



**RULE-MAKING ORDER
EMERGENCY RULE ONLY**

**CR-103E (December 2017)
(Implements RCW 34.05.350
and 34.05.360)**

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STATE OF WASHINGTON
FILED

DATE: June 07, 2018

TIME: 10:20 AM

WSR 18-13-011

Agency: Department of Social and Health Services, Economic Services Administration

Effective date of rule:

Emergency Rules

- Immediately upon filing.
- Later (specify) June 7, 2018

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

- Yes No If Yes, explain:

Purpose: The department is adopting emergency rules to implement Part I of SSB 6334 (Chapter 150, Laws of 2018). The effective date of Part I of the act is June 7, 2018.

Part I of SSB 6334 amended various statutes dealing with medical child support obligations as required under the Final Rule entitled Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs ("Final Rule"), which was published on December 20, 2016 in the Federal Register, Volume 81, Number 244, on page 93492. Under the Final Rule, 45 CFR 303.31(a)(2) defines "health care coverage" to include "fee for service, health maintenance organization, preferred provider organization, and other types of private health insurance and public health care coverage under which medical services could be provided to the dependent child(ren)".

The statutory change introduces new terminology, but does not change the way that medical support obligations are established, either in court or in the administrative process. However, there are changes in the policies and procedures regarding how the Division of Child Support (DCS) enforces medical support obligations, most notably that an obligated parent can satisfy his or her health care coverage obligation by enrolling the child or children in public health care coverage. In Washington, "public health care coverage" means Medicaid and the other programs included in the Apple Health program.

At the same time the department adopts emergency rules, the department is filing a CR-101, Preproposal Notice of Inquiry, to commence the permanent rulemaking process under Chapter 34.05 RCW.

Citation of rules affected by this order:

- New: None
- Repealed: None
- Amended: WAC 388-14A-1020, WAC 388-14A-3312, WAC 388-14A-3324, WAC 388-14A-3925, WAC 388-14A-4100, WAC 388-14A-4110, WAC 388-14A-4111, WAC 388-14A-4112, WAC 388-14A-4120, WAC 388-14A-4160, WAC 388-14A-4175, WAC 388-14A-4180, WAC 388-14A-6300
- Suspended: None

Statutory authority for adoption: Part I of SSB 6334 (Chapter 150, Laws of 2018), effective date June 7, 2018; RCW 26.09.105; RCW 26.18.170; RCW 26.23.050; RCW 34.05.220(1)(a); RCW 34.05.350(1); RCW 74.08.090; RCW 74.20.040(9)

Other authority:

EMERGENCY RULE

Under RCW 34.05.350 the agency for good cause finds:

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

Reasons for this finding: The department is implementing Part I of SSB 6334 (Chapter 150, Laws of 2018), which takes effect on June 7, 2018.

Part I of SSB 6334 amended various statutes dealing with medical child support obligations as required under the Final Rule entitled Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs ("Final Rule"), which was published on December 20, 2016 in the Federal Register, Volume 81, Number 244, on page 93492. Under the implementation schedule for the Final Rule, 45 CFR 303.31(a)(2) was required to be implemented on or before July 1, 2018. In light of that requirement, the Washington legislature passed SSB 6334 and made Part I of the bill effective on June 7, 2018. Other parts

of the bill take effect January 1, 2019.

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	___	Amended	___	Repealed	___
Federal rules or standards:	New	___	Amended	___	Repealed	___
Recently enacted state statutes:	New	___	Amended	<u>13</u>	Repealed	___

The number of sections adopted at the request of a nongovernmental entity:

New	___	Amended	___	Repealed	___
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The number of sections adopted on the agency's own initiative:

New	___	Amended	___	Repealed	___
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	___	Amended	___	Repealed	___
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The number of sections adopted using:

Negotiated rule making:	New	___	Amended	___	Repealed	___
Pilot rule making:	New	___	Amended	___	Repealed	___
Other alternative rule making:	New	___	Amended	<u>13</u>	Repealed	___

Date Adopted: June 5, 2018

Name: Katherine I. Vasquez

Title: DSHS Rules Coordinator

Signature:



WAC 388-14A-1020 What definitions apply to the rules regarding child support enforcement? For purposes of this chapter, the following definitions apply:

"Absence of a court order" means that there is no court order setting a support obligation for the noncustodial parent (NCP), or specifically relieving the NCP of a support obligation, for a particular child.

"Absent parent" is a term used for a noncustodial parent.

"Accessible coverage" means health ((insurance)) care coverage which provides primary care services to the children with reasonable effort by the ((custodian)) custodial parent.

"Accrued debt" means past-due child support which has not been paid.

"Acknowledged father" means a man who has established a father-child relationship under RCW 26.26.300 through 26.26.375.

"Adjudicated parent" means a person who has been adjudicated by a court of competent jurisdiction to be the parent of a child.

"Administrative order" means a determination, finding, decree or order for support issued under RCW 74.20A.055, 74.20A.056, or 74.20A.059 or by the agency of an Indian tribe or another state or country's agency under an administrative process, establishing the existence of a support obligation (including medical support) and ordering the payment of a set or determinable amount of money for current support and/or a support debt. Administrative orders include:

(1) An order entered under chapter 34.05 RCW;

(2) An agreed settlement or consent order entered under WAC 388-14A-3600; and

(3) A support establishment notice which has become final by operation of law.

"Agency" means the Title IV-D provider of a state or tribe, or the central authority of another country. In Washington, this is the division of child support (DCS) within the department of social and health services (DSHS).

"Agreed settlement" is an administrative order that reflects the agreement of the noncustodial parent, the custodial parent and the division of child support. An agreed settlement does not require the approval of an administrative law judge.

"Aid" or "public assistance" means cash assistance under the temporary assistance for needy families (TANF) program, the aid to families with dependent children (AFDC) program, federally funded or state-funded foster care, and includes day care benefits and medical benefits provided to families as an alternative or supplement to TANF.

"Alternate recipient" means a child of the employee or retiree named within a support order as being entitled to coverage under an employer's group health plan.

"Annual fee" means the twenty-five dollar annual fee charged between October 1 and September 30 each year, required by the Federal Deficit Reduction Act of 2005 and RCW 74.20.040.

"Applicant/custodian" means a person who applies for nonassistance support enforcement services on behalf of a child or children residing in their household.

"Applicant/recipient," "applicant," and "recipient" means a person who receives public assistance on behalf of a child or children residing in their household.

"Arrears" means the debt amount owed for a period of time before the current month.

"Assistance" means cash assistance under the state program funded under Title IV-A of the federal Social Security Act.

"Assistance unit" means a cash assistance unit as defined in WAC 388-408-0005. An assistance unit is the group of people who live together and whose income or resources the department counts to decide eligibility for benefits and the amount of benefits.

"Birth costs" means medical expenses incurred by the custodial parent or the state, tribe or country for the birth of a child.

"Cash medical support" (~~is a term used in RCW 26.09.105 and certain federal regulations to refer to amounts paid by an obligated parent to the other parent or to the state in order to comply with the medical support obligation stated in a child support order~~) means a combination of:

(1) A parent's monthly payment toward the premium paid for coverage provided by a public entity or by another parent, which represents the obligated parent's proportionate share of the premium paid, but no more than twenty-five percent of the obligated parent's basic support obligation; and

(2) A parent's proportionate share of uninsured medical expenses.

"Central authority" means the agency designated by a government to facilitate support enforcement with a foreign reciprocating country (FRC) pursuant to section 459A of the federal Social Security Act.

"Conditionally assigned arrears" means those temporarily assigned arrears remaining on a case after the period of public assistance ends.

"Conference board" means a method used by the division of child support for resolving complaints regarding DCS cases and for granting exceptional or extraordinary relief from debt.

"Consent order" means a support order that reflects the agreement of the noncustodial parent, the custodial parent and the division of child support. A consent order requires the approval of an administrative law judge.

"Controlling order" means the only order issued or, where multiple orders exist, the order determined by a tribunal to control prospective current support pursuant to the Uniform Interstate Family Support Act (UIFSA), chapter 26.21A RCW.

"Controlling order state" means the state in which the only order was issued or, where multiple orders exist, the state in which the order determined by a tribunal to control prospective current support pursuant to the UIFSA was issued.

"Country" means a foreign country (or a political subdivision thereof) declared to be a Foreign Reciprocating Country (FRC) under 42 U.S.C. 659A and any foreign country (or political subdivision thereof) with which the state has entered into a reciprocal arrangement for the establishment and enforcement of support obligations to the extent consistent with federal law pursuant to 42 U.S.C. 659A.

"Court order" means a judgment, decree or order of a Washington state superior court, or a court of comparable jurisdiction of an Indian tribe or another state or country.

"Current support" or "current and future support" means the amount of child support which is owed for each month.

"Custodial parent or CP" means the person, whether a parent or not, with whom a dependent child resides the majority of the time period for which the division of child support seeks to establish or enforce a support obligation.

"Date the state assumes responsibility for the support of a dependent child on whose behalf support is sought" means the date that the TANF or AFDC program grant is effective. For purposes of this chapter, the state remains responsible for the support of a dependent child until public assistance terminates, or support enforcement services end, whichever occurs later.

"Delinquency" means failure to pay current child support when due.

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

"Dependent child" means a person:

- (1) Seventeen years of age or younger who is not self-supporting, married, or a member of the United States armed forces;
- (2) Eighteen years of age or older for whom a court order requires support payments past age eighteen;
- (3) Eighteen years of age or older, but under nineteen years of age, for whom an administrative support order exists if the child is participating full-time in a secondary school program or the same level of vocational or technical training.

"Determination of parentage" means the establishment of the parent-child relationship by the signing of a valid acknowledgment of paternity under RCW 26.26.300 through 26.26.375 or adjudication by the court.

"Differentiated support amount" means an amount of child support that represents a parent's support obligation for more than one child and may justifiably be divided into "per child" amounts for each child covered by the support order, based on information contained in the support order.

"Differentiated support order" means a child support order which provides a monthly amount of child support for two or more children, and either provides a specific support obligation for each child or provides enough information in the order so that the monthly amount may justifiably be divided into a "per child" amount for each child covered by the support order.

"Disbursement" means the amount of child support distributed to a case that is paid to the family, state, other child support enforcement agency in another state or foreign country, Indian tribe, or person or entity making the payment.

"Disposable earnings" means the amount of earnings remaining after the deduction of amounts required by law to be withheld.

"Distribution" means how a collection is allocated or split within a case or among multiple cases.

"Domestic partner" means a state registered domestic partner as defined in chapter 26.60 RCW.

"Earnings" means compensation paid or payable for personal service. Earnings include:

- (1) Wages or salary;
- (2) Commissions and bonuses;
- (3) Periodic payments under pension plans, retirement programs, and insurance policies of any type;
- (4) Disability payments under Title 51 RCW;
- (5) Unemployment compensation under RCW 50.40.020, 50.40.050 and Title 74 RCW;

- (6) Gains from capital, labor, or a combination of the two; and
- (7) The fair value of nonmonetary compensation received in exchange for personal services.

"Employee" means a person to whom an employer is paying, owes, or anticipates paying earnings in exchange for services performed for the employer.

"Employer" means any person or organization having an employment relationship with any person. This includes:

- (1) Partnerships and associations;
- (2) Trusts and estates;
- (3) Joint stock companies and insurance companies;
- (4) Domestic and foreign corporations;
- (5) The receiver or trustee in bankruptcy; and
- (6) The trustee or legal representative of a deceased person.

"Employment" means personal services of whatever nature, including service in interstate commerce, performed for earnings or under any contract for personal services. Such a contract may be written or oral, express or implied.

"Family" means the person or persons on whose behalf support is sought, which may include a custodial parent and one or more children, or a child or children in foster care placement. The family is sometimes called the assistance unit.

"Family arrears" means the amount of past-due support owed to the family, which has not been conditionally, temporarily or permanently assigned to a state. Also called "nonassistance arrears."

"Family member" means the caretaker relative, the child(ren), and any other person whose needs are considered in determining eligibility for assistance.

"Foreign order" means a court or administrative order entered by a tribunal other than one in the state of Washington, including an order entered by a tribunal in an Indian tribe or another state or country.

"Foreign reciprocating country" or FRC means a country which the federal government has declared to be a foreign reciprocating country, which means that the foreign country has established, or undertakes to establish, procedures for the establishment and enforcement of duties of support owed to custodial parents who are residents of the United States, and that such procedures are substantially in conformity with the standards prescribed under title IV-D of the federal Social Security Act.

"Foster care case" means a case referred to the Title IV-D agency by the Title IV-E agency, which is the state division of child and family services (DCFS).

"Fraud," for the purposes of vacating an agreed settlement or consent order, means:

- (1) The representation of the existence or the nonexistence of a fact;
- (2) The representation's materiality;
- (3) The representation's falsity;
- (4) The speaker's knowledge that the representation is false;
- (5) The speaker's intent that the representation should be acted on by the person to whom it is made;
- (6) Ignorance of the falsity on the part of the person to whom it is made;
- (7) The latter's:
 - (a) Reliance on the truth of the representation;
 - (b) Right to rely on it; and

(c) Subsequent damage.

"Full support enforcement services" means the entire range of services available in a Title IV-D case.

"Good cause" for the purposes of late hearing requests and petitions to vacate orders on default means a substantial reason or legal justification for delay, including but not limited to the grounds listed in civil rule 60. The time periods used in civil rule 60 apply to good cause determinations in this chapter.

"Head of household" means the parent or parents with whom the dependent child or children were residing at the time of placement in foster care.

"Health care costs" means medical expenses. Certain statutes in chapter 26.19 RCW refer to medical expenses as health care costs.

"Health care coverage" means fee for service, health maintenance organization, preferred provider organization, and other types of private health insurance and public health care coverage under which medical services could be provided to a dependent child or children. These services include, but are not limited to: Medical/surgical (inpatient, outpatient, physician) care, medical equipment (crutches, wheel chairs, prosthesis, etc.), pharmacy products, optometric care, dental care, orthodontic care, preventive care, mental health care, and physical therapy. The term "health care coverage" includes, but is not limited to, health insurance coverage.

"Health insurance" (~~means insurance coverage for all medical services related to an individual's general health and well being. These services include, but are not limited to: Medical/surgical (inpatient, outpatient, physician) care, medical equipment (crutches, wheel chairs, prosthesis, etc.), pharmacy products, optometric care, dental care, orthodontic care, preventive care, mental health care, and physical therapy. Health insurance coverage does not include medical assistance provided under chapter 74.09 RCW~~) or "health insurance coverage" is another term for, and included in the definition of, "health care coverage." Health insurance coverage includes any coverage under which medical services are provided by an employer or a union whether that coverage is provided through a self-insurance program, under the employee retirement income security act of 1974, a commercial insurer pursuant to chapters 48.20 and 48.21 RCW, a health care service contractor pursuant to chapter 48.44 RCW, or a health maintenance organization pursuant to chapter 48.46 RCW, and the state through chapter 41.05 RCW.

"Hearing" means an adjudicative proceeding authorized by this chapter, or chapters 26.23, 74.20 and 74.20A RCW, conducted under chapter 388-02 WAC and chapter 34.05 RCW.

"I/me" means the person asking the question which appears as the title of a rule.

"Income" includes:

- (1) All gains in real or personal property;
- (2) Net proceeds from the sale or exchange of real or personal property;
- (3) Earnings;
- (4) Interest and dividends;
- (5) Proceeds of insurance policies;
- (6) Other periodic entitlement to money from any source; and
- (7) Any other property subject to withholding for support under the laws of this state.

"Income withholding action" includes all withholding actions which DCS is authorized to take, and includes but is not limited to the following actions:

- (1) Asserting liens under RCW 74.20A.060;
 - (2) Serving and enforcing liens under chapter 74.20A RCW;
 - (3) Issuing orders to withhold and deliver under chapter 74.20A RCW;
 - (4) Issuing notices of payroll deduction under chapter 26.23 RCW;
- and
- (5) Obtaining wage assignment orders under RCW 26.18.080.

"Initiating agency" or **"initiating jurisdiction"** means a state or Tribal IV-D agency or the central authority of another country, as defined in this rule, in which an individual has applied for or is receiving services.

"Intergovernmental IV-D case" means a IV-D case in which the non-custodial parent lives and/or works in a different jurisdiction than the custodial parent and child(ren) that has been referred by an initiating agency to a responding agency for services. An intergovernmental IV-D case may include any combination of referrals between states, tribes, and countries. An intergovernmental IV-D case also may include cases in which a state agency is seeking only to collect support arrearages, whether owed to the family or assigned to the state.

"Locate" can mean efforts to obtain service of a support establishment notice in the manner prescribed by WAC 388-14A-3105.

"Medical assistance" means medical benefits under Title XIX of the federal Social Security Act provided to families as an alternative or supplement to TANF. This term includes public health care coverage, which is called apple health in Washington state.

"Medical expenses," for the purpose of establishing support obligations under RCW 26.09.105, 74.20A.055 and 74.20A.056, or for the purpose of enforcement action under chapters 26.23, 74.20 and 74.20A RCW, including the notice of support debt and the notice of support owed, means medical costs incurred on behalf of a child, which include:

- Medical services related to an individual's general health and well-being, including but not limited to, medical/surgical care, preventive care, mental health care and physical therapy; and
- Prescribed medical equipment and prescribed pharmacy products;
- Health care coverage, such as coverage under a health insurance plan, including the cost of premiums for coverage of a child;
- Dental, orthodontic, and optometrical costs incurred on behalf of a child; and
- Copayments and/or deductibles incurred on behalf of a child.

Medical expenses are sometimes also called health care costs or medical costs.

"Medical support" (~~means any combination~~) consists of (~~the following~~):

(1) Health (~~insurance~~) care coverage (~~for a dependent child~~), which may be health insurance coverage or public health care coverage; and

(2) (~~Amounts owed by one parent to the other parent as a monthly payment toward the premium paid by the other parent for health insurance coverage for a dependent child;~~) Cash medical support, which consists of:

(~~(3) Amounts owed by a noncustodial parent to the state as a~~)
(a) A parent's monthly payment toward the (~~cost of managed care~~) premium paid for coverage (~~for the child by the state, if the child~~

~~receives state financed medical coverage through the department under chapter 74.09 RCW for which there is an assignment)) provided by a public entity or by another parent, which represents the obligated parent's proportionate share of the premium paid, but no more than twenty-five percent of the obligated parent's basic support obligation; and~~

~~((4) Amounts owed by one parent to the other parent as his or her)) (b) A parent's proportionate share of uninsured medical expenses ((for a dependent child)).~~

"Monthly payment toward the premium" means a parent's contribution toward(~~(+~~

~~•)) premiums paid ((by the other)) for coverage provided by a public entity or by another parent ((for insurance coverage for the child; or~~

~~• Amounts paid for managed care coverage for the child by the state, if the child receives state financed medical coverage through the department under chapter 74.09 RCW for which there is an assignment.~~

~~This contribution)), which is based on the obligated parent's proportionate share of the premium paid, but ((may not exceed)) no more than twenty-five percent of the obligated parent's basic support obligation.~~

"National Medical Support Notice" or **"NMSN"** is a federally mandated form that DCS uses to enforce a health insurance support obligation; the NMSN is a notice of enrollment as described in RCW 26.18.170.

"Noncustodial parent or NCP" means the natural or biological parent, adoptive parent, adjudicated parent, presumed parent, responsible stepparent or person who signed and filed an affidavit acknowledging paternity, from whom the state seeks support for a dependent child. A parent is considered to be an NCP when for the majority of the time during the period for which support is sought, the dependent child resided somewhere other than with that parent.

"Nonmedical expenses" means amounts incurred on behalf of a child which are not medical expenses as defined in this chapter. Nonmedical expenses include, but are not limited to, day care or other special childrearing expenses such as tuition and long-distance transportation costs to and from the parents for visitation purposes.

"Obligated parent" means a parent who is required under a child support order to provide medical support, which could include health ((insurance)) care coverage or to reimburse the other parent for his or her share of uninsured medical expenses for a dependent child. The obligated parent could be either the NCP or the CP.

"Other ordinary expense" means an expense incurred by a parent which:

- (1) Directly benefits the dependent child; and
- (2) Relates to the parent's residential time or visitation with the child.

"Parent" means an individual who has established a parent-child relationship under RCW 26.26.101.

"Parent-child relationship" means the legal relationship between a child and a parent of the child. The term includes the mother-child relationship and the father-child relationship.

"Participant" means an employee or retiree who is eligible for coverage under an employer group health plan.

"Pass-through" means the portion of a support collection distributed to assigned support that the state pays to a family currently receiving TANF.

"Past support" means support arrears.

"Paternity testing" means blood testing or genetic tests of blood, tissue or bodily fluids. This is also called genetic testing.

"Payment services only" or **"PSO"** means a case on which the division of child support's activities are limited to recording and distributing child support payments, and maintaining case records. A PSO case is not a IV-D case.

"Permanently assigned arrears" means those arrears which the state may collect and retain up to the amount of unreimbursed assistance.

"Physical custodian" means custodial parent (CP).

"Plan administrator" means the person or entity which performs those duties specified under 29 U.S.C. 1002 (16)(A) for a health plan. If no plan administrator is specifically so designated by the plan's organizational documents, the plan's sponsor is the administrator of the plan. Sometimes an employer acts as its own plan administrator.

"Premium" means the amount paid for coverage provided by a public entity or by another parent for a child covered by a child support order. This term may also mean "cost of coverage."

"Presumed parent" means a person who, by operation of law under RCW 26.26.116, is recognized as the parent of a child until that status is rebutted or confirmed in a judicial proceeding.

"Private insurance" (~~means~~) is a term used in this chapter to refer to accessible health insurance for a child provided by a parent without the need for service of a national medical support notice, and does not include public health (~~insurance~~) care coverage provided by the state (~~without a contribution from either parent~~).

"Proportionate share" or **"proportional share"** means an amount equal to a parent's percentage share of the combined monthly net income of both parents as computed on the worksheets when determining a parent's child support obligation under chapter 26.19 RCW.

"Public health care coverage," sometimes called "state purchased health care," means state-financed or federally financed medical coverage, whether or not there is an assignment of rights. For children residing in Washington state, public health care coverage is called apple health; this includes coverage through the department of social and health services or the health care authority, except for coverage under chapter 41.05 RCW. For children residing outside of Washington, this includes coverage through another state's agencies that administer state purchased health care programs.

"Putative father" includes all men who may possibly be the father of the child or children on whose behalf the application for assistance or support enforcement services is made.

"Reasonable efforts to locate" means any of the following actions performed by the division of child support:

- (1) Mailing a support establishment notice to the noncustodial parent in the manner described in WAC 388-14A-3105;
- (2) Referral to a sheriff or other server of process, or to a locate service or department employee for locate activities;
- (3) Tracing activity such as:
 - (a) Checking local telephone directories and attempts by telephone or mail to contact the custodial parent, relatives of the non-custodial parent, past or present employers, or the post office;

(b) Contacting state agencies, unions, financial institutions or fraternal organizations;

(c) Searching periodically for identification information recorded by other state agencies, federal agencies, credit bureaus, or other record-keeping agencies or entities; or

(d) Maintaining a case in the division of child support's automated locate program, which is a continuous search process.

(4) Referral to the state or federal parent locator service;

(5) Referral to the attorney general, prosecuting attorney, the IV-D agency of another state, or the Department of the Treasury for specific legal or collection action;

(6) Attempting to confirm the existence of and to obtain a copy of a paternity acknowledgment; or

(7) Conducting other actions reasonably calculated to produce information regarding the NCP's whereabouts.

"Required support obligation for the current month" means the amount set by a superior court order, tribal court order, or administrative order for support which is due in the month in question.

"Resident" means a person physically present in the state of Washington who intends to make their home in this state. A temporary absence from the state does not destroy residency once it is established.

"Residential care" means foster care, either state or federally funded.

"Residential parent" means the custodial parent (CP), or the person with whom the child resides that majority of the time.

"Responding agency" or "responding jurisdiction" means the agency that is providing services in response to a referral from an initiating agency in an intergovernmental IV-D case.

"Responsible parent" is a term sometimes used for a noncustodial parent.

"Responsible stepparent" means a stepparent who has established an in loco parentis relationship with the dependent child.

"Retained support" means a debt owed to the division of child support by anyone other than a noncustodial parent.

"Satisfaction of judgment" means payment in full of a court-ordered support obligation, or a determination that such an obligation is no longer enforceable.

"Secretary" means the secretary of the department of social and health services or the secretary's designee.

"Self-support reserve" or "self support reserve" means an amount equal to one hundred twenty-five percent of the federal poverty guideline for a one-person family.

"State" means a state or political subdivision, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a federally recognized Indian tribe or a foreign country.

"Superior court order" means a judgment, decree or order of a Washington state superior court, or of a court of comparable jurisdiction in an Indian tribe or another state or country.

"Support debt" means support which was due under a support order but has not been paid. This includes:

(1) Delinquent support;

(2) A debt for the payment of expenses for the reasonable or necessary care, support and maintenance including uninsured medical expenses, birth costs, child care costs, and special child rearing expenses of a dependent child or other person;

(3) A debt under RCW 74.20A.100 or 74.20A.270; or

(4) Accrued interest, fees, or penalties charged on a support debt, and attorney's fees and other litigation costs awarded in an action under Title IV-D to establish or enforce a support obligation.

"Support enforcement services" means all actions the Title IV-D agency is required to perform under Title IV-D of the Social Security Act and state law.

"Support establishment notice" means a notice and finding of financial responsibility under WAC 388-14A-3115, a notice and finding of parental responsibility under WAC 388-14A-3120, or a notice and finding of medical responsibility under WAC 388-14A-3125.

"Support money" means money paid to satisfy a support obligation, whether it is called child support, spousal support, alimony, maintenance, (~~enforcement of~~) reimbursement for uninsured medical expenses, health (~~insurance~~) care coverage, or birth costs.

"Support obligation" means the obligation to provide for the necessary care, support and maintenance of a dependent child or other person as required by law, including health (~~insurance~~) care coverage, uninsured medical expenses, birth costs, and child care or special child rearing expenses.

"Support order" means a court order, administrative order or tribal court order which contains a determination, finding, decree or order that sets a child support obligation (including medical support) and orders either the payment of a set or determinable amount of money for current support and/or a support debt, or the provision of medical support, or both.

"Temporarily assigned arrears" means those arrears which accrue prior to the family receiving assistance, for assistance applications dated on or after October 1, 1997, but before October 1, 2008. After the family terminates assistance, temporarily assigned arrears become conditionally assigned arrears.

"Temporary assistance for needy families," or "TANF" means cash assistance under the temporary assistance for needy families (TANF) program under Title IV-A of the Social Security Act.

"Title IV-A" means Title IV-A of the Social Security Act established under Title XX of the Social Security amendments and as incorporated in Title 42 U.S.C..

"Title IV-A agency" means the part of the department of social and health services which carries out the state's responsibilities under the temporary assistance for needy families (TANF) program (and the aid for dependent children (AFDC) program when it existed).

"Title IV-D" means Title IV-D of the Social Security Act established under Title XX of the Social Security amendments and as incorporated in Title 42 U.S.C..

"Title IV-D agency" or "IV-D agency" means the division of child support, which is the agency responsible for carrying out the Title IV-D plan in the state of Washington. Also refers to the Washington state support registry (WSSR).

"Title IV-D case" is a case in which the division of child support provides services which qualifies for funding under the Title IV-D plan.

"Title IV-D plan" means the plan established under the conditions of Title IV-D and approved by the secretary, Department of Health and Human Services.

"Title IV-E" means Title IV-E of the Social Security Act established under Title XX of the Social Security amendments and as incorporated in Title 42 U.S.C.

"Title IV-E case" means a foster care case.

"Tribal TANF" means a temporary assistance for needy families (TANF) program run by a tribe.

"Tribunal" means a state court, tribal court, administrative agency, or quasi-judicial entity authorized to establish, enforce or modify support orders or to determine parentage, and includes such courts, agencies or entities in other states or countries.

"Underlying order" means an existing child support order for which DCS serves a notice of support owed under RCW 26.23.110 to determine a sum certain support obligation.

"Undifferentiated support amount" means an amount of child support that represents a parent's support obligation for more than one child which cannot justifiably be divided into "per child" amounts for each child covered by the support order.

"Undifferentiated support order" means a child support order which provides a monthly amount of child support for two or more children, but does not provide a specific support obligation for each child or does not contain enough information in either the order or the worksheets associated with the order to justify dividing the monthly amount into "per child" amounts for each child covered by the support order.

"Uninsured medical expenses," ((÷)) for the purpose of establishing or enforcing support obligations, means:

(1) Medical expenses not paid by insurance for medical, dental, orthodontic, prescription, and optometrical costs incurred on behalf of a child; and

(2) Premiums, copayments, or deductibles incurred on behalf of a child.

"Unreimbursed assistance" means the cumulative amount of assistance which was paid to the family and which has not been reimbursed by assigned support collections.

"Unreimbursed medical expenses" means any amounts paid by one parent for uninsured medical expenses, which that parent claims the obligated parent owes under a child support order, which percentage share is stated in the child support order itself, not just in the worksheets.

"We" means the division of child support, part of the department of social and health services of the state of Washington.

"WSSR" is the Washington state support registry.

"You" means the reader of the rules, a member of the public, or a recipient of support enforcement services.

AMENDATORY SECTION (Amending WSR 11-12-006, filed 5/19/11, effective 6/19/11)

WAC 388-14A-3312 The division of child support serves a notice of support owed to establish a fixed dollar amount owed by either parent for medical support. (1) Depending on the specific requirements of the child support order, and only if the case meets the criteria set out in WAC 388-14A-4111, the division of child support (DCS) may serve a notice of support owed under RCW 26.23.110, WAC 388-14A-3310 and this section:

(a) On either the noncustodial parent (NCP) or the custodial parent (CP), as appropriate, in order to:

(i) Establish as a sum certain and collect the obligated parent's proportionate share of uninsured medical expenses owed to the parent seeking reimbursement. This process is called reimbursement of uninsured medical expenses;

(ii) Establish as a sum certain and collect the obligated parent's monthly payment toward the premium currently being paid by the other parent for (~~insurance~~) health care coverage for the child; or

(iii) Establish and collect amounts owed under both subsections (a)(i) and (a)(ii) of this section.

(b) On the NCP in order to establish as a sum certain and collect the NCP's monthly payment toward the premium paid by the state for managed care coverage for the child, if the child receives (~~state-financed medical~~) public health care coverage (~~through the department under chapter 74.09 RCW for which~~) in the state of Washington, whether or not there is an assignment of rights.

(2) Unless otherwise specified in the order, each parent's proportionate share of uninsured medical expenses and (~~medical insurance~~) health care premiums is the same as the proportionate share of income shown on the Washington state child support schedule worksheet that was completed as part of the support order.

(a) On occasion, a tribunal may specify that medical support obligations are to be shared between the parents at a different percentage than the one on the worksheet.

(b) DCS follows the terms of the underlying order when serving a notice of support owed under this section.

(3) WAC 388-14A-4111 and 388-14A-4112 set out some of the reasons why DCS may decline a party's request to enforce a medical support obligation.

(4) Only a CP who is both a parent and a party to the support order may ask DCS to serve a notice of support owed on the NCP under subsection (1)(a) of this section. If the CP is not both a parent and a party to the support order, DCS' denial of the request does not affect the CP's ability to bring an action in another tribunal to enforce the CP's claim against the NCP for medical support. The CP may file an action in court to:

(a) Make a claim for reimbursement of uninsured medical expenses;

(b) Make a claim for a monthly contribution toward any (~~insurance~~) health care coverage provided by the CP; or

(c) Seek both kinds of relief against the NCP.

(5) DCS may serve a notice of support owed on the NCP under subsection (1)(b) of this section without regard to the CP's status as a parent or party to the order, if the child receives (~~state-financed medical~~) public health care coverage (~~through the department under chapter 74.09 RCW for which~~) in the state of Washington, whether or not there is an assignment of rights.

(6) Except as limited in subsection (4) above, either the NCP or the CP may ask DCS to serve a notice of support owed on the other party to the support order in order to establish the obligated parent's proportionate share of uninsured medical expenses as a sum certain amount if the support order establishes such an obligation. The parent seeking reimbursement for uninsured medical expenses must:

(a) Apply for full collection services at the time of the request, unless the parent already has an open full collection case with DCS;

(b) Have paid the uninsured medical expenses before seeking reimbursement through DCS;

(c) Provide proof of payment of at least five hundred dollars in uninsured medical expenses;

(d) Complete the forms provided by DCS for the claim, or at a minimum present the required information and documentation in a format similar to that in the DCS forms; and

(e) Declare under penalty of perjury that he or she has asked the obligated parent to pay his or her share of the uninsured medical expenses or provide good cause for not asking the obligated parent.

(i) If the uninsured medical expenses have been incurred within the last twelve months, this requirement is waived; and

(ii) If the obligated party denies having received notice that the other party was seeking reimbursement for uninsured medical expenses or support, the service of the notice of support owed constitutes the required notice.

(7) A party's request that DCS serve a notice of support owed to establish the other parent's obligation for medical support, including reimbursement for uninsured medical expenses:

(a) May be for a period of up to twenty-four consecutive months;

(b) May include only medical services provided after July 21, 2007;

(c) May not include months which were included in a prior notice of support owed for medical support or a prior judgment;

(d) Need not be for the twenty-four month period immediately following the period included in the prior notice of support owed for medical support;

(e) May include a claim for the obligated parent's proportionate share of any health (~~insurance~~) care coverage premiums paid by the requesting parent after July 21, 2007, but this type of claim is limited as provided in subsections (11) and (12) of this section; and

(f) May include a request that DCS establish a monthly payment toward the premium representing the obligated parent's proportionate share of the premium paid by the requesting parent only for premiums paid for health (~~insurance~~) care coverage provided after September 30, 2009.

(8) The party seeking reimbursement must ask DCS to serve a notice of support owed for medical support within two years of the date that the uninsured medical expense or premium was incurred.

(a) The fact that a request that DCS serve a notice of support owed for medical support is denied, either in whole or in part, does not mean that the party cannot pursue reimbursement of those uninsured medical expenses by proceeding in court.

(b) If a party obtains a judgment for reimbursement of uninsured medical expenses or other type of medical support, DCS enforces the judgment.

(9) When either party asks DCS to serve a notice of support owed under this section to establish the other party's proportionate share of uninsured medical expenses as a sum certain amount and the medical expenses include premiums for health (~~insurance~~) care coverage for the child(ren) covered by the order, DCS reviews the order to determine whether it provides for a monthly payment toward the premium when the obligated parent does not have insurance available through his or her employer or union.

(a) If the order does not have such a requirement, DCS includes the health (~~insurance~~) care coverage premiums in the claim for reimbursement of uninsured medical expenses, but limits the obligated parent's obligation as provided in subsections (11) and (12) of this section.

(b) If the order does have such a requirement, DCS serves a notice of support owed which:

(i) Includes the health ((insurance)) care coverage premiums in the claim for reimbursement of uninsured medical expenses; and

(ii) If appropriate, includes the provisions necessary to establish a monthly contribution which represents the obligated parent's proportionate share of the premium paid by the other parent (not to exceed twenty-five percent of the obligated parent's basic support obligation), if the obligated parent is not already providing health ((insurance)) care coverage for the child(ren).

(10) There are two circumstances under which DCS may serve a notice of support owed to establish the amount owed by an obligated parent as a monthly payment toward the premium paid for coverage by the other parent or the state. DCS may serve the notice of support owed when the support order:

(a) Specifically provides that the obligated parent's medical support obligation under RCW 26.09.105 (1)(c) is to pay a monthly payment toward the premium instead of providing health ((insurance)) care coverage, but does not set that obligation as a sum certain; or

(b) Provides that, if health insurance is not available through the obligated parent's employer or union at a cost not to exceed twenty-five percent of the obligated parent's basic support obligation, the obligated parent must pay a monthly payment toward the premium but does not set that obligation as a sum certain. In this situation, DCS serves the notice of support owed to establish a monthly payment toward the premium paid only if the obligated parent is not already providing coverage for the children.

(11) DCS may collect a maximum of twenty-five percent of the obligated parent's basic support obligation for medical premium costs claimed by the requesting party.

(12) DCS may not collect for medical premium costs claimed by the requesting party through either the monthly payment toward the premium or the reimbursement of uninsured medical expenses if the obligated parent is providing accessible health ((insurance)) care coverage for the child. The obligated parent is only required to pay those costs if he or she is not providing accessible health ((insurance)) care coverage for the child.

(13) Once DCS serves a notice of support owed under this section that establishes a medical support obligation representing the obligated parent's proportionate share of the premium paid by the other parent, the obligated parent is not required to reimburse the other parent for any amounts of that proportionate share of the premium which are not paid because those amounts exceed twenty-five percent of the obligated parent's basic support obligation.

(a) That portion of the obligated parent's proportionate share of the premium for a month that is not included in the obligated parent's monthly payment toward the premium may not be recovered by a later claim for unreimbursed medical expenses; and

(b) The obligation to contribute a proportionate share of other uninsured medical expenses is not affected by the establishment of a medical support obligation for medical premiums paid by the requesting parent under this section.

(14) Once DCS serves a notice of support owed under this section that establishes a monthly payment toward the premium which represents the NCP's proportionate share of the premium paid by the state, the NCP is not required to reimburse the state for any amounts of that proportionate share of the premium which are not paid because those

amounts exceed twenty-five percent of the NCP's basic support obligation.

(15) An NCP who wants DCS to enforce the CP's medical support obligation must first apply for full child support enforcement services.

(a) DCS enforces a CP's medical support obligation only as provided under WAC 388-14A-4112.

(b) If the parties already have an open full enforcement case with DCS, DCS opens up a new case which is called the medical support case, and the previously existing case is called the main case.

(c) If the parties do not already have an open full enforcement case with DCS, DCS opens two cases:

(i) The case where DCS is acting on NCP's request to enforce CP's medical support obligation is called the medical support case; and

(ii) The case where DCS is enforcing the underlying support order and collecting from the NCP is called the main case.

(16) In a notice of support owed under this section, DCS includes the information required by RCW 26.23.110, and:

(a) The factors stated in the order regarding medical support;

(b) A statement of uninsured medical expenses and a declaration by the parent seeking reimbursement; and

(c) Any other information not contained in the order that DCS used to calculate the amounts in the notice.

(17) Whenever DCS serves a notice of support owed under this section, that notice may also include a determination of the fixed dollar amount of:

(a) Any medical support debt owed by the obligated parent;

(b) Any amounts owed by the obligated parent under a previous notice of support owed that exceed the obligated parent's actual monthly obligation to pay a proportionate share of the premium after actual expenses or updated proportionate shares owed are considered, but not to exceed twenty-five percent of the obligated parent's basic support obligation; and

(c) Any amounts owed by the obligated parent under a previous notice of support owed that are less than the obligated parent's actual monthly obligation to pay a proportionate share of the premium after actual expenses or updated proportionate shares owed are considered, but not to exceed twenty-five percent of the obligated parent's basic support obligation.

(18) If the notice of support owed contains a determination that the order resulting from a previous notice of support owed calculated a medical support obligation that differed from the obligated parent's actual obligation after actual expenses or updated proportionate shares owed are considered, the notice may address how any difference may be credited or repaid in the absence of any agreement between the parties.

(19) If the obligated parent is the NCP, any amounts owed under a previous notice of support owed exceeding the actual obligation after actual expenses or updated proportionate shares owed are considered in the final administrative order are added to the NCP's support debt.

(a) Amounts owed to the CP are added to the unassigned arrears on the case.

(b) Amounts owed to reimburse the state for medicaid or other ~~((state financed medical))~~ public health care coverage ~~((through the department under chapter 74.09 RCW for which there is an assignment))~~ in the state of Washington are added to the main case as permanently assigned arrears.

(20) If the obligated parent is the CP, any amounts owed under a previous notice of support owed exceeding the actual obligation after actual expenses are considered in the final administrative order are paid in the following order:

(a) Any amount owed by the CP to the NCP is applied as an offset to any nonassistance child support arrears owed by the NCP on the main case only; or

(b) If there is no debt owed to the CP on the main case, payment of the amount owed by the CP is in the form of a credit against the NCP's future child support obligation:

(i) Spread equally over a twelve-month period starting the month after the administrative order becomes final; or

(ii) When the future support obligation will end under the terms of the order in less than twelve months, spread equally over the life of the order.

(c) If the amount owed by the CP exceeds the amount that can be paid off using the methods specified in subsections (a) and (b) of this section, DCS uses the medical support case to collect the remaining amounts owed using the remedies available to DCS for collecting child support debts.

(21) If both the CP and the NCP request that DCS serve a notice of support owed under this section on the other party, those notices remain separate and may not be combined.

(a) The office of administrative hearings (OAH) may schedule consecutive hearings but may not combine the matters under the same docket number.

(b) The administrative law judge (ALJ) must issue two separate administrative orders, one for each obligated parent.

(22) DCS does not serve a second or subsequent notice of support owed under this section on an obligated parent until the party seeking reimbursement once again meets the conditions set forth in WAC 388-14A-3330.

AMENDATORY SECTION (Amending WSR 11-12-006, filed 5/19/11, effective 6/19/11)

WAC 388-14A-3324 What happens in a hearing on a notice of support owed served under WAC 388-14A-3312? (1) A hearing on a notice of support owed for medical support served under WAC 388-14A-3312 is subject to WAC 388-14A-3320 and this section. See WAC 388-14A-3323 for the rules concerning a hearing on a notice of support owed under WAC 388-14A-3311.

(2) A hearing on a notice of support owed served under WAC 388-14A-3312 is only for the purpose of determining:

(a) Issues regarding the reimbursement of uninsured medical expenses, such as:

(i) Whether the party on whom the notice was served is obligated under a support order to pay for uninsured medical expenses for the children covered by the order;

(ii) Whether the party seeking reimbursement has provided sufficient proof of payment for uninsured medical expenses for the children;

(iii) The total amount of uninsured medical expenses paid by the party seeking reimbursement;

- (iv) The obligated parent's share of the uninsured medical expenses;
 - (v) The amount, if any, the obligated parent has already paid to the party seeking reimbursement;
 - (vi) Whether the obligated parent provided coverage during the time in question if reimbursement of medical premium costs is requested; and
 - (vii) The amount owed by the obligated parent to the party seeking reimbursement for unreimbursed medical expenses.
- (b) Issues regarding a monthly payment toward the premium paid for coverage for the children, such as:
- (i) Whether the support order requires the obligated parent to pay when the obligated parent does not provide coverage;
 - (ii) Whether the obligated parent is currently providing coverage, or did so during the time period in question;
 - (iii) The amount of the premium paid by the other parent or by the state to cover the child(ren);
 - (iv) The obligated parent's proportionate share of the premium;
 - (v) The amount, if any, the obligated parent has already contributed toward health (~~insurance~~) care coverage premiums paid by the other parent or the state for the time period in question; and
 - (vi) The monthly amount to be paid by the obligated parent as his or her proportionate share of the health (~~insurance~~) care coverage premium.
- (3) If the administrative law judge (ALJ) determines that the uninsured medical expenses claimed by the party seeking reimbursement do not amount to at least five hundred dollars, the ALJ:
- (a) May not dismiss the notice on this basis;
 - (b) Must make the determinations listed in subsection (2)(a) above.
- (4) In an annual review hearing under WAC 388-14A-3330, the ALJ may not set a payment schedule on the support debt other than as provided in WAC 388-14A-3312 if the ALJ determines that the obligated parent has paid less than his or her actual obligation for medical support under the order after actual expenses or updated proportionate shares owed are considered.
- (a) If the obligated parent is the noncustodial parent (NCP), any amounts owed are added to the NCP's support debt.
 - (i) Any amounts owed to the custodial parent (CP) are added to the nonassistance child support arrears owed by the NCP to the CP.
 - (ii) Any amounts owed to the state are added to the assigned child support arrears owed by the NCP.
 - (b) If the obligated parent is the CP, any amounts owed are paid as provided in WAC 388-14A-3312(17).
- (5) If, in an annual review hearing under WAC 388-14A-3330, the ALJ determines that the NCP's obligation calculated in a previous notice of support owed is more than his or her actual obligation for medical support under the order after actual expenses or updated proportionate shares owed are considered, and the parties cannot agree on how the difference may be credited or repaid, the ALJ must enter an order providing that any difference may be:
- (a) Applied as an offset to any nonassistance child support arrears owed by the NCP to the CP.
 - (b) In the form of a credit against the NCP's future child support obligation, if there is no nonassistance debt owed to the CP:
 - (i) Spread equally over a twelve-month period starting the month after the administrative order becomes final; or

(ii) When the future support obligation will end under the terms of the order in less than twelve months, spread equally over the life of the order.

(c) Paid in the form of a direct reimbursement by the CP to the NCP, but only with the consent of the CP.

(6) If the ALJ determines that the CP's obligation under a previous notice of support owed is more than his or her actual obligation for medical support under the order after actual expenses and updated proportionate share amounts are considered, and the parties cannot agree on how the difference may be credited or repaid, the ALJ must enter an order providing that any difference must be added to the non-assistance child support arrears owed by the NCP.

(7) The ALJ must determine either or both of the following, depending on what was requested in the notice of support owed:

(a) The amount owed by the obligated parent to the other for reimbursement of uninsured medical expenses; and

(b) The monthly amount to be paid by the obligated parent as his or her proportionate share of the health ((insurance)) care coverage premium paid by the other parent or the state.

AMENDATORY SECTION (Amending WSR 13-01-075, filed 12/18/12, effective 1/18/13)

WAC 388-14A-3925 Who can ask to modify an administrative support order?

(1) The division of child support (DCS), the custodial parent (CP) or the noncustodial parent (NCP) may file a petition and request a hearing to prospectively modify an administrative order for child support. The request must be in writing and must state:

(a) Any circumstances that have changed;

(b) Any relief requested; and

(c) The proposed new support amount.

(2) The petitioning party must file the request for modification with DCS.

(3) Acting as a responding jurisdiction, DCS may file a petition to prospectively modify an administrative order for child support on behalf of an initiating jurisdiction in an intergovernmental case.

(4) DCS serves a copy of the request for modification and notice of hearing on all other parties by first class mail at their address last known to DCS.

(5) DCS, the administrative law judge (ALJ), or the department review judge:

(a) Prospectively modifies orders according to the terms of chapter 26.19 RCW and RCW 74.20A.059; and

(b) May only modify an order issued by a tribunal in another state according to the terms of RCW 26.21A.550.

(6) A request to add a requirement for the custodial parent (CP) to provide health ((insurance)) care coverage, or to add a provision in the order to include the CP's share of uninsured medical expenses, is not by itself a sufficient basis for modification of the order.

(7) If the nonpetitioning party fails to appear at the hearing, the ALJ issues a default order based on the Washington state child support schedule and the worksheets submitted by the parties, considering the terms set out in the request for modification.

(8) If the petitioning party fails to appear at the hearing, the ALJ enters an order dismissing the petition for modification.

~~((+8))~~ (9) If the petition for modification does not comply with the requirements of subsection (1)(a) and (b) of this section, the ALJ may:

(a) Dismiss the petition; or

(b) Continue the hearing to give the petitioning party time to amend according to WAC 388-14A-3275 or to complete the petition.

(10) The ALJ may set the effective date of modification as the date the order is issued, the date the request was made, or any time in between. If an effective date is not set in the order, the effective date is the date the modification order is entered.

AMENDATORY SECTION (Amending WSR 11-12-006, filed 5/19/11, effective 6/19/11)

WAC 388-14A-4100 How does the division of child support enforce my obligation to provide health ~~((insurance))~~ care coverage for my children?

(1) If a child support order requires a parent to provide health ~~((insurance))~~ care coverage for the children, the division of child support (DCS) attempts to enforce that requirement according to the terms of the order.

(2) A parent required to provide medical support or health ~~((insurance))~~ care coverage for a child is called the obligated parent, and can be either the custodial parent (CP) or the noncustodial parent (NCP).

(3) WAC 388-14A-4111 and 388-14A-4112 describe when DCS may accept or decline a request to enforce a medical support obligation.

(4) When DCS is enforcing a support order which contains a specific dollar limit for the cost of health ~~((insurance))~~ care coverage premiums or provides for coverage which is available at no cost to the obligated parent, DCS does not require the obligated parent to provide health ~~((insurance))~~ care coverage if coverage is not available within the limitations of the order.

(5) When DCS is enforcing a support order entered in Washington on or after October 1, 2009, providing that either or both parents must provide coverage and/or a proportionate share of uninsured medical expenses as part of the medical support obligation under RCW 26.09.105, the rules in this subsection apply unless the support order specifies differently:

(a) The obligated parent must provide health ~~((insurance))~~ care coverage for the dependent child(ren) covered by the order if coverage is:

(i) Available or becomes available through accessible ~~((private insurance))~~ health care coverage which is not provided through the obligated parent's employer or union; or

(ii) Available or becomes available through the obligated parent's employment or union at a cost that is not more than twenty-five percent of the obligated parent's basic support obligation.

(b) If the obligated parent does not provide proof of coverage or if coverage is not available, DCS may serve a notice of support owed under WAC 388-14A-3312 to determine the monthly amount that the obligated parent must pay as his or her proportionate share of any premium paid by the other parent or by the state on behalf of the child(ren).

(6) When DCS is enforcing a support order entered in Washington between May 13, 1989 and September 30, 2009, unless the support order specifies differently, the obligated parent must provide health insurance for dependent children if coverage is:

(a) Available or becomes available through the obligated parent's employment or union; and

(b) Available at a cost of not greater than twenty-five per cent of the obligated parent's basic support obligation.

(7) When DCS is enforcing a Washington support order entered prior to May 13, 1989, unless the support order specifies differently, the obligated parent must provide health insurance for the dependent child(ren) if coverage is available or becomes available through the obligated parent's employment or union:

(a) For a maximum of twenty-five dollars per month, if the order specifies that the obligated parent must provide coverage only if it is available at a reasonable cost; or

(b) For any premium amount whatsoever, if the order does not specify reasonable cost.

(8) DCS serves a notice of intent to enforce a health ((~~insurance~~)) care coverage obligation if the support order:

(a) Requires the obligated parent either to provide health ((~~insurance~~)) care coverage or prove that coverage is not available; and

(b) Does not inform the obligated parent that failure to provide health ((~~insurance~~)) care coverage or prove it is not available may result in enforcement of the order without notice to the obligated parent.

(9) DCS serves the notice of intent to enforce a health ((~~insurance~~)) care coverage obligation on the obligated parent by certified mail, return receipt requested, or by personal service.

(10) The notice advises the obligated parent that he or she must submit proof of coverage, proof that coverage is not available, or proof that the obligated parent has applied for coverage, within twenty days of the date of service of the notice.

(11) The notice advises the obligated parent that, if health ((~~insurance~~)) care coverage is not yet available, the obligated parent must immediately notify DCS if health ((~~insurance~~)) care coverage becomes available through the obligated parent's employer or union.

(12) When DCS enforces an obligated parent's health ((~~insurance~~)) care coverage obligation, such enforcement may include asking the employer and the plan administrator to enroll the obligated parent in a health insurance plan available through the employer.

AMENDATORY SECTION (Amending WSR 11-12-006, filed 5/19/11, effective 6/19/11)

WAC 388-14A-4110 If my support order requires me to provide medical support for my children, what do I have to do? (1) Once a support order is entered requiring medical support, the obligated parent must take the following actions within twenty days:

(a) Provide health ((~~insurance~~)) care coverage; and

(b) Provide proof of coverage to the other parent and to the division of child support (DCS), such as:

(i) The name of the insurer providing the health insurance coverage or the type of public health care coverage provided by the obligated parent;

(ii) The names of the beneficiaries covered;

(iii) The policy number;

(iv) That coverage is current; and

(v) The name and address of the obligated parent's employer.

(2) If private, union or employer-provided health insurance coverage that is accessible to the children named in the order is available, the obligated parent must:

(a) Provide for coverage for the children without waiting for an open enrollment period, as provided under RCW 48.01.235 (4)(a); and

(b) Submit proof of coverage as outlined in subsection (1)(b) above.

(3) If health insurance is not immediately available to the obligated parent, as soon as health insurance becomes available, the obligated parent must:

(a) Provide for coverage for the children named in the order; and

(b) Submit proof of coverage as outlined in subsection (1)(b) above.

(4) ~~((Medical assistance provided by the department under chapter 74.09 RCW does not substitute))~~ Providing public health care coverage for the children satisfies an obligated parent's requirement to provide for health ((insurance)) care coverage, as long as the obligated parent also covers the children under any insurance available through his or her employer or union which is provided at no cost to the obligated parent.

(5) DCS may serve a notice of support owed for medical support under WAC 388-14A-3312 to establish either or both of the following:

(a) Either parent's share of uninsured medical expenses owed to the other parent; or

(b) Either parent's monthly payment toward the premium paid for coverage by the other parent or the state, if:

(i) Health insurance coverage is not available through the parent's employer or union or is not otherwise provided; and

(ii) The support order provides for the payment of a monthly payment toward the premium when the obligated parent does not provide coverage.

(6) See WAC 388-14A-4165 for a description of what happens when the combined total of a noncustodial parent's current support obligation, arrears payment and health insurance premiums to be withheld by the employer exceeds the fifty per cent limitation for withholding.

(7) Both parents must notify DCS any time there is a change to the health ~~((insurance))~~ care coverage for the children named in the order.

(8) WAC 388-14A-4111 and 388-14A-4112 describe when DCS may accept or decline a request to enforce a medical support obligation.

AMENDATORY SECTION (Amending WSR 11-12-006, filed 5/19/11, effective 6/19/11)

WAC 388-14A-4111 When may DCS decline a request to enforce a medical support obligation? The division of child support (DCS) may decline to enforce a medical support obligation using the remedies

available under RCW 26.09.105, 26.18.170 and 26.23.110 if one or more of the following apply:

(1) The medical support obligation is imposed by a child support order that was not entered in a court or administrative forum of the state of Washington;

(2) The department of social and health services is not paying public assistance or providing foster care services;

(3) The party requesting enforcement of the medical support obligation does not have an open IV-D case with DCS for the child;

(4) The party requesting enforcement of the medical support obligation is not a parent of the child for whom the medical support obligation was established;

(5) The party is requesting reimbursement of the obligated parent's proportionate share of medical premium costs, and the obligated parent is currently providing accessible health (~~insurance~~) care coverage for the child;

(6) The party requesting enforcement of the medical support obligation is not a former recipient of public assistance as described in WAC 388-14A-2000 (2)(d);

(7) DCS has not received a request for services from a child support agency in another state or a child support agency of an Indian tribe or foreign country;

(8) The party requesting enforcement of the medical support obligation has not applied for full support enforcement services;

(9) The party requesting enforcement of the medical support obligation does not qualify as a party who can receive child support enforcement services from DCS under WAC 388-14A-2000;

(10) The case does not meet the requirements for provision of support enforcement services from DCS under WAC 388-14A-2010;

(11) DCS denies the application under WAC 388-14A-2020;

(12) The party requesting enforcement of the medical support obligation does not provide proof of payment, any required forms, and/or the declaration under penalty of perjury required under WAC 388-14A-3312;

(13) The case meets one or more of the reasons set out in WAC 388-14A-4112(2) that DCS does not enforce a custodial parent's obligation to provide medical support.

AMENDATORY SECTION (Amending WSR 11-12-006, filed 5/19/11, effective 6/19/11)

WAC 388-14A-4112 When does the division of child support enforce a custodial parent's obligation to provide medical support? (1) A noncustodial parent (NCP) may file an application for full child support enforcement services and specifically request that the division of child support (DCS) enforce the medical support obligation of the custodial parent (CP). WAC 388-14A-4111 describes when DCS may accept or decline a request to enforce a medical support obligation.

(2) DCS does not enforce the CP's medical support obligation unless the NCP files an application for nonassistance support enforcement services under WAC 388-14A-2000 (2)(c). The NCP must specify whether he or she is requesting that DCS enforce the CP's obligation to provide:

(a) The CP's proportionate share of uninsured medical expenses;

(b) Health ((insurance)) care coverage (including the possibility of a monthly payment toward the premium paid by the NCP for coverage of the children when appropriate); or

(c) Both.

(3) A medical support obligation includes providing health ((insurance)) care coverage or contributing a monthly payment toward the premium paid for coverage when appropriate, and paying a proportionate share of any uninsured medical expenses for the children.

(a) DCS may enforce the CP's obligation to pay a proportionate share of any uninsured medical expenses for the children under WAC 388-14A-3312.

(b) DCS may decide whether it is appropriate to enforce the CP's obligation to provide health ((insurance)) care coverage or contribute a monthly payment toward the premium paid for coverage under subsection (4) of this section.

(4) DCS does not enforce a custodial parent's obligation to provide health ((insurance)) care coverage or pay a monthly payment toward the premium paid for coverage when:

(a) The support order does not include a medical support obligation which includes providing health ((insurance)) care coverage or paying monthly payment toward the premium paid for coverage for the CP.

(b) The NCP is already providing health ((insurance)) care coverage for the children covered by the order.

(c) The amount that the CP would have to pay for the premium for health ((insurance)) care coverage exceeds the NCP's monthly support obligation for the children.

(d) The children are covered by health ((insurance)) care coverage provided by someone else.

(e) The children are receiving medicaid or another kind of public health care coverage.

(f) The children are receiving TANF.

(g) The CP does not reside in Washington state.

(h) The CP is a tribal member living on or near the reservation.

(i) The CP is receiving child support enforcement services through a tribal IV-D program.

(5) DCS does not enforce a CP's obligation to pay a proportionate share of medical expenses incurred by an NCP when((+)

~~(a))~~ the support order does not include an obligation for the CP to pay a proportionate share of uninsured medical expenses((+ or

~~(b) The NCP is already providing health insurance coverage for the children covered by the order)).~~

(6) If none of the conditions under subsection (4) exist, DCS may enforce the CP's obligation to provide health insurance coverage when the CP has health insurance available at a reasonable cost through the CP's employer or union.

(7) A "reasonable cost" for health insurance coverage is defined as twenty-five percent of the basic support obligation for the children covered by the order, unless the support order provides a different limitation.

AMENDATORY SECTION (Amending WSR 11-12-006, filed 5/19/11, effective 6/19/11)

WAC 388-14A-4120 DCS uses the National Medical Support Notice to enforce an obligation to provide health insurance coverage. (1) The division of child support (DCS) uses a notice of enrollment called the National Medical Support Notice (NMSN) to enforce an obligated parent's obligation to provide health insurance coverage under chapter 26.18 RCW.

(2) DCS sends the NMSN to the obligated parent's employer in one of the following ways:

- (a) In the same manner as a summons in a civil action,
- (b) By certified mail, return receipt requested,
- (c) By regular mail, or
- (d) By electronic means as provided in WAC 388-14A-4040 (1)(d).

(3) DCS sends the NMSN without notice to the obligated parent, who could be either the noncustodial parent (NCP) or the custodial parent (CP) when:

- (a) A court or administrative order requires the obligated parent to provide ((insurance)) coverage for a dependent child;
- (b) The obligated parent fails to provide health insurance (either by not covering the child or by letting the coverage lapse) or fails to provide proof of coverage;
- (c) The requirements of RCW 26.23.050 are met; and
- (d) DCS has reason to believe that coverage is available through the obligated parent's employer or union.

(4) If sending the NMSN does not result in coverage for the child, DCS may seek to enforce the obligated parent's medical support obligation by other means, as provided in RCW 26.18.170 and WAC 388-14A-4100.

AMENDATORY SECTION (Amending WSR 08-12-029, filed 5/29/08, effective 7/1/08)

WAC 388-14A-4160 Are there any limits on the amount an obligated parent may be required to pay for health insurance premiums? (1) The National Medical Support Notice (NMSN) advises the employer of any limitations on the amount an obligated parent may be required to pay for health insurance premiums to cover the children.

(2) Often the support order which contains the health insurance obligation determines the limitation on premium amounts, or states that there is no limitation. See WAC 388-14A-4100 for a discussion of premium limitation amounts.

(3) The premium limitation amount stated in the NMSN:

(a) Describes the premium amount required to cover the children named in the notice; and

(b) ((Does not)) May include any amounts required to cover the obligated parent, if DCS requires the employer or plan administrator to enroll the obligated parent in a health care coverage plan in order to obtain coverage for the obligated parent's children.

(4) Even if the medical insurance premium is within the limits set by the order or by WAC 388-14A-4100, the fifty percent limitation on withholding found in RCW 26.23.060(3) still applies. See WAC

388-14A-4165 for a description of what happens when the fifty percent limitation is exceeded.

(5) When calculating the fifty percent limitation for withholding purposes:

(a) The premium attributable to coverage for the children is always included in this calculation; but

(b) The premium attributable to coverage for the obligated parent is included only when DCS requires the employer or plan administrator to enroll the obligated parent in a health insurance plan in order to obtain coverage for the obligated parent's children. See also WAC 388-14A-4165(3).

AMENDATORY SECTION (Amending WSR 11-12-006, filed 5/19/11, effective 6/19/11)

WAC 388-14A-4175 Who is required to notify the division of child support when ~~((insurance))~~ health care coverage for the children ends?

(1) Once the division of child support (DCS) has notified an employer that a parent is obligated by a support order to provide health insurance coverage for the children named in the order, the National Medical Support Notice (NMSN) or other notice of enrollment remains in effect as specified in WAC 388-14A-4170.

(2) If coverage for the children is terminated, the employer must notify DCS within thirty days of the date coverage ends.

(3) A parent who is required by a child support order to provide health ~~((insurance))~~ care coverage for his or her children must notify DCS and the other parent within thirty days of the date coverage for the children ends. This requirement applies whether the obligated parent is the custodial parent or the noncustodial parent.

AMENDATORY SECTION (Amending WSR 11-12-006, filed 5/19/11, effective 6/19/11)

WAC 388-14A-4180 When must the division of child support communicate with the ~~((DSHS-medicaid-purchasing-administration))~~ health care authority?

(1) The division of child support (DCS) must inform the ~~((DSHS-medicaid-purchasing-administration-(MPA)))~~ health care authority (HCA) of the existence of a new or modified court or administrative order for child support when the order includes a requirement for medical support. ~~((MPA is the part of DSHS which))~~ The health care authority provides services for the state of Washington under Title XIX of the federal Social Security Act.

(2) DCS must provide ~~((MPA))~~ HCA with the following information:

(a) Title IV-A case number, Title IV-E foster care case number, medicaid number or the individual's Social Security number;

(b) Name of the obligated parent;

(c) Social Security number of the obligated parent;

(d) Name and Social Security number of the child(ren) named in the order;

(e) Home address of the obligated parent;

(f) Name and address of the obligated parent's employer;

(g) Information regarding the obligated parent's health insurance policy; and

(h) Whether the child(ren) named in the order are covered by the policy.

(3) DCS must periodically communicate with ((MPA)) HCA to determine if there have been any lapses (stops and starts) in the obligated parent's health ((insurance)) care coverage for medicaid applicants.

(4) Before DCS may serve a notice of support owed under WAC 388-14A-3312 (1)(b) to establish an obligated parent's monthly payment toward the premium paid by the state for coverage, ((MPA)) HCA must provide information regarding the premium paid for each child covered by the notice.

(a) DCS distributes to ((MPA)) HCA any collections based on the obligation established under WAC 388-14A-3312 (1)(b) when the child receives state-financed medical coverage through the department under chapter 74.09 RCW for which there is an assignment.

(b) Such collections are retained by ((the department)) HCA to reimburse the state, subject to the limitations in WAC 388-14A-2035(4).

AMENDATORY SECTION (Amending WSR 11-12-006, filed 5/19/11, effective 6/19/11)

WAC 388-14A-6300 Duty of the administrative law judge in a hearing to determine the amount of a support obligation. (1) A support order entered under this chapter must conform to the requirements set forth in RCW 26.09.105, 26.18.170, and 26.23.050. The administrative law judge (ALJ) must comply with the DSHS rules on child support and include a Washington state child support schedule worksheet when entering a support order.

(2) In hearings held under this chapter to contest a notice and finding of financial responsibility or a notice and finding of parental responsibility or other notice or petition, the ALJ must determine:

(a) The noncustodial parent's obligation to provide support under RCW 74.20A.057;

(b) The names and dates of birth of the children covered by the support order;

(c) The net monthly income of the noncustodial parent (NCP) and the other parent of the child;

(d) The NCP's share of the basic support obligation and any adjustments to that share, according to his or her circumstances;

(e) Each parent's proportionate share of costs such as ((health care)) uninsured medical expenses, day care and special child rearing expenses;

(f) If requested by a party, the NCP's proportionate share of costs such as ((health care)) uninsured medical expenses or day care expenses in a sum certain amount per month;

(g) A statement that either or both parents are obligated to provide medical support under RCW 26.09.105 and 26.18.170, as provided in subsection (3) of this section, including but not limited to notice that if proof of health ((insurance)) care coverage or proof that the coverage is unavailable is not provided to DCS within twenty days, DCS

may seek direct enforcement through the obligated parent's employer or union without further notice to the parent;

(h) The NCP's accrued debt and order payments toward the debt in a monthly amount to be determined by the division of child support (DCS);

(i) The NCP's current and future monthly support obligation as a sum certain amount per month, and also as a "per month per child" amount if appropriate under WAC 388-14A-3200(4) and 388-14A-4800, and order payments in that amount.

(3) In determining the medical support obligation of the parents, the ALJ must:

(a) Require both parents to provide medical support for the children covered by the order. Medical support includes both:

(i) The obligation to provide health ((insurance)) care coverage for the children:

(A) If coverage that can be extended to cover the children is or becomes available through the obligated parent's employer or union((,)):

(B) If the obligated parent can enroll the children in public health care coverage; or

(C) To make a monthly contribution toward the premium paid for coverage by the other parent or the state when coverage is not available; and

(ii) The obligation to pay his or her proportionate share of uninsured medical expenses.

(b) Determine whether one (but not both) of the parents should be excused from the obligation to provide coverage or contribute to a premium.

(i) The ALJ must state the reasons for excusing a parent from the coverage obligation.

(ii) The ALJ may not excuse that parent from the obligation to contribute his or her proportionate share of uninsured medical expenses.

(4) Having made the determinations required in subsection (2) above, the ALJ must order the NCP to make payments to the Washington state support registry (WSSR).

(5) The ALJ must allow DCS to orally amend the notice at the hearing to conform to the evidence. The ALJ may grant a continuance, when necessary, to allow the NCP or the CP additional time to present rebutting evidence or argument as to the amendment.

(6) The ALJ may not require DCS to produce or obtain information, documents, or witnesses to assist the NCP or CP in proof of defenses to liability. However, this rule does not apply to relevant, nonconfidential information or documents that DCS has in its possession.

(7) In a hearing held on a notice of support owed served on the NCP under WAC 388-14A-3310 or 388-14A-3311, the ALJ must comply with WAC 388-14A-3323 and 388-14A-3325 to determine, depending on what was requested in the notice:

(a) Whether a condition precedent in the order to begin or adjust the support obligation was met;

(b) The amount of monthly support as a fixed dollar amount;

(c) Any accrued arrears;

(d) Any difference between the amount calculated in the order resulting from a previous notice of support owed and the actual amount of the NCP's obligation for the period covered by the order; and

(e) The amount of the NCP's share of daycare or child care expenses for the children, including:

- (i) The amount that the NCP must pay each month as his or her on-going share of daycare or child care expenses for the children; and
- (ii) The amount of NCP's accrued debt for daycare or child care expenses.

(8) In a hearing held on a notice of support owed served on either the NCP or the CP issued under WAC 388-14A-3312, the ALJ must determine either or both of the following, depending on what was requested in the notice:

(a) The amount owed by the obligated parent to the other for unreimbursed medical expenses;

(b) The monthly amount to be paid by the obligated parent as his or her proportionate share of the health ((insurance)) care coverage premium paid by the other parent or the state.

(9) Except as provided in WAC 388-14A-3324, the ALJ does not specify how the amounts owed by the obligated parent should be paid.

(10) In the event that DCS has served a notice of support owed under WAC 388-14A-3312 on both the NCP and the CP, the ALJ must issue a separate administrative order for each notice issued, and may not set off the debts against each other.