WSR 17-03-050
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed January 9, 2017, 11:49 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-16-108.

Title of Rule and Other Identifying Information: The department is proposing to amend WAC 388-432-0005 Can I get help from DSHS for a family emergency without receiving monthly cash assistance?

Hearing Location(s): Office Building 2, DSHS Headquarters, 1115 Washington, Olympia, WA 98504 (public parking at 11th and Jefferson. A map is available at https://www.dshs.wa.gov/sesa/rules-and-policies-assistance-unit/driving-directions-office-bldg-2), on February 21, 2017, at 10:00 a.m.

Date of Intended Adoption: Not earlier than February 22, 2017.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAU RulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m., February 21, 2017.

Assistance for Persons with Disabilities: Contact Jeff Kildahl, DSHS rules consultant by February 7, 2017, phone (360) 664-6092, TTY (360) 664-6178, or email KildaJA@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is proposing to amend WAC 388-432-0005 Can I get help from DSHS for a family emergency without receiving monthly cash assistance?, to clarify program eligibility for applicants who have been closed from temporary assistance for needy families (TANF) in workfirst sanction or terminated from TANF for noncompliance sanction.

Reasons Supporting Proposal: The proposed amendment is necessary to clarify the eligibility criteria for diversion cash assistance to ensure uniformity in the interpretation of the rule guided by RCW 74.08A.210.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, 74.08A.210, 74.62.030.

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

Name of Proponent: Department of social and health services, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Angela Aikins, P.O. Box 45470, Olympia, WA 98504-5470, (360) 725-4784.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has analyzed the proposed rule and concluded that no new costs will be imposed on small businesses or small nonprofit organizations.

A cost-benefit analysis is not required under RCW 34.05.328. The proposed rule is exempt as allowed under RCW 34.05.328 (5)(b)(vii) which states in part, "[t]his section does not apply to … rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents."

January 5, 2017
Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 13-18-004, filed 8/22/13, effective 10/1/13)

WAC 388-432-0005 Can I get help from DSHS for a family emergency without receiving monthly cash assistance? ((~~DSHS~~)) The department of social and health services (DSHS) has a program called diversion cash assistance (DCA). If your family needs an emergency cash payment but does not need ongoing monthly cash assistance, you may be eligible for this program.

(1) To get DCA, you must:

(a) Meet all the eligibility rules for temporary assistance for needy families (TANF)/state family assistance (SFA) ((~~except~~)), and once DSHS finds you eligible, you are not required to fulfill the following TANF-related requirements:

(i) ((~~You do not have to participate in WorkFirst requirements~~)) Participation in workfirst as defined in chapter 388-310 WAC; and

(ii) ((~~You do not have to assign~~)) Assignment of child support rights or ((~~cooperate~~)) cooperation with the division of child support as defined in chapter 388-422 WAC((~~.~~));

(b) Have a current bona fide or approved need for living expenses;

(c) Provide proof that your need for DCA exists; and

(d) Have or expect to get enough income or resources to support ((~~yourselves~~)) you and your family for at least twelve months.

(2) You may get DCA to help pay for one or more of the following needs:

(a) Child care;

(b) Housing;

(c) Transportation;

(d) Expenses to get or keep a job;

(e) Food costs, but not if an adult member of your family has been disqualified for food stamps; ((~~or~~))

(f) Medical costs, except when an adult member of your family is not eligible because ((~~of failure~~)) he or she failed to provide third party liability (TPL) information as defined in WAC 182-503-0540.

(3) DCA payments are limited to:

(a) One thousand two hundred fifty dollars once in a twelve-month period ((~~which~~)) that starts with the month ((~~the~~)) DCA benefits begin; and

(b) The cost of your need.

(4) We do not budget your income or make you use your resources to lower the amount of DCA payments you can receive.

(5) ((~~DCA payments can be paid~~)) DSHS may make DCA payments:

(a) All at once; or

(b) As separate payments over a thirty-day period((~~. The thirty-day period~~)) that starts ((~~with~~)) on the date of your first DCA payment.

(6) ((~~When it is possible, we~~)) We will pay your DCA benefit directly to the service provider when possible.

(7) You are not eligible for DCA if one or more of the following applies:

(a) Any adult member of your assistance unit got DCA within the last twelve months;

(b) Any adult member of your assistance unit gets TANF/SFA currently;

(c) Any adult member of your assistance unit is not eligible for cash assistance for any reason unless one parent in a two-parent-assistance unit ((~~is receiving~~)) currently receives SSI; ((~~or~~))

(d) Your assistance unit does not have a needy adult (((~~such as when you do not receive TANF/SFA payment for yourself but receive it for the children only).~~)), such as when you do not receive TANF/SFA for yourself but for your children only;

(e) Any adult member of your assistance unit is not eligible for cash assistance for any one of the following sanctions:

(i) TANF/SFA closure because of a noncompliance sanction (NCS) termination;

(ii) TANF/SFA closure while in workfirst sanction on or after July 1, 2010; or

(iii) Noncooperation with division of child support.

(8) If you apply for DCA after your TANF/SFA grant ((~~has been~~)) is terminated, we consider you an applicant for DCA.

(9) If you apply for TANF/SFA and you received DCA less than twelve months ago, we set up a DCA loan:

(a) ((~~We will set up a DCA loan.~~

~~(i)~~)) The amount of the DCA loan is one-twelfth of the total DCA benefit times the number of months that are left in the twelve-month period((~~.~~));

((~~(ii)~~)) (b) The first month begins with the month your DCA benefits began((~~.~~)); and

((~~(b)~~)) (c) We will collect the loan only by reducing your TANF/SFA grant((~~. We take~~)) by five percent ((~~of your TANF/SFA grant~~)) each month.

(10) If you stop getting TANF/SFA before you have repaid ((~~the~~)) your DCA loan, we will stop collecting the loan unless you get back on TANF/SFA.

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

WSR 17-03-051
PROPOSED RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Economic Services Administration)

[Filed January 9, 2017, 11:55 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-21-072.

Title of Rule and Other Identifying Information: The department is proposing to amend WAC 388-493-0010 Working family support, to extend the effective end date of the working family support program from September 30, 2016, to June 30, 2017.

Hearing Location(s): Office Building 2, DSHS Headquarters, 1115 Washington, Olympia, WA 98504 (public parking at 11th and Jefferson. A map is available at https://www.dshs.wa.gov/sesa/rules-and-policies-assistance-unit/driving-directions-office-bldg-2), on February 21, 2017, at 10:00 a.m.

Date of Intended Adoption: Not earlier than February 22, 2017.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAU RulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m., February 21, 2017.

Assistance for Persons with Disabilities: Contact Jeff Kildahl, DSHS rules consultant by February 7, 2017, phone (360) 664-6092, TTY (360) 664-6178, or email KildaJA@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is proposing to amend WAC 388-493-0010 to change the effective end date of the working family support program from September 30, 2016, to June 30, 2017, in order to continue providing additional food assistance to qualifying low income families.

Reasons Supporting Proposal: Extending the effective end date of the program will help the department meet the workfirst participation rate, while continuing to provide an additional food benefit to program recipients.

Statutory Authority for Adoption: RCW 74.04.050, 74.040.055 [74.04.055], 74.04.057, 74.08.090.

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

Name of Proponent: Department of social and health services, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Anna Minor, P.O. Box 45470, Olympia, WA 98504-5470, (360) 725-4894.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule does not have an economic impact on small businesses. The proposed amendment only affects DSHS clients by extending the effective end date of the working family support program.

A cost-benefit analysis is not required under RCW 34.05.328. This amendment is exempt as allowed under RCW 34.05.328 (5)(b)(vii) which states in-part, "[t]his section does not apply to … rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents." This rule affects working family support as outlined in WAC 388-493-0010.

January 4, 2017
Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 16-08-034, filed 3/30/16, effective 5/1/16)

WAC 388-493-0010 Working family support. (1) What is the working family support (WFS) program?

The working family support program is administered by the department of social and health services (Department) and provides an additional monthly food benefit from May 2016 through ((~~September 2016~~)) June 30, 2017 to low income families who meet specific criteria. Continuance of the program beyond ((~~September 30, 2016~~)) June 30, 2017 is contingent on specific legislative funding for the working family support program.

(2) The following definitions apply to this program:

(a) "Co-parent" means another adult in your home that is related to your qualifying child through birth or adoption.

(b) "Qualifying child" means a child under the age of eighteen who is:

(i) Your child through birth or adoption; or

(ii) Your step child.

(c) "Work" means subsidized or unsubsidized employment or self-employment. To determine self-employment hours, we divide your net self-employment income by the federal minimum wage.

(3) Who is eligible for the working family support program?

You are eligible for working family support food assistance if you meet all of the following:

(a) You receive food assistance through basic food, food assistance program for legal immigrants (FAP), or transitional food assistance (TFA);

(b) Receipt of working family support food assistance would not cause your countable food assistance income to exceed the two hundred percent federal poverty level (FPL);

(c) No one in your food assistance unit receives temporary assistance for needy families (TANF) or state family assistance (SFA);

(d) A qualifying child lives in your home;

(e) You, your spouse, or co-parent, work a minimum of thirty five hours a week, and if you live with your spouse or co-parent, you must be in the same assistance unit;

(f) You provide proof of the number of hours worked; and

(g) You reside in Washington state per WAC 388-468-0005.

(4) How can I apply for working family support?

(a) The department will review your eligibility for the working family support program:

(i) When you apply for food assistance, or

(ii) At the time of your food assistance eligibility review.

(b) You may request the working family support benefit in person, in writing, or by phone at any time.

(5) How long can I receive working family support?

(a) You may recertify up to an additional six months for working family support if you meet the criteria listed above and provide current proof that you, your spouse, or co-parent works a minimum of thirty five hours a week.

(b) Working family support certification ends when:

(i) You complete either a certification or mid-certification review for food assistance under WAC 388-434-0010 or WAC 388-418-0011, and you do not provide proof of the number of hours that you, your spouse, or your co-parent work;

(ii) You no longer receive basic food, FAP, or TFA;

(iii) You receive TANF or SFA;

(iv) You do not have a qualifying child in your home;

(v) You, your spouse, or co-parent, no longer work a minimum of thirty five hours a week; or

(vi) You are no longer a resident of Washington state.

(6) What benefits will I receive if I am eligible for the working family support program?

(a) The assistance unit will receive a separate ten dollars monthly food assistance benefit each month.

(b) Working family support benefits are not prorated.

WSR 17-03-083
PROPOSED RULES
DEPARTMENT OF REVENUE

[Filed January 12, 2017, 1:46 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-23-157.

Title of Rule and Other Identifying Information: WAC 458-20-189 (Rule 189) Sales to and by the state of Washington and municipal corporations, including counties, cities, towns, school districts, and fire districts. Rule 189 explains the business and occupation (B&O), retail sales, use, and public utility tax applications to sales made to and by these entities.

Hearing Location(s): Conference Room 114C, 6400 Linderson Way S.W., Tumwater, WA 98501, on February 22, 2017, at 10:00 a.m. Copies of draft rules are available for viewing and printing on our web site at dor.wa.gov.

Call-in option can be provided upon request no later than three days before the hearing date.

Date of Intended Adoption: April 1, 2017.

Submit Written Comments to: Leslie Mullin, Department of Revenue, P.O. Box 47453, Olympia, WA 98504-7453, email LeslieMu@dor.wa.gov, by February 22, 2017.

Assistance for Persons with Disabilities: Contact Julie King, (360) 704-5717, or Renee Cosare, (360) 725-7514, no later than ten days before the hearing date. For hearing impaired please contact us via the Washington relay operator at (800) 833-6384.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is amending Rule 189 to:

- Incorporate legislative changes from HB 1550, 2015 regular session, (chapter 169, Laws of 2015);
- Update existing definitions and include a new definition for the term "user fee";
- Add subsection titles for readability purposes;
- Remove outdated examples and add a new example of an enterprise activity;
- Update statutory and rule references.

Reasons Supporting Proposal: Updating this rule is necessary to reflect legislative changes and provide governmen-

tal entities additional guidance on determining whether they are engaged in an enterprise activity.

Statutory Authority for Adoption: RCW 82.32.300 and 82.01.060(2).

Statute Being Implemented: RCW 82.04.050.

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

Name of Proponent: Department of revenue, governmental.

Name of Agency Personnel Responsible for Drafting: Leslie Mullin, 6400 Linderson Way S.W., Tumwater, WA, (360) 534-1589; Implementation and Enforcement: Marcus Glasper, 6400 Linderson Way S.W., Tumwater, WA, (360) 534-1615.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement has not been prepared because the rule does not impose a cost on small business. The rule addresses the tax reporting responsibilities of governmental entities only.

A cost-benefit analysis is not required under RCW 34.05.328. This rule is not a significant legislative rule as defined by RCW 34.05.328.

January 12, 2017
Kevin Dixon
Rules Coordinator

AMENDATORY SECTION (Amending WSR 10-06-070, filed 2/25/10, effective 3/28/10)

WAC 458-20-189 Sales to and by the state of Washington((,)) and municipal corporations, including counties, cities, towns, school districts, and fire districts. (1) **Introduction.** This ((~~section~~)) rule discusses the business and occupation (B&O), retail sales, use, and public utility tax applications to sales made to and by the state of Washington and municipal corporations including, but not limited to, counties, cities, towns, school districts, ((~~and~~)) fire districts, and other special districts. ((~~Hospitals or similar institutions operated by the state of Washington, or a municipal corporation thereof, should refer to WAC 458-20-168 (Hospitals, nursing homes, boarding homes, adult family homes and similar health care facilities). School districts should also refer to WAC 458-20-167 (Educational institutions, school districts, student organizations, and private schools). Persons providing physical fitness activities and amusement and recreation activities should also refer to WAC 458-20-183 (Amusement, recreation, and physical fitness services).~~

~~Persons providing public utility services may also want to refer to the following sections:~~

~~(a) WAC 458-20-179 (Public utility tax);~~

~~(b) WAC 458-20-180 (Motor transportation, urban transportation);~~

~~(c) WAC 458-20-250 (Solid waste collection tax); and~~

~~(d) WAC 458-20-251 (Sewerage collection and other related activities).~~))

(a) **Other rules that may apply.** Readers may also want to refer to other rules for additional information, including the following:

(i) WAC 458-20-106 Casual or isolated sales—Business reorganizations.

(ii) WAC 458-20-118 Sale or rental of real estate, license to use real estate.

(iii) WAC 458-20-167 Educational institutions, school districts, student organizations, and private schools.

(iv) WAC 458-20-168 Hospitals, nursing homes, assisted living facilities, adult family homes and similar health care facilities.

(v) WAC 458-20-179 Public utility tax.

(vi) WAC 458-20-180 Motor carriers.

(vii) WAC 458-20-201 Interdepartmental charges.

(viii) WAC 458-20-250 Solid waste collection tax.

(ix) WAC 458-20-251 Sewerage collection and other related activities.

(b) **Examples.** This rule includes examples that identify a number of facts and then state a conclusion. These examples should only be used as a general guide. The tax results of other situations must be determined after a review of all the facts and circumstances.

(2) **Definitions.** For the purposes of this ((~~section~~)) rule, the following definitions apply:

(a) **"Enterprise activity"** means an activity financed and operated in a manner similar to a private business enterprise. The term includes those activities which are generally in competition with private business enterprises and which are over fifty percent funded by user fees. The term does not include activities which are exclusively governmental.

(b) **"Municipal corporations"** means counties, cities, towns, school districts, ((~~and~~)) fire districts, and other special districts including, but not limited to, park and recreation districts, water and sewer districts, and library districts of the state of Washington.

(((~~(b)~~))) (c) **"Public service business"** means any business subject to control by the state, or having the powers of eminent domain, or any business declared by the legislature to be of a public service nature, irrespective of whether the business has the powers of eminent domain or the state exercises its control over the business. It includes, ((~~among others and without limiting the scope hereof~~)) but is not limited to, water distribution, light and power, public transportation, and sewer collection.

(((~~(c)~~))) (d) **"Subject to control by the state,"** as used in (((~~(b)~~))) (c) of this subsection, means control by the utilities and transportation commission or any other state department required by law to ((~~exercise control of~~)) regulate a business of a public service nature as to rates charged or services rendered.

(((~~(d) "Enterprise activity" means an activity financed and operated in a manner similar to a private business enterprise. The term includes those activities which are generally in competition with private business enterprises and which are over fifty percent funded by user fees. The term does not include activities which are exclusively governmental.~~))) (e) **"User fee"** as used in this rule, means a charge imposed on individuals or entities to access facilities, receive services, or participate in activities.

(3) **((Persons taxable under)) Application of the business and occupation tax.**

(a) **Sales to the state of Washington and municipal corporations.** Sellers are subject to the B&O tax ((upon)) on sales to the state of Washington, its departments and institutions, or to municipal corporations ((of the state)).

(b) **Sales by the state of Washington.** The state of Washington((,)) and its departments and institutions((, as distinct from its corporate agencies or instrumentalities,)) are not subject to the provisions of the B&O tax((,)) under RCW 82.04.030.

(c) **Sales by municipal corporations.**

(i) Governmental activities. Municipal corporations are not subject to the B&O tax ((upon)) on amounts ((derived)) received from activities ((which)) that are exclusively governmental((,)) under RCW 82.04.419. ((Thus, the B&O tax does not apply to)) Income from activities that are exclusively governmental include, but are not limited to, license and permit fees((,)); inspection fees((,)); fees for copies of public records, reports, and studies((,)); pet adoption and license fees((,)); processing fees ((involving)) for fingerprinting and environmental impact statements((, and)); and fees for on-street metered parking and on-street parking permits. Income received from taxes, fines, ((or)) penalties, and interest ((thereon. Also exempt are fees for on-street metered parking and on-street parking permits.)) imposed on exclusively governmental activities is also exempt from the B&O tax.

(ii) Interdepartmental charges. Charges between departments of a particular municipal corporation are interdepartmental charges and are not subject to the B&O tax.

(iii) Grant income. Municipal corporations are ((also)) exempt from the B&O tax on grants received from the state of Washington, or the United States government((,)) under RCW 82.04.418.

(((d))) (iv) Public service business activities. Municipal corporations engaging in public service business activities should refer to the rules mentioned in subsection (1)(a) of this rule to determine their B&O tax liability.

(v) Enterprise activities. Municipal corporations ((deriving)) receiving income, however designated, from any enterprise ((or public service business)) activity for which a specific charge is made are subject to the ((provisions of the B&O or public utility tax. Charges between departments of a particular municipal corporation are interdepartmental charges and not subject to tax. (See also WAC 458-20-201 on interdepartmental charges.)

((i))) B&O tax.

(A) When determining whether an activity is an enterprise activity, user fees ((derived)) received from the activity must be measured against total costs attributable to providing the activity, including direct and indirect overhead. This review should be performed at the budget level for all activities included in the budget, and on the fiscal or calendar year basis used by the entity in maintaining its books of account.

((For example,)) **Example 1.** A city ((operating an athletic and recreational facility)) determines that ((the facility)) its community center, which is operated under a single budget, generated two hundred fifty thousand dollars in user fees for the fiscal year. The total cost((s for operating)) to operate the facility ((were)) was four hundred thousand dollars((. This figure)), which includes direct operating costs ((and)), direct and indirect overhead, ((including)) asset depreciation, and interest payments for the retirement of bonds issued to fund the facility's construction. The principal payments for the retirement of the bonds are not included because these costs are a part of the asset depreciation costs. The facility's operation is an enterprise activity because it is more than fifty percent ($250,000/$400,000 = 63%) funded by user fees.

(((ii))) (B) An enterprise activity ((which)) that is operated as ((a)) part of a governmental or nonenterprise activity is subject to the B&O tax. ((For example, City operates Community Center, a large athletic and recreational facility,))

Example 2. A city owns a large community center and three smaller neighborhood centers. The community center operates with its own budget, and the three neighborhood centers ((are lumped together and operated)) operate under a single separate budget. The community center and the neighborhood centers are operated as a part of ((an)) the overall parks and recreation ((system)) department, which is not more than fifty percent funded by user fees.

Each budget must be independently reviewed to determine whether these facilities are operated as enterprise activities. The operation of the community center ((would be)) is an enterprise activity only if the user fees account for more than fifty percent of the community center's operating budget. The total user fees generated by the three neighborhood centers ((would be)) are compared to the total costs of operating the three centers to determine whether they, as a whole, ((were operated as)) are an enterprise activity. Had each neighborhood center operated under ((an)) individual budgets, the user fees generated by each neighborhood center would ((have been)) be compared to the costs of operating that center.

(4) **Business and occupation tax classifications for enterprise activities.**

(a) ((Municipal corporations engaging in public service business activities should refer to the sections of chapter 458-20 WAC mentioned in subsection (1)(a) through (d) of this section to determine their B&O tax liability.)) Municipal corporations engaging in enterprise activities are subject to the B&O tax as follows:

(i) **Service and other ((business)) activities tax.** Amounts ((derived)) received from, but not limited to, ((special)) event admission fees for concerts and exhibits, ((user)) admission charges to a zoo or wildlife park, fees charged for the use of lockers ((and checkrooms)) at a facility not considered an "athletic or fitness facility" as defined in RCW 82.04.050, charges for moorage (less than thirty days), and the granting of a license to use real property are subject to the service and other ((business)) activities B&O tax ((if these activities are considered enterprise activities. (See also WAC 458-20-118 on the sale or rental of real estate.) The service tax applies to fees charged for instruction in amusement and recreation activities, such as tennis or swimming lessons.

Physical fitness activities are retail sales. These activities include weight lifting, exercise facilities, aerobic classes, etc. (See also WAC 458-20-183 on amusement and recreation activities, etc.))) under RCW 82.04.290(2).

(ii) **Extracting tax.** The extracting of natural products for sale or for commercial use is subject to the extracting B&O tax under RCW 82.04.230. The measure of tax is the value of products. (See WAC 458-20-135 on extracting.) Counties and cities are not, however, subject to the extracting B&O tax ((~~upon~~)) on the cost of labor and services performed in the mining, sorting, crushing, screening, washing, hauling, and stockpiling of sand, gravel, or rock taken from a pit or quarry owned by or leased to the county or city when these products are either stockpiled for placement or are placed on a street, road, place, or highway of the county or city by the county or city itself. ((~~Nor does~~)) In addition, the extracting B&O tax does not apply to the cost of or charges for such labor and services if the sand, gravel, or rock is sold by the county or city to another county or city at actual cost for placement on a publicly owned street, road, place, or highway((~~.~~)) under RCW 82.04.415.

(iii) **Manufacturing tax.** The manufacturing of products for sale or for commercial use is subject to the manufacturing B&O tax under RCW 82.04.240. The measure of tax is the value of products. (See WAC 458-20-136 on manufacturing.) The manufacturing B&O tax does not apply to the value of materials printed by counties, cities, towns, ((~~or~~)) school districts, educational districts, or library or library district facilities solely for their own use((~~. RCW 82.04.397~~)) under RCW 82.04.600.

(iv) **Wholesaling tax.** The wholesaling B&O tax applies to the gross proceeds ((~~derived~~)) received from sales or rentals of tangible personal property to persons who resell the same without intervening use under RCW 82.04.270. The wholesaling tax does not, however, apply to casual sales. (((~~See WAC 458-20-106 on casual sales.~~))) Sellers must obtain ((~~resale certificates for sales made before January 1, 2010, or~~)) a reseller permit((~~s for sales made on or after January 1, 2010,~~)) from their customer((~~s~~)) to document the wholesale nature of any sale as provided in ((~~WAC 458-20-102A (Resale certificates) and~~)) WAC 458-20-102 (Reseller permits). ((~~Even though resale certificates are no longer used after December 31, 2009, they must be kept on file by the seller for five years from the date of last use or December 31, 2014.~~))

(v) **Retailing tax.** Amounts received from, but not limited to, user fees for off-street parking and garages, ((~~and~~)) charges for the sale or rental of tangible personal property to consumers, fees for providing recreational services and activities, charges for operating an athletic or fitness facility, and other retail services and activities as provided in RCW 82.04.050, are taxable under the retailing B&O tax under RCW 82.04.250. The retailing B&O tax does not, however, apply to casual sales. (((~~See WAC 458-20-106.) Fees for amusement and recreation activities, such as golf, swimming, racquetball, and tennis, are retail sales and subject to the retailing tax if the activities are considered enterprise activities. Charges for instruction in amusement and recreation activities are subject to the service tax. (See also WAC 458-20-183 and (a)(i) of this subsection.)~~

~~Charges for physical fitness and sauna services are classified as retail sales and subject to the retailing tax. While a retail sales tax exemption for physical fitness classes provided by local governments is available (see subsection (6)(h) of this section), the retailing B&O tax continues to apply.~~))

(b) Persons selling products ((~~which~~)) that they have extracted or manufactured must report, unless exempt by law, under both the "production" (extracting and/or manufacturing) and "selling" (wholesaling or retailing) classifications of the B&O tax, and claim a tax credit under the multiple activities tax credit system. (((~~(~~)))See WAC 458-20-19301 on multiple activities tax credits.((~~)~~)))

(5) **Application of the retail sales tax.**

(a) **Sales to the state of Washington and municipal corporations.** The retail sales tax ((~~generally~~)) applies to ((~~all~~)) retail sales made to the state of Washington, including its departments and institutions, and to municipal corporations ((~~of the state~~)) unless a specific exemption applies.

(b) **Sales by the state of Washington and municipal corporations.** The state of Washington, including its departments and institutions, and all municipal corporations ((~~are required to~~)) must collect retail sales tax on all retail sales of tangible personal property or ((~~services classified as~~)) retail services unless a specific exemption((~~s apply~~)) applies. Retail sales tax must be collected and remitted even ((~~though~~)) if the sale ((~~may be~~)) is exempt from the retailing B&O tax. ((~~For example,~~))

Example 3. A city police department must collect retail sales tax on casual sales of unclaimed property to consumers, even though this activity is not subject to the B&O tax because these sales are considered casual sales. (((~~See also WAC 458-20-106.~~)))

Example 4. A city owns and operates a zoo. One budget is maintained for the care and maintenance of the wildlife and facilities, and a separate budget is maintained for the gift shop and concessions. The wildlife and facilities budget is less than fifty percent funded by admission fees, while the gift shop and concessions budget is almost entirely funded by the proceeds from sales. The admission fees are not subject to the B&O tax, but the income from the gift shop and concession sales are subject to the retailing B&O tax and the city must collect retail sales tax. In this example, had the entire zoo been operated under a single budget and less than fifty percent of the budget was funded by user fees, then no part of the zoo would be considered an enterprise activity. If the zoo is not an enterprise activity, then B&O tax would not apply to the admission fees, the gift shop sales, or the concession sales. However, retail sales tax must still be collected on the gift shop and concession sales.

(c) **Sales between the state of Washington and a municipal corporation.** Sales between a department or institution of the state and a municipal corporation((~~, or between municipal corporations~~)) are retail sales and are subject to the retail sales tax. ((~~For example,~~))

Example 5. State Agency sells office ((~~supplies~~)) equipment to County. State Agency is making a retail sale((~~. State Agency~~)) and must collect and remit retail sales tax upon the amount charged, even though the B&O tax does not apply to this sale. The amount of retail sales tax must be separately itemized on the sales invoice((~~.~~)) under RCW 82.08.050. State Agency may claim a tax paid at source deduction for any retail sales or use tax previously paid on the ((~~acquisition~~)) purchase of the office ((~~supplies~~)) equipment provided

there was no intervening use of the office equipment by State Agency. If intervening use occurred, State Agency may not claim the tax paid at source deduction, as described in WAC 458-20-102 (Reseller permits), for any retail sales or use tax it previously paid when purchasing the office equipment.

(d) **Sales between municipal corporations.** Sales between municipal corporations are retail sales subject to the retail sales tax.

(e) **Sales between departments or institutions of the state of Washington.** Departments or institutions of the state of Washington are not considered sellers when making sales to other departments or institutions of the state because the state is considered to be a single entity((.)) under RCW 82.08.010(2). Therefore, the "selling" department or institution is not required ((~~by statute~~)) to collect the retail sales tax on these sales.

All departments or institutions of the state of Washington are, however, considered "consumers((.))" under RCW 82.08.010(3). A department or institution of the state purchasing tangible personal property from another department or institution is required to remit to the department of revenue the retail sales or use tax upon that purchase, unless it can document that the "selling" institution previously paid ((~~the appropriate~~)) retail sales or use tax on that item.

(6) **Retail sales tax exemptions.** The retail sales tax does not apply to the following:

(a) Sales to city or county housing authorities ((~~which were~~)) created under the provisions of the Washington housing authorities law, chapter 35.82 RCW. However, prime contractors and subcontractors working for city or county housing authorities should refer to WAC 458-20-17001 (Government contracting—Construction, installations, or improvements to government real property) to determine their tax liability.

(b) Charges to the state of Washington and municipal corporations ((~~and the state of Washington~~)) for that portion of the selling price of contracts for watershed protection or flood control which is reimbursed by the United States government according to the provisions of the Watershed Protection and Flood Prevention Act, Public Law 566, as amended((.)), under RCW 82.08.0271.

(c) Sales of ((~~the~~)) an entire or complete integral section of operating property of a publicly or privately owned public utility((~~, or of a complete operating integral section thereof,~~)) to the state of Washington or to a municipal corporation ((~~thereof~~)) for use in conducting any public service business, except a tugboat business((.)), under RCW 82.08.0256.

(d) Sales of or charges made for labor and services in the mining, sorting, crushing, screening, washing, hauling, and stockpiling of sand, gravel, or rock taken from a pit or quarry owned or leased to a county or city, when the materials are either stockpiled in the pit or quarry, placed on the public road by the county or city itself, or sold at cost to another county or city for use on public roads((.)) under RCW 82.08.-0275.

(e) Sales to one municipal corporation by another municipal corporation directly or indirectly arising out of, or resulting from, the annexation or incorporation of any part of the territory of one municipal corporation by another((.)) under RCW 82.08.0278.

(f) Sales to the state of Washington((,)) or a municipal corporation ((~~in the state,~~)) of ferry vessels and component parts thereof, and charges for labor and services in respect to construction or improvement of such vessels((.)) under RCW 82.08.0285.

(g) Sales to the United States. ((~~However,~~)) Sales to federal employees, however, are subject to the retail sales tax((,)) even if the federal employee will be reimbursed for the cost by the federal government. (See WAC 458-20-190 on sales to the United States.)

(h) Charges for physical fitness classes, such as aerobics classes, provided by local governments((.)) under RCW 82.08.0291. ((~~Local governments must collect retail sales tax on charges for other physical fitness activities such as weight lifting, exercise equipment, and running tracks.~~

~~This exemption does not apply if a person other than a local government provides the physical fitness class, even if the class is conducted at a local government facility.~~)) For more information on charges for physical fitness classes provided by local governments, refer to the department's web site at dor.wa.gov.

(7) **((~~Deferred sales or~~)) Application of the use tax.**

(a) ((~~If the seller fails to collect the appropriate retail sales tax,~~)) The state of Washington, including its departments and institutions, and ((~~all~~)) municipal corporations are required to pay the ((~~deferred sales or~~)) use tax directly to the department of revenue if the retail sales tax was not paid on the value of the item or service at the time of purchase. Refer to WAC 458-20-178 (Use tax and the use of tangible personal property) for more information.

(b) Purchases of cigarette stamps**,** vehicle license plates, license plate tabs, disability decals, or other items to evidence payment of a license, tax, or fee are purchases for consumption by the state or municipal corporation((,)) and subject to the retail sales or use tax.

(c) ((~~Where tangible personal property or taxable services are purchased by~~)) If the state of Washington((,)) or its departments and institutions((~~, for the purpose of resale~~)) purchase tangible personal property or retail services to resell to any other department or institution of the state of Washington, or ((~~for the purpose of consuming the property purchased~~)) to consume as an ingredient or component part in manufacturing or producing for use ((~~or~~)), a new article for resale to any other department or institution of the state of Washington ((~~a new article of which such property is an ingredient or component part~~)), the transaction is ((~~deemed~~)) a retail purchase ((~~at retail~~)) and ((~~the~~)) subject to retail sales or use tax ((~~applies~~)).

(d) ((~~Persons producing or manufacturing~~)) The state of Washington or a municipal corporation that produces or manufactures products for commercial or industrial use are required to remit use tax upon the value of those products under RCW 82.12.020, unless a specific use tax exemption applies. ((~~RCW 82.12.020.~~)) This value must correspond as nearly as possible to the gross proceeds from retail sales of similar products. (See WAC 458-20-112 and 458-20-134 on value of products and commercial or industrial use, respectively.)

((~~For example,~~)) **Example 6.** A municipal corporation ((~~operating~~)) that operates a print shop and ((~~producing~~)) pro-

duces forms or other documents for its own use must remit use tax upon the value of those products, even though a B&O tax exemption is provided by RCW ((~~82.04.397. The municipal corporation may claim a credit for~~)) 82.04.600. The value of the products subject to use tax may be reduced by any retail sales tax previously paid on materials, such as paper or ink, which are incorporated into the manufactured product. ((~~The process of putting an internal communication, such as a memorandum to employees, on a blank form or document is not considered a manufacturing activity, even when multiple copies of the resulting internal communication are reproduced for wide distribution to employees.~~))

(i) Counties and cities are not subject to use tax ((~~upon~~)) on the cost of labor and services in the mining, sorting, crushing, screening, washing, hauling, and stockpiling of sand, gravel, and rock taken from a pit or quarry owned or leased to a county or city when the materials are for use on public roads((~~,~~)) under RCW 82.12.0269.

(ii) If a department or institution of the state of Washington manufactures or produces tangible personal property for use or resale to any other department or institution of the state, use tax must be remitted ((~~upon~~)) on the value of that article even though the state is not subject to the B&O tax.

((~~For example,~~)) **Example 7.** State Agency manufactures office furniture ((~~for resale~~)) to resell to other departments or institutions of the state of Washington. State Agency ((~~will also on occasion use~~)) sometimes uses office furniture it has manufactured for its own offices. Use tax is due on the office furniture sold to the other departments or institutions ((~~of this state~~)), and on the office furniture State Agency puts to its own use. The taxable value of the office furniture sold to the other departments or institutions ((~~of this state~~)) is the selling price. The taxable value for the office furniture State Agency puts to its own use is the selling price at which State Agency sells comparable furniture to other departments or institutions ((~~of the state~~)). When computing and remitting use tax upon the value of manufactured furniture, State Agency may ((~~claim a credit for~~)) reduce the value by any retail sales or use taxes it previously remitted on materials incorporated into that furniture. A department or institution ((~~of this state~~)) purchasing office furniture from State Agency must remit use tax ((~~upon~~)) on the value of that furniture, unless it can document that State Agency paid use tax upon the appropriate value of the furniture. (See also subsection (5)(((~~(d)~~)) (e) of this ((~~section~~)) rule.)

(e) A use tax exemption ((~~is available to state or local governmental entities using tangible personal property donated to them.~~)) applies to the use by the state or local governments of donated personal property under RCW 82.12.-02595. The donor, however, remains liable for the retail sales or use tax on the donated property((~~, even though the state or local governmental entity's use of the property is exempt of tax~~)).

(8) **((~~Persons subject to~~)) Application of the public utility tax.**

(a) Persons ((~~deriving~~)) receiving income subject to the ((~~provisions of the~~)) public utility tax may not claim a deduction for amounts received as compensation for services rendered to the state of Washington, its departments and institutions, or to municipal corporations thereof.

(b) The public utility tax does not apply to income received by the state of Washington((~~,~~)) or its departments and institutions from providing public utility services.

(c) Municipal corporations operating public service businesses should refer to ((~~WAC 458-20-179 (Public utility tax), WAC 458-20-180 (Motor transportation, urban transportation), WAC 458-20-250 (Solid waste collection tax) and WAC 458-20-251 (Sewerage collection and other related activities)~~)) the rules mentioned in subsection (1)(a) of this rule to determine their public utility tax liability.

(((~~(9) **Examples.** The following examples identify a number of facts and then state a conclusion. These examples should only be used as a general guide. The tax results of other situations must be determined after a review of all the facts and circumstances.~~

~~(a) City operates a community center which provides a number of activities and services. The center charges fees for court activities including tennis and racquetball, general admission to the swimming pool, swimming lessons, aerobics classes, and the use of weight equipment. The community center also provides programs targeted at youth and senior populations. These programs include arts and craft classes, dance instruction classes, and day camps providing a wide variety of activities such as picnics, nature walks, volleyball, and other games. The center provides banquet and meeting rooms to civic groups for a fee, but does not provide a meal service with the banquet facilities. The community center's operation is an enterprise activity, because it is more than fifty percent funded by user fees.~~

~~City's tax liability for the fees charged by the community center are as follows:~~

~~(i) Retailing B&O and retail sales taxes apply to all charges for the court activities, general admission to the swimming pool, and the use of weight equipment;~~

~~(ii) The retailing B&O tax applies to fees charged for aerobics classes. Retail sales tax does not apply because of the sales tax exemption for physical fitness classes provided by local governments;~~

~~(iii) Service and other business activities B&O tax applies to all fees for swimming lessons, the arts and crafts classes, dance instruction classes, day camps, and the rental of the banquet and meeting rooms. Retail sales tax does not apply to any part of the charge for the day camp because the portion of the day camp activities considered to be retail is minimal.~~

~~(b) City operates a swimming pool located at a high school. This swimming pool is open to the public in the evenings. City charges user fees for swimming lessons, water exercise classes, and general admission to the pool. City will occasionally "rent" the pool to a private organization for the organization's own use. In these cases, the private organization controls the overall operation and admission to the facility. City has no authority to control access and/or use when "renting" the pool to these organizations. City compares the user fees generated by the swimming pool to the total costs associated with the operation of the pool on an annual basis. The user fees never total "more than fifty percent" of the cost of pool operation, therefore the operation of the pool is not an enterprise activity.~~

~~City must collect and remit retail sales tax on all retail sales for which a retail sales tax exemption is not available, even though the B&O tax does not apply. Retail sales tax must be charged and collected on all general admission charges. Retail sales tax does not apply to the water exercise classes because of the retail sales tax exemption provided for physical fitness classes provided by local governments. City would not collect retail sales tax on the charges for the swimming lessons or the "rental" of the pool to private businesses (license to use real estate) because these charges are not retail sales.~~

~~(c) City sponsors various baseball leagues as a part of City's efforts to provide recreational activities to its citizens. Teams joining a league are charged a "league fee." Individual participants are charged a "participation fee." The league fee entitles a team to join the league, and reserve the use of the ball fields for league games. The participation fee entitles an individual team member to participate in the baseball activity. City does not account for the operation of the ball fields under a single specific budget. The user fees generated from the baseball fields, as well as the costs of operating and maintaining these fields, are accounted for in City's overall parks and recreation system budget, which is not an enterprise activity.~~

~~The participation fees are retail sales and subject to the retail sales tax, because the team members pay these fees for the right to actually engage in an amusement and recreation activity. The league fees are not retail sales, because they simply entitle the teams to join an association of baseball teams that compete amongst themselves. (Refer also to WAC 458-20-183 on amusement and recreational activities.) The participation fees and league fees are not subject to the B&O tax, because these baseball fields are not operated as an enterprise activity. Had these fields been operated as an enterprise activity, the participation fees and league fees would also have been subject to the retailing and service and other business activities B&O tax classifications, respectively.~~

~~(d) Jane Doe enters into a contract with City to provide an aerobics class at City's community center. Jane is responsible for providing the aerobics class. City merely "rents" a room to Jane under a license to use agreement.~~

~~Jane Doe must collect and remit retail sales tax upon the charges for the aerobics classes. The charges for the aerobics classes do not qualify for the retail sales tax exemption provided by RCW 82.08.0291 merely because the classes are held at a local government facility. Jane Doe is not entitled to the retail sales tax exemption available to local governments.~~))

WSR 17-03-084
PROPOSED RULES
DEPARTMENT OF HEALTH
(Nursing Care Quality Assurance Commission)
[Filed January 12, 2017, 3:27 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-12-038.

Title of Rule and Other Identifying Information: WAC 246-840-730 and 246-840-750 through 246-840-780 and related sections. The nursing care quality assurance commission (NCQAC) is proposing revising existing rules to reflect current patient safety standards regarding substance abuse disorders and to update the mandatory reporting rules.

Hearing Location(s): Department of Health, Point Plaza East, 310 Israel Road South, Room 152/153, Tumwater, WA 98501, on March 10, 2017, at 1:00 p.m.

Date of Intended Adoption: March 10, 2017.

Submit Written Comments to: Carole Reynolds, NCQAC, Washington Department of Health, P.O. Box 47864, Olympia, WA 98504-7864, email https://fortress.wa.gov/doh/policyreview, fax (360) 236-4738, by March 3, 2017.

Assistance for Persons with Disabilities: Contact Carole Reynolds by March 3, 2017, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the proposed rules is to update and clarify the mandatory reporting rules and the rules related to NCQAC's substance abuse monitoring program. NCQAC proposes to adopt by reference the secretary of health's mandatory reporting rules which will streamline the requirements among professions. The current nursing rules were adopted in 1997 and are out-of-date. NCQAC completed a review of the substance abuse monitoring program and, based on the findings, seeks to update the program and internal policies. The proposed rules reflect the updates that implement best practices in substance abuse monitoring.

Reasons Supporting Proposal: The new rules clarify and streamline the nursing mandatory reporting requirements by making them the same as for the secretary of health professions. This eliminates confusion for nurses, other health care providers, and employers about what must be reported. The proposed rules also update the current nineteen year old substance abuse rule language by addressing changes in substance abuse monitoring, best practices and current patient safety standards.

Statutory Authority for Adoption: RCW 18.79.010, 18.79.110, 18.130.070, 18.130.175.

Statute Being Implemented: RCW 18.79.010, 18.79.110, 18.130.070, 18.130.175.

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

Name of Proponent: NCQAC, governmental.

Name of Agency Personnel Responsible for Drafting: Carole Reynolds, 111 Israel Road S.E., Tumwater, WA 98501, (360) 236-4785; Implementation and Enforcement: John Furman, 111 Israel Road S.E., Tumwater, WA 98501, (360) 236-2882.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule would not impose more than minor costs on businesses in an industry.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Carole Reynolds, NCQAC, Washington Department of Health, P.O. Box 47864, Olympia, WA 98504-7864,

phone (360) 236-4785, fax (360) 236-4738, email carole.reynolds@doh.wa.gov.

January 12, 2017
Paula R. Meyer, MSN, RN, FRE
Executive Director, NCQAC

AMENDATORY SECTION (Amending WSR 00-01-186, filed 12/22/99, effective 1/22/00)

WAC 246-840-730 Mandatory reporting. ((~~Mandatory reporting assists the nursing care quality assurance commission (nursing commission) in protecting the public health and safety through the discovery of unsafe or substandard nursing practice or conduct. These rules are intended to define the information that is to be reported and the obligation of nurses and others to report.~~

~~The nursing commission does not intend every minor nursing error to be reported or that mandatory reporting serve as a substitute for employer based disciplinary action.~~

~~**Who must make reports and what must be reported to the nursing commission?**~~

~~(1) Any person, including, but not limited to, registered nurses, practical nurses, advanced registered nurse practitioners, health care facilities and governmental agencies shall always report the following, except as provided for in subsections (2) and (3) of this section:~~

~~(a) Information that a nurse may not be able to practice with reasonable skill and safety as a result of a mental or physical condition;~~

~~(b) Information regarding a conviction, determination or finding, including employer-based disciplinary action, that a nurse has committed an act that would constitute unprofessional conduct, as defined in RCW 18.130.180, including violations of chapter 246-840 WAC, including, but not limited to:~~

~~(i) Conviction of any crime or plea of guilty, including crimes against persons as defined in chapter 43.830 RCW [RCW 43.43.830], and crimes involving the personal property of a patient, whether or not the crime relates to the practice of nursing;~~

~~(ii) Conduct which leads to dismissal from employment for cause related to unsafe nursing practice or conduct in violation of the standards of nursing;~~

~~(iii) Conduct which reasonably appears to be a contributing factor to the death of a patient;~~

~~(iv) Conduct which reasonably appears to be a contributing factor to the harm of a patient that requires medical intervention;~~

~~(v) Conduct which reasonably appears to violate accepted standards of nursing practice and reasonably appears to create a risk of physical and/or emotional harm to a patient;~~

~~(vi) Conduct involving a pattern of repeated acts or omissions of a similar nature in violation of the standards of nursing that reasonably appears to create a risk to a patient;~~

~~(vii) Drug trafficking;~~

~~(viii) Conduct involving the misuse of alcohol, controlled substances or legend drugs, whether or not prescribed to the nurse, where such conduct is related to nursing practice or violates any other drug or alcohol-related nursing commission law;~~

~~(ix) Conduct involving sexual contact with a patient under RCW 18.130.180(24) or other sexual misconduct in violation of nursing commission law under WAC 246-840-740;~~

~~(x) Conduct involving patient abuse, including physical, verbal and emotional;~~

~~(xi) Conduct indicating unfitness to practice nursing or that would diminish the nursing profession in the eyes of the public;~~

~~(xii) Conduct involving fraud related to nursing practice;~~

~~(xiii) Conduct involving practicing beyond the scope of the nurse's license;~~

~~(xiv) Nursing practice, or offering to practice, without a valid nursing permit or license, including practice on a license lapsed for nonpayment of fees;~~

~~(xv) Violation of a disciplinary sanction imposed on a nurse's license by the nursing commission.~~

~~(2) Persons who work in federally funded substance abuse treatment programs are exempt from these mandatory reporting requirements to the extent necessary to comply with 42 C.F.R. Part 2.~~

~~(3) Persons who work in approved substance abuse monitoring programs under RCW 18.130.175 are exempt from these mandatory reporting rules to the extent required to comply with RCW 18.130.175(3) and WAC 246-840-780(3).~~

~~**How is a report made to the nursing commission?**~~

~~(4) In providing reports to the nursing commission, a person may call the nursing commission office for technical assistance in submitting a report. Reports are to be submitted in writing and include the name of the nurse, licensure identification, if available, the name of the facility, the names of any patients involved, a brief summary of the specific concern which is the basis for the report, and the name, address and telephone number of the individual submitting the report.~~

~~(5) Failure of any licensed nurse to comply with these reporting requirements may constitute grounds for discipline under chapter 18.130 RCW.~~

~~**What are the criteria for whistleblower protection?**~~

~~(6) Whistleblower criteria is defined in chapter 246-15 WAC and RCW 43.70.075.~~)) Any person including, but not limited to, a registered nurse, a licensed practical nurse, advanced registered nurse practitioner, health care facility, or governmental agency shall always report in compliance with the uniform mandatory reporting rules are found in WAC 246-16-200 through 246-16-270.

AMENDATORY SECTION (Amending WSR 97-13-100, filed 6/18/97, effective 7/19/97)

WAC 246-840-750 Philosophy governing voluntary substance abuse monitoring programs. The nursing care quality assurance commission (commission) recognizes the need to establish a means of ((~~proactively~~)) providing early recognition and treatment options for licensed practical nurses or registered nurses whose competency may be impaired due to the abuse of drugs or alcohol. The commission intends that such nurses be treated and their treatment monitored so that they can return to or continue to practice

their profession in a ((~~way which~~)) manner, that safeguards the public. ((~~To accomplish this the commission shall approve voluntary substance abuse monitoring programs and shall~~)) The Washington health professional services (WHPS) program is the commission's approved substance abuse monitoring program under RCW 18.130.175. The commission may refer licensed practical nurses or registered nurses ((~~impaired by substance abuse to approved programs as an alternative to instituting disciplinary proceedings as defined in~~)) to WHPS as either an alternative to or in connection with disciplinary actions under RCW 18.130.160.

AMENDATORY SECTION (Amending WSR 08-11-019, filed 5/12/08, effective 6/12/08)

WAC 246-840-760 Definitions of terms used in WAC 246-840-750 through 246-840-780. (((~~(1) "Approved substance abuse monitoring program" or "approved monitoring program" is a program the commission has determined meets the requirements of the law and the criteria established by the commission in WAC 246-840-770. The program enters into a contract with nurses who have substance abuse problems regarding the required components of the nurse's recovery activity and oversees the nurse's compliance with these requirements. Substance abuse monitoring programs do not provide evaluation or treatment to participating nurses.~~

~~(2) "Contract" is a comprehensive, structured agreement between the recovering nurse and the approved monitoring program wherein the nurse consents to comply with the monitoring program and its required components of the nurse's recovery activity.~~

~~(3) "Approved treatment facility" is a facility approved by the division of alcohol and substance abuse, department of social and health services according to chapter 70.96A RCW or RCW 69.54.030 to provide concentrated alcoholism or drug treatment if located within Washington state. Drug and alcohol treatment programs located out-of-state must be equivalent to the standards required for approval under chapter 70.96A RCW or RCW 69.54.030.~~

~~(4) "Substance abuse" means the impairment of a nurse's professional services by an addiction to, a dependency on, or the use of alcohol, legend drugs, or controlled substances.~~

~~(5) "Aftercare" is that period of time after intensive substance abuse treatment that provides the nurse and the nurse's family with group or individual counseling sessions, discussions with other families, ongoing contact and participation in self-help groups and ongoing continued support of treatment program staff.~~

~~(6) "Nurse support group" is a group of nurses meeting regularly to support the recovery of its members from substance abuse issues. The group provides a confidential setting with a trained and experienced nurse facilitator in which nurses may safely discuss drug diversion, licensure issues, return to work and other professional issues related to recovery.~~

~~(7) "Twelve-step groups" are groups such as alcoholics anonymous, narcotics anonymous, and related organizations based on a philosophy of anonymity, belief in a power outside of oneself, peer group association, and self-help.~~

~~(8) "Random drug screens" are laboratory tests to detect the presence of drugs of abuse in body fluids which are performed at irregular intervals not known in advance by the person to be tested.~~)) The definitions in this section apply throughout WAC 246-840-750 through 246-840-780 unless the text clearly requires otherwise.

(1) "Approved treatment facility" is a facility certified by the division of behavioral health and recovery (DBHR) department of social and health services, according to chapters 388-877 through 388-877B WAC that meets the defined standards. Drug and alcohol treatment facilities located out-of-state must have substantially equivalent standards.

(2) "Continuing care" means the phase of treatment following acute treatment. Common elements of continuing care include relapse prevention and self-help group participation.

(3) "Monitoring contract" is a comprehensive, structured agreement between the recovering nurse and WHPS defining the requirements of the nurse's program participation.

(4) "Peer support group" is a professionally facilitated support group designed to support recovery and re-entry into practice.

(5) "Random drug screens" means laboratory tests to detect the presence of drugs of abuse in body fluids and other biologic specimens that are performed at irregular intervals not known in advance by the person to be tested.

(6) "Referral contract" is a formal agreement between the commission and the nurse to comply with the requirements of the WHPS program in lieu of discipline.

(7) "Self-help groups" means groups or fellowships providing support for people with substance use disorder to support their sobriety and recovery.

(8) "Substance abuse" or "substance use disorder" means a chronic progressive illness that involves the use of alcohol or other drugs to a degree that it interferes with the functional life of the registrant/licensee, as manifested by health, family, job (professional services), legal, financial, or emotional problems.

(9) "Washington health professional services (WHPS)" is the approved substance abuse monitoring program as described in RCW 18.130.175 that meets criteria established by the commission. WHPS does not provide evaluation or treatment services.

AMENDATORY SECTION (Amending WSR 97-13-100, filed 6/18/97, effective 7/19/97)

WAC 246-840-770 Approval of substance abuse monitoring programs. ((~~The commission will approve the monitoring program(s) which will participate in the commission's substance abuse monitoring program. A monitoring program approved by the commission may be contracted with an entity outside the department but within the state, out of state, or a separate structure within the department.~~

~~(1) The approved monitoring program will not provide evaluation or treatment to the participating nurses.~~

~~(2) The approved monitoring program staff must have the qualifications and knowledge of both substance abuse and the practice of nursing as defined in this chapter to be able to evaluate:~~

~~(a) Clinical laboratories;~~

~~(b) Laboratory results;~~

~~(c) Providers of substance abuse treatment, both individuals and facilities;~~

~~(d) Nurses' support groups;~~

~~(e) The nursing work environment; and~~

~~(f) The ability of the nurse to practice with reasonable skill and safety.~~

~~(3) The approved monitoring program will enter into a contract with the nurse and the commission to oversee the nurse's compliance with the requirements of the program.~~

~~(4) The approved monitoring program may make exceptions to individual components of the contract on an individual basis.~~

~~(5) The approved monitoring program staff will determine, on an individual basis, whether a nurse will be prohibited from engaging in the practice of nursing for a period of time and restrictions, if any, or the nurse's access to controlled substances in the work place.~~

~~(6) The approved monitoring program shall maintain records on participants.~~

~~(7) The approved monitoring program will be responsible for providing feedback to the nurse as to the acceptability of treatment progress.~~

~~(8) The approved monitoring program shall report to the commission any nurse who fails to comply with the requirement of the monitoring program.~~

~~(9) The approved monitoring program shall provide the commission with a statistical report on the program, including progress of participants, at least annually.~~

~~(10) The approved monitoring program shall receive from the commission guidelines~~)) The commission uses WHPS as the approved monitoring program.

(1) WHPS will:

(a) Employ staff with the qualifications and knowledge of both substance abuse and the practice of nursing as defined in this chapter to be able to evaluate:

(i) Clinical laboratories;

(ii) Laboratory results;

(iii) Providers of substance abuse treatment, both individuals and facilities;

(iv) Peer support groups;

(v) The nursing work environment; and

(vi) The ability of the nurse to practice with reasonable skill and safety.

(b) Enter into a monitoring contract with the nurse to oversee the nurse's required recovery activities. Exceptions may be made to individual components of the contract as needed.

(c) Determine, on an individual basis, whether a nurse will be prohibited from engaging in the practice of nursing for a period of time and restrictions, if any, on the nurse's access to controlled substances in the workplace.

(d) Maintain case records on participating nurses.

(e) Report to the commission any nurse who fails to comply with the requirements of the monitoring program as defined by the commission.

(f) Provide the commission with an annual statistical report.

(2) The commission approves WHPS's procedures on treatment, monitoring, and limitations on the practice of nursing for those participating in the program.

AMENDATORY SECTION (Amending WSR 97-13-100, filed 6/18/97, effective 7/19/97)

WAC 246-840-780 Participants entering the approved substance abuse monitoring program must agree to the following conditions. (((~~(1)(a) The nurse shall undergo a complete physical and psychosocial evaluation before entering the approved monitoring program. This evaluation will be performed by health care professional(s) with expertise in chemical dependency. The person(s) performing the evaluation shall not also be the provider of the recommended treatment.~~

~~(b) The nurse shall enter into a contract with the commission and the approved substance abuse monitoring program to comply with the requirements of the program which shall include, but not be limited to:~~

~~(i) The nurse will undergo intensive substance abuse treatment in an approved treatment facility.~~

~~(ii) The nurse will agree to remain free of all mind-altering substances including alcohol except for medications prescribed by an authorized prescriber, as defined in RCW 69.41.030 and 69.50.101.~~

~~(iii) The nurse must complete the prescribed aftercare, which may include individual and/or group psychotherapy.~~

~~(iv) The nurse must cause the treatment counselor(s) to provide reports to the approved monitoring program at specified intervals. Reports shall include treatment prognosis and goals.~~

~~(v) The nurse will submit to random drug screening as specified by the approved monitoring program.~~

~~(vi) The nurse will attend nurses' support groups facilitated by a nurse and/or twelve-step group meetings as specified by the contract.~~

~~(vii) The nurse will comply with specified employment conditions and restrictions as defined by the contract.~~

~~(viii) The nurse shall sign a waiver allowing the approved monitoring program to release information to the commission if the nurse does not comply with the requirements of this contract.~~

~~(c) The nurse is responsible for paying the costs of the physical and psychosocial evaluation, substance abuse treatment, and random drug screens.~~

~~(d) The nurse may be subject to disciplinary action under RCW 18.130.160 if the nurse does not participate in the approved monitoring program, does not comply with specified employment restrictions, or does not successfully complete the program.~~

~~(2) A nurse who is not being investigated by the commission or subject to current disciplinary action or currently being monitored by the commission for substance abuse may voluntarily participate in the approved substance abuse monitoring program without being referred by the commission.~~

~~(a) The nurse shall undergo a complete physical and psychosocial evaluation before entering the approved monitoring program. This evaluation will be performed by health care professional(s) with expertise in chemical dependency.~~

~~The person(s) performing the evaluation shall not also be the provider of the recommended treatment.~~

~~(b) The nurse shall enter into a contract with the approved substance abuse monitoring program to comply with the requirements of the program which shall include, but not be limited to:~~

~~(i) The nurse will undergo intensive substance abuse treatment in an approved treatment facility.~~

~~(ii) The nurse will agree to remain free of all mind-altering substances including alcohol except for medications prescribed by an authorized prescriber as defined in RCW 69.41.030 and 69.50.101.~~

~~(iii) The nurse must complete the prescribed aftercare program of the intensive treatment facility, which may include individual and/or group psychotherapy.~~

~~(iv) The nurse must cause the treatment counselor(s) to provide reports to the approved monitoring program at specified intervals. Reports shall include treatment prognosis and goals.~~

~~(v) The nurse will submit to random drug screening as specified by the approved monitoring program.~~

~~(vi) The nurse will attend nurses' support groups facilitated by a nurse and/or twelve-step group meetings as specified by the contract.~~

~~(vii) The nurse will comply with employment conditions and restrictions as defined by the contract.~~

~~(viii) The nurse shall sign a waiver allowing the approved monitoring program to release information to the commission if the nurse does not comply with the requirements of this contract.~~

~~(c) The nurse is responsible for paying the costs of the physical and psychosocial evaluation, substance abuse treatment and random drug screens.~~

~~(3) The treatment and pretreatment records of license holders referred to or voluntarily participating in approved monitoring programs shall be confidential, shall be exempt from RCW 42.17.250 through 42.17.450, and shall not be subject to discovery by subpoena or admissible as evidence except for monitoring records reported to the disciplinary authority for cause as defined in subsections (1) and (2) of this section. Records held by the commission under this section shall be exempt from RCW 42.17.250 through 42.17.450 and shall not be subject to discovery by subpoena except by the license holder.~~)) (1) Any nurse participating in the substance abuse monitoring program must:

(a) Undergo a complete substance use disorder evaluation. This evaluation will be performed by health care professional(s) with expertise in chemical dependency.

(b) Enter into a monitoring contract with WHPS which includes, but is not limited to, the following terms, which require the nurse to:

(i) Undergo any recommended level of treatment in an approved treatment facility, including continuing care;

(ii) Abstain from all mind-altering substances including alcohol and cannabis except for medications prescribed by an authorized prescriber, as defined in RCW 69.41.030 and 69.50.101;

(iii) Cause the treatment counselor(s) to provide reports to the approved monitoring program at specified intervals;

(iv) Attend peer support group, or self-help group meetings, or both as specified by WHPS;

(v) Complete random or for-cause drug screening as specified by WHPS;

(vi) Comply with specified employment conditions and restrictions as defined by the monitoring contract;

(vii) Agree in writing to allow WHPS to release information to the commission if the nurse does not comply with any contract requirements or is unable to practice with reasonable skill and safety;

(viii) Pay the costs of any required evaluations, substance abuse treatment, peer support group, random drug screens, and other personal expenses incurred in relation to the monitoring program;

(ix) Sign any requested release of information authorizations.

(2) When referred to WHPS in lieu of discipline, the nurse must enter into a referral contract with the commission. The commission may take disciplinary action against the nurse's license under RCW 18.130.160 based on any violation by the nurse of the referral contract.

(3) A nurse may voluntarily participate in WHPS in accordance with RCW 18.130.175(2) without first being referred to WHPS by the commission.

WSR 17-03-098
WITHDRAWL OF PROPOSED RULES
HEALTH CARE AUTHORITY
(By the Code Reviser's Office)

[Filed January 17, 2017, 8:16 a.m.]

WAC 182-516-0001, 182-516-0100, 182-516-0105, 182-516-0110, 182-516-0115, 182-516-0120, 182-516-0125, 182-516-0130, 182-516-0135, 182-516-0140, 182-516-0145, 182-516-0200, 182-516-0201, 182-516-0300 and 182-516-0400, proposed by the health care authority in WSR 16-14-008, appearing in issue 16-14 of the Washington State Register, which was distributed on July 20, 2016, is withdrawn by the office of the code reviser under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor
Washington State Register

WSR 17-03-111
PROPOSED RULES
DEPARTMENT OF HEALTH
[Filed January 17, 2017, 11:36 a.m.]

Original Notice.

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).

Title of Rule and Other Identifying Information: WAC 246-282-990(5), sanitary control of shellfish - fees, commercial geoduck paralytic shellfish poisoning testing.

Hearing Location(s): Town Center 2, Room 145, 111 Israel Road S.E., Tumwater, WA 98511, on February 21, 2017, at 9:30 a.m.

Date of Intended Adoption: February 22, 2017.

Submit Written Comments to: Laura Johnson, Department of Health, P.O. Box 7824 [47824], Olympia, WA 98504-7822 [98504-7824], email https://fortress.wa.gov/doh/policyreview, fax (360) 236-2257, by February 21, 2017.

Assistance for Persons with Disabilities: Contact Theresa McGuire by February 21, 2017, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the proposal is to equitably assess the costs of commercial geoduck paralytic shellfish poison (PSP) testing. The cost assessment will follow the annual redistribution formula which is based on the number of tests done in the previous year. The testing is essential to public health as it is the only way to determine if dangerous levels of PSP exist in commercial geoduck and ensure toxic shellfish do not reach the public.

Reasons Supporting Proposal: The proposed geoduck PSP fee redistribution is based on the 2016 total cost of service for the harvesters that submitted geoduck tests and the number of tests done for each harvester.

Statutory Authority for Adoption: RCW 43.70.250.

Statute Being Implemented: RCW 43.70.250 and 60.30.005.

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

Name of Proponent: Department of health, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Laura Johnson, 243 Israel Road S.E., Tumwater, WA 98501, (360) 236-3333.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Under RCW 19.85.025 and 34.05.310 (4)(f), a small business economic impact statement is not required for proposed rules that set or adjust fees or rates pursuant to legislative standards.

A cost-benefit analysis is not required under RCW 34.05.328. The agency did not complete a cost-benefit analysis under RCW 34.05.328. RCW 34.05.328 (5)(b)(vi) exempts rules that set or adjust fees or rates pursuant to legislative standards.

January 17, 2017
Clark Halvorson
Assistant Secretary

AMENDATORY SECTION (Amending WSR 16-07-094, filed 3/18/16, effective 4/18/16)

WAC 246-282-990 Fees. (1) The required annual shellfish operation license fees for shellstock shippers and shucker-packers due October 1, 2011, shall be reduced by twenty-five percent of the annual shellfish operation license fees in subsection (2) of this section. Beginning July 1, 2012, and for every subsequent year, the full annual shellfish operation license fees in subsection (2) of this section shall be assessed.

(2) Annual shellfish operation license fees are:

Type of Operation	Annual Fee
Harvester	$263
Shellstock Shipper	
0 - 49 Acres	$297
50 or greater Acres	$476
Scallop Shellstock Shipper	$297
Shucker-Packer	
Plants with floor space < 2000 sq. ft.	$542
Plants with floor space 2000 sq. ft. to 5000 sq. ft.	$656
Plants with floor space > 5000 sq. ft.	$1,210

(3) The fee for each export certificate is $55.00.

(4) Annual biotoxin testing fees for companies harvesting species other than geoduck intertidally (between the extremes of high and low tide) are as follows:

Fee Category

Type of Operation	Number of Harvest Sites	Fee
Harvester	≤ 2	$353
Harvester	3 or more	$535
Shellstock Shipper Wholesale Company		$198
Shellstock Shipper 0 - 49 acres	≤ 2	$393
Shellstock Shipper 0 - 49 acres	3 or more	$610
Shellstock Shipper 50 or greater acres	N/A	$961
Shucker-Packer (plants < 2000 ft²)	≤ 2	$752
Shucker-Packer (plants < 2000 ft²)	3 or more	$1,076
Shucker-Packer (plants 2000 - 5000 ft²)	≤ 2	$882
Shucker-Packer (plants 2000 - 5000 ft²)	3 or more	$1,297
Shucker-Packer (plants > 5000 ft²)	N/A	$2,412

(a) The number of harvest sites will be the total number of harvest sites on the licensed company's harvest site certificate:

(i) At the time of first licensure; or

(ii) January 1st of each year for companies licensed as harvesters; or

(iii) July 1st of each year for companies licensed as shellstock shippers and shucker packers.

(b) Two or more contiguous parcels with a total acreage of one acre or less is considered one harvest site.

(5) Annual PSP testing fees for companies harvesting geoduck are as follows:

((

~~Harvester~~	~~Fee~~
~~Baywater, Inc.~~	~~$655~~
~~Department of natural resources (quota tracts harvested by DNR contract holders)~~	~~$11,305~~
~~Discovery Bay Shellfish~~	~~$492~~
~~Jamestown S'Klallam Tribe~~	~~$1,802~~
~~Lower Elwha Klallam Tribe~~	~~$3,932~~
~~Lummi Nation~~	~~$492~~
~~Nisqually Tribe~~	~~$328~~
~~Port Gamble S'Klallam Tribe~~	~~$1,802~~
~~Puyallup Tribe of Indians~~	~~$7,537~~
~~Skokomish Indian Tribe~~	~~$2,294~~
~~Squaxin Island Tribe~~	~~$328~~
~~Suquamish Tribe~~	~~$20,644~~
~~Swinomish Tribe~~	~~$819~~
~~Tulalip Tribe~~	~~$5,571~~))

Harvester	Cert #	Fee
Department of Natural Resources	NA	$10,163
Jamestown S'Klallam Tribe	WA-0588-SS	$2,278
Lower Elwha Klallam Tribe	WA-0587-HA	$4,556
Lummi Indian Business Council	WA-0098-SS	$350
Nisqually Indian Tribe	WA-1268-HA	$350
Port Gamble S'Klallam Tribe	WA-0859-HA	$2,278
Puyallup Tribe of Indians	WA-1137-HA	$6,483
Skokomish Indian Tribe	WA-0577-HA	$175
Squaxin Island Tribe	WA-0737-HA	$175
Suquamish Tribe	WA-0694-SS	$18,924
Swinomish Indian Tribal Community	WA-1420-SS	$1,227
The Tulalip Tribes	WA-0997-HA	$8,060
Taylor Shellfish Company, Inc.	WA-0046-SP	$2,979

(6) Fees must be paid in full to department of health before a commercial shellfish license is issued or renewed.

(7) Refunds for fees will be given only if the applicant withdraws a new or renewal license application prior to the effective date of the new or renewed license.

WSR 17-03-113
PROPOSED RULES
HEALTH CARE AUTHORITY
(Washington Apple Health)
[Filed January 17, 2017, 1:58 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-20-082.

Title of Rule and Other Identifying Information: WAC 182-502-0110 Conditions of payment—Medicare coinsurance, copayments, and deductibles.

Hearing Location(s): Health Care Authority (HCA), Cherry Street Plaza Building, Sue Crystal Conference Room 106A, 626 8th Avenue, Olympia, WA 98504 (metered public parking is available street side around building. A map is available at http://www.hca.wa.gov/documents/directions_to_csp.pdf or directions can be obtained by calling (360) 725-1000), on February 21, 2017, at 10:00 a.m.

Date of Intended Adoption: Not sooner than February 22, 2017.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 45504, Olympia, WA 98504-5504, delivery 626 8th Avenue, Olympia, WA 98504, email arc@hca.wa.gov, fax (360) 586-9727, by 5:00 p.m. on February 21, 2017.

Assistance for Persons with Disabilities: Contact Amber Lougheed by February 17, 2017, email amber.lougheed@hca.wa.gov, (360) 725-1349, or TTY (800) 848-5429 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The agency is revising WAC 182-502-0110 to clarify prior authorization requirements for dual-eligible clients when their medicare benefits are exhausted. The proposed amendments also add language to clarify that timely billing requirements must be met and that the agency may do postpayment review on paid claims. The revisions do not change current policy. The WAC title is being changed to better reflect the information in the WAC section.

Reasons Supporting Proposal: See Purpose above.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Statute Being Implemented: RCW 41.05.021, 41.05.160.

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

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Katie Pounds, P.O. Box 42716, Olympia, WA 98504-2716, (360) 725-1346; Implementation and Enforcement: Nancy Hite, P.O. Box 45530, Olympia, WA 98504-5530, (360) 725-1611.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The agency has determined that the proposed filing does not impose a disproportionate cost impact on small businesses or nonprofits.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to HCA rules unless requested by the joint administrative rules review committee or applied voluntarily.

January 17, 2017
Wendy Barcus
Rules Coordinator

AMENDATORY SECTION (Amending WSR 16-13-157, filed 6/22/16, effective 7/23/16)

WAC 182-502-0110 Conditions of payment and prior authorization requirements—Medicare coinsurance, copayments, and deductibles. (1) The following people are eligible for benefits under this section:

(a) Dual-eligible clients enrolled in categorically needy Washington apple health programs;

(b) Dual-eligible clients enrolled in medically needy Washington apple health programs; or

(c) Clients enrolled in the qualified medicare beneficiary (QMB) program.

(2) The agency pays the medicare coinsurance, copayments, and deductibles for Part A, Part B, and medicare advantage Part C for an eligible person under subsection (1) of this section:

(a) Up to the published or calculated medicaid-only rate; and

(b) If the provider accepts assignment for medicare payment.

(3) If a medicare Part A recipient has remaining lifetime reserve days, the agency pays the deductible and coinsurance amounts up to the allowed amount as calculated by the agency.

(4) If a medicare Part A recipient has exhausted lifetime reserve days during an inpatient hospital stay, the agency pays the deductible and coinsurance amounts up to the agency-calculated allowed amount minus any payment made by medicare, and any payment made by the agency, up to the outlier threshold. Once the outlier threshold is reached, the agency pays according to WAC 182-550-3700.

(5) If medicare and medicaid cover the service, the agency pays the deductible and coinsurance up to medicare or medicaid's allowed amount, whichever is less.

(6) If only medicare covers the service, the agency pays the deductible and coinsurance up to the agency's allowed amount established for a QMB client, and at zero for a non-QMB client.

(7) If a client exhausts medicare benefits, the agency pays for medicaid-covered services under Title 182 WAC and the agency's billing instructions.

(8) When medicaid requires prior authorization for a service covered by both medicare and medicaid:

(a) Medicaid does not require prior authorization when the client's medicare benefit is not exhausted.

(b) Medicaid does require prior authorization when the client's medicare benefit is exhausted. See also WAC 182-501-0050(5).

(9) Providers must meet the timely billing requirements under WAC 182-502-0150 in order to be paid for services.

(10) Payment for services is subject to postpayment review.

WSR 17-03-122
PROPOSED RULES
DEPARTMENT OF TRANSPORTATION
[Filed January 18, 2017, 9:55 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-19-091.

Title of Rule and Other Identifying Information: WAC 468-95-220 Stop and yield lines, clarification of stop bar placement.

Hearing Location(s): Washington State Department of Transportation, 310 Maple Park Avenue, Nisqually Conference Room 1D2, Olympia, WA 98504-7344, on February 23, 2017, at 9:00 a.m.

Date of Intended Adoption: February 23, 2017.

Submit Written Comments to: Deanna Brewer, Traffic Operations, 310 Maple Park Avenue, Olympia, WA 98504-7344, email brewerd@wsdot.wa.gov, fax (360) 705-6826, by February 22, 2017.

Assistance for Persons with Disabilities: Contact Grant Heap by February 22, 2017, TTY 711 or (360) 705-7760.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: WAC 468-65-220 modifies Section SB.16 of the MUTCD. Changes to WAC 468-95-220 will clarify where stop bars are placed.

Reasons Supporting Proposal: The revision to WAC provides direction on installation of stop bars on Washington state highways.

Statutory Authority for Adoption: RCW 47.36.030.

Statute Being Implemented: RCW 47.36.030.

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

Name of Proponent: The Washington state department of transportation, traffic operations, governmental.

Name of Agency Personnel Responsible for Drafting: Deanna Brewer, Traffic Operations, Headquarters Traffic, Olympia, (360) 705-7411; Implementation and Enforcement: John Nisbet, Traffic Operations, Headquarters Traffic, Olympia, (360) 705-7280.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Stop bar placement does not have an economic impact. The WAC revision provides clarification when installing stop bars.

A cost-benefit analysis is not required under RCW 34.05.328. This WAC revision is for stop bar installation clarification.

January 18, 2017
Kara Larsen, Director
Risk Management and Legal Services

AMENDATORY SECTION (Amending WSR 11-23-101, filed 11/18/11, effective 12/19/11)

WAC 468-95-220 Stop and yield lines. Amend paragraphs 10 and 12 of MUTCD Section 3B.16 to read:

If used, stop line should be placed a minimum of 4 feet in advance of the nearest crosswalk line at controlled intersections. Yield lines at roundabout intersections as provided in Section 3C.04. In the absence of a marked crosswalk, the

stop line or yield line should be placed at the desired stopping or yielding point, in no case less than 4 feet from the nearest edge of the intersecting roadway. ((~~Stop lines should be placed to allow sufficient sight distance to all other approaches to an intersection.~~))

If used at an unsignalized midblock crosswalk, stop lines should be placed adjacent to the Stop Here for Pedestrians sign located 20 to 50 feet in advance of the nearest crosswalk line, and parking should be prohibited in the area between the stop line and the crosswalk (see Figure 3B-17).