## WSR 07-19-052
### EXPEDITED RULES
## HEALTH CARE AUTHORITY
(Basic Health)

[Order 07-07—Filed September 14, 2007, 11:13 a.m.]

Title of Rule and Other Identifying Information: WAC 182-25-030 Eligibility and 182-25-040 Enrollment in the plan.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Jason Siems, Health Care Authority, P.O. Box 42683, Olympia, WA 98504-2683, AND RECEIVED BY November 20, 2007.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Section 36, chapter 259, Laws of 2007, requires the health care authority to give priority enrollment to persons who disenrolled from Basic Health in order to enroll in Medicaid, and subsequently became ineligible for Medicaid.

Reasons Supporting Proposal: Basic Health rules must be revised consistent with the law. WAC 182-25-030 is revised to reflect the statutory change. WAC 182-25-040 is revised to correct an internal reference to WAC 182-25-030.

Statutory Authority for Adoption: RCW 70.47.050.

Statute Being Implemented: RCW 70.47.060.

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

Name of Proponent: Health care authority, governmental.

Name of Agency Personnel Responsible for Drafting: Bob Longhorn, 676 Woodland Square Loop S.E., Lacey, WA 98503, (360) 412-4327; Implementation and Enforcement: Loly Reyes-Gonzales, 676 Woodland Square Loop S.E., Lacey, WA 98503, (360) 923-2781.

September 14, 2007
Jason Siems
Rules Coordinator

AMENDATORY SECTION (Amending Order 06-05, filed 8/31/06, effective 10/1/06)

**WAC 182-25-030 Eligibility.** (1) To be eligible for enrollment in BHP, unless otherwise specified elsewhere in this chapter, an individual must be a Washington state resident who is not:

(a) Eligible for free Medicare coverage or eligible to buy Medicare coverage; or

(b) Institutionalized at the time of enrollment.

(2) Persons not meeting these criteria, as evidenced by information submitted on the application for enrollment or otherwise obtained by BHP, will not be enrolled. An enrollee who is no longer a Washington resident, who becomes eligible for free or purchased Medicare, or who is later determined to have failed to meet BHP's eligibility criteria at the time of enrollment, will be disenrolled from the plan as provided in WAC 182-25-090. An enrollee who was not confined to an institution at the time of enrollment, who is subsequently confined to an institution, will not be disenrolled, provided he or she remains otherwise eligible and continues to make all premium payments when due.

(3) Eligibility for BHP Plus and maternity benefits through medical assistance is determined by DSHS, based on Medicaid eligibility criteria.

(4) For subsidized enrollment in BHP, an individual must meet the eligibility criteria in subsection (1) of this section and the definition of "subsidized enrollee" in WAC 182-25-010(38), and must pay, or have paid on his or her behalf, the monthly BHP premium.

(5) To be eligible for nonsubsidized enrollment in BHP, an individual may have any income level, must meet the eligibility criteria in subsection (1) of this section, and must pay, or have paid on their behalf, the full costs for participation in BHP, including the cost of administration, without subsidy from the HCA.

(6)(a) An individual otherwise eligible for enrollment in BHP as a subsidized enrollee may be denied enrollment if the administrator has determined that acceptance of additional enrollment would exceed limits established by the legislature, would jeopardize the orderly development of BHP, or would result in an overexpenditure of BHP funds. An individual otherwise eligible for enrollment in either the subsidized or nonsubsidized program may also be denied enrollment if no MHCS is accepting new enrollment in that program or from the geographic area where the applicant lives.

(b) If the administrator closes or limits subsidized enrollment, to the extent funding is available, BHP will continue to accept and process applications for subsidized enrollment from:

(i) Children eligible for subsidized BHP, who were referred to DSHS for BHP Plus coverage, but were found ineligible for BHP Plus for reasons other than noncompliance;

(ii) Employees of a home care agency group enrolled or applying for coverage under WAC 182-25-060;

(iii) Eligible individual home care providers;

(iv) Licensed foster care workers;

(v) Persons who disenrolled from basic health in order to enroll in Medicaid, and subsequently became ineligible for Medicaid;

(vi) Limited enrollment of new employer groups;

((~~(vi)~~)) (vii) Members of the Washington National Guard and Reserves who served in Operation Enduring Freedom, Operation Iraqi Freedom, or Operation Noble Eagle, and their spouses and dependents; and

((~~(vii)~~)) (viii) Subject to availability of funding, additional space for enrollment may be reserved for other applicants as determined by the administrator, in order to ensure continuous coverage and service for current individual and group accounts. (For example: Within established guidelines, processing routine income changes that may affect subsidy eligibility for current enrollees; adding new family

members to an existing account; transferring enrollees between group and individual accounts; restoring coverage for enrollees who are otherwise eligible for continued enrollment under WAC 182-25-090 after a limited suspension of coverage due to late payment or other health care coverage; adding newly hired employees to an existing employer group; or adding new or returning members of federally recognized native American tribes to that tribe's currently approved financial sponsor group.)

(c) If the administrator has closed or limited subsidized enrollment, applicants for subsidized BHP who are not in any of the categories in (b) of this subsection may reserve space on a waiting list to be processed according to the date the waiting list request or application is received by BHP. When enrollment is reopened by the administrator, applicants whose names appear on the waiting list will be notified by BHP of the opportunity to enroll. BHP may require new application forms and documentation from applicants on the waiting list, or may contact applicants to verify continued interest in applying, prior to determining their eligibility.

AMENDATORY SECTION (Amending Order 05-06, filed 5/24/06, effective 7/1/06)

**WAC 182-25-040 Enrollment in the plan.** (1) Any individual applying for enrollment in BHP must submit a signed, completed BHP application for enrollment. Applications for enrollment of children under the age of eighteen must be signed by the child's parent or guardian, who shall also be held responsible for payment of premiums due on behalf of the child. If an applicant is accepted for enrollment, the applicant's signature acknowledges the applicant's obligation to pay the monthly premium in accordance with the terms and conditions identified in the member handbook. Applications for BHP Plus enrollment on behalf of children under the age of nineteen will be referred to the department of social and health services for Medicaid eligibility determination.

(2) Each applicant for subsidized enrollment or BHP Plus must list all eligible dependents, whether or not the dependents will be enrolled, and must supply other information and documentation as required by BHP and, where applicable, DSHS medical assistance.

(a) Applicants for subsidized enrollment must provide documentation showing the amount and sources of their gross family income. Income documentation must include a copy of the applicant's most recently filed federal income tax form or verification of nonfiling status, and copies of pay stubs or other documents showing income for the most recent thirty days or complete calendar month as of the date of application. Applicants who were not required to file a federal income tax return may be required to provide other documentation showing year-to-date income. As described in WAC 182-25-010(17), BHP may use an average of documented income when determining eligibility.

(b) Applicants for subsidized or nonsubsidized enrollment must provide documentation of Washington state residence, displaying the applicant's name and current address, for example, a copy of a current utility bill or rent receipt. Other documentation may be accepted if the applicant does not have a physical residence, for example, a signed statement from a person or other entity who is providing temporary shelter.

(c) BHP may request additional information from applicants for purposes of establishing or verifying eligibility, premium responsibility or MHCS selection.

(d) Submission of incomplete or inaccurate information may delay or prevent an applicant's enrollment in BHP. Intentional submission of false information will result in disenrollment of the subscriber and all enrolled dependents.

(3) Each member may be enrolled in only one BHP account. Each family applying for enrollment must designate a MHCS from which the applicant and all enrolled dependents will receive covered services. All applicants from the same family who are covered under the same account must receive covered services from the same MHCS (with the exception of cases in which a subscriber who is paying for BHP coverage for his/her dependent who lives in a different service area). No applicant will be enrolled for whom designation of a MHCS has not been made as part of the application for enrollment. Procedures for the selection of MHCS are set forth in the BHP member handbook. Generally, enrollees may change from one MHCS to another only during open enrollment or if they are able to show good cause for the transfer, for example, when enrollees move to an area served by a different MHCS or where they would be billed a higher premium for their current MHCS.

(4) When a MHCS assists BHP applicants in the enrollment process, it must provide them with the toll-free number for BHP and information on all MHCS available within the applicant's county of residence and the estimated premiums for each available MHCS.

(5) If specific funding has been appropriated for that purpose, insurance brokers or agents who have met all statutory and regulatory requirements of the office of the insurance commissioner, are currently licensed through the office of the insurance commissioner, and who have completed BHP's training program, will be paid a commission for assisting eligible applicants to enroll in BHP.

(a) Individual policy commission: Subject to availability of funds, and as a pilot program, BHP will pay a one-time fee to any currently licensed insurance broker or agent who sells BHP to an eligible individual applicant if that applicant has not been a BHP member within the previous five years.

(b) Group policy commission: Subject to availability of funds, and as a pilot program, fees paid for the sale of BHP group coverage to an eligible employer will be based on the number of employees in the group for the first and second months of the group's enrollment.

(c) Insurance brokers or agents must provide the prospective applicant with the BHP toll-free information number and inform them of BHP benefits, limitations, exclusions, waiting periods, co-payments, all MHCSs available to the applicant within his/her county of residence and the estimated premium for each of them.

(d) All statutes and regulations of the office of the insurance commissioner will apply to brokers or agents who sell BHP, except they will not be required to be appointed by the MHCS.

(e) BHP will not pay renewal commissions.

(6) Except as provided in WAC 182-25-030((~~(7)~~)) (6)(c), applications for enrollment will be reviewed by BHP within thirty days of receipt and those applicants satisfying the eligibility criteria and who have provided all required information, documentation and premium payments will be notified of their effective date of enrollment.

(7)(a) Eligible applicants will be enrolled in BHP in the order in which their completed applications, including all required documentation, have been received by BHP, provided that:

(i) At least one MHCS is accepting new enrollment in the program for which the applicant is applying and from the geographic area where the applicant lives; and

(ii) The applicant also remits full payment of the first premium bill to BHP by the due date specified by BHP.

(b) In the event a waiting list is implemented, eligible applicants will be enrolled in accordance with WAC 182-25-030(6).

(8) An open enrollment period of at least twenty consecutive days will be held annually. During this open enrollment period, enrollees may apply to enroll additional family members or to transfer their enrollment to a different MHCS, provided the MHCS selected is accepting new enrollment for the enrollee's program in the geographic area where the enrollee lives.

(9) Not all family members are required to apply for enrollment in BHP; however, any family member for whom application for enrollment is not made at the same time that other family members apply, may not subsequently enroll as a family member until the next open enrollment period, unless the subscriber has experienced a "qualifying change in family status." "Qualifying changes in family status" include:

(a) The loss of other health care coverage, for a family member who has previously waived coverage, provided BHP receives the family member's application within thirty days of the loss of other coverage, along with proof of the family member's continuous medical coverage from the date the subscriber enrolled in BHP;

(b) Marriage or assuming custody or dependency of a child or adult dependent (other than newborn or newly adopted children), provided BHP receives the new family member's application within thirty days of the change in family status;

(c) Addition of an eligible newborn child or a child newly placed for adoption provided BHP receives the child's application for enrollment within sixty days of the date of birth or placement for adoption. These children may be enrolled effective from the date of birth or placement for adoption; or

(d) Addition of a family member who was not previously eligible for coverage, and who has become eligible.

(10) Subscribers must notify BHP of any changes that could affect their eligibility or subsidy or their dependents' eligibility or subsidy:

(a) Within thirty days of the end of the first month of receiving an increased income; or

(b) Within thirty days of a change other than an income change (for example, a change in family size or address).

(11) BHP will verify the continuing eligibility of subsidized enrollees through the recertification process at least once every twelve months. Upon request of BHP, subsidized enrollees must submit evidence satisfactory to BHP, proving their continued eligibility for enrollment and for the premium subsidy they are receiving.

(a) BHP will verify income of subsidized enrollees through comparison with other state and federal agency records or other third-party sources.

(b) If the enrollee's income on record with other agencies or third-party source differs from the income the enrollee has reported to BHP, or if questions arise concerning the documentation submitted, BHP will require updated documentation from the enrollee to prove continued eligibility for the subsidy they are receiving. At that time, BHP may also require updated documentation of residence to complete the recertification process.

(c) Subsidized enrollees who have been enrolled in BHP six months or more and have not provided updated income documentation for at least six months will be required to submit new income documentation if their wage or salary income cannot be compared to an independent source for verification.

(d) Enrollees who have documented that they are not required to file a federal income tax return for previous years will not be required to provide additional verification of nonfiling unless their circumstances appear to have changed or other information received indicates they have filed a federal income tax return.

(12) In addition to verification of income, subsidized and nonsubsidized enrollees must annually submit documentation satisfactory to BHP of the following:

(a) Washington state residence;

(b) Full-time student status for dependent students age nineteen through twenty-two; and

(c) Medicare ineligibility for enrollees age sixty-five or over.

(13) When determining eligibility for subsidized enrollment, noncitizens may be required to provide proof of immigration status, to verify whether they are here on a temporary visa to study in the United States.

(14) For good cause such as, but not limited to, when information received indicates a change in income or a source of income the enrollee has not reported, BHP may require enrollees to provide verification required in subsections (11) and (12) of this section more frequently, regardless of the length of time since their last recertification.

(15) Enrollees who fail to comply with a recertification request will be disenrolled, according to the provisions of WAC 182-25-090 (2)(e).

(16) If, as a result of recertification, BHP determines that an enrollee has not reported income or income changes accurately, the enrollee will be subject to the provisions of WAC 182-25-085.

## WSR 07-19-084
### EXPEDITED RULES
### DEPARTMENT OF LABOR AND INDUSTRIES

[Filed September 18, 2007, 9:40 a.m.]

Title of Rule and Other Identifying Information: Chapter 296-14 WAC, Industrial insurance wages—Calculation of a worker's wage; amending WAC 296-14-522 What does the term "wages" mean?, 296-14-524 How do I determine whether an employer provided benefit qualifies as "consideration of like nature" to board, housing and fuel? and 296-14-526 Is the value of "consideration of like nature" always included in the worker's wages used in determining the rate of time-loss or pension compensation?; and new WAC 296-14-527 Is the value of "health care benefits" always included in the worker's wages used in determining the rate of time-loss or pension compensation?

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Rules Coordinator, Department of Labor and Industries, P.O. Box 44001, Olympia, WA 98504-4001, AND RECEIVED BY November 19, 2007.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the proposed rules is to:

- Ensure consistent, fair, and reasonable calculation of a worker's or crime victim's monthly wage;
- Provide the methods and factors used in calculating a worker's wage at the time of injury or date of manifestation of an occupational disease;
- Clarify when and how the value of health care benefits (HCBs) and other "consideration of like nature" is included in the worker's monthly wage; and
- Clarifies the date the "contribution ends" is based on how the contribution is made:
  - o In banked-hours situations, the employer contributes for each hour worked: When the employer stops contributing the health care benefit is immediately added.
  - o If the employer contributes by the month, the HCB value is not added until the next month when the contribution ends.

Reasons Supporting Proposal: The proposed rules will assist in the implementation of chapter 297, Laws of 2007 (SHB 1244).

Statutory Authority for Adoption: RCW 51.04.020 and chapter 297, Laws of 2007 (SHB 1244).

Statute Being Implemented: RCW 51.08.178.

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

Name of Proponent: Department of labor and industries, governmental.

Name of Agency Personnel Responsible for Drafting: Cheri Ward, Tumwater, Washington, (360) 902-4581; Implementation: Sandy Dziedzic, Tumwater, Washington, (360) 902-4300 and Jean Vanek, Tumwater, Washington, (360) 902-6906; and Enforcement: Bob Malooly, Tumwater, Washington, (360) 902-4209.

September 18, 2007
Judy Schurke
Director

AMENDATORY SECTION (Amending WSR 03-11-035, filed 5/15/03, effective 6/15/03)

**WAC 296-14-522 What does the term "wages" mean?** The term "wages" is defined as:

(1) The gross cash wages paid by the employer for services performed. "Cash wages" means payment in cash, by check, by electronic transfer or by other means made directly to the worker before any mandatory deductions required by state or federal law. Tips are also considered wages but only to the extent they are reported to the employer for federal income tax purposes.

(2) Bonuses paid by the employer of record as part of the employment contract in the twelve months immediately preceding the injury or date of occupational disease manifestation.

(3) The reasonable value of board, housing, fuel and other consideration of like nature received from the employer at the time of injury or on the date of occupational disease manifestation that are part of the contract of hire.

(4) The payment or contribution made by the employer for health care benefits at the time of injury or on the date of occupational disease manifestation. Health care benefits include medical, dental and vision insurance.

Exception: Payments or contributions for items other than board, housing, fuel or other consideration of like nature made by the employer to a trust fund or other entity for fringe benefits do not constitute wages.

AMENDATORY SECTION (Amending WSR 03-11-035, filed 5/15/03, effective 6/15/03)

**WAC 296-14-524 How do I determine whether an employer provided benefit qualifies as "consideration of like nature" to board, housing and fuel?** To qualify as "consideration of like nature" the employer provided benefit must meet all of the following elements:

(1) The benefit must be objectively critical to protecting the worker's basic health and survival at the time of injury or date of occupational disease manifestation.

(a) The benefit must be one that provides a necessity of life at the time of injury or date of occupational disease manifestation without which employees cannot survive a period of even temporary disability.

(b) This is not a subjective determination. The benefit must be one that virtually all employees in all employment

typically use to protect their immediate health and survival while employed.

(c) The benefit itself must be critical to protecting the employee's immediate health and survival. The fact that a benefit has a cash value that can be assigned, transferred, or "cashed out" by an employee and used to meet one or more of the employee's basic needs is not sufficient to satisfy this element.

(2) The benefit must be readily identifiable. The general terms and extent of the benefit must be established through the employer's written policies, or the written or verbal employment contract between the employer and worker (((~~for example, a collective bargaining agreement that requires the employer to pay a certain sum for the employee's health insurance~~))).

(3) The monthly amount paid by the employer for the benefit must be reasonably calculable (((~~for example, as part of the employment contract, the employer agrees to pay three dollars for each hour worked by the employee for that person's health insurance~~))).

Examples of benefits that qualify as "consideration of like nature" are medical, dental and vision insurance provided by the employer.

Examples of benefits that do **not** qualify as "consideration of like nature" are retirement benefits or payments or contributions into a retirement plan or stock option, union dues and life insurance provided by the employer.

AMENDATORY SECTION (Amending WSR 03-11-035, filed 5/15/03, effective 6/15/03)

**WAC 296-14-526 Is the value of "consideration of like nature" always included in the worker's wages used in determining the ((~~worker's~~)) rate of time-loss or pension compensation?** (1) No. The value of other consideration of like nature is ((~~only~~)) included in the worker's monthly wage ((~~if~~)) when:

(a) The employer((~~, through its full or partial payment, provided~~)) paid or contributed to the benefit ((~~to the worker~~)) at the time of injury or on the date of occupational disease manifestation; and

(b) ((~~The worker received the benefit at the time of injury or on the date of disease manifestation.~~

~~This section is satisfied if, at the time of injury or on the date of disease manifestation:~~

~~(i) The employer made payments to a union trust fund or other entity for the identified benefit; and~~

~~(ii) The worker was actually eligible to receive the benefit.~~

~~**Example:** At the time of the worker's industrial injury, the employer paid two dollars and fifty cents for each hour worked by the employee to a union trust fund for medical insurance on behalf of the employee and her family. If the employee was able to use the medical insurance at the time of her injury, the employer's monthly payment for this benefit is included in the worker's monthly wage, in accordance with (d) of this subsection. This is true even where the worker's eligibility for this medical insurance is based primarily or solely on payments to the trust fund from past employers.~~

~~(c) The worker or beneficiary no longer receives the benefit and the department or self-insurer has knowledge of this change.~~

~~If the worker continues to receive the benefit from a union trust fund or other entity for which the employer made a financial contribution at the time of injury or on the date of disease manifestation, the employer's monthly payment for the benefit is **not** included in the worker's monthly wage.~~

~~**Example:** An employer contributes two dollars and fifty cents for each hour an employee works into a union trust fund that provides the employee and her family with medical insurance. If the employer stops contributing to this fund, but the worker continues to receive this benefit, the employer's monthly payment for the medical insurance is not included in the worker's monthly wage.~~)) The employer no longer pays or contributes to the benefit and, for claims insured through the state fund, the department has knowledge of this change.

(2) This rule does not permit the department or self-insurer to alter, change or modify a final order establishing the worker's monthly wage except as provided under RCW 51.28.040.

NEW SECTION

**WAC 296-14-527 Is the value of "health care benefits" always included in the worker's wages used in determining the rate of time-loss or pension compensation?** No. The value of health care benefits is included in the worker's monthly wage when:

(1) The employer paid or contributed to the benefit at the time of injury or on the date of occupational disease manifestation; and

(2) The employer does not continue the payment or contribution for benefits at the same level as made at the time of injury or on the date of occupational disease manifestation and, for claims insured through the state fund, the department has knowledge of this change.

**Example:** An employer contributes two dollars and fifty cents into a union trust fund or hour bank on behalf of the worker for each hour an employee works. The union trust fund or hour bank uses the employer's contribution to provide medical insurance for the employee and his family. When the employer stops contributing for the worker, the employer's payment for the medical insurance is included in the worker's monthly wage. The employer's payment is included in the worker's wage even if the worker did not have enough hours in the hour bank to be entitled to the medical insurance.

**Example:** An employer contributes five hundred dollars on the last day of each month to provide medical insurance for an employee and her family. The employer contributes this amount on June 30 for July medical insurance coverage. The employee is hurt on July 2 and the employer does not contribute for the medical insurance on July 31 (the next contribution date). The employer's monthly payment or contribution for the medical insurance is included in the worker's monthly wage effective August 1.

## WSR 07-19-121
### EXPEDITED RULES
### WASHINGTON STATE UNIVERSITY
[Filed September 19, 2007, 10:31 a.m.]

Title of Rule and Other Identifying Information: Amending WAC 504-45-080, procedures for petitions for review of denials of public records.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Ralph T. Jenks, University Rules Coordinator, Washington State University, Office of Procedures, Records, and Forms, P.O. Box 641225, Pullman, WA 99164-1225, AND RECEIVED BY November 19, 2007.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This proposed amendment clarifies that the public records officer shall consider any petitions for review of denials of public records and either affirm or reverse same.

Reasons Supporting Proposal: This is a housekeeping revision.

Statutory Authority for Adoption: RCW 34.05.353.

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

Name of Proponent: Washington State University, public.

Name of Agency Personnel Responsible for Drafting: Ralph T. Jenks, Office of Procedures, Records, and Forms, (509) 335-2004; Implementation and Enforcement: Sally Savage, Public Records Officer, (509) 335-7391.

September 19, 2007
Ralph T. Jenks, Director
Office of Procedures, Records, and Forms
and University Rules Coordinator

### Chapter 504-45 WAC

### PUBLIC RECORDS

AMENDATORY SECTION (Amending WSR 07-04-027, filed 1/29/07)

**WAC 504-45-080 Review of denials of public records.** (1) Petition for internal administrative review of denial of access. Any person who objects to the initial denial or partial denial of a records request may petition in writing (including e-mail) to the public records officer for a review of that decision. The petition shall include a copy of or reasonably identify the written statement by the public records officer or designee denying the request.

(2) Consideration of petition for review. The public records officer ((~~shall promptly provide the petition and any other relevant information to the vice-president for business affairs or designee. That person~~)) will immediately consider the petition and either affirm or reverse such denial within two business days following the university's receipt of the petition, or within such other time as the university and the requestor mutually agree to.

(3) Review by the attorney general's office. Pursuant to RCW 42.56.530, if the university denies a requestor access to public records because it claims the record is exempt in whole or in part from disclosure, the requestor may request the attorney general's office to review the matter. The attorney general has adopted rules on such requests in WAC 44-06-160.

(4) Judicial review. Any person may obtain court review of denials of public records requests pursuant to RCW 42.56.550 at the conclusion of two business days after the initial denial regardless of any internal administrative appeal.