



PROPOSED RULE MAKING

CR-102 (June 2012)

(Implements RCW 34.05.320)

Do **NOT** use for expedited rule making

Agency: Department of Social and Health Services, Developmental Disabilities Administration

- Preproposal Statement of Inquiry was filed as WSR:15-13-113; or
- Expedited Rule Making--Proposed notice was filed as WSR:___; or
- Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).

- Original Notice
- Supplemental Notice to WSR:
- Continuance of WSR:

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

The Department proposes to create Chapter 388-834 WAC, "Pre-admission screening and resident review (PASRR) for persons with an intellectual disability or related condition".

Hearing location(s):

Office Building 2
DSHS Headquarters
1115 Washington
Olympia, WA 98504
Public parking at 11th and Jefferson. A map is available at:
<http://www1.dshs.wa.gov/msa/rpau/RPAU-OB-2directions.html>

Date: October 27, 2015 Time: 10:00 a.m.

Submit written comments to:

Name: DSHS Rules Coordinator
Address: PO Box 45850
Olympia, WA 98504
e-mail: DSHSRPAURulesCoordinator@dshs.wa.gov
fax: (360) 664-6185
by: 5:00 p.m. October 27, 2015

Assistance for persons with disabilities: Contact:
Jeff Kildahl, DSHS Rules Consultant by October 13, 2015
Phone: (360) 664-6092 or TTY: (360) 664-6178
Email: KildaJA@dshs.wa.gov

Date of intended adoption: Not earlier than October 28, 2015
(Note: This is **NOT** the **effective** date)

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

The Department proposes to create these new rules as chapter 388-834 WAC in order to define the State's pre-admission screening and resident review (PASRR) program in relation to 42 CFR 42 483.100 through 138.

Reasons supporting proposal:

The PASRR program ensures that individuals with intellectual disabilities or related conditions receive appropriate specialized services upon admission.

Statutory authority for adoption:

RCW 71A.12.030, RCW 71A.12.140

Statute being implemented:

Is rule necessary because of a:

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

DATE
September 8, 2015

NAME (type or print)
Katherine Vasquez

SIGNATURE

TITLE
DSHS Rules Coordinator

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: September 09, 2015

TIME: 3:44 PM

WSR 15-19-034

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....	Terry Hehemann	DDA, P.O. Box 45310, Olympia 98504-5310	360.725.3456
Implementation....	Terry Hehemann	DDA, P.O. Box 45310, Olympia 98504-5310	360.725.3456
Enforcement.....	Terry Hehemann	DDA, P.O. Box 45310, Olympia 98504-5310	360.725.3456

Has a small business economic impact statement been prepared under chapter 19.85 RCW or has a school district fiscal impact statement been prepared under section 1, chapter 210, Laws of 2012?

Yes. Attach copy of small business economic impact statement or school district fiscal impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

No. Explain why no statement was prepared.

The rules do not impact small businesses or non-profits. They only impact DSHS clients.

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: The proposed rules do not meet the definition of a 'significant legislative rule' under RCW 34.05.328(5)(c)(iii) because they do not impose penalties or sanctions, affect a license or permit, or create or amend a policy or regulatory program.

NEW SECTION

WAC 388-834-0001 What is the purpose of this chapter? This chapter explains the duties of the developmental disabilities administration (DDA) and the rights of individuals regarding "preadmission screening and resident review" (PASRR). PASRR is a process required by federal law to ensure that individuals with serious mental illness or intellectual disability are not inappropriately admitted to medicaid-certified nursing facilities (NF or nursing facility), and to ensure that when such individuals are appropriately admitted they receive the specialized services they require.

NEW SECTION

WAC 388-834-0005 Who is affected by the rules in this chapter? The rules in this chapter affect individuals who are:

(1) Being referred to a medicaid-certified nursing facility who have, or may have, an intellectual disability or related condition as defined in this chapter; and

(2) Individuals who have been determined to have an intellectual disability or related condition and who are residing in a medicaid-certified nursing facility.

NEW SECTION

WAC 388-834-0010 "Appropriate placement" is the placement of an individual with mental illness and/or intellectual disability or related condition in a NF when the individual's needs meet the minimum standards for admission to a NF and do not exceed the level of services which can be delivered in the particular NF to which the individual is admitted. A particular NF is not an appropriate placement either when its normal nursing services are inadequate to meet the needs of the individual, or when the individual is unable to access necessary specialized services at that facility.

"DDA PASRR assessor" is a DDA employee who performs PASRR level II evaluations, as described in section 388-834-0020 WAC.

"Intellectual disability or related condition" means a condition that meets the criteria listed in 42 C.F.R. §483.102(b)(3) and 42 C.F.R. §435.1010. A client enrolled in DDA is already determined to have a condition meeting these criteria, but eligibility for DDA is not required for a determination that an individual has an intellectual disability or related condition.

"PASRR level I screening" means a screening that is completed when an individual is referred to a medicaid-certified nursing facility by a physician, hospital, or other referring entity or when a NF resident experiences a significant change of condition.

"PASRR level II evaluation" means an evaluation that is completed when a possible intellectual disability or related condition or serious mental illness is identified by the PASRR level I screening. The level II determines whether the person: has an intellectual disability

or related condition, needs nursing facility care, and needs specialized services for intellectual disability or related condition or serious mental illness while in the nursing facility.

"Specialized service" means a service or device, in addition to nursing facility care, required by a nursing facility resident who has an intellectual disability or related condition to function with as much self-determination and independence as possible and/or to preserve or increase the individual's functional status per 42 C.F.R. §483.120.

NEW SECTION

WAC 388-834-0015 When is a PASRR level I completed? When an individual is referred to a medicaid-certified nursing facility, a PASRR level I screening is completed to determine if the individual has a serious mental illness, an intellectual disability or related condition, or both.

NEW SECTION

WAC 388-834-0020 Is a PASRR level I or level II required for a readmission or interfacility transfer? (1) A readmission occurs when an individual is readmitted to a nursing facility from a hospital to which he or she was transferred for the purpose of receiving care. Readmissions are not subject to preadmission screening if the PASRR process was completed upon the initial admission and the information remains accurate.

(2) An interfacility transfer occurs when an individual is transferred from one NF to another NF, with or without an intervening hospital stay. Transfers are not subject to preadmission screening if the PASRR process was completed upon the initial admission and the information remains accurate. The sending facility is responsible for ensuring that copies of the resident's most recent PASRR and resident assessment reports accompany the transferring resident.

NEW SECTION

WAC 388-834-0025 When is a PASRR level II completed? (1) If a PASRR level I screening indicates that the individual either has or may have a serious mental illness, an intellectual disability or related condition, or both, the screener must refer the individual to a contracted mental health PASRR evaluator (for serious mental illness) and/or a DDA PASRR evaluator (for intellectual disability or related condition) for a PASRR level II evaluation.

(2) If a person meets the criteria for both serious mental illness and intellectual disability or related condition, both evaluations must be completed.

(3) If a NF resident who has a serious mental illness or an intellectual disability or related condition experiences a significant change of condition, a new level II evaluation is completed.

NEW SECTION

WAC 388-834-0030 How is the PASRR level II evaluation completed for screenings indicating an intellectual disability or related condition? When an individual is referred to a DDA PASRR evaluator for a level II evaluation, the DDA PASRR evaluator reviews the individual's records and speaks with the individual and others who have relevant information. The DDA PASRR evaluator determines:

(1) Whether the individual does in fact have an intellectual disability or related condition;

(2) If so, whether nursing facility placement is appropriate to meet his or her needs; and

(3) If so, whether the individual will require specialized services while at the nursing facility.

NEW SECTION

WAC 388-834-0035 Can an individual be admitted to a nursing facility before the PASRR level II evaluation is completed? (1) If a level I screening does not identify a possible serious mental illness or intellectual disability or related condition, the individual may be admitted to a nursing facility directly.

(2) If a level I screener has referred an individual for a level II evaluation, the individual cannot be admitted to a nursing facility until the level II evaluation is completed, except when:

(a) The individual is admitted directly from a hospital after receiving acute inpatient care;

(b) The individual requires nursing facility services for the condition for which he or she received care in the hospital; and

(c) The individual's attending physician has certified in the PASRR level I that the individual is likely to require fewer than thirty days of nursing facility services.

(3) A DDA PASRR evaluator may do an abbreviated evaluation that is sufficient to determine whether the individual has an intellectual disability or related condition, whether the individual meets nursing facility level of care requirements, and whether the individual needs specialized services at that time, with the full PASRR level II report to follow.

(4) A DDA PASRR evaluator may categorically determine that specialized services are not needed for the following types of admission:

(a) Protective services stay of not more than seven days;

(b) Respite in a NF for not more than thirty days.

(5) Categorical determinations for DDA clients can only be made by a DDA PASRR evaluator.

NEW SECTION

WAC 388-834-0040 What is the process when a DDA PASRR evaluator determines that nursing facility placement is appropriate for an individual and that the individual requires specialized services? When a DDA PASRR evaluator determines through a level II evaluation that a nursing facility is an appropriate placement for an individual, and that the individual will require specialized services while residing in the nursing facility, the evaluator:

(1) Informs the individual and his or her family or guardian (as appropriate) of the determinations and the individual's appeal rights;

(2) Provides the nursing facility with a copy of the PASRR level II evaluation; and

(3) Coordinates with the individual, nursing facility, and service provider to ensure that the recommended specialized services are provided.

NEW SECTION

WAC 388-834-0045 How does DDA provide notice of PASRR determinations? (1) DDA provides written notice of all PASRR determinations to the following entities:

(a) The evaluated individual and his or her legal representative;

(b) The admitting or retaining nursing facility;

(c) The individual or resident's attending physician; and

(d) The discharging hospital, unless the individual is exempt from preadmission screening as provided for at 388-834-0035 (1), (2), or (4).

(2) The written notice will include:

(a) Whether a nursing facility level of service is needed;

(b) Whether specialized services are needed;

(c) The placement options that are available to the individual consistent with these determinations;

(d) The rights of the individual to appeal the determinations; and

(e) A copy of the full PASRR report.

NEW SECTION

WAC 388-834-0050 What appeal rights does an individual have related to PASRR? (1) Individuals who have been evaluated by a DDA PASRR evaluator have the right to an administrative hearing to dispute the following determinations by the evaluator:

(a) That nursing facility placement is not appropriate to meet the individual's needs;

(b) That the individual does not require specialized services.

(2) Any decision rendered by the office of administrative hearings (OAH) is an initial decision appealable to the HCA's board of appeals (BOA).

NEW SECTION

WAC 388-834-0055 Are there any other rules related to PASRR? PASRR requirements for medicaid-certified nursing facilities may be found in chapter 388-97 WAC, as well as in 42 C.F.R. §483 Subpart C 483.100 - 483.138.