



RULE-MAKING ORDER

CR-103P (May 2009)
(Implements RCW 34.05.360)

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

Permanent Rule Only

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)

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, 2009, the department emergency adopted a four percent reduction to the 17 Level Payment System. The purpose of this rule making is to adopt permanently the four percent reduction to the rates of the 17 Level Payment System.

Also, the purpose of this rule making is to adopt permanently WAC 388-105-0045 requiring notice within twenty-four hours after a Medicaid resident is discharged to a hospital or nursing home from an adult family home (AFH) or a licensed boarding home contracted to provide adult residential care (ARC), enhanced adult residential care (EARC), or assisted living services (AL).

Citation of existing rules affected by this order:

- Repealed: None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

Statutory authority for adoption: RCW 74.39A.030 (3) and RCW 18.20.290

Other authority: Section 206(4), chapter 564, Laws of 2009

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 09-17-102 on August 18, 2009 (date).
Describe any changes other than editing from proposed to adopted version: None.

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

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

Date adopted:
September 25, 2009

NAME (TYPE OR PRINT)
Stephanie Vaughn

SIGNATURE
Stephanie E Vaughn

TITLE
DSHS Rules Coordinator

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: September 25, 2009
TIME: 11:22 AM

WSR 09-20-011

**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Federal statute:	New	_____	Amended	_____	Repealed	_____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>1</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	<u>1</u>	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	<u>1</u>	Amended	<u>1</u>	Repealed	_____

AMENDATORY SECTION (Amending WSR 09-11-053, filed 5/13/09, effective 6/13/09)

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 Capital Add-on	AL With Capital Add-on	ARC	EARC	AFH
A Low	\$(69.22) <u>66.45</u>	\$(74.64) <u>71.87</u>	\$(48.95) <u>46.99</u>	\$(48.95) <u>46.99</u>	\$(48.32) <u>46.39</u>
A Med	\$(74.95) <u>71.95</u>	\$(80.37) <u>77.37</u>	\$(55.54) <u>53.32</u>	\$(55.54) <u>53.32</u>	\$(54.83) <u>52.64</u>
A High	\$(84.10) <u>80.74</u>	\$(89.52) <u>86.16</u>	\$(61.00) <u>58.56</u>	\$(61.00) <u>58.56</u>	\$(61.35) <u>58.90</u>
B Low	\$(69.22) <u>66.45</u>	\$(74.64) <u>71.87</u>	\$(48.95) <u>46.99</u>	\$(48.95) <u>46.99</u>	\$(48.56) <u>46.62</u>
B Med	\$(77.24) <u>74.15</u>	\$(82.66) <u>79.57</u>	\$(62.14) <u>59.65</u>	\$(62.14) <u>59.65</u>	\$(61.66) <u>59.19</u>
B Med-High	\$(87.48) <u>83.98</u>	\$(92.90) <u>89.40</u>	\$(66.07) <u>63.43</u>	\$(66.07) <u>63.43</u>	\$(66.06) <u>63.42</u>
B High	\$(92.09) <u>88.41</u>	\$(97.51) <u>93.83</u>	\$(75.53) <u>72.51</u>	\$(75.53) <u>72.51</u>	\$(75.53) <u>72.51</u>
C Low	\$(74.95) <u>71.95</u>	\$(80.37) <u>77.37</u>	\$(55.54) <u>53.32</u>	\$(55.54) <u>53.32</u>	\$(54.83) <u>52.64</u>
C Med	\$(84.10) <u>80.74</u>	\$(89.52) <u>86.16</u>	\$(69.72) <u>66.93</u>	\$(69.72) <u>66.93</u>	\$(70.02) <u>67.22</u>
C Med-High	\$(104.70) <u>100.51</u>	\$(110.12) <u>105.93</u>	\$(92.94) <u>89.22</u>	\$(92.94) <u>89.22</u>	\$(91.73) <u>88.06</u>
C High	\$(105.74) <u>101.51</u>	\$(111.16) <u>106.93</u>	\$(93.82) <u>90.07</u>	\$(93.82) <u>90.07</u>	\$(93.01) <u>89.29</u>

D Low	\$((77.24)) <u>74.15</u>	\$((82.66)) <u>79.57</u>	\$((75.07)) <u>72.07</u>	\$((75.07)) <u>72.07</u>	\$((71.38)) <u>68.52</u>
D Med	\$((85.82)) <u>82.39</u>	\$((91.24)) <u>87.81</u>	\$((86.98)) <u>83.50</u>	\$((86.98)) <u>83.50</u>	\$((87.36)) <u>83.87</u>
D Med-High	\$((110.98)) <u>106.54</u>	\$((116.40)) <u>111.96</u>	\$((110.61)) <u>106.19</u>	\$((110.61)) <u>106.19</u>	\$((105.12)) <u>100.92</u>
D High	\$((119.59)) <u>114.81</u>	\$((125.01)) <u>120.23</u>	\$((119.59)) <u>114.81</u>	\$((119.59)) <u>114.81</u>	\$((119.69)) <u>114.90</u>
E Med	\$((144.53)) <u>138.75</u>	\$((149.95)) <u>144.17</u>	\$((144.53)) <u>138.75</u>	\$((144.53)) <u>138.75</u>	\$((144.63)) <u>138.84</u>
E High	\$((169.47)) <u>162.69</u>	\$((174.89)) <u>168.11</u>	\$((169.47)) <u>162.69</u>	\$((169.47)) <u>162.69</u>	\$((169.57)) <u>162.79</u>

COMMUNITY RESIDENTIAL DAILY RATES FOR CLIENTS ASSESSED USING CARE					
METROPOLITAN COUNTIES*					
CARE CLASSIFICATION	AL Without Capital Add-on	AL With Capital Add-on	ARC	EARC	AFH
A Low	\$((63.49)) <u>60.95</u>	\$((68.41)) <u>65.87</u>	\$((48.95)) <u>46.99</u>	\$((48.95)) <u>46.99</u>	\$((48.32)) <u>46.39</u>
A Med	\$((66.94)) <u>64.26</u>	\$((71.86)) <u>69.18</u>	\$((53.34)) <u>51.21</u>	\$((53.34)) <u>51.21</u>	\$((52.66)) <u>50.55</u>
A High	\$((81.81)) <u>78.54</u>	\$((86.73)) <u>83.46</u>	\$((58.17)) <u>55.84</u>	\$((58.17)) <u>55.84</u>	\$((58.08)) <u>55.76</u>
B Low	\$((63.49)) <u>60.95</u>	\$((68.41)) <u>65.87</u>	\$((48.95)) <u>46.99</u>	\$((48.95)) <u>46.99</u>	\$((48.56)) <u>46.62</u>
B Med	\$((72.65)) <u>69.74</u>	\$((77.57)) <u>74.66</u>	\$((58.84)) <u>56.49</u>	\$((58.84)) <u>56.49</u>	\$((58.37)) <u>56.04</u>
B Med-High	\$((82.29)) <u>79.00</u>	\$((87.21)) <u>83.92</u>	\$((62.57)) <u>60.07</u>	\$((62.57)) <u>60.07</u>	\$((62.60)) <u>60.10</u>
B High	\$((89.81)) <u>86.22</u>	\$((94.73)) <u>91.14</u>	\$((73.40)) <u>70.46</u>	\$((73.40)) <u>70.46</u>	\$((73.40)) <u>70.46</u>
C Low	\$((66.94)) <u>64.26</u>	\$((71.86)) <u>69.18</u>	\$((53.56)) <u>51.42</u>	\$((53.56)) <u>51.42</u>	\$((53.05)) <u>50.93</u>
C Med	\$((81.81)) <u>78.54</u>	\$((86.73)) <u>83.46</u>	\$((68.82)) <u>66.07</u>	\$((68.82)) <u>66.07</u>	\$((68.31)) <u>65.58</u>

C Med-High	\$ ((101.25)) <u>97.20</u>	\$ ((106.17)) <u>102.12</u>	\$ ((86.34)) <u>82.89</u>	\$ ((86.34)) <u>82.89</u>	\$ ((85.23)) <u>81.82</u>
C High	\$ ((102.26)) <u>98.17</u>	\$ ((107.18)) <u>103.09</u>	\$ ((91.84)) <u>88.17</u>	\$ ((91.84)) <u>88.17</u>	\$ ((90.43)) <u>86.81</u>
D Low	\$ ((72.65)) <u>69.74</u>	\$ ((77.57)) <u>74.66</u>	\$ ((74.04)) <u>71.08</u>	\$ ((74.04)) <u>71.08</u>	\$ ((69.80)) <u>67.01</u>
D Med	\$ ((83.48)) <u>80.14</u>	\$ ((88.40)) <u>85.06</u>	\$ ((85.24)) <u>81.83</u>	\$ ((85.24)) <u>81.83</u>	\$ ((85.01)) <u>81.61</u>
D Med-High	\$ ((107.33)) <u>103.04</u>	\$ ((112.25)) <u>107.96</u>	\$ ((107.87)) <u>103.56</u>	\$ ((107.87)) <u>103.56</u>	\$ ((101.92)) <u>97.84</u>
D High	\$ ((116.30)) <u>111.65</u>	\$ ((121.22)) <u>116.57</u>	\$ ((116.30)) <u>111.65</u>	\$ ((116.30)) <u>111.65</u>	\$ ((115.79)) <u>111.16</u>
E Med	\$ ((140.04)) <u>134.44</u>	\$ ((144.96)) <u>139.36</u>	\$ ((140.04)) <u>134.44</u>	\$ ((140.04)) <u>134.44</u>	\$ ((139.53)) <u>133.95</u>
E High	\$ ((163.78)) <u>157.23</u>	\$ ((168.70)) <u>162.15</u>	\$ ((163.78)) <u>157.23</u>	\$ ((163.78)) <u>157.23</u>	\$ ((163.27)) <u>156.74</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**					
CARE CLASSIFICATION	AL Without Capital Add-on	AL With Capital Add-on	ARC	EARC	AFH
A Low	\$ ((62.36)) <u>59.87</u>	\$ ((67.60)) <u>65.11</u>	\$ ((48.95)) <u>46.99</u>	\$ ((48.95)) <u>46.99</u>	\$ ((48.32)) <u>46.39</u>
A Med	\$ ((66.94)) <u>64.26</u>	\$ ((72.18)) <u>69.50</u>	\$ ((52.25)) <u>50.16</u>	\$ ((52.25)) <u>50.16</u>	\$ ((51.58)) <u>49.52</u>
A High	\$ ((81.81)) <u>78.54</u>	\$ ((87.05)) <u>83.78</u>	\$ ((57.23)) <u>54.94</u>	\$ ((57.23)) <u>54.94</u>	\$ ((57.01)) <u>54.73</u>
B Low	\$ ((62.36)) <u>59.87</u>	\$ ((67.60)) <u>65.11</u>	\$ ((48.95)) <u>46.99</u>	\$ ((48.95)) <u>46.99</u>	\$ ((48.56)) <u>46.62</u>
B Med	\$ ((72.65)) <u>69.74</u>	\$ ((77.89)) <u>74.98</u>	\$ ((57.75)) <u>55.44</u>	\$ ((57.75)) <u>55.44</u>	\$ ((57.29)) <u>55.00</u>
B Med-High	\$ ((82.29)) <u>79.00</u>	\$ ((87.53)) <u>84.24</u>	\$ ((61.40)) <u>58.94</u>	\$ ((61.40)) <u>58.94</u>	\$ ((61.38)) <u>58.92</u>
B High	\$ ((89.81)) <u>86.22</u>	\$ ((95.05)) <u>91.46</u>	\$ ((69.42)) <u>66.64</u>	\$ ((69.42)) <u>66.64</u>	\$ ((69.42)) <u>66.64</u>

C Low	\$((66.94)) <u>64.26</u>	\$((72.18)) <u>69.50</u>	\$((52.25)) <u>50.16</u>	\$((52.25)) <u>50.16</u>	\$((51.58)) <u>49.52</u>
C Med	\$((81.81)) <u>78.54</u>	\$((87.05)) <u>83.78</u>	\$((65.05)) <u>62.45</u>	\$((65.05)) <u>62.45</u>	\$((65.70)) <u>63.07</u>
C Med-High	\$((101.25)) <u>97.20</u>	\$((106.49)) <u>102.44</u>	\$((83.04)) <u>79.72</u>	\$((83.04)) <u>79.72</u>	\$((81.98)) <u>78.70</u>
C High	\$((102.26)) <u>98.17</u>	\$((107.50)) <u>103.41</u>	\$((86.81)) <u>83.34</u>	\$((86.81)) <u>83.34</u>	\$((85.52)) <u>82.10</u>
D Low	\$((72.65)) <u>69.74</u>	\$((77.89)) <u>74.98</u>	\$((69.99)) <u>67.19</u>	\$((69.99)) <u>67.19</u>	\$((66.01)) <u>63.37</u>
D Med	\$((83.48)) <u>80.14</u>	\$((88.72)) <u>85.38</u>	\$((80.57)) <u>77.35</u>	\$((80.57)) <u>77.35</u>	\$((80.39)) <u>77.17</u>
D Med-High	\$((107.33)) <u>103.04</u>	\$((112.57)) <u>108.28</u>	\$((101.96)) <u>97.88</u>	\$((101.96)) <u>97.88</u>	\$((96.37)) <u>92.52</u>
D High	\$((109.93)) <u>105.53</u>	\$((115.17)) <u>110.77</u>	\$((109.93)) <u>105.53</u>	\$((109.93)) <u>105.53</u>	\$((109.48)) <u>105.10</u>
E Med	\$((132.36)) <u>127.07</u>	\$((137.60)) <u>132.31</u>	\$((132.36)) <u>127.07</u>	\$((132.36)) <u>127.07</u>	\$((131.92)) <u>126.64</u>
E High	\$((154.80)) <u>148.61</u>	\$((160.04)) <u>153.85</u>	\$((154.80)) <u>148.61</u>	\$((154.80)) <u>148.61</u>	\$((154.36)) <u>148.19</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 WSR 09-11-053, filed 5/13/09, effective 6/13/09)

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.

(d) When an AFH, ARC, EARC, or AL facility discharges a resident to a nursing home or hospital and the resident is out of the facility for more than twenty-four hours, then by using e-mail, fax or telephone, the facility must notify the department of the resident's discharge within twenty-four hours after the initial twenty-four hours has passed. When the end of the initial twenty-four hours falls on a weekend or state holiday, then the facility must notify the department of the discharge within twenty-four hours after the weekend or holiday.

(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.