



# 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 09-13-029 ; 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 chapter 388-828 WAC – Division of Developmental Disabilities DDD Assessment, and chapter 388-826 WAC “Voluntary Placement Program”.

**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: **October 27, 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 October 27, 2009**

**Assistance for persons with disabilities:** Contact Jennisha Johnson, DSHS Rules Consultant by October 7, 2009  
TTY (360) 664-6178 or (360) 664-6094 or  
by e-mail at [johnsij4@dshs.wa.gov](mailto:johnsij4@dshs.wa.gov)

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

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

The purpose of these rules is to amend Chapter 388-828 WAC “DDD Assessment Rules” and Chapter 388-826 WAC “Voluntary Placement” regarding the implementation of a standardized tool for determining the number of respite hours clients may receive when they are approved for Voluntary Placement Services in a licensed foster home. The standardized tool will replace DDD’s existing negotiated process for determining the amount of annual respite clients may receive when they are approved for these voluntary placement services.

**Reasons supporting proposal:**

Implementation of a standardized tool for determining annual respite allocations will provide clients, providers, and the public in general with information that explains how DDD determines the number of annual respite hour’s clients may be eligible to receive when they are approved for voluntary placement services in a licensed foster home. The standardized tool will promote consistency in service determination so that clients with similar assessed support needs receive similar levels of service.

**Statutory authority for adoption:**  
RCW 71A.12.010 and RCW 71A.12.030

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

- Is rule necessary because of a:**
- Federal Law?  Yes  No
  - Federal Court Decision?  Yes  No
  - State Court Decision?  Yes  No
- If yes, CITATION:

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

DATE: September 22, 2009  
TIME: 12:47 PM

**WSR 09-19-127**

**DATE**  
September 10, 2009

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

**SIGNATURE**  
*Stephanie E Vaughn*

**TITLE**  
DSHS Rules Coordinator

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.....Mark Eliason	640 Woodland Square Loop SE, Lacey, WA 98504	(360) 725-2517
Implementation....Nichole Jensen	640 Woodland Square Loop SE, Lacey, WA 98504	(360) 725-3403
Enforcement.....Don Clintsman	640 Woodland Square Loop SE, Lacey, WA 98504	(360) 725-3426

**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.

DDD has identified 53 clients who are currently receiving voluntary placement services in licensed foster homes. Licensed foster home providers are not classified as small business. In addition, DDD has analyzed the proposed new rules and amendments and has determined that overall costs to licensed foster home providers will be minor, if at all. This is based on a cost neutral approach to determining annual respite levels that is fair and equitable for all clients receiving voluntary placement services. Based on this information, DDD has concluded that preparation of a SBEIS is not required.

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

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

Name: Mark Eliason

Address: P.O. Box 45310  
Olympia, WA 98504-5310

phone ( 360 ) 725-2517

fax ( 360 ) 407-0955

e-mail eliasmr@dshs.wa.gov

No: Please explain:

NEW SECTION

**WAC 388-826-0077 Are there limits to the respite care I can receive if I receive voluntary placement services?** The following limitations apply to the respite care you can receive when approved for voluntary placement services:

(1) The DDD assessment will determine how much respite you can receive per chapter 388-828 WAC.

(2) Prior approval by the DDD regional administrator or designee is required:

(a) To exceed fourteen days in a calendar per month for out-of-home respite; or

(b) To pay for more than eight hours in a twenty-four hour period of time for respite care in any setting other than your place of residence.

(3) Respite providers have the following limitations and requirements:

(a) If respite is provided in a private home, the home must be licensed;

(b) The respite provider cannot be the spouse of the foster parent receiving respite if the spouse and the foster parent reside in the same residence;

(c) If you receive respite from a provider who requires licensure, the respite services are limited to those age-specific services contained in the provider's license.

(4) DDD cannot pay for any fees associated with the respite care; for example, membership fees at a recreational facility, or insurance fees.

(5) If you require respite from a licensed practical nurse (LPN) or a registered nurse (RN), services may be authorized as skilled nursing services per WAC 388-845-1700 using an LPN or RN.

(6) Respite cannot replace daycare while your foster parent is at work.

(7) Respite cannot replace natural supports available to the child while in foster care. Family members will not be paid to provide respite.

(8) If you reside in a licensed staffed residential home or group care facility, you are not eligible to receive respite care.

NEW SECTION

**WAC 388-828-5985 How does DDD determine your unadjusted respite assessment level if DDD has authorized you to receive voluntary placement services per chapter 388-826 WAC?** DDD determines your unadjusted respite assessment level for voluntary placement services using the following table:

If your Protective Supervision Support Level is:	And your behavioral acuity level is:	Then your unadjusted respite assessment level is:
0	None	1
0	Low	1
0	Medium	2
0	High	2
1	None	1
1	Low	1
1	Medium	2
1	High	3
2 or 3	None	2
2 or 3	Low	2
2 or 3	Medium	2
2 or 3	High	4
4	None	2
4	Low	2
4	Medium	3
4	High	4
5	None	3
5	Low	3
5	Medium	4
5	High	5
6	None	3
6	Low	3
6	Medium	4
6	High	5

NEW SECTION

**WAC 388-828-6005 How does DDD determine your voluntary placement services support score per chapter 388-826 WAC?**

If your unadjusted respite assessment level for voluntary placement services in WAC 388-828-5985 is:	Then your voluntary placement services support score is:
1	240
2	240
3	409
4	578
5	747

NEW SECTION

**WAC 388-828-6006 How does DDD determine the number to use in the adjustment of your voluntary placement services score?** DDD determines the amount of the adjustment for your voluntary placement services support score using the following tables:

If you are authorized to receive voluntary placement services per chapter 388-826 WAC and		Your ADL support needs level for the SIS per WAC 388-828-5480			
		None	Low	Medium	High
Your medical acuity level per WAC 388-828-5700	None	288	288	321	337
	Low	288	288	321	337
	Medium	288	343	402	443
	High	288	443	619	693

Example: If your ADL support needs level is "medium" and your medical acuity level is "low," the amount of your adjustment is 321.

NEW SECTION

**WAC 388-828-6007 How does DDD determine the number of respite hours you may receive annually if you are receiving voluntary placement services?** DDD determines the number of respite hours you may receive annually by adding your voluntary services support score in WAC 388-828-6005 to your adjusted voluntary services support rating score in WAC 388-828-6006.

Example: If your voluntary placement services support score is 240 and your adjusted voluntary placement services score is 321, the number of respite hours you may receive annually is 561.