



# 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, Aging and Disability Services Administration

- Preproposal Statement of Inquiry was filed as WSR 08-17-098 ; 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 388-845-0060- Can my waiver enrollment be terminated?

**Hearing location(s):**

Blake Office Park East – Rose Room  
 4500 – 10<sup>th</sup> 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://www.dshs.wa.gov/msa/rpau/docket.html> or  
 by calling 360-664-6094)

Date: **March 24, 2009** Time: **10:00 a.m.**

**Submit written comments to:**

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

by  
**5 p.m. on March 24, 2009**

**Assistance for persons with disabilities:** Contact Jennisha Johnson, DSHS Rules Consultant by March 10, 2009  
 TTY (360) 664-6178 or (360) 664-6094 or  
 by e-mail at [johnsjl4@dshs.wa.gov](mailto:johnsjl4@dshs.wa.gov)

**Date of intended adoption:** Not earlier than March 25, 2009  
(Note: This is **NOT** the **effective** date)

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

This amendment defines the procedures for administering the Home and Community Based Services waiver by revising the reasons for termination from the Community Protection Waiver.

**Reasons supporting proposal:** see above

**Statutory authority for adoption:**  
RCW 71A.12.030, RCW 71A.10.020(3)

**Statute being implemented:**  
Title 71A RCW

**Is rule necessary because of a:**

Federal Law?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Federal Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
State Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

If yes, CITATION:

**DATE**  
February 4, 2009

**NAME** (type or print)  
Stephanie Schiller

**SIGNATURE**  
*Stephanie E Schiller*

**TITLE**  
DSHS Rules Coordinator

**CODE REVISER USE ONLY**

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

**DATE: February 11, 2009  
TIME: 7:03 AM**

**WSR 09-05-030**

(COMPLETE REVERSE SIDE)

**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..... Debbie Roberts	640 Woodland Square Loop SE Lacey, WA 98503-1045 PO Box 45310, Olympia, WA 98507-5310 E-mail roberdx@dshs.wa.gov	(360) 725-3400 FAX (360) 404-0955
Implementation.... Shirley Everard	640 Woodland Square Loop SE Lacey, WA 98503-1045 PO Box 45310, Olympia, WA 98507-5310 E-mail LunsfLL@dshs.wa.gov	(360) 725-3444 FAX (360) 404-0955
Enforcement..... Don Clintsman	640 Woodland Square Loop SE Lacey, WA 98503-1045 PO Box 45310, Olympia, WA 98507-5310 E-mail clintdl@dshs.wa.gov	(360) 725-3421 FAX (360) 404-0955

**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 nonprofit organizations.

**Is a cost-benefit analysis required under RCW 34.05.328?**

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

Name:  
Address:  
phone  
fax  
e-mail

No: Please explain:

These amendments are not considered significant rules as defined in RCW 34.05.328(5)(c)(iii).

AMENDATORY SECTION (Amending WSR 07-20-050, filed 9/26/07, effective 10/27/07)

**WAC 388-845-0060 Can my waiver enrollment be terminated?** DDD may terminate your waiver enrollment if DDD determines that:

(1) Your health and welfare needs cannot be met in your current waiver or for one of the following reasons:

(a) You no longer meet one or more of the requirements listed in WAC 388-845-0030;

(b) You do not have an identified need for a waiver service at the time of your annual plan of care or individual support plan;

(c) You do not use a waiver service at least once in every thirty consecutive days and your health and welfare do not require monthly monitoring;

(d) You are on the community protection waiver and:

(i) You choose not to be served by a certified residential community protection provider-intensive supported living services (CP-ISLS);

(ii) You engage in any behaviors identified in WAC 388-831-0240(1) through (4); and

(iii) DDD determines that your health and safety needs or the health and safety needs of the community cannot be met in the community protection program.

(e) You choose to disenroll from the waiver;

(f) You reside out-of-state;

(g) You cannot be located or do not make yourself available for the annual waiver reassessment of eligibility;

(h) You refuse to participate with DDD in:

(i) Service planning;

(ii) Required quality assurance and program monitoring activities; or

(iii) Accepting services agreed to in your plan of care or individual support plan as necessary to meet your health and welfare needs.

(i) You are residing in a hospital, jail, prison, nursing facility, ICF/MR, or other institution and remain in residence at least one full calendar month, and are still in residence:

(i) At the end of the twelfth month following the effective date of your current plan of care or individual support plan, as described in WAC 388-845-3060; or

(ii) ~~((On March 31st,))~~ The end of the waiver fiscal year, whichever date occurs first.

(j) Your needs exceed the maximum funding level or scope of services under the Basic or Basic Plus waiver as specified in WAC 388-845-3080; or

(k) Your needs exceed what can be provided under ~~((the CORE or community protection waiver as specified in))~~ WAC 388-845-3085; or

(2) Services offered on a different waiver can meet your health and welfare needs and DDD enrolls you on a different waiver.