



RULE-MAKING ORDER

CR-103 (June 2004) (Implements RCW 34.05.360)

Agency: Department of Social and Health Services, Aging and Disability Services Administration

- Permanent Rule**
 Emergency Rule

Effective date of rule:

Permanent Rules

- 31 days after filing.
 Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Effective date of rule:

Emergency Rules

- Immediately upon filing.
 Later (specify) _____

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

- Yes No If Yes, explain:

Purpose:

Effective July 1, 2008, the department emergency adopted the 17 CARE Level Payment System replacing the 12 Level Payment System. The purpose of this rule making is to permanently adopt the rates of the 17 CARE Level Payment System; and to clarify that when a client currently receiving bed hold assistance returns to the facility, the client must be in residence for 24 hours before a departure will result in a new bed hold sequence. If the client leaves before the expiration of 24 hours, then the bed hold sequence on which the client's bed was held when the client returned will continue.

Citation of existing rules affected by this order:

Repealed: None
 Amended: WAC 388-105-0005, -0045
 Suspended: None

Statutory authority for adoption: RCW 74.39A.030(3)(a)

Other authority: NA

PERMANENT RULE ONLY (Including Expedited Rule Making)

Adopted under notice filed as WSR 09-04-065 on February 2, 2009 and WSR 09-06-050 on February 25, 2009.
 Describe any changes other than editing from proposed to adopted version:

This permanent adoption reflects the version of the rules proposed on the original CR 102 (WSR 09-04-065) in order to permanently adopt the rates currently effective under emergency rule (WSR 09-06-032). The 2009 Legislature directed the department to adopt new rates effective July 1, 2009, which the department will implement via a new emergency rule and a new permanent rule process later this year.

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting: n/a

Name: _____ phone () _____
 Address: _____ fax () _____
 e-mail _____

EMERGENCY RULE ONLY

Under RCW 34.05.350 the agency for good cause finds:

- That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
 That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding:

Date adopted:

May 8, 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: May 13, 2009

TIME: 1:14 PM

WSR 09-11-053

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	___	Amended	___	Repealed	___
Federal rules or standards:	New	___	Amended	___	Repealed	___
Recently enacted state statutes:	New	___	Amended	<u>2</u>	Repealed	___

The number of sections adopted at the request of a nongovernmental entity:

New	___	Amended	___	Repealed	___
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The number of sections adopted in the agency's own initiative:

New	___	Amended	___	Repealed	___
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	___	Amended	___	Repealed	___
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The number of sections adopted using:

Negotiated rule making:	New	___	Amended	___	Repealed	___
Pilot rule making:	New	___	Amended	___	Repealed	___
Other alternative rule making:	New	___	Amended	<u>2</u>	Repealed	___

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 ((1))	\$(65.30) <u>69.22</u>	\$(70.41) <u>74.64</u>	\$(46.18) <u>48.95</u>	\$(46.18) <u>48.95</u>	\$(46.82) <u>48.32</u>
A Med ((2))	\$(70.71) <u>74.95</u>	\$(75.82) <u>80.37</u>	\$(52.40) <u>55.54</u>	\$(52.40) <u>55.54</u>	\$(53.13) <u>54.83</u>
A High ((3))	\$(79.34) <u>84.10</u>	\$(84.45) <u>89.52</u>	\$(66.92) <u>61.00</u>	\$(66.92) <u>61.00</u>	\$(59.45) <u>61.35</u>
B Low ((4))	\$(65.30) <u>69.22</u>	\$(70.41) <u>74.64</u>	\$(46.18) <u>48.95</u>	\$(46.18) <u>48.95</u>	\$(46.82) <u>48.56</u>
B Med ((5))	\$(72.87) <u>77.24</u>	\$(77.98) <u>82.66</u>	\$(58.62) <u>62.14</u>	\$(58.62) <u>62.14</u>	\$(59.45) <u>61.66</u>
<u>B Med-High</u>	<u>\$87.48</u>	<u>\$92.90</u>	<u>\$66.07</u>	<u>\$66.07</u>	<u>\$66.06</u>
B High ((6))	\$(86.88) <u>92.09</u>	\$(91.99) <u>97.51</u>	\$(75.23) <u>75.53</u>	\$(75.23) <u>75.53</u>	\$(67.85) <u>75.53</u>
C Low ((7))	\$(70.71) <u>74.95</u>	\$(75.82) <u>80.37</u>	\$(52.40) <u>55.54</u>	\$(52.40) <u>55.54</u>	\$(53.13) <u>54.83</u>
C Med ((8))	\$(79.34) <u>84.10</u>	\$(84.45) <u>89.52</u>	\$(66.92) <u>69.72</u>	\$(66.92) <u>69.72</u>	\$(67.85) <u>70.02</u>
C (High (9)) <u>Med-High</u>	\$(98.77) <u>104.70</u>	\$(103.88) <u>110.12</u>	\$(87.68) <u>92.94</u>	\$(87.68) <u>92.94</u>	\$(88.89) <u>91.73</u>
<u>C High</u>	<u>\$105.74</u>	<u>\$111.16</u>	<u>\$93.82</u>	<u>\$93.82</u>	<u>\$93.01</u>

D Low ((+10))	\$(72.87) <u>77.24</u>	\$(77.98) <u>82.66</u>	\$(58.62) <u>75.07</u>	\$(58.62) <u>75.07</u>	\$(67.85) <u>71.38</u>
D Med ((+11))	\$(79.34) <u>85.82</u>	\$(84.45) <u>91.24</u>	\$(66.92) <u>86.98</u>	\$(66.92) <u>86.98</u>	\$(76.28) <u>87.36</u>
<u>D Med-High</u>	<u>\$110.98</u>	<u>\$116.40</u>	<u>\$110.61</u>	<u>\$110.61</u>	<u>\$105.12</u>
D High ((+12))	\$(98.77) <u>119.59</u>	\$(103.88) <u>125.01</u>	\$(87.68) <u>119.59</u>	\$(87.68) <u>119.59</u>	\$(88.89) <u>119.69</u>
<u>E Med</u>	<u>\$144.53</u>	<u>\$149.95</u>	<u>\$144.53</u>	<u>\$144.53</u>	<u>\$144.63</u>
<u>E High</u>	<u>\$169.47</u>	<u>\$174.89</u>	<u>\$169.47</u>	<u>\$169.47</u>	<u>\$169.57</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>63.49</u>	\$(64.54) <u>68.41</u>	\$(46.18) <u>48.95</u>	\$(46.18) <u>48.95</u>	\$(46.82) <u>48.32</u>
A Med ((+2))	\$(63.15) <u>66.94</u>	\$(67.79) <u>71.86</u>	\$(50.32) <u>53.34</u>	\$(50.32) <u>53.34</u>	\$(51.03) <u>52.66</u>
A High ((+3))	\$(77.18) <u>81.81</u>	\$(81.82) <u>86.73</u>	\$(63.81) <u>58.17</u>	\$(63.81) <u>58.17</u>	\$(56.28) <u>58.08</u>
B Low ((+4))	\$(59.90) <u>63.49</u>	\$(64.54) <u>68.41</u>	\$(46.18) <u>48.95</u>	\$(46.18) <u>48.95</u>	\$(46.82) <u>48.56</u>
B Med ((+5))	\$(68.54) <u>72.65</u>	\$(73.18) <u>77.57</u>	\$(55.51) <u>58.84</u>	\$(55.51) <u>58.84</u>	\$(56.28) <u>58.37</u>
<u>B Med-High</u>	<u>\$82.29</u>	<u>\$87.21</u>	<u>\$62.57</u>	<u>\$62.57</u>	<u>\$62.60</u>
B High ((+6))	\$(84.73) <u>89.81</u>	\$(89.37) <u>94.73</u>	\$(71.08) <u>73.40</u>	\$(71.08) <u>73.40</u>	\$(64.70) <u>73.40</u>
C Low ((+7))	\$(63.15) <u>66.94</u>	\$(67.79) <u>71.86</u>	\$(50.32) <u>53.56</u>	\$(50.32) <u>53.56</u>	\$(51.03) <u>53.05</u>
C Med ((+8))	\$(77.18) <u>81.81</u>	\$(81.82) <u>86.73</u>	\$(63.81) <u>68.82</u>	\$(63.81) <u>68.82</u>	\$(64.70) <u>68.31</u>
C ((High +9)) <u>Med-High</u>	\$(95.52) <u>101.25</u>	\$(100.16) <u>106.17</u>	\$(81.45) <u>86.34</u>	\$(81.45) <u>86.34</u>	\$(82.59) <u>85.23</u>

<u>C High</u>	<u>\$102.26</u>	<u>\$107.18</u>	<u>\$91.84</u>	<u>\$91.84</u>	<u>\$90.43</u>
D Low ((+10))	\$((68.54)) <u>72.65</u>	\$((73.18)) <u>77.57</u>	\$((55.51)) <u>74.04</u>	\$((55.51)) <u>74.04</u>	\$((64.70)) <u>69.80</u>
D Med ((+11))	\$((77.18)) <u>83.48</u>	\$((81.82)) <u>88.40</u>	\$((63.81)) <u>85.24</u>	\$((63.81)) <u>85.24</u>	\$((72.06)) <u>85.01</u>
<u>D Med-High</u>	<u>\$107.33</u>	<u>\$112.25</u>	<u>\$107.87</u>	<u>\$107.87</u>	<u>\$101.92</u>
D High ((+12))	\$((95.52)) <u>116.30</u>	\$((100.16)) <u>121.22</u>	\$((81.45)) <u>116.30</u>	\$((81.45)) <u>116.30</u>	\$((82.59)) <u>115.79</u>
<u>E Med</u>	<u>\$140.04</u>	<u>\$144.96</u>	<u>\$140.04</u>	<u>\$140.04</u>	<u>\$139.53</u>
<u>E High</u>	<u>\$163.78</u>	<u>\$168.70</u>	<u>\$163.78</u>	<u>\$163.78</u>	<u>\$163.27</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>62.36</u>	\$((63.77)) <u>67.60</u>	\$((46.18)) <u>48.95</u>	\$((46.18)) <u>48.95</u>	\$((46.82)) <u>48.32</u>
A Med ((+2))	\$((63.15)) <u>66.94</u>	\$((68.09)) <u>72.18</u>	\$((49.29)) <u>52.25</u>	\$((49.29)) <u>52.25</u>	\$((49.98)) <u>51.58</u>
A High ((+3))	\$((77.18)) <u>81.81</u>	\$((82.12)) <u>87.05</u>	\$((62.78)) <u>57.23</u>	\$((62.78)) <u>57.23</u>	\$((55.24)) <u>57.01</u>
B Low ((+4))	\$((58.83)) <u>62.36</u>	\$((63.77)) <u>67.60</u>	\$((46.18)) <u>48.95</u>	\$((46.18)) <u>48.95</u>	\$((46.82)) <u>48.56</u>
B Med ((+5))	\$((68.54)) <u>72.65</u>	\$((73.48)) <u>77.89</u>	\$((54.48)) <u>57.75</u>	\$((54.48)) <u>57.75</u>	\$((55.24)) <u>57.29</u>
<u>B Med-High</u>	<u>\$82.29</u>	<u>\$87.53</u>	<u>\$61.40</u>	<u>\$61.40</u>	<u>\$61.38</u>
B High ((+6))	\$((84.73)) <u>89.81</u>	\$((89.67)) <u>95.05</u>	\$((69.00)) <u>69.42</u>	\$((69.00)) <u>69.42</u>	\$((63.66)) <u>69.42</u>
C Low ((+7))	\$((63.15)) <u>66.94</u>	\$((68.09)) <u>72.18</u>	\$((49.29)) <u>52.25</u>	\$((49.29)) <u>52.25</u>	\$((49.98)) <u>51.58</u>
C Med ((+8))	\$((77.18)) <u>81.81</u>	\$((82.12)) <u>87.05</u>	\$((62.78)) <u>65.05</u>	\$((62.78)) <u>65.05</u>	\$((63.66)) <u>65.70</u>

C ((High(9))) <u>Med-High</u>	\$((95.52)) <u>101.25</u>	\$((100.46)) <u>106.49</u>	\$((78.34)) <u>83.04</u>	\$((78.34)) <u>83.04</u>	\$((79.44)) <u>81.98</u>
<u>C High</u>	<u>\$102.26</u>	<u>\$107.50</u>	<u>\$86.81</u>	<u>\$86.81</u>	<u>\$85.52</u>
D Low ((10))	\$((68.54)) <u>72.65</u>	\$((73.48)) <u>77.89</u>	\$((54.48)) <u>69.99</u>	\$((54.48)) <u>69.99</u>	\$((63.66)) <u>66.01</u>
D Med ((11))	\$((77.18)) <u>83.48</u>	\$((82.12)) <u>88.72</u>	\$((62.78)) <u>80.57</u>	\$((62.78)) <u>80.57</u>	\$((69.96)) <u>80.39</u>
<u>D Med-High</u>	<u>\$107.33</u>	<u>\$112.57</u>	<u>\$101.96</u>	<u>\$101.96</u>	<u>\$96.37</u>
D High ((12))	\$((95.52)) <u>109.93</u>	\$((100.46)) <u>115.17</u>	\$((78.34)) <u>109.93</u>	\$((78.34)) <u>109.93</u>	\$((79.44)) <u>109.48</u>
<u>E Med</u>	<u>\$132.36</u>	<u>\$137.60</u>	<u>\$132.36</u>	<u>\$132.36</u>	<u>\$131.92</u>
<u>E High</u>	<u>\$154.80</u>	<u>\$160.04</u>	<u>\$154.80</u>	<u>\$154.80</u>	<u>\$154.36</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.