# AX CA ESSENTIAL RECORDS

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| **DIVISION:** (Required Field) | Program and Policy |
| **DOCUMENT TYPE:** (Required Field) | Manual |
| **MEDIA:** | **Select Media** |
| **TOPIC:** (Required Field) | Manual Revision |
| **DOCUMENT TITLE:** | Manual G<br>Chapter: 22 |
| **DOCUMENT DATE/RANGE:** (Required Field) | |
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06/06/2017

DEPARTMENT OF SOCIAL AND HEALTH SERVICES
Olympia, Washington

TO: HOLDERS OF MANUAL G

NOTICE NO: G-85
Issued: October 27, 1981

FROM: COMMUNITY SERVICES ADMINISTRATION
Bruce Ferguson, Assistant Secretary

FOR INFORMATION CALL:
Bureau of Children's Services
SCAN 234-7075 or
Non-SCAN 753-7075

SUBJECT: ELIMINATE DESIGNATED STAFF FOR FAMILY PLANNING REFERRALS AND INFORMATION (DECISION PACKAGE 6-16-A)

Insert this notice in front of Chapter 22, Manual G, and note on the Green Notice Control Sheet the date Notice No. G-85 was entered.

A. Family planning services available from contractors or vendors continue, but effective November 1, 1981, the social services support functions provided by the department will be reduced to a minimal information and referral service only.

B. Effective November 1, 1981, this minimal service will be performed by all social service staff for persons who are already CSO social service clients. There will no longer be designated FTEs for the family planning program. Services being discontinued are the following:

1. Counseling regarding the need for family planning.

2. Assistance in scheduling appointments with family planning vendors or contractors.

3. Assistance with transportation in and/or child care in order to take advantage of family planning services.

This change has been made in response to the extremely tight budget situation facing the department.

C. The minimal service means providing names and locations of providers and general program descriptions.

D. To implement this change in program:

1. Effective November 1, 1981, referrals for family planning support services (see B. 1., 2. and 3., above) will not be accepted. This includes requests made on the DSHS 14-139(X), Social Services Applications, Item 16. Notify the referred/requesting client the support service is no longer provided. Inquiries handled by Information and Referral staff for health support services will be provided the minimal service defined in C., above.

2. Effective November 1, 1981, discontinue providing assistance in scheduling appointments.

3. Effective November 1, 1981, discontinue providing assistance with transportation and/or child care.

4. Effective immediately

   a. Terminate all authorizations for family planning support activity (code 2201) which have been completed;

   b. Phase out as quickly as is reasonably possible the support activities which are in process (assistance in scheduling appointments, providing assistance with transportation and/or child care) by terminating SSPS Code 2201.

5. Effective November 1, 1981, discontinue authorizing services using SSPS Code 2201 and providing services which had been delivered using this code. The service now is a minimal information and referral function which will not require an SSPS authorization to be provided nor will the service be counted when provided.

6. When a service record already exists, an entry should be made in the case narrative recording (DSHS 2-305) that the minimal information and referral service was provided.

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# CHAPTER 22 - HEARINGS

## 22.02 COMPLAINT PROCEDURES

Applicants and recipients of social services or financial assistance or persons acting on their behalf may ask to see the ESSO Administrator or Secretary about grievances which they have been unable to resolve through discussion with the caseworker or which are beyond the scope of the caseworker or which are beyond the scope of the caseworker and supervisor. The complaint may or may not be subject to the fair hearing statutes.

1. Complaints may be concerning the denial, termination or reduction of a financial assistance grant, or

2. Denial, reduction or termination of a service, or failure to act upon a request for services with reasonable promptness. (Not more than 45 days following date of application.)

This subdivision establishes procedures whereby corrective action may be requested and taken without the need for a fair hearing and in situations where the subject matter is not reviewable under fair hearing law.

It is recognized that the local situation and the nature of the complaint will dictate the degree to which the formality of this process is followed. It is not intended to unduly complicate the review and adjustment of a complaint. It is an orderly procedure available to applicants and recipients who wish to take their grievances to higher administrative authority.

## 22.04 FILING A COMPLAINT

An applicant or recipient feeling himself aggrieved by some action or lack of action by an employee of the Department may, personally or through his representative, seek relief by filing a complaint and request to be heard with the ESSO administrator. The complainant should first discuss his grievance with the caseworker and supervisor. If a mutually acceptable solution is not reached and the complainant wishes to proceed, assistance of the caseworker and supervisor may offer to bring the matter to the attention of the ESSO administrator, or to the Secretary if a fair hearing is desired at this point.

## 22.06 MEETING WITH COMPLAINANT

Within ten working days after receiving a comlaint and request to be heard, if the matter is not otherwise resolved, the ESSO Administrator will set a time and place when he will meet with complainant. The Administrator has the right to deny a meeting if he finds the complaint to be frivolous, repetitious, or not Community Service Division related. He may also limit the number of persons who will attend a meeting. However, the client retains the right to representation.

## 22.08 RECORDING

Some method of recording the proceedings is desirable. If conference recording equipment is not available, notes will be taken for subsequent review.

The ESSO administrator will keep a file of complaints and action taken. If the meeting with the administrator resolves the issue, nothing further need be done except to record the result.

## 22.10 REVIEW BY REGIONAL ADMINISTRATOR

If a mutually acceptable solution is not reached, the complainant may have his grievance reviewed by the Regional Administrator. The ESSO Administrator will assist in bringing the matter to the attention of the Regional Administrator.

Within ten working days after receiving a request to be heard, if the issue is not otherwise settled, the Regional Administrator will set a time and place when he will meet with interested parties under the same limits as shown in 22.06.

A suitable record of the proceedings will be made.

## 22.12 FURTHER REVIEW

The decision or other action of the Regional Administrator is final except when it is mutually agreed the complaint should be referred to the Secretary. In this case the Secretary will arrange whatever further proceeding he deems necessary.

If it is necessary for the ESSO Administrator or Regional Administrator to continue the matter for investigation or consultation, every effort will be made to reach a rapid conclusion. In all cases the complainant will be notified of the conclusion.

## 22.28 FAIR HEARINGS - APPLICANT/RECIPIENT

The legal basis for a fair hearing in public assistance is found in RCW 74.080.070. See also RCW 34.04.090 and RCW 74.15.130. The right to a fair hearing established by RCW 74.08.070 applies to all programs of financial assistance or service administered by the division. The right may be exercised only by the individual who "feels himself aggrieved" by the decision, or lack of decision, of the Division or its ESSO. A comparable right is established by RCW 74.15.130 for any child welfare agency (legally defined as including a foster home) which believes its application for a license or renewal of a license was improperly denied or whose license was suspended, revoked, or not renewed.

## 22.30 PREREQUISITES FOR ADMINISTRATION OF FAIR HEARING PROCEDURE

The three prerequisites to the effective administration of the fair hearing procedure are:

1. The existence of adequate and definite procedures for receiving and reviewing complaints. It is necessary that the caseworker make the locally established review procedure available to an applicant/recipient. (See Section 22.02-22.12).

2. The applicant/recipient's understanding of his right to a fair hearing. This right is emphasized verbally and in writing at the time of application and also when the grant or service is authorized, denied, changed, suspended or terminated.

3. The applicant/recipient's full knowledge of the basis for the decision. He has the right to definite decision specifically related to requirements of law and rules. This is particularly necessary with respect to the denial of an application. The letter confirming the decision specifically states the basis for the division's action.

## 22.32 ESSO ADMINISTRATOR'S RESPONSIBILITIES

The ESSO administrator is responsibile for local fair hearing procedures. In large ESSOs the administrator may delegate this responsibility. Where responsibility is delegated the administrator shall inform the state office supervising examiner of the name of the person to whom the delegation has been made.

1. Upon receipt of notice of a fair hearing request, the administrator shall review the record of the appellant and confer with appropriate staff members to determine:

   a. The reason for appellant's dissatisfaction,

   b. Whether the disputed action was based upon complete and accurate evaluation of the appellant's situation in relation to existing standards and rules.

2. Not later than ten days following receipt of notice that the fair hearing request was filed with the Secretary, the ESSO shall submit a written report to the SO supervising examiner with a copy to the Regional Administrator. The report shall include:

   a. Full name, mailing address, case number and category of service eligibility;

   b. A brief statement of the issues, date of ESSO decision and effective date of action, facts relied upon, applicable rules, and a copy of the pertinent written notifications;

c. Copy of the assistance plan when the amount of grant, the amount of income, or the requirements are in question;

d. Findings during the review requiring further action at the initiative of the ESSO;

e. Adjustments or other action undertaken or contemplated in advance of the hearing;

f. A statement about the appellant's plan to proceed with his appeal;

g. A statement as to the witnesses the ESSO plans to use at the hearing.

If the appellant desires to withdraw his fair hearing request, his signed statement of withdrawal is attached to the report. The basis for the withdrawal must be clearly stated.

If the ESSO considers a fair hearing request untimely (filed more than thirty days after notice of decision), copies of documents supporting the fact are submitted with the report.

## 22.34 REQUESTING A FAIR HEARING (WAC 388-08-002)

Any person entitled to and desiring a fair hearing under RCW 74.08.070 shall, within time limits provided by law, file a written request for hearing with the Secretary of the Department of Social and Health Services. The request need not be in any particular form, but should specify the decision with which the petitioner is dissatisfied and the date he was notified by the ESSO. The request shall be signed by the petitioner, or his legal guardian, attorney, or other authorized representative.

"Within the time limits provided by law" means thirty days after receiving notice of the area office decision in any matter involving the public assistance and/or service programs administered by the Department.

Any individual applying for or receiving any type of public assistance and/or services administered by the Department may orally request a fair hearing. His request must, however, be promptly reduced to writing and must include the information required by Section 22.34, paragraph 1. To the extent desired by the individual, or indicated by his circumstances, the caseworker shall assist him in putting the request in writing. Any form of written request meeting the criteria in Section 22.34 shall be accepted by the ESSO and forwarded immediately to the SO Supervising Examiner.

When husband and wife are appellants, one spouse may sign the request in behalf of the other spouse.

## 22.36 RIGHT TO EXAMINE RECORDS

After filing a request for a fair hearing under RCW 74.08.070, a petitioner or attorney for petitioner with written authorization, or other designated representative of petitioner with written authorization, shall have the right of access to, and can examine files and records of the Department in the case on appeal. The examination shall be conducted in an office of the Department and an employee of the Department shall be present at the time and place of examination.

## 22.38 RIGHT TO REPRESENTATION

The appellant in a fair hearing under RCW 74.08.070 shall be afforded the opportunity of presenting his case himself or with the aid of others, including but not limited to legal counsel.

When there is an attorney of record or authorized representative, any prehearing discussion of the issue in a fair hearing shall include the attorney or representative.

A former employee of the Division of Community Services shall not at any time after severing his employment with the Department appear, except with the written permission of the Secretary, as an expert witness in behalf of a petioner in a matter in which he previously took an active part as a representative of the Department.

## 22.40 CONDUCTING THE HEARING

Attendance at a fair hearing under RCW 74.08.070 shall be limited to parties directly concerned. The hearing office may exclude unauthorized persons unless the principals agree to their presence.

The hearing shall be reported manually or by a mechanical, electronic or other device capable of transcription.

A hearing under RCW 74.08.070 shall be held in the county in which the appellant resides. The Department shall notify the appellant, his attorney, or other designated representative, of the date, time and place of the hearing at least twenty days prior to the date thereof by first class mail, registered mail, or personal service of a written notice upon appellant or his representative. However, if the date, time or place of the hearing is not convenient to appellant, he shall be afforded the opportunity of requesting a different date, time or place.

The hearing shall be conducted by a duly qualified hearing officer appointed by the director for such purpose.

## 22.42 TIME PERIODS

In computing any period of time prescribed or allowed by an applicable statute, the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday or a legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday nor a holiday. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays and holidays shall be excluded in the computation.

## 22.44 SUBPOENAS

Every subpoena shall state the name of the Department of Social and Health Services and the title of the proceeding, and shall command the person to whom it is directed to attend and give testimony or produce designated books, documents or things under his control at a specified time and place.

Upon application of any party to a contested case fair hearing or license hearing, there shall be issued to such parties, subpoenas requiring the attendance and testimony of witnesses or the production of evidence in such proceeding upon a showing of general relevance and reasonable scope of the testimony or evidence sought. Such subpoenas may be issued with like effect by the attorney of record of the party in whose behalf such witness is required to appear; and the form of such subpoena in each case may be the same as when issued by the Department, except that it shall only be subscribed by the signature of such attorney.

In any contested case, fair hearing, license hearing, or hearing to determine the necessity or desirability of adopting, amending, repealing, or otherwise revising a rule or proposed rule (RCW 34.04.105 (1)), the Department may issue a subpoena on its own motion.

Unless the service of a subpoena is acknowledged on its face by the person subpoenaed, service shall be made by delivering a copy of the subpoena to such person according to law.

The person serving the subpoena shall make proof of service by filing the subpoena and the required return, affidavit, or acknowledgment of service with the Department or the officer before whom the witness is required to testify or produce evidence. If service is made by a person other than an officer of the Department and such service has not been acknowledged by the witness, such person shall make an affidavit of service. Failure to make proof of service does not affect the validity of the service.

Upon motion made promptly and in any event at or before the time specified in the subpoena for compliance by the person to whom the subpoena

is directed and upon notice to the party to whom the subpoena was issued, the Department or its authorized member or officer may (1) quash or modify the subpoena if it is unreasonable or requires evidence not relevant to any matter in issue, or (2) condition denial of the motion upon just and reasonable conditions.

Upon application and for good cause shown, the Department will seek judicial enforcement of subpoenas issued to parties and which have not been quashed.

## 22.46 WITNESSES

Attendance of witnesses and such production of evidence may be required from any place in the State of Washington, at any designated place of hearing.

Witnesses summonded before the Department shall be paid by the party at whose instance they appear the same fees and allowances in the same manner and under the same conditions as provided for witnesses in the superior courts of the State of Washington.

## 22.48 STATEMENTS SUBMITTED IN EVIDENCE

When deemed expeditious, the Department or the hearing officer may take or cause to be taken, depositions and interrogatories for use as evidence in any hearing.

Unless otherwise ordered, the deponent may be examined regarding any matter not privileged, or confidential which is relevant to the subject matter involved in the proceeding.

A party desiring to take the deposition of any person upon oral examination shall give reasonable notice of not less than five days in writing to the Department examiner and all parties. The notice shall state the time and place for taking the deposition, and the name and address of each person to be examined. If the parties so stipulate in writing, depositions may be taken before any person, at any time or place, upon any notice, and in any manner and when so taken may be used as other depositions.

After notice is served for taking a deposition, upon its own action or upon motion reasonably made by any party or by the person to be examined and for good cause shown, the Department or its designated hearing officer may make an order that the deposition shall not be taken, or that it may be taken only at some designated place other than that stated in the notice, or that it may be taken only on written interrogatories, or that the scope of the examination shall be limited to certain matters, or that the examination shall be held with no one present except for the parties to the action and counsel.

## 22.50 TESTIMONY FROM INDIVIDUALS OUT OF STATE

The testimony of petitioner or other witness who is outside the State of Washington may be secured by written questionnaires answered under oath. The principals shall be given an opportunity to propose questions, to rebut the answers, and to submit evidence in addition to that contained in the questionnaires.

The submission of a completed questionnaire by a petitioner who is outside the state shall consitute an appearance by said petitioner.

## 22.52 MATERIAL TO BE CONSIDERED AT A HEARING

The Department hearing office, upon request, will officially notice:

1. Federal law - The constitution; congressional acts; resolutions, records, journals, and committee reports; decisions of federal courts and administrative agencies; executive orders and proclamations; and all rules, orders and notices published in the Federal Register.

2. State law - The constitution of the State of Washington; acts of the legislature, resolutions, records, journals, and committee reports; decisions of administrative agencies of the State of Washington, executive orders and proclamations by the governor; and all rules, orders and notices filed with the code reviser.

3. Agency organization - Organization, administration, officers, personnel, official publications of the Secretary of the Department and practitioners before its bar.

4. Material facts - In the absence of controverting evidence, the Department and its hearing officer, upon request made during a hearing, may officially notice:

   a. General customs and practices followed in the transaction of business.

   b. Facts generally and widely known to all informed persons as not to be subject to reasonable dispute.

   c. Matters within the technical knowledge of the Department as a body of experts, within the scope of its duties, responsibilities or jurisdiction.

   d. Any party may request or the hearing officer may suggest that official notice be taken of a material fact which shall be clearly and precisely stated.

## 22.54 LEGAL PRESUMPTIONS

The Secretary, with or without prior request or notice, may make the following presumptions, where consistent with all surrounding facts and circumstances:

1. Identity - That persons and objects of the same name and description are identical.

2. Delivery - That mail matter, communications, properly addressed, marked, and delivered respectively to the post office or authorized common carrier with all postage, tolls and charges properly prepaid, is or has been delivered to the addressee or consignee in the ordinary course of business.

3. Acceptance of benefit - That a person for whom an act is done or to whom a transfer is made has, does, or will accept same where it is clearly in his own self interest to do so.

## 22.56 STIPULATIONS

The existence or nonexistence of a material fact, as made or agreed in a stipulation or in an admission of record, will be conclusively presumed against any party bound thereby, and no other evidence with respect thereto will be received upon behalf of such party, provided:

1. Upon whom binding - Such a stipulation or admission is binding upon the parties by whom it is made, and upon all other parties to the proceeding who do not expressly and unequivocally deny the existence or nonexistence of the material fact so admitted or stipulated, upon the making thereof;

2. Withdrawal - Any party bound by a stipulation or admission of record at any time prior to final decision may be permitted to withdraw the same in whole or part by showing to the satisfaction of the hearing officer that such stipulation or admission was made inadvertently or under a bona fide mistake of fact contrary to the true fact and that its withdrawal at the time proposed will not unjustly prejudice the rights of other parties to the proceeding.

## 22.58 WITHDRAWAL BY PETITIONER

A petitioner in a fair hearing, contested case or license hearing shall have the right to withdraw at any time prior to the decision by filing a written notice of withdrawal with the Secretary or his hearing officer. If after receiving notice of a hearing, a petitioner, his attorney, or other designated representative fails to appear and does not respond within fifteen days to a letter of inquiry, the hearing request shall be considered abandoned.

## 22.60 NOTIFICATION OF DECISION

The Secretary of the Department shall, within the time prescribed by law, and in any case not more than sixty days after the notice of appeal, notify the petitioner, his counsel or designated representative of his decision.

The decision of the Secretary shall be final on all parties unless appealed to the courts as provided by law.

Every decision and order shall:

1. Be correclty captioned as to the name of the Department and the name of the proceeding;

2. Designate all parties;

3. Include the concise statement of the issues to be considered, and

4. Contain appropriate findings, and conclusions of law.

The effective date of the Secretary's decision reversing the area office is the date of the incorrect action.

A copy of the Secretary's decision and order is furnished to the area office and Regional Administrator.

## 22.62 ACTION BY ECONOMIC AND SOCIAL SERVICE OFFICE

The ESSO Administrator shall notify the SO by letter when the required action has been taken. The original notice shall be sent to the supervising examiner with a copy to the Regional Administrator. The letter describes the action taken and gives the effective date.

## 22.64 DEFINITION OF ISSUES BEFORE HEARING

In all Department hearings the issues to be considered shall be made initially as clear as possible so that the hearing officer may proceed promptly to conduct the hearing on relevant and material matter only.

## 22.66 PREHEARING CONFERENCE RULE

In a hearing the Department or its hearing office, on its or his own motion, or upon the motion of the petitioner or his attorney of record, may direct the parties or their qualified representatives to appear at a specified time and place to consider:

1. Simplification of the issues;

2. The possibility of obtaining stipulations, admission of facts and of documents;

3. The limitation of expert witnesses;

4. Such other matters as may aid in disposition of the proceeding, and

5. The Department hearing officer shall prepare a statement which recites the action taken at the conference including the settlement or simplification of issues and such statement shall control the subsequent course of the hearing.

## 22.68 ADVANCE CONSIDERATION OF EVIDENCE

Where practicable, the Department or its designated hearing office may require:

1. That all documentary evidence which is to be offered during the taking of evidence be submitted to the hearing examiner and to the other parties to the proceeding sufficiently in advance of such taking of evidence to permit study and preparation of cross-examination and rebuttal evidence;

2. That documentary evidence not submitted in advance, as may be required by 1., be not received in evidence in the absence of a clear showing that the offering party had good cause for his failure to produce the evidence sooner;

3. That the authenticity of all documents submitted in advance in a proceeding in which such submission is required, be deemed admitted unless written objection thereto is filed prior to the hearing, except that a party will be permitted to challenge such authenticity at a later time upon a clear showing of good cause for failure to have filed such written objection.

## 22.70 EXPERT TESTIMONY

The hearing examiner or other appropriate office in all classes of cases where practicable shall make an effort to have the interested parties agree upon the witness or witnesses who are to give expert or opinion testimony, either by selecting one or more to speak for all parties or by limiting the number for each party; and, if the interested parties or by limiting the number for each party; and, if the interested parties cannot agree, require them to submit to him and to the other parties written statements containing the names, addresses, and qualifications of their respective opinion or expert witnesses, by a date determined by him and fixed sufficiently in advance of the hearing to permit the other interested parties to investigate such qualifications.

Whenever the manner of introduction of opinion or expert testimony or testimony based on economic or statistical data is governed by requirement fixed under the provisions of this section, such testimony not submitted in accordance with the relevant requirements shall not be received in evidence in the absence of a clear showing that the offering party had good cause for his failure to conform to such requirements.

The hearing examiner or other appropriate office, in all cases in which it is practicable, may require that all direct opinion or expert testimony and all direct testimony based on economic or statistical data be reduced to written sworn statements, and, together with the exhibits upon which based, be submitted to him and to the other parties to the proceeding by a date determined by the hearing officer and fixed a reasonable time in advance of the hearing; and that such sworn statements be acceptable as evidence upon formal offer at the hearing, subject to objection on any ground except that such sworn statements shall not be subject to challenge because the testimony is not presented orally, and provided that witnesses making such statements shall not be subject to cross-examination unless a request is made sufficiently in advance of the hearing to insure the presence of the witnesses.

## 22.72 EXAMINATION OF DATA UNDERLYING EXPERT TESTIMONY

The hearing examiner or other appropriate office, in his discretion but consistent with the rights of the parties, shall cause the parties to make available for inspection in advance of the hearing, and for purposes of cross-examination at the hearing, the data underlying statements and exhibits submitted in accordance with WAC 388-08-480, but, wherever practicable, that he restrict to a minimum the placing of such data in the record.

## 22.74 MEDICAL TESTIMONY

In a hearing involving medical issues, when the hearing officer or the appellant considers a medical assessment other than that of the person making the original decision to be necessary, it will be obtained at Departmental expense from a medical source satisfactory to the appellant and made a part of the record. The assessment of such medical authority shall be reported in writing or by personal testimony as an expert witness.

Procedure for obtaining a medical assessment shall follow rules and procedures of the Division of Health Services.

## 22.76 CONTINUANCE OF HEARINGS

Any party who desires a continuance shall immediately, upon receipt of notice of a hearing, or as soon thereafter as facts requiring such continuance

come to his knowledge, notify the Department or its designated hearing office stating the reasons such continuance is necessary. For good cause shown, the Department may grant such continuance and may at any time order a continuance upon its own motion. During the hearing, if it appears in the interest of justice that further testimony or argument should be received, the hearing officer conducting the hearing may, in his own discretion, continue the hearing and fix the date for introduction of additional evidence or presentation of argument.

## 22.78 ADMISSIBILITY OF EVIDENCE

All relevant and material evidence is admissible which, in the opinion of the hearing officer, is the best evidence reasonably obtainable, having due regard for its necessity, availability, and trustworthiness. In passing upon the admissibility of evidence, the officer conducting the hearing shall give consideration to, but shall not be bound to follow, rules of evidence governing civil proceedings.

When objection is made to the admissibility of evidence, such evidence may be received subject to a later ruling. The hearing officer may, in his discretion, either with or without objection, exclude inadmissible evidence or order cumulative evidence discontinued. Parties objecting to the introduction of evidence shall state the precise ground of objection at the time evidence is offered.

All evidence including, but not limited to, records and documents in the possession of the Department of which it desires to avail itself, shall be offered and made a part of the record in the case. Documentary evidence may be received in the form of copies and excerpts or incorporation by reference.

Every party shall have the right of cross-examination of witnessess who testify and shall have the right to submit rebuttal evidence.

## 22.80 PETITIONS RELATING TO RULES

Any interested person may petition the Department of Social and Health Services requesting the promulgation, amendment or repeal of any rule.

When the petition requests a promulgation of a rules, the requested or proposed rule must be set out in full. The petition must also include all reasons for the requested rule together with the briefs of any applicable law. Where the petition requests the amendment or repeal of a rule presently in effect, the rule or portion of the rule in question must be set out, as well as the suggested amended form, if any. The petition must include all reasons for the requested amendment or repeal of the rule.

All petitions shall be considered by the Department, and the Department may, at its discretion, order a hearing for the further consideration

and discussion of the requested promulgation, amendment, repeal or modification of any rule.

Within thirty days after the submission of a petition, the Department shall formally consider the peition and shall within thirty days thereafter either deny the petition in writing stating the reasons for the denial or initiate rule-making proceedings in accordance with Chapter 34.04 RCW.

## 22.82 DECLARATORY RULINGS

As provided by RCW 34.04.080, any interested person may petition the Department for a declaratory ruling. The Department shall consider the petition and within a reasonable time the Department shall:

1. Issue a nonbinding declaratory ruling, or

2. Notify the person that no declaratory ruling is to be issued, or

3. Set a reasonable time and place for hearing argument upon the matter, and give reasonable notification to the person of the time and place for such hearing and of the issues involved.

If a hearing as provided is conducted, the Department shall within a reasonable time:

1. Issue a binding declaratory ruling, or

2. Issue a nonbinding declaratory ruling, or

3. Notify the person that no declaratory ruling is to be issued.

## 22.84 PETITIONING FOR A DECLARATORY RULING

Any interested person petitioning the Department for a declaratory ruling pursuant to RCW 34.04.080 shall generally adhere to the following form for such purpose.

1. At the top of the page shall appear the wording, "Before the Department of Social and Health Services". On the left side of page below the foregoing the following caption shall be set out: "In the Matter of the Petition of (name of petitioning party) for a Declaratory Ruling". Opposite the foregoing caption shall appear the word "Petition".

2. The body of the petition shall be set out in numbered paragraphs. The first paragraph shall state the name and address of the petitioning party. The second paragraph shall state all rules or statutes that may be brought into issue by the petition. Succeeding paragraphs

shall set out the state of facts relied upon in form similar to that applicable to complaints in civil actions before the superior courts of this state. The concluding paragraphs shall contain the prayer of the petitioner. The petition shall be subscribed and verified in the manner prescribed for verification of complaints in the superior courts of this state.

3. The original and two legible copies shall be filed with the Department. Petitions shall be on white paper, either 8 1/2" x 11" or 8 1/2" x 13"in size.

4. Any interested person petitioning the Department, requesting the promulgation, amendment or repeal of any rules shall generally adhere to the following form for such purpose:

   a. At the top of the page shall appear the wording "Before the Department of Social and Health Services." On the left side of the page below the foregoing the following caption shall be set out: "In the Matter of the Petition of (name of petitioning party) for (state whether promulgation, amendment or repeal) of Rule (or Rules)." Opposite the foregoing caption shall appear the word "Petition."

   b. The body of the petition shall be set out in numbered paragraphs. The first paragraph shall state the name and address of the petitioning party and whether petitioner seeks the promulgation of new rule or rules, or amendment or repeal of existing rule or rules. The amendment of an existing rule, shall set forth the desired rule in its entirety. Where the petition is for repeal of an existing rule, such shall be stated and the rule proposed to be repealed shall either be set forth in full or shall be referred to by agency rule number. The third paragraph shall set forth concisely the reasons for the proposal of the petitioner and shall contain a statement as to the interest of the petitioner in the subject matter of the rule. Additional numbered paragraphs may be used to give full explanation of petitioner's reason for the action sought.

   c. Petitions shall be dated and signed by the person or entity named in the first paragraph or by his attorney. The original and two legible copies of the petition shall be filed with the Department. Petitions shall be on white paper, either 8 1/2" x 11" or 8 1/2" x 13" in size.

## 22.86 APPEALS TO COURTS

Any appellant in a fair hearing who finds himself aggrieved by the decision of the Secretary has the right to judicial review as provided by law.

A transcript at the fair hearing, together with all documents admitted in evidence, shall be furnished by the Department upon request of the appellant.

The supervising examiner notifies the district administrator and the ESSO administrator when a case is appealed to the court, and provides the Attorney General with the record and copies of transcript for filing with the court.

## 22.88 PUBLISHING FAIR HEARING DECISIONS

The Department shall publish, in summary form, all fair hearing decisions. Summaries of all decisions shall be distributed to each ESSO of the Department where they shall be made accessible to appellants, their representatives, and to the public. Summaries shall contain no identifying information pursuant to provisions relating to the safeguarding of public assistance information.

Fair hearing decision summaries are published monthly in loose leaf form. They are to be filed by the ESSO in a three-ring binder according to the system prescribed by the State Office.

## 22.90 ADMINISTRATIVE HEARING

Whenever the Secretary shall have reasonable cause to believe that in the administration of Chapter 74.15 RCW grounds exist for the denial, suspension or revocation of a license or that a licensee has failed to qualify for renewal of a license he shall nofity the licensee in writing by certified mail, stating the grounds upon which it is proposed that the license be denied, suspended, revoked or not renewed.

Within thirty days from the receipt of notice of the grounds for denial, suspension, revocation or lack of renewal, the licensee may serve upon the Secretary a written request for hearing. Service of a request for hearing shall be made by certified mail. Upon receiving a request for hearing, the Secretary shall fix a date upon which the matter may be heard, which date shall be not less then thirty-five days from the receipt of the request for hearing, and he shall also notify the child welfare and day care advisory committee not less than twenty-five days before the hearing date. If no request for hearing is made within the time specified, the license shall be deemed denied, suspended or revoked.

## 22.92 REPRESENTATION AT AN ADMINISTRATIVE HEARING

In a hearing under 22.90, only the following may appear in a representative capacity:

1. Attorneys-at-law duly qualified and entitled to practice before the supreme court of the State of Washington;

2. Attorneys-at-law duly qualified and entitled to practice before the highest court of record on any other state, if the attorneys-at-law of the State of Washington are permitted to appear in a representative capacity before administrative agencies of such other state, and if not otherwise prohibited by our state law;

3. A bona fide officer, partner, or full-time employee of an individual firm, association, partnership, or corporation who appears for such individual firm, association, partnership or corporation.

# CHAPTER 22

# FAMILY PLANNING

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# CHAPTER 22
# FAMILY PLANNING

## 22.00 PROGRAM AUTHORITY

Federal: 45 CFR 205.146(b); 220.21; 228.63; 228.70.
State: RCW 9.02.070; 43.20A.550.
WAC 388-15-010; 388-15-020; 388-15-240; 388-86-035.

## 22.10 POLICY

### 22.11 Purpose of Service

Family planning services enables individuals to voluntarily avoid unwanted pregnancies and to make informed choices regarding the number and spacing of children in order to achieve or maintain independence and/or self-sufficiency.

### 22.12 Service Description

A. Family planning services encompasses a broad range of medical and nonmedical services which include information and referral, assistance in scheduling appointments, counseling, education, contraceptive medical care, and surgical services.

B. Family planning services are provided by:

1. Family planning agencies which have a contract with Family Planning Services Section, Office of Preventive Health Services. Services include:

   a. The "Annual Services Package" of contraceptive and related services provided to clients by Title X, Title XIX, and State Funds. The established rate covers both the exam visit and a subsequent year of contraceptive care including:

      (1) Information and education about birth control methods;

      (2) Medical history and physical examination;

      (3) Pap smear, gonorrhea culture, and blood and urine testing for sugar and protein;

      (4) Contraceptive supplies;

      (5) Short-term counseling around family planning related problems;



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(6) Community referral if additional medical, social, or financial assistance is needed;

(7) Follow-up visits as required for contraceptive method, abnormal test results, and/or phusical examination.

b. Services not included in the Annual Services Package includes:

(1) Pregnancy testing, counseling, and referral;

(2) Diagnosis and/or treatment of vaginal discharge;

(3) Sterilization counseling and/or surgery;

(4) Infertility counseling and/or referral;

(5) Additional (nonroutine) laboratory tests.

c. Community involvement and client education.

2. Private physicians who have a contract agreement with the Division of Medical Assistance to provide services to Title XIX eligible persons which include:

a. Physical examination;

b. Laboratory tests;

c. Medical contraceptive services (diagnosis, treatment, supplies, and follow-up); and

d. Male and female sterilization and abortion..

C. Coordination of family planning related services is provided through a DSHS interdepartmental cooperative agreement. The agreement provides coordination between the Division of Medical Assistance (DMA), Division of Children and Family Services (DCFS), Division of Income Assistance (DIA), and Family Planning Services Section (FPSS) within the Division of Health (DOH).

D. Family planning referral services are provided by Community Services Offices (CSO).

By federal mandate, CSOs are required to inform AFDC recipients of the availability of family planning services and assist the recipient in obtaining the requested service (see 22.13(A)(1)(2)(3)(4) for CSO division of staff responsibilities).

## 22.13 General Policies Related to This Service

A. CSOs shall inform all recipients of the availability of family planning services by:

1. Including family planning brochures in financial application packets.

2. Explaining that medical coupons will cover payment of family planning services, either through private physicians or through Title X funded family planning agencies.

3. Informing clients about the availability of family planning services when establishing social service eligibility;

4. Providing information and referral services to all persons inquiring about the availability of family planning services.

B. Family planning services are strictly voluntary.

C. Family planning services shall not be a prerequisite for eligibility to receive any other requested social service or financial assistance.

## 22.15 Eligibility

A. Family planning services are available to persons who qualify for medical coupons or meet state-funded eligibility requirements. Contracted family planning agencies make the eligibility determination for state-funded services.

B. State residency is a requirement to be eligible for Title XIX and state-funded family planning service.

C. The provision of family planning services to minors does not require parental consent, but does require that the parent's financial ability to support the minor be established according to Washington State Medical Assistance Program criteria. However, declaration of the parent's income is not required to receive services supported by Title X or state funds.

D. Family planning agencies which provide services under Title X of the Public Health Act utilize a sliding fee scale based on family size and income. Under Title X funding, no individual may be refused services because of residency or inability to pay.

## 22.20 PROGRAM STANDARDS

### 22.21 Program Expectations

A. Financial service workers will provide family planning information and referral to all clients requesting financial assistance.

B. Social workers will provide family planning information and referral (I&R) to all persons who request service.

### 22.22 Program Outcomes

Information and referral services provided.

## 22.30 SERVICE PROCEDURES

### 22.31 Procedures Applicable to Nonsurgical Services

When providing family planning information and referral to clientseligible for social services, the service worker should inform clients how medical coupons may be used, e.g., if the coupon is coded to be accepted only at group health agencies or private physicians, the client cannot use the coupon at a family planning agency.

### 22.32 Procedures Applicable to Surgical Services

A. All requests for sterilizations or abortions will be referred to:

1. Family planning agencies.

2. Private physicians who accept medical coupons from Title XIX eligible clients.

B. Surgical service providers must obtain prior approval from the CSO medical consultant for all Title XIX family planning surgical procedures.

C. Sterilizations require a thirty-day waiting period if funded by Title XIX or state funds.

## 22.60 INTERFACE WITH OTHER DSHS SERVICES

The service worker may coordinate and confer financial service for determination of Title XIX eligibility.



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## 22.98 INTERFACE WITH NON-DSHS SERVICES

The service worker providing family planning information and referral services may wish to coordinate or confer with:

A. Family planning agencies to arrange for appointments and/or follow-up services.

B. Private physicians to arrange for appointments and/or follow-up services.

## 22.99 REQUIRED FORMS AND INSTRUCTIONS

See Chapter 99, General Forms, for these generic forms:

| | |
|---|---|
| DSHS 2-305(X) | Service Episode Record (10/78) |
| DSHS 2-306 | Communication/Referral (Rev. 9/78) |
| DSHS 14-24(X) | Face Sheet (Rev. 9/78) |