



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, Children's Administration

- Preproposal Statement of Inquiry was filed as WSR: **16-06-111**; 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 is proposing to amend WAC sections in chapter 388-25 WAC related to Extended Foster Care.

Hearing location(s):

Office Building 2
DSHS Headquarters
1115 Washington
Olympia, WA 98504

Public parking at 11th and Jefferson. A map is available at:
<https://www.dshs.wa.gov/sesa/rules-and-policies-assistance-unit/driving-directions-office-bldg-2>

Date: **June 7, 2016** Time: **10:00 a.m.**

Date of intended adoption: Not earlier than June 8, 2016
(Note: This is **NOT** the **effective** date)

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. June 7, 2016

Assistance for persons with disabilities: Contact:
Jeff Kildahl, DSHS Rules Consultant by May 24, 2016
Phone: (360) 664-6092 or TTY: (360) 664-6178
Email: KildaJA@dshs.wa.gov

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

In March 2015, Fostering Connections legislation added a fifth eligibility criterion to the Extended Foster Care WACs allowing youth to be employed 80 hours or more per month. The following WACs are being amended to align with federal legislation: WAC 388-25-0110 "What is the effective date for termination of foster care payments?", WAC 388-25-0502 "What is the purpose of the extended foster care program?", WAC 388-25-0504 "What is extended foster care?", WAC 388-25-0506 "Who is eligible for extended foster care?", WAC 388-25-0540 "How does CA determine a youth's continuing eligibility for the extended foster care program?", WAC 388-25-0546 "What must the youth do to remain in the extended foster care program?", and WAC 388-25-0548 "When is a youth no longer eligible for the extended foster care program?".

The following WACs are being created to address the fifth eligibility criterion regarding a documented medical condition: WAC 388-25-0517 "What is considered a medical condition?" and WAC 388-25-0519 "How does a youth demonstrate he or she is unable to participate in extended foster care activities due to a documented medical condition?".

Reasons supporting proposal: Refer to purpose statement above.

Statutory authority for adoption:

RCW 13.34.145, RCW 13.34.267, RCW 74.13.020, RCW 74.13.031, RCW 43.88C.010, RCW 74.13.107, RCW 43.131.416, RCW 13.34.030.

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: Fostering Connections to Success and Increasing Adoptions Act

DATE
April 28, 2016

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: May 02, 2016

TIME: 9:43 AM

WSR 16-10-057

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..... Mireya Beltre	DSHS Headquarters, 1115 Washington, Olympia, WA 98504	(360)902-7871
Implementation....Mireya Beltre	DSHS Headquarters, 1115 Washington, Olympia, WA 98504	(360)902-7871
Enforcement.....Mireya Beltre	DSHS Headquarters, 1115 Washington, Olympia, WA 98504	(360)902-7871

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:

Phone: ()

Fax: ()

e-mail

No. Explain why no statement was prepared.

The proposed rules are exempt from preparing a small business economic impact statement under RCW 19.85.025(3) and RCW 34.05.310(4).

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 are exempt under RCW 34.05.328(5)(b)(iii) and adopt or incorporate by reference without material change federal statutes or regulations.

AMENDATORY SECTION (Amending WSR 14-13-051, filed 6/12/14, effective 7/13/14)

WAC 388-25-0110 What is the effective date for termination of foster care payments? (1) The department ends payment on the day before the child actually leaves the foster home or facility. The department does not pay for the last day that a child is in a foster care home or facility.

(2) The department terminates family foster care payments for children in family foster care effective the date:

(a) The child no longer needs foster care; ~~((~~☒~~))~~

(b) The child no longer resides in foster care;

(c) The child reaches the age of eighteen; ~~((~~☒~~))~~

(d) The child is no longer eligible for the extended foster care program and the dependency action is dismissed or voluntary placement agreement (VPA) is revoked. To be eligible for the extended foster care program a child, age eighteen must be:

(i) Completing a high school diploma or high school equivalency certificate;

(ii) Completing a post-secondary academic or vocational program; ~~((~~☒~~))~~

(iii) Participating in a program or activity designed to promote employment or remove barriers to employment ~~((~~-~~))~~ ;

(iv) Employed for eighty hours or more per month; or

(v) Unable to engage in subsections (2)(d)(i) through (2)(d)(iv) of this section due to a documented medical condition.

(3) The department must terminate foster care payments for children in the behavior rehabilitative services program effective the date:

(a) The child no longer needs rehabilitative services; ~~((~~☒~~))~~

(b) The child is no longer served through contracted rehabilitative services program except as provided in WAC 388-25-0030; or

(c) The child reaches the age of eighteen and continues to attend, but has not finished, high school or an equivalent educational program and has a need for continued rehabilitative treatment services, the department may continue payments until the date the youth completes the high school program or equivalent educational or vocational program. The department must not extend payments for a youth in care beyond age twenty.

AMENDATORY SECTION (Amending WSR 16-06-044, filed 2/24/16, effective 3/26/16)

WAC 388-25-0502 What is the purpose of the extended foster care program? The extended foster care program provides an opportunity for young adults in foster care at age eighteen to voluntarily agree to continue receiving foster care services, including placement services, while the youth:

(1) Completes a high school or a high school equivalency program;

(2) Completes a secondary or post-secondary academic or vocational program; ~~((~~☒~~))~~

(3) Participates in a program or activity designed to promote employment or remove barriers to employment; ~~((~~☒~~))~~

- (4) Is engaged in employment for eighty hours or more per month((-)) ; or
- (5) Is unable to engage in subsections (1) through (4) of this section due to a documented medical condition.

AMENDATORY SECTION (Amending WSR 16-06-044, filed 2/24/16, effective 3/26/16)

WAC 388-25-0504 What is extended foster care? Extended foster care is a program offered to young adults, age eighteen (~~(up)~~) to twenty-one, who turn eighteen while in foster care, to enable them to:

- (1) Complete a high school diploma or high school equivalency certificate;
- (2) Complete a post-secondary academic or vocational program;
- (3) Participate in a program or activity designed to promote employment or remove barriers to employment; (~~(or)~~)
- (4) Be employed for eighty hours or more per month((-)) ; or
- (5) Participate in the program if unable to engage in subsections (1) through (4) of this section due to a documented medical condition.

AMENDATORY SECTION (Amending WSR 16-06-044, filed 2/24/16, effective 3/26/16)

WAC 388-25-0506 Who is eligible for extended foster care? (1) To be eligible for the extended foster care program, a youth, on his or her eighteenth birthday(~~(y)~~) must(~~(+~~

~~(+)~~) be dependent under chapter 13.34 RCW, (~~(be)~~) placed in foster care (~~(+)~~) as defined in WAC 388-25-0508(~~(+)~~) by (~~(children's ad-~~
ministration))CA, and:

- (a) (~~(Be)~~) Enrolled (~~(+)~~) as described in WAC 388-25-0512(~~(+)~~) in a high school or high school equivalency program; (~~(or)~~)
- (b) (~~(Be)~~) Enrolled (~~(+)~~) as described in WAC 388-25-0512(~~(+)~~) in a post-secondary academic or vocational education program; (~~(or)~~)
- (c) (~~(Have)~~) Applied for and can demonstrate intent to timely enroll in a post-secondary academic or vocational education program (as described in WAC 388-25-0514); or
- (d) (~~(Be)~~) Participating in a program or activity designed to promote employment or remove barriers to employment; (~~(or)~~)
- (e) (~~(Be)~~) Engaged in employment for eighty hours or more per month((-)); or
- (f) Unable to engage in subsection (1)(a) through (e) of this section due a documented medical condition.

(2) Have had their dependency dismissed on their eighteenth birthday as the youth did not meet any of the criteria found in subsections (1)(a) through (~~(+)~~)(f) of this section, or did not agree to participate in the program and the youth is requesting to participate in the extended foster care program prior to reaching the age of nineteen. Youth must meet one of the criteria in subsections (1)(a) through (~~(+)~~)(f) when requesting to participate in the extended foster care program.

NEW SECTION

WAC 388-25-0517 What is a "documented medical condition"? A "documented medical condition" is any physical or mental health condition documented by a licensed health care provider that may be temporary or permanent, including but not limited to, a physical injury or a physical or behavioral health condition. A "documented medical condition" may include physiological, mental, or psychological conditions or disorders, including but not limited to, orthopedic, visual, speech, and hearing impairments.

NEW SECTION

WAC 388-25-0519 How does a youth demonstrate he or she is unable to participate in extended foster care activities due to a documented medical condition? (1) To demonstrate he or she is unable to participate in extended foster care activities due to a documented medical condition defined in WAC 388-25-0517, a youth must notify the social worker of the medical condition and provide CA written documentation or consent to CA to obtain documentation from a licensed health care provider. The documentation of the medical condition must describe how the medical condition prevents the youth, either temporarily or permanently, from:

(a) Completing a high school diploma or high school equivalency certificate;

(b) Completing a post-secondary academic or vocational program;

(c) Participating in a program or activity designed to promote employment or remove barriers to employment; or

(d) Being employed for eighty hours or more per month.

(2) If the youth's medical condition prevents him or her from notifying the social worker or obtaining or providing documentation of the medical condition, the youth must notify the social worker as soon as he or she is reasonably able.

(3) If the youth's medical condition temporarily prevents him or her from engaging in extended foster care activities, the youth will provide the social worker with updated documentation from the licensed health care provider regarding the youth's ability to engage in extended foster care activities during the monthly health and safety visit.

(4) The youth may give CA consent to contact the licensed health care provider directly to determine the impact of the youth's documented medical condition or his or her ability to engage in extended foster care activities.

AMENDATORY SECTION (Amending WSR 16-06-044, filed 2/24/16, effective 3/26/16)

WAC 388-25-0540 How does CA determine a youth's continuing eligibility for the extended foster care program? ~~((At least every six months, children's administration))~~To determine a youth's continuing

eligibility for the extended foster care program, prior to every court review hearing CA will determine if the youth continues to:

(1) Agree to participate in the extended foster care program(~~(-)~~);

(2) ~~((Be enrolled in an education program, vocational program, or participating in a program or activity designed to promote employment or remove barriers to employment, employed for eighty hours or more per month, or is transitioning from one status to another.))~~Meet the eligibility criteria in WAC 388-25-0506(1)(a) through (f);

(3) ~~((Continue to))~~Reside in an approved placement(~~(-)~~); and

(4) Comply with the youth's responsibilities in WAC 388-25-0546.

AMENDATORY SECTION (Amending WSR 16-06-044, filed 2/24/16, effective 3/26/16)

WAC 388-25-0546 What must the youth do to remain in the extended foster care program? To remain in the extended foster care program, unless otherwise authorized by court order, the youth must:

(1) Agree to participate in the program as expressed in the written extended foster care agreement;

(2) Maintain the standard of eligibility as set by the youth's academic program, ~~((or))~~ employment related program, ~~((or))~~ employment status, or documented medical condition;

(3) Participate in the case plan, including monthly health and safety visits;

(4) Acknowledge that ~~((children's administration(-)))~~CA(~~(+)~~) has responsibility for the youth's care and placement by authorizing CA to have access to records related to court-ordered medical, mental health, drug/alcohol treatment services, additional necessary services, educational records needed to determine continuing eligibility for the program, ~~((and for additional necessary services))~~medical records related to a documented medical condition for purposes of qualifying for extended foster care under WAC 388-25-0506(1)(f); and

(5) Remain in the approved foster care placement and follow placement rules~~((This means the youth will))~~ as follows:

(a) Stay in the placement identified by CA or approved by the court;

(b) Obtain approval from ~~((ease))~~his or her social worker and notify his or her caregiver for extended absences from the placement of more than three days; and

(c) Comply with court orders and any specific rules developed in collaboration by the youth, caregiver and social worker.

AMENDATORY SECTION (Amending WSR 16-06-044, filed 2/24/16, effective 3/26/16)

WAC 388-25-0548 When is a youth no longer eligible for the extended foster care program? A youth is no longer eligible for the extended foster care program and the department will ask the court to dismiss the non-minor dependency, when the youth:

(1) Graduates from high school or equivalency program(~~(7)~~) and has not (~~enrolled in, or applied for and~~) demonstrated (~~an~~) intent to timely enroll in a post-secondary academic or vocational program;

(2) Graduates from a post-secondary education or vocational program;

(3) Reaches (~~their~~)his or her twenty-first birthday;

(4) Is no longer participating or (~~enrolled in high school or equivalency program, post secondary or vocational program, or in a program promoting employment or removing barriers to employment~~)engaging in any of the eligibility criteria under WAC 388-25-0506(1)(a) through (f);

(5) (~~No longer employed for eighty hours or more per month;~~

~~(6)~~)No longer agrees to participate in extended foster care services;

(~~(7)~~)(6) Fails or refuses to comply with youth responsibilities outlined in WAC 388-25-0546; or

(~~(8)~~)(7) Is incarcerated (~~in~~)as an adult in a detention facility on a criminal conviction.