



PROPOSED RULE MAKING

CR-102 (June 2004)

(Implements RCW 34.05.320)

Do **NOT** use for expedited rule making

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

- Preproposal Statement of Inquiry was filed as WSR 08-22-021; or
- Expedited Rule Making--Proposed notice was filed as WSR _____; or
- Proposal is exempt under RCW 34.05.310(4).

- Original Notice
- Supplemental Notice to WSR
- Continuance of WSR

Title of rule and other identifying information: (Describe Subject)

The department is amending WAC 388-543-1200 DME – Providers Who Are Eligible to Provide Services

Hearing location(s):

Blake Office Park East – Rose Room
 4500 – 10th Ave. SE
 Lacey, Washington 98503
 (One block north of the intersection of Pacific Ave. SE and Alhadeff Lane. A map or directions are available at <http://www1.dshs.wa.gov/msa/rpau/docket.html> or by calling 360-664-6094)

Date: **January 27, 2008** Time: **10:00 a.m.**

Submit written comments to:

Name: DSHS Rules Coordinator
 Address: PO Box 45850, Olympia WA, 98504
 Delivery: 4500 – 10th Ave. SE, Lacey, Washington 98503
 E-mail: DSHSRPAURULESCOORDINATOR@dshs.wa.gov
 Fax: (360) 664-6185

by
5 p.m. on January 27, 2008

Assistance for persons with disabilities: Contact Jennisha Johnson, DSHS Rules Consultant by January 13, 2009
 TTY (360) 664-6178 or (360) 664-6094 or
 by e-mail at johnsjl4@dshs.wa.gov

Date of intended adoption: Not sooner than January 28, 2009 (Note: This is **NOT** the **effective** date)

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

The department is removing the requirement for DME providers under WAC 388-543-1200(1)(b) which states “*Have appropriately trained, qualified staff.*” The department is also changing all references to “MAA” within this section to “the department.”

Reasons supporting proposal: This requirement sets up an expectation that the department will monitor the training the provider’s staff receive and determine if they are “qualified.” This is not the case. There are no standards for defining what is “qualified” for DME staff, nor is there a certification process, nor does the department have a system that monitors whether vendors are complying with this requirement.

Statutory authority for adoption: RCW 74.08.090

Statute being implemented: RCW 74.08.090

Is rule necessary because of a:

- Federal Law? Yes No
- Federal Court Decision? Yes No
- State Court Decision? Yes No

If yes, CITATION:

DATE

December 19, 2008

NAME (type or print)

Stephanie Schiller

SIGNATURE

TITLE

DSHS Rules Coordinator

CODE REVISER USE ONLY

**OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED**

DATE: December 23, 2008

TIME: 12:46 PM

WSR 09-01-174

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:
None.

Name of proponent: (person or organization) Department of Social and Health Services

- Private
 Public
 Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting..... Wendy Boedigheimer	PO Box 45504, Olympia WA 98504-5504	(360) 725-1306
Implementation.... Erin Mayo	PO Box 45506, Olympia WA 98504-5506	(360) 725-1729
Enforcement..... Erin Mayo	PO Box 45506, Olympia WA 98504-5506	(360) 725-1729

Has a small business economic impact statement been prepared under chapter 19.85 RCW?

Yes. Attach copy of small business economic impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

phone ()

fax ()

e-mail

No. Explain why no statement was prepared.

The department has analyzed the rules and determined that no new costs will be imposed on small businesses or non-profit organization.

Is a cost-benefit analysis required under RCW 34.05.328?

Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name: Erin Mayo, DME Program Manager

Address: DSHS – Health & Recovery Services Administration

PO Box 45506

Olympia WA 98504-5506

phone (360) 725-1729

fax (360) 586-9727

e-mail mayoe@dshs.wa.gov

No: Please explain:

AMENDATORY SECTION (Amending WSR 01-01-078, filed 12/13/00, effective 1/13/01)

WAC 388-543-1200 Providers who are eligible to provide services. (1) ((MAA)) The department requires a provider who supplies DME and related supplies, prosthetics, orthotics, medical supplies and related services to ((an MAA)) a client to meet all of the following. The provider must:

(a) Have the proper business license; and
(b) ((Have appropriately trained qualified staff; and
(c))) Be certified, licensed and/or bonded if required, to perform the services billed to the department. Out-of-state prosthetic and orthotics providers must meet their state regulatory requirements.

(2) ((MAA)) The department may reimburse qualified providers for DME and related supplies, prosthetics, orthotics, medical supplies, repairs, and related services on a fee-for-service (FFS) basis as follows:

(a) DME providers for DME and related repair services;
(b) Medical equipment dealers, pharmacies, and home health agencies under their medical vendor provider number for medical supplies, subject to the limitations in this section;

(c) Licensed prosthetics and orthotics providers who are licensed by the Washington state department of health in prosthetics and orthotics. This does not apply to medical equipment dealers and pharmacies that do not require licensure to provide selected prosthetics and orthotics;

(d) Physicians who provide medical equipment and supplies in the physician's office. ((MAA)) The department may pay separately for medical supplies, subject to the provisions in ((MAA's)) the department's resource based relative value scale (RBRVS) fee schedule; and

(e) Out-of-state orthotics and prosthetics providers who meet their state regulations.

(3) ((MAA)) The department terminates from medicaid participation any provider who violates program regulations and policies, as described in WAC 388-502-0020.