



# 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 08-12-070; 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 09-04-065
- Continuance of WSR

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

The department is amending WAC 388-105-0005 The daily Medicaid payment rates for clients assessed using the comprehensive assessment reporting evaluation (CARE) tool and that reside in adult family homes (AFH) and boarding homes contracted to provide assisted living (AL), adult residential care (ARC), and enhanced adult residential care (EARC) services; and WAC 388-105-00-45 Bed or unit hold -- Medicaid resident discharged for a hospital or nursing home stay from an adult family home (AFH) or a boarding home contracted to provide adult residential care (ARC), enhanced adult residential care (EARC), or assisted living services (AL).

**Hearing location(s):**

Office Building 2 - Auditorium  
(DSHS Headquarters)  
1115 Washington  
Olympia, WA 98504  
Public parking at 11<sup>th</sup> and Jefferson. A map is available at:  
<http://www1.dshs.wa.gov/msa/rpau/RPAU-OB-2directions.html>  
or by calling 360-664-6094.

Date: **April 7, 2009** Time: **10:00 a.m.**

**Submit written comments to:**

Name: DSHS Rules Coordinator  
Address: PO Box 45850, Olympia WA, 98504-5850  
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 April 7, 2009**

**Assistance for persons with disabilities:** Contact Jennisha Johnson, DSHS Rules Consultant by March 24, 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 April 8, 2009  
(Note: This is **NOT** the **effective** date)

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

WAC 388-105-0005 - This supplemental is to reduce the daily Medicaid payment rates for clients assessed using the comprehensive assessment reporting evaluation (CARE) tool and that reside AFHs and licensed boarding homes contracted to provide AL, ARC, and EARC services proposed for July 1, 2008 and emergency adopted by three percent effective May 1, 2009.

WAC 388-105-0045 – Requiring notice within twenty-four when a resident is discharged on medical leave to a nursing home or hospital from the AFH, ARC, EARC, or AL facility and adopting consequences for failure to notify.

**Reasons supporting proposal:** See above.

**Statutory authority for adoption:**

RCW 74.39A.30 and RCW 18.20.290  
Chapter 329, Laws of 2008

**Statute being implemented:**

RCW 74.39A.30 and RCW 18.20.290

**Is rule necessary because of a:**

- Federal Law?  Yes  No
  - Federal Court Decision?  Yes  No
  - State Court Decision?  Yes  No
- If yes, CITATION:

**DATE**

February 23, 2009

**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:** February 25, 2009

**TIME:** 3:10 PM

**WSR 09-06-050**

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

**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..... Patricia Hague	MS 45600 Olympia, WA 98504	(360) 725-2447
Implementation.... Ken Callaghan	MS 45600 Olympia, WA 98504	(360) 725-249
Enforcement..... Ken Callaghan	MS 45600 Olympia, WA 98504	(360) 725-2499

**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. Under RCW 19.85.025 (3) and 030 (1) (a); RCW 34.05.310 (4)(f), the department is exempt from preparing a SBEIS.

RCW 19.85.025 (3) This chapter does not apply to the adoption of a rule described in RCW [34.05.310](#)(4).

RCW 34.05.310(4) This section does not apply to:

(f) Rules that set or adjust fees or rates pursuant to legislative standards;

The adoption of rules to set or adjust fees is cost neutral.

RCW 19.85.030 (1) (a) In the adoption of a rule under chapter [34.05](#) RCW, an agency shall prepare a small business economic impact statement: (a) If the proposed rule will impose more than minor costs on businesses in an industry;

**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:

Under RCW 34.05.328 (5) (b) (vi), the department is exempt from preparing a CBA for these rules. The rules set or adjust fees or rates pursuant to legislative standards

RCW 34.05.328 (5) (b) This section does not apply to:

(vi) Rules that set or adjust fees or rates pursuant to legislative standards;

AMENDATORY SECTION (Amending WSR 06-19-017, filed 9/8/06, effective 10/9/06)

**WAC 388-105-0005 The daily Medicaid payment rates for clients assessed using the comprehensive assessment reporting evaluation (CARE) tool and that reside in adult family homes (AFH) and boarding homes contracted to provide assisted living (AL), adult residential care (ARC), and enhanced adult residential care (EARC) services.** For contracted AFH and boarding homes contracted to provide AL, ARC, and EARC services, the department pays the following daily rates for care of a Medicaid resident:

COMMUNITY RESIDENTIAL DAILY RATES FOR CLIENTS ASSESSED USING CARE					
KING COUNTY					
CARE CLASSIFICATION	AL Without	AL With	ARC	EARC	AFH
	Capital Add-on	Capital Add-on			
A Low <del>((1))</del>	<del>\$(65.30)</del> <u>67.14</u>	<del>\$(70.41)</del> <u>72.56</u>	<del>\$(46.18)</del> <u>47.48</u>	<del>\$(46.18)</del> <u>47.48</u>	<del>\$(46.82)</del> <u>46.87</u>
A Med <del>((2))</del>	<del>\$(70.71)</del> <u>72.70</u>	<del>\$(75.82)</del> <u>78.12</u>	<del>\$(52.40)</del> <u>53.87</u>	<del>\$(52.40)</del> <u>53.87</u>	<del>\$(53.13)</del> <u>53.19</u>
A High <del>((3))</del>	<del>\$(79.34)</del> <u>81.58</u>	<del>\$(84.45)</del> <u>87.00</u>	<del>\$(66.92)</del> <u>59.17</u>	<del>\$(66.92)</del> <u>59.17</u>	<del>\$(59.45)</del> <u>59.51</u>
B Low <del>((4))</del>	<del>\$(65.30)</del> <u>67.14</u>	<del>\$(70.41)</del> <u>72.56</u>	<del>\$(46.18)</del> <u>47.48</u>	<del>\$(46.18)</del> <u>47.48</u>	<del>\$(46.82)</del> <u>47.10</u>
B Med <del>((5))</del>	<del>\$(72.87)</del> <u>74.92</u>	<del>\$(77.98)</del> <u>80.34</u>	<del>\$(58.62)</del> <u>60.28</u>	<del>\$(58.62)</del> <u>60.28</u>	<del>\$(59.45)</del> <u>59.81</u>
<u>B Med-High</u>	<u>\$84.86</u>	<u>\$90.28</u>	<u>\$64.09</u>	<u>\$64.09</u>	<u>\$64.08</u>
B High <del>((6))</del>	<del>\$(86.88)</del> <u>89.33</u>	<del>\$(91.99)</del> <u>94.75</u>	<del>\$(75.23)</del> <u>73.26</u>	<del>\$(75.23)</del> <u>73.26</u>	<del>\$(67.85)</del> <u>73.26</u>
C Low <del>((7))</del>	<del>\$(70.71)</del> <u>72.70</u>	<del>\$(75.82)</del> <u>78.12</u>	<del>\$(52.40)</del> <u>53.87</u>	<del>\$(52.40)</del> <u>53.87</u>	<del>\$(53.13)</del> <u>53.19</u>
C Med <del>((8))</del>	<del>\$(79.34)</del> <u>81.58</u>	<del>\$(84.45)</del> <u>87.00</u>	<del>\$(66.92)</del> <u>67.63</u>	<del>\$(66.92)</del> <u>67.63</u>	<del>\$(67.85)</del> <u>67.92</u>
C <del>(High (9))</del> <u>Med-High</u>	<del>\$(98.77)</del> <u>101.56</u>	<del>\$(103.88)</del> <u>106.98</u>	<del>\$(87.68)</del> <u>90.15</u>	<del>\$(87.68)</del> <u>90.15</u>	<del>\$(88.89)</del> <u>88.98</u>
<u>C High</u>	<u>\$102.57</u>	<u>\$107.99</u>	<u>\$91.01</u>	<u>\$91.01</u>	<u>\$90.22</u>

D Low ((+10))	\$((72.87)) <u>74.92</u>	\$((77.98)) <u>80.34</u>	\$((58.62)) <u>72.82</u>	\$((58.62)) <u>72.82</u>	\$((67.85)) <u>69.24</u>
D Med ((+11))	\$((79.34)) <u>83.25</u>	\$((84.45)) <u>88.67</u>	\$((66.92)) <u>84.37</u>	\$((66.92)) <u>84.37</u>	\$((76.28)) <u>84.74</u>
<u>D Med-High</u>	<u>\$107.65</u>	<u>\$113.07</u>	<u>\$107.29</u>	<u>\$107.29</u>	<u>\$101.97</u>
D High ((+12))	\$((98.77)) <u>116.00</u>	\$((103.88)) <u>121.42</u>	\$((87.68)) <u>116.00</u>	\$((87.68)) <u>116.00</u>	\$((88.89)) <u>116.10</u>
<u>E Med</u>	<u>\$140.19</u>	<u>\$145.61</u>	<u>\$140.19</u>	<u>\$140.19</u>	<u>\$140.29</u>
<u>E High</u>	<u>\$164.39</u>	<u>\$169.81</u>	<u>\$164.39</u>	<u>\$164.39</u>	<u>\$164.48</u>

COMMUNITY RESIDENTIAL DAILY RATES FOR CLIENTS ASSESSED USING CARE					
METROPOLITAN COUNTIES*					
			ARC	EARC	AFH
CARE CLASSIFICATION	AL Without Capital Add-on	AL With Capital Add-on			
A Low ((+1))	\$((59.90)) <u>61.59</u>	\$((64.54)) <u>66.51</u>	\$((46.18)) <u>47.48</u>	\$((46.18)) <u>47.48</u>	\$((46.82)) <u>46.87</u>
A Med ((+2))	\$((63.15)) <u>64.93</u>	\$((67.79)) <u>69.85</u>	\$((50.32)) <u>51.74</u>	\$((50.32)) <u>51.74</u>	\$((51.03)) <u>51.08</u>
A High ((+3))	\$((77.18)) <u>79.36</u>	\$((81.82)) <u>84.28</u>	\$((63.81)) <u>56.42</u>	\$((63.81)) <u>56.42</u>	\$((56.28)) <u>56.34</u>
B Low ((+4))	\$((59.90)) <u>61.59</u>	\$((64.54)) <u>66.51</u>	\$((46.18)) <u>47.48</u>	\$((46.18)) <u>47.48</u>	\$((46.82)) <u>47.10</u>
B Med ((+5))	\$((68.54)) <u>70.47</u>	\$((73.18)) <u>75.39</u>	\$((55.51)) <u>57.07</u>	\$((55.51)) <u>57.07</u>	\$((56.28)) <u>56.62</u>
<u>B Med-High</u>	<u>\$79.82</u>	<u>\$84.74</u>	<u>\$60.69</u>	<u>\$60.69</u>	<u>\$60.72</u>
B High ((+6))	\$((84.73)) <u>87.12</u>	\$((89.37)) <u>92.04</u>	\$((71.08)) <u>71.20</u>	\$((71.08)) <u>71.20</u>	\$((64.70)) <u>71.20</u>
C Low ((+7))	\$((63.15)) <u>64.93</u>	\$((67.79)) <u>69.85</u>	\$((50.32)) <u>51.95</u>	\$((50.32)) <u>51.95</u>	\$((51.03)) <u>51.46</u>
C Med ((+8))	\$((77.18)) <u>79.36</u>	\$((81.82)) <u>84.28</u>	\$((63.81)) <u>66.76</u>	\$((63.81)) <u>66.76</u>	\$((64.70)) <u>66.26</u>
C ((High +9)) <u>Med-High</u>	\$((95.52)) <u>98.21</u>	\$((100.16)) <u>103.13</u>	\$((81.45)) <u>83.75</u>	\$((81.45)) <u>83.75</u>	\$((82.59)) <u>82.67</u>

<u>C High</u>	<u>\$99.19</u>	<u>\$104.11</u>	<u>\$89.08</u>	<u>\$89.08</u>	<u>\$87.72</u>
D Low ((+10))	\$((68.54)) <u>70.47</u>	\$((73.18)) <u>75.39</u>	\$((55.51)) <u>71.82</u>	\$((55.51)) <u>71.82</u>	\$((64.70)) <u>67.71</u>
D Med ((+11))	\$((77.18)) <u>80.98</u>	\$((81.82)) <u>85.90</u>	\$((63.81)) <u>82.68</u>	\$((63.81)) <u>82.68</u>	\$((72.06)) <u>82.46</u>
<u>D Med-High</u>	<u>\$104.11</u>	<u>\$109.03</u>	<u>\$104.63</u>	<u>\$104.63</u>	<u>\$98.86</u>
D High ((+12))	\$((95.52)) <u>112.81</u>	\$((100.16)) <u>117.73</u>	\$((81.45)) <u>112.81</u>	\$((81.45)) <u>112.81</u>	\$((82.59)) <u>112.32</u>
<u>E Med</u>	<u>\$135.84</u>	<u>\$140.76</u>	<u>\$135.84</u>	<u>\$135.84</u>	<u>\$135.34</u>
<u>E High</u>	<u>\$158.87</u>	<u>\$163.79</u>	<u>\$158.87</u>	<u>\$158.87</u>	<u>\$158.37</u>

\*Benton, Clark, Franklin, Island, Kitsap, Pierce, Snohomish, Spokane, Thurston, Whatcom, and Yakima counties.

COMMUNITY RESIDENTIAL DAILY RATES FOR CLIENTS ASSESSED USING CARE					
NONMETROPOLITAN COUNTIES**					
			ARC	EARC	AFH
CARE CLASSIFICATION	AL Without Capital Add-on	AL With Capital Add-on			
A Low ((+1))	\$((58.83)) <u>60.49</u>	\$((63.77)) <u>65.73</u>	\$((46.18)) <u>47.48</u>	\$((46.18)) <u>47.48</u>	\$((46.82)) <u>46.87</u>
A Med ((+2))	\$((63.15)) <u>64.93</u>	\$((68.09)) <u>70.17</u>	\$((49.29)) <u>50.68</u>	\$((49.29)) <u>50.68</u>	\$((49.98)) <u>50.03</u>
A High ((+3))	\$((77.18)) <u>79.36</u>	\$((82.12)) <u>84.60</u>	\$((62.78)) <u>55.51</u>	\$((62.78)) <u>55.51</u>	\$((55.24)) <u>55.30</u>
B Low ((+4))	\$((58.83)) <u>60.49</u>	\$((63.77)) <u>65.73</u>	\$((46.18)) <u>47.48</u>	\$((46.18)) <u>47.48</u>	\$((46.82)) <u>47.10</u>
B Med ((+5))	\$((68.54)) <u>70.47</u>	\$((73.48)) <u>75.71</u>	\$((54.48)) <u>56.02</u>	\$((54.48)) <u>56.02</u>	\$((55.24)) <u>55.57</u>
<u>B Med-High</u>	<u>\$79.82</u>	<u>\$85.06</u>	<u>\$59.56</u>	<u>\$59.56</u>	<u>\$59.54</u>
B High ((+6))	\$((84.73)) <u>87.12</u>	\$((89.67)) <u>92.36</u>	\$((69.00)) <u>67.34</u>	\$((69.00)) <u>67.34</u>	\$((63.66)) <u>67.34</u>
C Low ((+7))	\$((63.15)) <u>64.93</u>	\$((68.09)) <u>70.17</u>	\$((49.29)) <u>50.68</u>	\$((49.29)) <u>50.68</u>	\$((49.98)) <u>50.03</u>
C Med ((+8))	\$((77.18)) <u>79.36</u>	\$((82.12)) <u>84.60</u>	\$((62.78)) <u>63.10</u>	\$((62.78)) <u>63.10</u>	\$((63.66)) <u>63.73</u>

C ((High(9))) <u>Med-High</u>	\$((95.52)) <u>98.21</u>	\$((100.46)) <u>103.45</u>	\$((78.34)) <u>80.55</u>	\$((78.34)) <u>80.55</u>	\$((79.44)) <u>79.52</u>
<u>C High</u>	<u>\$99.19</u>	<u>\$104.43</u>	<u>\$84.21</u>	<u>\$84.21</u>	<u>\$82.95</u>
D Low ((10))	\$((68.54)) <u>70.47</u>	\$((73.48)) <u>75.71</u>	\$((54.48)) <u>67.89</u>	\$((54.48)) <u>67.89</u>	\$((63.66)) <u>64.03</u>
D Med ((11))	\$((77.18)) <u>80.98</u>	\$((82.12)) <u>86.22</u>	\$((62.78)) <u>78.15</u>	\$((62.78)) <u>78.15</u>	\$((69.96)) <u>77.98</u>
<u>D Med-High</u>	<u>\$104.11</u>	<u>\$109.35</u>	<u>\$98.90</u>	<u>\$98.90</u>	<u>\$93.48</u>
D High ((12))	\$((95.52)) <u>106.63</u>	\$((100.46)) <u>111.87</u>	\$((78.34)) <u>106.63</u>	\$((78.34)) <u>106.63</u>	\$((79.44)) <u>106.20</u>
<u>E Med</u>	<u>\$128.39</u>	<u>\$133.63</u>	<u>\$128.39</u>	<u>\$128.39</u>	<u>\$127.96</u>
<u>E High</u>	<u>\$150.16</u>	<u>\$155.40</u>	<u>\$150.16</u>	<u>\$150.16</u>	<u>\$149.73</u>

\*\* Nonmetropolitan counties: Adams, Asotin, Chelan, Clallam, Columbia, Cowlitz, Douglas, Ferry, Garfield, Grant, Grays Harbor, Jefferson, Kittitas, Klickitat, Lewis, Lincoln, Mason, Okanogan, Pacific, Pend Orielle, San Juan, Skagit, Skamania, Stevens, Wahkiakum, Walla Walla and Whitman.

AMENDATORY SECTION (Amending 06-19-017, filed 9/8/06, effective 10/9/06)

**WAC 388-105-0045 Bed or unit hold--Medicaid resident discharged for a hospital or nursing home stay from an adult family home (AFH) or a boarding home contracted to provide adult residential care (ARC), enhanced adult residential care (EARC), or assisted living services (AL).** (1) When an AFH, ARC, EARC, or AL contracts to provide services under chapter 74.39A RCW, the AFH, ARC, EARC, and AL contractor must hold a Medicaid eligible resident's bed or unit when:

(a) Short-term care is needed in a nursing home or hospital;  
(b) The resident is likely to return to the AFH, ARC, EARC, or AL; and

(c) Payment is made under subsection (3) of this section.

(2)(a) When the department pays the contractor to hold the Medicaid resident's bed or unit during the resident's short-term nursing home or hospital stay, the contractor must hold the bed or unit for up to twenty days. If during the twenty day bed hold period, a department case manager determines that the Medicaid resident's hospital or nursing home stay is not short term and the Medicaid resident is unlikely to return to the AFH, ARC, EARC or AL facility, the department will cease paying for the bed hold the day the case manager notifies the contractor of his/her decision.

(b) A Medicaid resident's discharge from an AFH, ARC, EARC, or an AL facility for a short term stay in a nursing home or hospital must be longer than twenty-four hours before subsection (3) of WAC 388-105-0045 applies.

(c) When a Medicaid resident on bed hold leave returns to an AFH, ARC, EARC, or an AL facility but remains less than twenty-four hours, the bed hold leave on which the resident returned applies after the resident's discharge. A new bed hold leave will begin only when the returned resident has resided in the facility for more than twenty-four hours before the resident's next discharge.

(3) The department will compensate the contractor for holding the bed or unit for the:

(a) First through seventh day at seventy percent of the Medicaid daily rate paid for care of the resident before the hospital or nursing home stay; and

(b) Eighth through the twentieth day, at eleven dollars a day.

(4) The AFH, ARC, EARC, or AL facility may seek third-party payment to hold a bed or unit for twenty-one days or longer. The third-party payment shall not exceed the Medicaid daily rate paid to the facility for the resident. If third-party payment is not available and the returning Medicaid resident continues to meet the admission criteria under chapter 388-71 and/or 388-106 WAC, then the Medicaid resident may return to the first available and appropriate bed or unit.

(5) The department's social worker or case manager determines whether the:

(a) Stay in a nursing home or hospital will be short-term; and

(b) Resident is likely to return to the AFH, ARC, EARC, or AL facility.

(6) When the resident's stay in the hospital or nursing home exceeds twenty days or the department's social worker or case manager determines that the Medicaid resident's stay in the nursing home or hospital is not short-term and the resident is unlikely to return to the AFH, ARC, EARC, or AL facility, then only subsection (4) of this section applies to any private contractual arrangements that the contractor may make with a third party in regard to the discharged resident's unit or bed.