis and treatment of injury, illness and diseases; and which is licensed by the state board of pharmacy pursuant to the Washington state pharmacy practice act 18.64 RCW.

(9) "Immediate supervision" means visual and/or physical proximity that insure adequate safety and controls.

(10) "Investigational drug" means any article which has not been approved for use in the United States, but for which an Investigational Drug Application (IND) has been approved by the F.D.A.

(11) "Licensed nurse" means a registered nurse or licensed practical nurse.

(12) "Medical practitioner" means a physician, dentist, veterinarian, nurse, pharmacist, or other person duly authorized by law or rule in the state of Washington to prescribe drugs.

(13) "Pharmacist" means a person duly licensed by the state board of pharmacy to engage in the practice of pharmacy.

(14) "Pharmacy" means every place properly licensed by the board of pharmacy where the practice of pharmacy is conducted.

(15) "Pharmacy assistant level A" means:

(a) A person who is enrolled in, or who has satisfactorily completed, a board approved training program designed to prepare persons to perform nondiscretionary functions associated with the practice of pharmacy.

(b) A person who is a graduate with a degree in pharmacy or medicine of a foreign school, university, or college recognized by the board.

(16) "Pharmacy assistant level B" means a person certified by the board to perform limited functions in the pharmacy.

(17) "Physician" means a doctor of medicine or a doctor of osteopathy licensed to practice in the state of Washington.

(18) "Practice of pharmacy" means the definition given in RCW 18.64.011(11) now or hereafter amended.

(19) "Prescription" means the written or oral order for drugs issued by a duly licensed medical practitioner in the course of his/her professional practice, as defined by Washington state statutes for legitimate medical purposes.

(20) "Protocol" means a written set of guidelines.

(21) "Registered nurse" means an individual licensed under the provisions of chapter 18.88 RCW, regulating the practice of registered nursing in the state of Washington.

(22) "Self-administration of medication" means that a patient administers or takes his/her own drugs from properly labeled container: PROVIDED, That the facility maintains the responsibility for seeing that the drugs are used correctly and that the patient is responding appropriately.

(23) "Shall" means that compliance with regulation is mandatory.

(24) "Should" means that compliance with a regulation or standard is suggested or recommended but not required.

**Reviser's Note:** The typographical errors in the above section occurred in the copy filed by the agency and appear herein pursuant to the requirements of RCW 34.08.040.

#### NEW SECTION

**WAC 360-17-020 APPLICABILITY.** The following rules and regulations are applicable to all facilities licensed pursuant to chapter 70.41 RCW.

#### NEW SECTION

**WAC 360-17-030 LICENSURE.** Hospital pharmacies shall be licensed by the board of pharmacy in accordance with 18.64 RCW.

#### NEW SECTION

**WAC 360-17-040 PERSONNEL.** (1) Director of Pharmacy. The pharmacy, organized as a separate department or service, shall be directed by a licensed pharmacist appropriately qualified by education, training, and experience to manage a hospital pharmacy. The patient care and management responsibilities of the director of pharmacy shall be clearly delineated in writing and shall be in accordance with currently accepted principles of management, safety, adequate patient care and treatment. The responsibilities shall include the establishment and maintenance of policies and procedures, ongoing monitoring and evaluation of pharmaceutical service, use and control of drugs, and participation in relevant planning, policy and decision making activities. Hospitals which do not require, or are unable to obtain the services of a full-time director shall be held responsible for the principles contained herein. A part time or contracted director of pharmacy has the same basic obligations and responsibilities as his/her full time counterpart. Where the director of pharmacy is not employed full time, then the hospital shall establish an ongoing arrangement in writing with an appropriately qualified pharmacist to provide the services described herein. The director of pharmacy shall be responsible to the chief executive officer of the hospital or his/her designee.

(2) Supportive Personnel. The director of pharmacy shall be assisted by sufficient numbers of additional pharmacists and/or pharmacy assistants and clerical personnel required to operate safely and efficiently to meet the needs of the patients.

(3) Supervision. All of the activities and operations of each hospital pharmacy shall be professionally managed by the director or a pharmacist designee. Functions and activities shall be under the immediate supervision of a pharmacist and shall be performed according to written policies and procedures designed to decrease the risk of harm to patients. When the hospital pharmacy is decentralized, a pharmacist, responsible to the director, shall supervise each decentralized section(s) or separate organizational element(s) involved with the preparation and dispensing of drugs.

#### NEW SECTION

**WAC 360-17-050 ABSENCE OF A PHARMACIST.** (1) General. Pharmaceutical service shall be available on a 24-hour basis. If round-the-clock services of a pharmacist are not feasible, arrangements shall be made in advance by the director of pharmacy for the provision of drugs for the hospitalized patients.

(2) Pharmacist availability. A pharmacist shall be available "on call" for emergency drug needs during the hours when the pharmacy is closed.

(3) Access to the pharmacy. Whenever a drug is required to treat an immediate need and not available from floor stock when the pharmacy is closed, the drug may be obtained from the pharmacy by a designated supervisory registered nurse, who shall be accountable for his/her actions. One registered nurse shall be designated in any one hospital shift for removing drugs from the pharmacy.

(a) The director of pharmacy shall establish written policy and recording procedures to assist the supervisory nurse who may be designated to remove drugs from the pharmacy, when a pharmacist is not present, in accordance with Washington state pharmacy practice act RCW 18.64.255(2).

(b) The stock container or similar unit dose package of the removed drug shall be left with a copy of the order of the authorized licensed medical practitioner to be checked by a pharmacist, when the pharmacy reopens, or as soon as is practicable.

(c) Only a sufficient quantity of drugs shall be removed in order to sustain the patient until the pharmacy opens. To the greatest extent possible, only prepackaged drugs (i.e., unit dose packaged) shall be removed from the pharmacy by the designated nurse.

(d) All drugs removed shall be completely labeled in accordance with written policy and procedures, taking into account state and federal rules and regulations and current standards.

#### NEW SECTION

**WAC 360-17-060 PHYSICAL REQUIREMENTS.** (1) Area. The pharmacy facilities shall include:

(a) Appropriate transportation and communications systems for the distribution and control of drugs within the hospital.

(b) Space and equipment for secure, environmentally controlled storage of drugs and other pharmaceutical supplies. It is recommended that the pharmacy facilities should include:

(a) Space for the management and clinical functions of the service.

(b) Space and equipment for the preparation of parenteral admixtures, radiopharmaceuticals, and other sterile compounding and packaging.

(c) Other equipment necessary to meet the medical services' need for drugs throughout the hospital.

(2) Access to unattended areas. All areas occupied by the hospital pharmacy shall be locked by key or combination in order to prevent access by unauthorized personnel. The director of pharmacy shall designate in writing, by title and/or position those individuals who shall be authorized access to particular areas within the pharmacy, including authorization of access to keys and/or combinations.

(3) Current pharmaceutical reference materials shall be provided in order to furnish the pharmaceutical, medical and nursing staff with adequate information concerning drugs. References related to the following subjects should be available:

(a) Drug identification

(b) Toxicology

(c) Pharmacology

(d) Drug interaction

(e) Drug compatibility

(f) Drug source

(g) Pharmacy law

(h) Microbiology

(i) Sterilization and disinfection

(j) Pharmacy technology

(k) Patient counseling

(l) Rational therapy

(m) Pathology

(n) Chemistry

(4) Drug storage areas. Drug storage and preparation areas within the pharmacy and throughout the hospital shall be under the control of the director of pharmacy or a pharmacist designee. Drugs shall be stored under proper conditions of sanitation, temperature, light, moisture, ventilation, segregation, and security. Properly controlled drug preparation areas shall be designated; locked storage or locked medication carts shall be provided for use on each nursing service area or unit.

(5) Flammable storage. All flammable material shall be stored and handled in accordance with applicable local and state fire regulations, and there shall be written policy and procedures for the destruction of these items.

#### NEW SECTION

**WAC 360-17-070 DRUG PROCUREMENT, DISTRIBUTION AND CONTROL.** (1) General. Pharmaceutical service shall include:

(a) Procurement, preparation, storage, distribution and control of drugs throughout the hospital.

(b) Monitoring of drug therapy, including the maintenance of patient profiles.

(c) Provision for drug information to patients, physicians and others.

(d) Surveillance and reporting of adverse drug reactions and drug product defect(s).

It is recommended that additional pharmaceutical services should include:

(a) Obtaining and recording comprehensive drug histories and participation in discharge planning in order to affect appropriate drug use.

(b) All preparation of sterile products (e.g., IV admixtures, piggybacks, irrigation solutions), except in emergencies.

(c) Distribution and control of all radiopharmaceuticals.



(d) Administration of drugs.

(e) Prescribing.

(2) The director shall be responsible for establishing specifications for the procurement, distribution and the maintenance of a system of accountability for drugs, IV solutions, chemicals, and biologicals related to the practice of pharmacy.

(3) The director shall establish, annually review and update when necessary comprehensive written policies and procedures governing the responsibilities and functions of the pharmacy service. Policies affecting patient care and treatment involving drug use shall be established by the director of pharmacy with the cooperation and input of the medical staff, nursing service and the administration.

(4) Labeling:

(a) Inpatient. All drug containers in the hospital shall be labeled clearly, legibly and adequately to show the drug's name (generic and/or trade) and strength and the expiration date when applicable. The addition of appropriate accessory or cautionary statements should be applied to container as practicable.

(b) Outpatients. Outpatient, emergency room, and discharge drug orders shall meet the requirements of RCW 18.64.246.

(c) Parenteral and irrigation solutions. Cautionary measures for the safe admixture of parenteral products shall be developed. When drugs are added to intravenous solutions, a suitable label shall be affixed to the container. As a minimum the label shall indicate name and location of the patient, name and amount of drug(s) added, appropriate dating, initials of the personnel who prepared the solution.

(5) Medication orders. Drugs are to be dispensed and administered only upon orders of practitioners authorized to prescribe. The pharmacists shall review the prescribers original order or direct copy thereof, prior to dispensing any drug, except for emergency use and as authorized in Section 5.3 of this regulation.

(6) Controlled substance accountability. The director of pharmacy shall establish effective procedures and maintain adequate records regarding use and accountability of controlled substances, and such other drugs as appropriate, in compliance with state and federal laws and regulations.

(a) Complete, accurate, and current records shall be kept of receipt of all controlled substances and in addition, a Schedule II perpetual inventory shall be maintained.

(b) Pharmacy Schedule II records shall contain for each issue of substance:

(i) date

(ii) name of the drug

(iii) amount of drug issued

(iv) name and/or initials of the licensed individual who issued the drug

(v) name of the patient and/or unit to which the drug was issued.

(c) Patient care area Schedule II records shall contain for each drug used:

(i) date

(ii) time of administration

(iii) name of the drug (if not already indicated on the records)

(iv) dosage of the drug which was used which shall include both the amount administered and any amount destroyed.

(A) Single dose ampules and vial are recommended. Contents of single dose ampules and vials shall not be saved and used for future administration(s).

(B) To destroy small amounts of controlled substances following the administration of a dose by a licensed nurse, the destruction shall be witnessed by a second licensed nurse and the records of administration and destruction shall be countersigned.

(v) name of the patient to whom the drug was administered

(vi) name of the practitioner who authorized the drug

(vii) signature of the licensed individual who administered the drug.

(d) Periodic monitoring of controlled substances records shall occur. The monitor should include the nursing supervisor(s) and/or pharmacist(s) to determine whether the drugs recorded on usage records have also been recorded on the patient's chart.

(e) Use of multiple dose vials of controlled substances shall be discouraged.

(f) Controlled substances, which are floor stocked, in any hospital patient or nursing service area shall be checked by actual count by two authorized licensed individuals at the change of each shift. At least one of the licensed hospital employees shall be a registered nurse.

(g) All controlled substance records shall be kept for five years.

(h) Hospitals wishing to use record systems other than that described above shall make application and receive written approval from the board of pharmacy prior to implementation.

(i) Significant losses or disappearances of controlled substances and the facts surrounding the discrepancy shall be reported to the board of pharmacy, the Drug Enforcement Agency, the chief executive officer of the hospital and other appropriate authorities.

(7) Drug recall. The director shall develop and implement a recall procedure that can be readily activated to reasonably assure that potential harm to patients within the hospital is prevented and that all drugs included on the recall are returned to the pharmacy for proper disposition.

(8) Drug errors and adverse drug reactions. Drug errors and adverse drug reactions shall be appropriately recorded in the patients' record and reported to the prescribing licensed practitioner and to the pharmacy.

#### NEW SECTION

WAC 360-17-080 ADMINISTRATION OF DRUGS. (1) General. Drugs shall be administered only upon the orders of a licensed member of the medical staff, an authorized member of the house staff, or other licensed individual who have been granted clinical privileges to write such orders. Verbal orders for drugs shall be accepted only by licensed professional personnel so approved in the medical staff rules and regulations and shall be limited to emergency or unusual circumstances and which shall be authenticated by the prescribing practitioner within 48 hours.

(2) Administration. All drugs shall be administered by, or under the supervision of, appropriately licensed personnel in accordance with state and federal laws and regulations governing such acts and in accordance with hospital policy which shall include a mechanism for approval by the medical staff.

(3) Patients drugs. The hospital shall develop written policies and procedures for the administration of drugs brought into the hospital by the patient and others, for use by the patient when in the hospital.

(a) Patient's own drugs shall be administered only when there is a written order from a responsible licensed practitioner to administer the drug(s), to include drug strength, route of administration and directions prior to administration the drug shall be checked for identifiability and within expiration dating.

(b) Drugs from outside the hospital which are not used during the patient's hospitalization, shall be packaged and sealed, if stored in the hospital, and returned to the patient at time of discharge or given to the patient's family.

(c) Return of drugs may be prohibited due to possible jeopardy of the patient's health.

(d) Written procedures shall be developed for the disposal of unclaimed and unreturned drugs.

(4) Self-administration. Self-administration of drugs shall occur only within approved protocols in accordance with a program of self-care or rehabilitation. Policy and specific written procedures, approved by the appropriate medical staff, nursing service and administration shall be established by the director of pharmacy.

#### NEW SECTION

WAC 360-17-090 INVESTIGATIONAL DRUGS. (1) General. Investigational drugs shall be properly labeled and stored for use only under the explicit and continuous supervision of the authorized principle investigator. Such drugs shall be approved by an appropriate medical staff committee. Investigational drugs shall be administered in accordance with approved written protocol that includes any requirements for a patient's appropriate informed consent.

(2) Administration. On approval of the principle investigator or coinvestigator(s), licensed nurses may administer these drugs after they have been given basic pharmacological information about the drug. The pharmacy shall be responsible for maintaining and providing information on approved investigational drugs.

(3) Distribution. Storage, distribution, and control of approved investigational drugs used in the institution shall be the responsibility of the director of pharmacy or his designee.

#### NEW SECTION

WAC 360-17-100 ADDITIONAL RESPONSIBILITIES OF PHARMACY SERVICE. (1) General. The pharmacy service shall

participate in other activities and committees within the hospital affecting pharmaceutical services, drugs and drug use, including, but not limited to those relating to infection control, patient care review, and institutional planning.

(2) Quality Assurance. The pharmacy service shall establish a quality assurance program.

(3) Clinical Activities. The director of pharmacy should develop clinically oriented programs, including but not limited to obtaining and recording comprehensive drug histories and participation in discharge planning to affect appropriate drug use, a formal drug information service, prescribing, and administration of drugs.

**WSR 81-06-076**  
**PROPOSED RULES**  
**BOARD OF PHARMACY**

[Filed March 4, 1981]

Notice is hereby given in accordance with the provisions of RCW 34.04.025, that the Washington State Board of Pharmacy intends to adopt, amend, or repeal rules concerning the amending of WAC 360-13-010 and 360-13-066;

that such agency will at 1:00 p.m., Thursday, April 23, 1981, in the Burien Police Station, 14905 6th S. W., Burien, WA, conduct a hearing relative thereto;

and that the adoption, amendment, or repeal of such rules will take place at 1:00 p.m., Thursday, April 23, 1981, in the Burien Police Station, 14905 6th S. W., Burien, WA.

The authority under which these rules are proposed is RCW 18.64.005(11).

Interested persons may submit data, views, or arguments to this agency in writing to be received by this agency prior to April 23, 1981, and/or orally at 1:00 p.m., Thursday, April 23, 1981, Burien Police Station, 14905 6th S. W., Burien, WA.

Dated: March 4, 1981

By: David C. Campbell, Jr.  
Executive Secretary

**STATEMENT OF PURPOSE**

Title: WAC 360-13-010, Promulgation.

Description of Purpose: This amendatory section deletes the reference to the Department of Health which is obsolete.

Statutory Authority: RCW 18.64.005(11).

Title: WAC 360-13-066, Pharmaceutical Services.

Description of Purpose: This new section updates and clarifies the actual delivery of pharmaceutical services by the pharmacist and administration of drugs by authorized persons.

Statutory Authority: RCW 18.64.005(11).

Summary of Rules: WAC 360-13-010 is amended to delete the obsolete reference to the Department of Health. WAC 360-13-066 as proposed to be amended would provide for pharmaceutical services in a nursing home, specifically related to the following: administration of pharmaceutical services;

responsibilities of the pharmacist; security and storage of drugs; labeling of drugs; control and accountability; specific requirements for controlled substances; and drug administration.

Reasons Supporting Action: WAC 360-13-010. This amendment was necessary to remove the obsolete reference to the Department of Health. WAC 360-13-066. This new section was necessary to replace and simplify the language used in the old form of repealed WAC 360-13-065 and provides leeway for innovative ideas to be used by the nursing home and providers of pharmaceutical services.

Agency personnel responsible for drafting, implementing and enforcing the rule: David C. Campbell, Jr., Executive Secretary, WEA Building, 319 E. 7th Avenue, Olympia, WA 98504, 234-6834 (SCAN) 753-6834 (COMM).

Name of person or organization proposing the rule: WAC 360-13-010 and 360-13-066 were proposed by the Washington State Board of Pharmacy.

Agency Comments: The intention of the board in proposing amendments to all of the above sections is to simplify the requirements for drug distribution in nursing homes, allowing the nursing home and the pharmacist to determine the system and requirements for each individual nursing home location.

None of the above sections were made necessary as a result of federal law or federal or state court action.

AMENDATORY SECTION (Amending Order 104, filed 12/5/69)

WAC 360-13-010 PROMULGATION. In the interests of protecting public health the Washington state board of pharmacy shall hereby allow the use of an emergency drug kit in any nursing home holding a valid Washington state (~~department of health~~) nursing home license. The emergency drug kit shall be considered to be a physical extension of the pharmacy supplying the emergency drug kit and shall at all times remain under the ownership of the supplying pharmacy.

NEW SECTION

WAC 360-13-066 PHARMACEUTICAL SERVICES. (1) Administration of pharmaceutical services.

(a) There shall be provision for timely delivery of drugs and biologicals from a pharmacy so a practitioner's orders for drug therapy can be implemented without undue delay.

(b) Unless the nursing home operates a licensed pharmacy and employs a director of pharmaceutical services, the nursing home shall have a written agreement with one or more licensed pharmacists which provides for pharmaceutical consultant services. The staff pharmacist or consultant pharmacist supervises the entire spectrum of pharmaceutical services in the nursing home.

(c) There shall be a Pharmaceutical Services Committee whose membership includes at least a staff or consultant pharmacist, a physician, the director of nursing or his/her designee, and the administrator or his/her designee. The Pharmaceutical Services Committee develops and maintains written policies and procedures for safe and effective drug therapy, distribution, control, and use which are current and followed in practice.

(d) Reference material regarding the use of medication, adverse reactions, toxicology, and poison control center information shall be available to facility staff.

(e) There shall be procedures established for the reporting and recording of medication errors and adverse drug reactions.

(2) A staff pharmacist or consultant pharmacist shall be responsible for coordinating pharmaceutical services which include:

(a) Provision of pharmaceutical services evaluations and recommendations to the administrative staff.

(b) On-site reviews to ensure that drug handling and utilization procedures are carried out in conformance with recognized standards of practice.

(c) Regularly reviewing each resident's therapy to screen for potential or existing drug therapy problems and documenting recommendations.

(d) Provision of drug information to the nursing home staff and physicians as needed.

(e) Planning and participating in the nursing home staff development program.

(f) Consultation regarding resident care services with other departments.

(3) Security and storage of drugs.

(a) The nursing home shall store drugs under proper conditions of sanitation, temperature, light, moisture, ventilation, segregation, and security as defined by regulation and accepted standards of practice.

(b) All drugs shall be stored in locked cabinets, rooms, or carts, and shall be accessible only to personnel licensed to administer or dispense drugs.

(c) Schedule III controlled substances shall be stored apart from other drugs on a separate shelf or in a separate compartment or cabinet, provided, however, Schedule III controlled substances may be stored with Schedule II controlled substances. Schedule III controlled substances can be stored with other drugs when distributed in a unit dose drug distribution system.

(d) Drugs for external use shall be stored apart from drugs or internal use, on a separate shelf or in a separate compartment or cabinet. Any shelf, compartment, or separate cabinet used for storage of external drugs shall be clearly labeled to indicate it is to be used for external drugs only.

(e) At all times, all keys to drug boxes, cabinets, and rooms shall be carried by persons legally authorized to administer drugs and on duty on the premises.

(f) If a supplemental dose kit within a unit dose drug distribution system is provided it must comply with WAC 360-13-030.

(g) If an emergency kit is provided, it shall comply with Washington State Board of Pharmacy regulations WAC 360-13-010 and 360-13-020.

(4) Labeling of Drugs.

(a) The label for each legend drug which is not dispensed in a unit dose shall have the name and address of the pharmacy from which the drug was dispensed; the prescription number; the physician's name; the resident's full name; the date of issue; the initials of the dispensing pharmacist; the name and strength of the drug; a controlled substances schedule, if any; the amount (e.g., number of tablets or cc's) of the drug dispensed, and the expiration date. In the case of a compounded drug which contains Schedule II or III controlled substances, the quantity of each controlled substance per cc or teaspoonful shall be shown on the label.

(b) In a unit dose drug distribution system, a clear, legible label shall be printed or affixed securely to each unit dose package. Each unit dose drug label shall include: the name, strength and, for each unit dose package, the dosage amount of the drug; the expiration date for any time-dated drug; the lot or control number; and controlled substances schedule number, if any. Each individual drug compartment shall be labeled with the full name of the resident whose drug the compartment contains and the name of the resident's physician.

(c) Non-legend drugs shall be clearly labeled with at least the patient's name, date of receipt, as well as display a manufacturer's original label or a pharmacy label if repackaged by the pharmacist.

(d) A label on a container of drugs shall not be altered or replaced except by the pharmacist. Drug containers having soiled, damaged, incomplete, or makeshift labels shall be returned to the pharmacy for relabeling or disposal. Drugs in containers having no labels or illegible labels shall be destroyed.

(5) Control and Accountability.

(a) The nursing home shall maintain and follow written procedures which provide for the accurate control and accountability of all drugs in the nursing home.

(b) No drugs may be returned from the nursing home to a pharmacy except as provided in paragraph (4)(d) or if the drug is returned in unopened unit dose packages.

(c) Drugs shall be released to a resident upon discharge only on specific written authorization of the attending physician. A receipt containing information sufficient to document the drug's destination, the person who received the drug, and the name and quantity of drugs released shall be entered in the resident's health record.

(d) All of an individual resident's drugs including Schedule III, IV and V controlled substances, that are discontinued by the physician and remain unused, shall be destroyed by a licensed nurse employee of the nursing home in the presence of a witness within 90 days after having been discontinued, and accurate records of destruction maintained except for drugs which are sealed in unit dose packages.

(e) Outdated, unapproved, contaminated, deteriorated, adulterated, or recalled drugs shall not be available for use in the nursing home.

(f) Except in the case of Schedule II controlled substances, drugs which remain in the nursing home after the patient has died or been discharged, and drugs in containers with illegible or missing labels, shall be immediately and irretrievably disposed of by a licensed nurse employee in the presence of a witness and proper records maintained of such disposal except for drugs which are sealed in unit dose packages and Schedule II controlled substances.

(6) Special requirements for controlled substances.

(a) All Schedule II controlled substances shall be stored in separately keyed and locked secure storage within a drug facility.

(b) Schedule III controlled substances shall be stored apart from other drugs and may be stored on a separate shelf, drawer, or compartment with Schedule II controlled substances.

(c) There shall be a Schedule II and Schedule III controlled substances record book which shall be a bound book for each schedule with consecutively numbered pages in which complete records of receipt and withdrawal of Schedule II and III controlled substances is maintained.

(d) At least once each 24 hours, the amount of all schedule II controlled substances stored in the facility shall be counted by at least two persons who are legally authorized to administer drugs. A similar count shall be made of all Schedule III controlled substances at least weekly. Records of counts shall be entered in the Schedule II and III controlled substances book(s) or in a separate bound book.

(e) When a resident is discharged, a record of release for any Schedule II or III controlled substances released shall be entered on the appropriate page for the given drug in the controlled substances record book.

(f) Any discrepancy in actual count of Schedule II or III controlled substances and the record shall be documented in the Schedule I or III controlled substances books and reported immediately to the responsible supervisor who shall investigate the discrepancy. Any discrepancy which has not been corrected within seven calendar days shall be reported to the consultant pharmacist and the Washington State Board of Pharmacy.

(g) Discontinued Schedule II controlled substances and all Schedule II controlled substances which remain after the discharge or death of residents shall:

(i) be returned to the Drug Enforcement Administration (DEA) by registered mail at least each month, or

(ii) be delivered in person to the DEA by an authorized representative of the nursing home, or

(iii) the nursing home may contact the Washington State Board of Pharmacy to request that the representative of the Board perform on-site destruction of unused Schedule II controlled substances.

(h) A nursing home may establish procedures which vary from those paragraphs (6)(a)(g) if they are using a unit dose drug distribution system and if that system provides for the accurate accounting, by the nursing home and the supplying pharmacy, of the receipt and disposition of all Schedule II and III controlled substances.

(7) Drug administration.

(a) Staff shall follow written procedures which provide for the safe handling and administration of drugs to residents.

(i) only licensed nurses administer drugs,

(ii) the resident shall be identified prior to administration.

(b) All drugs shall be identified up to the point of administration.

(c) Drugs shall be prepared immediately prior to administration and administered by the same person who prepares them except under a unit dose system.

(d) Drug administration shall be documented as soon as possible after the act of administration, and shall include:

- (i) verification of administration
- (ii) reasons for ordered doses not taken
- (iii) reasons for administration of, and response to drugs given on and as needed basis (PRN).

(e) Drug orders shall be received only by a licensed nurse and administered only on the written or verbal order of a practitioner. Verbal orders shall be signed by the prescribing practitioner in a timely manner.

(f) The self-administration of medication program shall provide evidence of:

- (i) assessment of the resident's capabilities
- (ii) instructions for administration
- (iii) monitoring of progress and compliance with orders
- (iv) safe storage of drugs.

### WSR 81-06-077

#### ADOPTED RULES

#### BOARD OF PHARMACY

[Order 158—Filed March 4, 1981]

Be it resolved by the Washington State Board of Pharmacy, acting at Burien, Washington, that it does promulgate and adopt the annexed rules relating to the amending of WAC 360-13-020, 360-13-030, 360-13-045 and 360-13-055.

This action is taken pursuant to Notice No. WSR 81-02-033 filed with the code reviser on January 5, 1981. Such rules shall take effect pursuant to RCW 34.04.040(2).

This rule is promulgated under the general rule-making authority of the Washington State Board of Pharmacy as authorized in RCW 18.64.005(11).

The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), as appropriate, and the State Register Act (chapter 34.08 RCW).

APPROVED AND ADOPTED February 19, 1981.

By David C. Campbell, Jr.

Executive Secretary

#### AMENDATORY SECTION (Amending Order PL 104, filed 12/5/69)

WAC 360-13-020 EMERGENCY KIT((S)). (1) The contents and quantity ((thereof)) of drugs and supplies in the emergency kit shall be determined by the ((Pharmacy and Therapeutics Committee of the nursing home or a committee consisting of the consulting pharmacist to the extended care facility and at least one licensed physician)) Pharmaceutical Services Committee as defined in WAC 360-13-045(9) which shall consider the number of residents to be served and their potential need for emergency medications.

(2) ((The "Pharmacy and Therapeutics Committee" or a committee consisting of the consulting pharmacist

to the nursing home and at least one licensed physician and the pharmacist supplying the emergency kit shall sign the list of medications to be contained in the emergency kit. Signed copies of the list shall be on file in the extended care facility and in the supplying pharmacy.)) A copy of the approved list of contents shall be conspicuously posted on or near the kit.

((3) The emergency kit shall contain only those items listed on the emergency kit list.))

((4)) (3) The emergency kit shall ((apply)) be used only for bonafide emergencies and ((shall not be used)) only when medications cannot be obtained from a pharmacy in a timely manner.

(4) Records documenting the receipt and removal of drugs in the emergency kit shall be maintained by the nursing home and the supplying pharmacy.

((5) The emergency kit being available only for bonafide emergencies shall contain small quantities of individual items. The "small quantities" are to be considered in light of the number of residents in the extended care facility and their potential needs for the emergency medication.))

(5) The Pharmaceutical Services Committee shall be responsible for ensuring proper storage, security and accountability of the emergency kit

(2) The emergency kit shall be stored in a locked area or be locked itself;

(b) Emergency kit drugs shall be accessible only to licensed nurses as defined in WAC 360-13-045(6).

((6) Whenever medications requiring a prescription are used from the emergency kit, the following must be reduced to writing and be kept with the emergency kit:

- (a) Name of the resident
- (b) Name and quantity of medication
- (c) Nature of the emergency
- (d) Time and date of administration
- (e) Name of person administering medication
- (f) Name of physician authorizing medication:

PROVIDED HOWEVER, The pharmacy record will be a prescription on file in the pharmacy.

(7) The pharmacist supplying the emergency kit shall keep a record for each extended care facility of the name and quantity of medication supplied to the emergency kit and the date of supply or replenishment:

(8) Record keeping must conform to existing federal and state laws, rules, and regulations.

((9)) (6) The contents of the emergency kit, the approved list of contents, and all related records ((relating to the emergency kit)) shall be made freely available and open for inspection to representatives of the Board of Pharmacy and the department.

((10) The emergency kit shall be kept in a locked cabinet or be locked itself.

(11) The emergency kit shall at all times remain the responsibility of the pharmacist supplying the emergency kit:

(12) The emergency kit shall have a list of contents on the outside of the kit.))

AMENDATORY SECTION (Amending Order PL 114, filed 6/28/73)

WAC 360-13-030 SUPPLEMENTAL DOSE KITS. (1) In addition to an emergency kit, each institution holding a valid Washington state nursing home license, and which employs a unit dose drug distribution system, may maintain a supplemental (~~((unit))~~) dose kit for supplemental nonemergency drug therapy if the necessary drug is not (~~(timely)~~) available from the pharmacy in a timely manner. (~~((The supplemental unit dose kit may contain up to four single unit doses of each drug approved by the pharmacy and therapeutics committee. The supplemental use dose kit shall remain the property of the supplying pharmacy and said pharmacy shall be responsible for proper storage, security and accountability.))~~)

(2) The Pharmaceutical Services Committee shall determine the quantities of drugs in the supplemental dose kit in light of the number of residents in the facility and their potential needs for supplemental doses.

(3) The supplemental dose kit shall remain the property of the supplying pharmacy.

(4) The supplying pharmacy and the facility's Pharmaceutical Services Committee shall be responsible for proper storage, security and accountability of the kit.

Reviser's Note: RCW 34.04.058 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 Order PL 121, filed 8/8/74)

WAC 360-13-045 DEFINITIONS. (1) "Board" means the Washington State Board of Pharmacy.

((+)) (2) "Department" means the state department of social and health services.

((2)) (3) "Dose" means the amount of drug to be administered at one time.

((3)) (4) "Drug facility" means a room or area designed and equipped for drug storage and the preparation of drugs for administration.

((4)) (5) "Legend drug" means a drug bearing the legend, "Caution, federal law prohibits dispensing without a prescription."

((5)) (6) "Licensed nurse" means either a registered nurse or a licensed practical nurse.

((6)) (7) "Licensed practical nurse" means a person duly licensed under the provisions of the licensed practical nurse act of the state of Washington, chapter 18.78 RCW.

((7)) (8) "Nursing home" means any home, place or institution (~~((which operates or maintains facilities providing convalescent or chronic care, or both, for a period in excess of twenty-four consecutive hours for three or more patients not related by blood or marriage to the operator, who, by reason of illness or infirmity, are unable properly to care for themselves. Convalescent and chronic care may include, but not be limited to, any or all procedures commonly employed in waiting on the sick, such as administration of medicines, preparation of special diets, giving of bedside nursing care, application~~

~~of dressings and bandages, and carrying out of treatment prescribed by a duly licensed practitioner of the healing arts. It may also include care of mentally incompetent persons. Nothing in this definition shall be construed to include general hospitals or other places which provide care and treatment for the acutely ill and maintain and operate facilities for major surgery or obstetrics, or both. Nothing in this definition shall be construed to include any boarding home, guest home, hotel or related institution which is held forth to the public as providing, and which is operated to give only board, room and laundry to persons not in need of medical or nursing treatment or supervision except in the case of temporary acute illness. The mere designation by the operator of any place or institution as a hospital, sanitarium, or any other similar name, which does not provide care for the acutely ill and maintain and operate facilities for major surgery or obstetrics, or both, shall not exclude such place or institution from the provisions of this chapter)) licensed as a nursing home under chapter 18.51 RCW.~~

((8)) (9) "Pharmaceutical Services Committee" means a committee which develops and maintains written policies and procedures for safe and effective drug therapy, distribution, control, and use which are current and followed in practice. The Pharmaceutical Services Committee shall consist of a staff or consultant pharmacist, a physician, the director of nursing or his/her designee and the administer or his/her designee.

((9)) (10) "Pharmacist" means a person duly licensed by the Washington state board of pharmacy to engage in the practice of pharmacy under the provisions of chapter 18.64 RCW.

((10) "p.r.n. drug" means a drug which a physician has ordered to be administered only when needed under certain circumstances.))

(11) "Pharmacy" means a place(;) where the practice of pharmacy is conducted, properly licensed under the provisions of chapter 18.64 RCW by the Washington state board of pharmacy.

((+)) (12) "Practitioner" means a physician under chapter 18.71 RCW; and osteopathic physician or an osteopathic physician and surgeon under chapter 18.57 RCW; a dentist under chapter 18.32 RCW; a podiatrist under chapter 18.22 RCW; an osteopathic physician's assistant under chapter 18.57A RCW when authorized by the Committee of Osteopathic Commissioners; a physician's assistant under chapter 18.71A RCW when authorized by the Board of Medical Examiners; a registered nurse when authorized by the Board of Nursing under chapter 18.88 RCW, or a pharmacist under chapter 18.64 RCW.

((12) "Single unit" means one, discrete pharmaceutical dosage form (e.g., one tablet or one capsule) of a drug. A single unit becomes a unit-dose, if the physician orders that particular amount of the drug for a person.))

((13) "Stop order" means a written policy that definitely prescribes the number of doses or the period of time after which administration of the drug to a patient must be stopped automatically, unless the physician's order for the drug specified the number of doses or the period of time the order was to be in effect.))

(13) "Registered nurse" means a person duly licensed under the provisions of the law regulating the practice of registered nursing in the state of Washington, chapter 18.88 RCW.

(14) "Unit-dose" means the ordered amount of a drug in an individually sealed package and in a dosage form ready for administration to a particular person by the prescribed route at the prescribed time.

(15) "Unit-dose drug distribution system" means a system (~~((whereby a pharmacist dispenses drugs in unit doses so the selection and issuance of individual doses of drugs for administration are pharmacy based and controlled))~~) of drug dispensing and control that is characterized by the dispensing of the majority of drugs in unit doses, ready to administer form, and for most drugs, not more than a 48-hour supply of doses is available at the residential care unit at any time.

Reviser's Note: RCW 34.04.058 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 Order PL 121, filed 8/8/74)

WAC 360-13-055 DRUG FACILITIES. (1) There shall be ~~((adequate drug))~~ facilities for drug preparation ~~((to provide for))~~ and ~~((locked))~~ storage ~~((of all drugs without crowding and for the observance of safe procedures and techniques in the preparation of medicines for administration))~~ near the nurses' station on each unit.

~~((a) Any room or area which serves as a drug facility shall serve clean functions only and shall be well illuminated and ventilated. When any mobile drug storage cabinet is not being used in the administration of medicines to patients, it shall be stored in a room which meets this requirement.~~

~~(b) Each drug facility shall include a sink with hot and cold running water, a work counter and drug storage cabinets, by June 1, 1975.~~

~~(c) All drug storage cabinets (stationary or mobile) shall be designed and arranged so drug containers are readily accessible and shall be closed, locked cabinets unless they are stationary cabinets in a locked room which serves exclusively for storage of drugs and supplies and equipment used in the administration of drugs. Any mobile drug storage cabinet shall be a closed cabinet with locks to prevent access to drugs when the cabinet is unattended.~~

~~(d) Drug storage cabinets, except those for schedule H controlled substances, within the same drug facility may be keyed alike. Locks and keys for one drug facility shall be different from those for any other drug facility and from any other locks and keys within the nursing home so that only the keys to a particular drug facility can be used to gain access to drugs stored within that drug facility:))~~

(2) ~~((All drug storage shall be designed and finished so it can be cleaned easily and shall be kept clean:))~~ The drug facilities shall be well illuminated, ventilated and equipped with a work counter, sink with hot and cold running water and drug storage units.

~~(3) ((A metric-apothecary conversion chart and a poison antidote chart shall be posted conspicuously at each drug facility:))~~ The drug storage units shall provide:

(a) Locked storage for all drugs,

(b) Separately keyed storage for Schedule II and III controlled substances,

(c) Segregated storage of different resident's drugs.

(4) There shall be a refrigerator for storage of thermolabile drugs in the drug facility.

(5) Locks and keys, for drug facilities shall be different from other locks and keys within the nursing home.

(6) Poisons and other non-medicinal chemical agents in containers bearing a warning label shall be stored in separate locked storage apart from drugs used for medicinal purposes.

### WSR 81-06-078

#### NOTICE OF PUBLIC MEETINGS PLANNING AND COMMUNITY AFFAIRS AGENCY

[Memorandum—March 4, 1981]

#### Economic Opportunity Division Advisory Council

The Economic Opportunity Division Advisory Council will hold its next quarterly meeting on April 9-10, 1981, at the Enterprise for Progress in the Community offices, 33-South 2nd Avenue, Yakima, Washington. The meeting is scheduled from 10 a.m. to 4 p.m. on April 9, and from 9 a.m. to 3 p.m. on April 10.

For additional information, contact Carol Alexander, Economic Opportunity Division, Planning and Community Affairs Agency, 400 Capitol Center Building, Olympia, Washington 98504, telephone (206) 753-4454.

## Table of WAC Sections Affected

### Key to Table

**Symbols:**

- AMD = Amendment of existing section
- NEW = New section not previously codified
- REP = Repeal of existing section
- AM/DE = Amendment and Decodification of existing section
- RECOD = Recodification of previously codified section

**Suffixes:**

- P = Proposed action
- E = Emergency action
- W = Withdrawal of proposed action
- No suffix means permanent action

This table covers the current calendar year through this issue of the Register and should be used to locate rules amended, adopted, or repealed subsequent to the publication date of the latest WAC or Supplement.

WAC # shows the section number under which an agency rule is or will be codified in the Washington Administrative Code.

WSR # shows the issue of the Washington State Register where the document may be found; the last three digits show the sequence of the document within the issue.

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
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16-231-020	AMD-W 81-03-067	98-12-020	NEW-P 81-02-055	132B-12-078	REP-P 81-04-005
16-231-020	AMD-P 81-03-070	98-16-010	NEW-P 81-02-055	132B-12-081	REP-P 81-04-005
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16-231-025	AMD-W 81-03-067	98-16-030	NEW-P 81-02-055	132B-12-087	REP-P 81-04-005
16-231-025	AMD-P 81-03-070	98-20-010	NEW-P 81-02-055	132B-12-090	REP-P 81-04-005
16-231-115	AMD-P 81-02-045	106-116-042	AMD-P 81-04-050	132B-12-093	REP-P 81-04-005
16-231-115	AMD-W 81-03-065	106-116-050	AMD-P 81-04-050	132B-12-096	REP-P 81-04-005
16-231-115	AMD-P 81-03-068	106-116-102	AMD-P 81-04-050	132B-12-099	REP-P 81-04-005
16-231-120	AMD-P 81-02-045	106-116-201	AMD-P 81-04-050	132B-12-102	REP-P 81-04-005
16-231-120	AMD-W 81-03-065	106-116-204	AMD-P 81-04-050	132B-12-105	REP-P 81-04-005
16-231-120	AMD-P 81-03-068	106-116-205	AMD-P 81-04-050	132B-12-108	REP-P 81-04-005
16-231-125	AMD-P 81-02-045	106-116-304	AMD-P 81-04-050	132B-12-111	REP-P 81-04-005
16-231-125	AMD-W 81-03-065	106-116-305	AMD-P 81-04-050	132B-12-114	REP-P 81-04-005
16-231-125	AMD-P 81-03-068	106-116-306	AMD-P 81-04-050	132B-12-117	REP-P 81-04-005
16-231-130	AMD-P 81-02-045	106-116-403	AMD-P 81-04-050	132B-12-120	REP-P 81-04-005
16-231-130	AMD-W 81-03-065	106-116-513	AMD-P 81-04-050	132B-12-123	REP-P 81-04-005
16-231-130	AMD-P 81-03-068	106-116-514	AMD-P 81-04-050	132B-12-126	REP-P 81-04-005
16-232-010	AMD-P 81-02-046	106-116-515	AMD-P 81-04-050	132B-12-129	REP-P 81-04-005
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16-232-025	AMD-P 81-02-046	106-116-901	AMD-P 81-04-050	132B-12-138	REP-P 81-04-005
16-232-025	AMD-W 81-03-066	113-12-200	NEW-P 81-04-020	132B-12-141	REP-P 81-04-005
16-232-025	AMD-P 81-03-069	113-12-200	NEW-P 81-06-045	132B-12-144	REP-P 81-04-005
16-608-001	NEW 81-05-010	114-12-010	REP 81-05-004	132B-12-147	REP-P 81-04-005
16-608-010	NEW 81-05-010	114-12-011	NEW 81-05-004	132B-12-150	REP-P 81-04-005
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16-750-010	AMD-P 81-02-041	114-12-021	NEW 81-05-004	132B-12-156	REP-P 81-04-005
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34-02-020	NEW-P 81-04-068	114-12-031	NEW 81-05-004	132B-12-162	REP-P 81-04-005
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34-04-010	NEW-P 81-04-068	114-12-041	NEW 81-05-004	132B-12-168	REP-P 81-04-005
34-04-020	NEW-P 81-04-068	132A-104-005	REP-P 81-06-031	132B-12-171	REP-P 81-04-005
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34-04-060	NEW-P 81-04-068	132B-12-012	REP-P 81-04-005	132B-12-183	REP-P 81-04-005
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67-32-910	AMD-P 81-03-049	132B-12-066	REP-P 81-04-005	132B-12-237	REP-P 81-04-005
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212-63-025	REP-P 81-03-051	220-48-091	AMD 81-02-053	220-57A-145	AMD 81-05-027
212-63-030	REP-P 81-03-051	220-48-09100C	NEW-E 81-03-031	220-57A-152	AMD 81-05-027
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388-320-094	REP	81-06-001	458-16-020	AMD	81-05-018	480-90-246	AMD-P	81-06-062
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388-320-200	REP	81-06-001	458-18-020	AMD	81-05-020	480-105-050	NEW	81-04-009
388-320-205	NEW	81-06-001	458-18-030	AMD	81-05-020	480-105-060	NEW	81-04-009
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