



# 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, Aging and Long-Term Support Administration

- Preproposal Statement of Inquiry was filed as WSR: 16-16-011 ; 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 creating new sections in chapter 388-106 WAC "Long-Term Care Services" for a new benefit package for Supportive Housing.

**Hearing location(s):**

Office Building 2  
DSHS Headquarters  
1115 Washington  
Olympia, WA 98504

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

Date: **December 6, 2016** 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](mailto:DSHSRPAURulesCoordinator@dshs.wa.gov)  
fax: (360) 664-6185

**by: 5:00 p.m. December 6, 2016**

**Assistance for persons with disabilities:** Contact:  
Jeff Kildahl, DSHS Rules Consultant by November 22, 2016  
Phone: (360) 664-6092 or TTY: (360) 664-6178  
Email: [KildaJA@dshs.wa.gov](mailto:KildaJA@dshs.wa.gov)

**Date of intended adoption:** Not earlier than December 7, 2016  
(Note: This is **NOT** the effective date)

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

The department is creating new sections in chapter 388-106 WAC in order to define the benefit package for Supportive Housing as part of Washington's Medicaid Transformation Waiver.

**Reasons supporting proposal:** See purpose statement above.

**Statutory authority for adoption:** RCW 74.08.090

**Statute being implemented:** RCW 74.08.283, RCW 74.08.390

**Is rule necessary because of a:**

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

**DATE**  
October 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: November 01, 2016**

**TIME: 10:35 AM**

**WSR 16-22-068**

**Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:**

N/A

**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:	Debbie Johnson	P.O. Box 45600, Olympia, WA 98504-5600	(360) 725-2531
Implementation:	Debbie Johnson	P.O. Box 45600, Olympia, WA 98504-5600	(360) 725-2531
Enforcement:	Elizabeth Prince	P.O. Box 45600, Olympia, WA 98504-5600	(360) 725-2561

**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 preparation of a small business economic impact statement is not required, as no new costs will be imposed on small businesses or non-profits as a result of this rule amendment.

**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:

Rules are exempt per RCW 34.05.328(5)(b)(v), rules the content of which is explicitly and specifically dictated by statute.

NEW SECTION

**WAC 388-106-1700 What definitions apply to supportive housing?**

The following definitions apply to WAC 388-106-1700 through 388-106-1765:

"Chronically homeless" means an individual who is homeless and lives in a place not meant for human habitation, a safe haven, or in an emergency shelter.

"PRISM" means predictive risk intelligence system and is a web-based clinical decision support application that features predictive modeling tools and data integration to support care management for high-risk medicaid clients.

NEW SECTION

**WAC 388-106-1705 What services may I receive under supportive housing?**

(1) The services you may receive under supportive housing include but are not limited to activities that assist you to:

- (a) Identify appropriate housing;
- (b) Prepare for and transition to housing;
- (c) Connect with direct and collateral services;
- (d) Maintain your housing; and
- (e) Develop and maintain a positive relationship with your landlord and other tenants.

(2) The services you receive will be identified in your assessment as defined in WAC 388-106-0010.

NEW SECTION

**WAC 388-106-1710 Where may I receive supportive housing services?**

(1) You may receive supportive housing services in:

- (a) Your place of residence; or
  - (b) The community setting where the authorized service occurs.
- (2) Supportive housing services must be provided in:
- (a) Washington state or a recognized out-of-state bordering city as defined in WAC 382-501-0175;
  - (b) An integrated setting of your choice; and
  - (c) A manner that ensures your individual right of privacy, dignity, respect, and freedom from coercion and restraint.

(3) Once you are a supportive housing tenant, your supportive housing services must be provided in a setting that:

- (a) Does not have the qualities of an institution;
- (b) Is not located in a building that is also a publicly or privately operated facility providing inpatient institutional treatment;
- (c) Is not on the grounds of, or immediately adjacent to a public institution; or

(d) Does not have the effect of isolating you from community members who are not receiving medicaid services.

NEW SECTION

**WAC 388-106-1715 Who may provide supportive housing services?**

Supportive housing providers must meet minimum qualifications as established by DSHS supportive housing contract language and must pass a DSHS criminal history background check.

NEW SECTION

**WAC 388-106-1720 Am I eligible for supportive housing funded services?** You are eligible for supportive housing services if you meet the following criteria:

- (1) Meet functional eligibility as defined in WAC 388-106-0210, 388-106-0277, 388-106-0310, 388-106-0338, or 388-106-1410;
- (2) Meet financial eligibility as defined in chapters 182-513 and 185-515 WAC; and
- (3) Must have at least one of the following:
  - (a) Be chronically homeless;
  - (b) History of frequent or lengthy institutional stays;
  - (c) History of frequent or lengthy adult residential care or treatment stays;
  - (d) Experienced frequent turnover of in-home caregivers or providers; or
  - (e) A PRISM risk score of at least 1.5.

NEW SECTION

**WAC 388-106-1725 When do supportive housing services begin?**

Your supportive housing services begin on the date the department authorizes your supportive housing services.

NEW SECTION

**WAC 388-106-1730 How do I remain eligible for supportive housing?** (1) To remain eligible for supportive housing you must remain functionally eligible as defined in WAC 388-106-0210, 388-106-0277, 388-106-0310, 388-106-0338, or 388-106-1410 and financially eligible as defined in chapters 182-513 and 182-515 WAC.

(2) If eligibility laws, regulations, or rules for supportive housing change, and if you do not meet the changed eligibility requirements, the department will terminate your services, even if your functional or financial circumstances have not changed.

NEW SECTION

**WAC 388-106-1735 How do I pay for supportive housing services?**

The department will not require you to pay toward the cost of your supportive housing services.

NEW SECTION

**WAC 388-106-1740 What are my rights when I receive supportive housing services in a setting owned by a service provider?** (1) In a provider owned supportive housing setting, you have the right to:

(a) A lease or legally enforceable agreement that provides you with similar responsibilities and protection from eviction that tenants have under landlord tenant law;

(b) Privacy in your living unit, including a lock on your door;

(c) A choice of roommates, if you choose to have a roommate;

(d) Decorate your living unit within the parameters of your lease agreement;

(e) Control your schedule and choose the activities you participate in; and

(f) Have visitors when you choose.

(2) Before the supportive housing services provider may change any of your rights under subsection (1) of this section, the supportive housing services provider must:

(a) Obtain your consent to make a change to one of your rights;

(b) Discuss with you the specific assessed need that the change is based on;

(c) Try positive interventions and less intrusive ways to deal with the specific assessed need and then review these with you;

(d) Document the discussion and the change to be made; and

(e) Provide this documentation to you and your case manager.

(3) The supportive housing services provider and your case manager must review with you any modifications to your rights as described in subsection (2) of this section at least yearly to determine if it is still effective and needed.

NEW SECTION

**WAC 388-106-1745 May I be employed and receive supportive housing services?** You may be employed and receive supportive housing services as long as you remain medicaid eligible under the categorically needy (CN) program or alternative benefit plan (ABP) program.

NEW SECTION

**WAC 388-106-1750 Are there limits to the supportive housing services I receive?** There are limits to the supportive housing services you receive. Supportive housing services must not:

- (1) Replace or duplicate existing services already available to you; or
- (2) Include payment for rent, food, and utilities.

NEW SECTION

**WAC 388-106-1755 Are there waiting lists for supportive housing?** The department may create a waiting list for supportive housing services in accordance with funding appropriation.

NEW SECTION

**WAC 388-106-1760 Do I have the right to an administrative hearing while receiving supportive housing services?** Yes, you may request an administrative hearing based on the rules outlined in WAC 388-106-1305 to contest the department's supportive housing service eligibility decisions.

NEW SECTION

**WAC 388-106-1765 When may the department terminate or deny supportive housing services?** The department may deny or terminate supportive housing services if you are not eligible for long-term care services pursuant to WAC 388-106-0047, 388-106-0210, 388-106-0277, 388-106-0310, 388-106-0338, or 388-106-1410.