



**STATE OF WASHINGTON
DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

Policy and External Relations
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Rules and Policies Assistance Unit

March 7, 2016

TO: Office of the Code Reviser
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Joint Administrative Rules Review Committee
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Department of Agriculture
Department of Commerce
Department of Corrections
Department of Early Learning
Department of Ecology
Employment Security Department
Department of Fish and Wildlife
Department of Health
Department of Enterprise Services
Department of Labor and Industries
Department of Natural Resources
Department of Transportation
Office of the Superintendent of Public Instruction
Health Care Authority

FROM: Katherine Iyall Vasquez, Rules Coordinator
Department of Social and Health Services

SUBJECT: DSHS Semi-Annual Rule-Making Agenda, January – June, 2016

Attached is the Department of Social and Health Services Semi-annual rule-making agenda for January 1, 2016 – June 30, 2016. This agenda will be published in the Washington State Register as required in RCW 34.05.314 and distributed to interested parties. It is also available online at <https://www.dshs.wa.gov/sesa/rules-and-policies-assistance-unit/dshs-semi-annual-rule-making-agenda> .

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: March 07, 2016

TIME: 2:22 PM

WSR 16-07-021

This report represents DSHS rules under development at this time. There may be additional rule-making activity as DSHS responds to legislative actions, to comply with federal mandates, or to meet unforeseen circumstances.

Attachments

DSHS Semi-annual Rules Agenda

January 1, 2016 – June 30, 2016

Administration / Division	WAC Sections	Purpose for Rule Making	CR-101 Filings	CR-102 Filings	CR-103 Filings
Aging and Long-Term Support Administration					
Home & Community Services					
	Chapter 388-71 WAC	Proposing to add a section to Home and Community Services and Programs, and other related rules as may be required. The new section will clarify exceptions and corresponding verification to the electronic time keeping requirement for home care agencies.	WSR: 15-03-029 Filed: 01/12/2015		
	WAC 388-106-1000 through 388-106-1055	Clarifying the definition for nurse services intervention, to define the scope of services to be authorized, and explain the necessity for documentation to support the required services.	WSR: 15-05-078 Filed: 02/18/2015		
	WAC 388-71-0515 (11)	The department is amending to modify the language so that it will accurately reflect a change in the way Individual Providers will report the time they have worked. This change is based on payment moving from the Social Services Payment System to the Provider Compensation Subsystem that will be implemented in 2016.	WSR: 15-08-014 Filed: 03/24/2015	WSR: 15-20-112 Filed: 10/06/2015	
	Chapter 388-71 WAC, Chapter 388-106 WAC	The Department is considering amending “Home and community services and programs”, “Long-Term Care Services”, and other related rules as may be required.	WSR: 15-19-135 Filed: 09/21/2015	WSR: 16-01-179 Filed: 12/22/2015	
	Chapter 388-106	Long-Term Care Services. These rules will be amended to add retainer payments to the Residential Support Waiver	WSR: 16-04-070		

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	WAC	(RSW) and to add two new waiver services, Adult Day Health and Expanded Community Services. Other WAC chapters may need to be updated as a result of this rule-making.	Filed: 01/29/2016		
Management Services Division					
	Chapter 388-96 WAC, and other related rules as may be required	The department is proposing new rules relating to Nursing Home staffing levels.	WSR: 15-15-069 Filed: 07/13/2015		
	Chapter 388-96 WAC as may be required	The Department plans to amend or create new sections to adopt rules regarding ventilator/tracheostomy clients in nursing facilities.	WSR: 15-22-100 Filed: 11/04/2015		
Residential Care Services Division					
	Chapter 388-107	The department is revising "Enhanced Services Facilities" in order to address concerns of the Center for Medicare/Medicaid Services (CMS) Home and Community Based Services (HCBS) and stakeholders with operationalization of the requirements stated therein.	WSR: 15-10-041 Filed: 04/29/2015	WSR: 15-24-037 Filed: 11/20/2015	WSR: 16-01-160 Filed: 12/22/2015 WSR: 15-18-053 Filed: 08/27/2015 WSR: 15-10-056 Filed: 04/30/2015

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	Chapter 388-101 WAC	The department is amending to be in compliance with recently passed legislation, SSB 5600 and HB1307. The rules are also needed to address training and fingerprint requirements from past legislation to be effective January 1, 2016.	WSR: 15-12-084 Filed: 06/01/2015	WSR: 15-20-113 Filed: 10/06/2015	
	Chapter 388-78A WAC	The purpose for the changes is to consolidate the Negative Actions and Character, Competence, and Suitability Rules related to background checks for Home and Community Services (HCS), Residential Services (RCS), and Developmental Disabilities.	WSR: 15-15-098 Filed: 07/15/2015		
	Chapter 388-76 WAC	The department is adding new sections and amending sections to consolidate the Negative Actions and Character, Competence, and Suitability Rules related to background checks for Home and Community Services (HCS), Residential Services (RCS), and Developmental Disabilities Administration (DDA).	WSR: 15-15-099 Filed: 07/15/2015		
	Chapter 388-101 WAC	Adding new sections and amending sections to consolidate the Negative Actions and Character, Competence, and Suitability Rules related to background checks for Home and Community Services (HCS), Residential Services (RCS), and Developmental Disabilities Administration (DDA).	WSR: 15-15-109 Filed: 07/16/2015		
	Chapter 388-97 WAC	Adding new sections and amending to consolidate the Negative Actions and Character, Competence, and Suitability Rules related to background checks for Home and Community Services (HCS), Residential Services (RCS), and Developmental Disabilities Administration (DDA).	WSR: 15-15-111 Filed: 07/16/2015		
	Chapter 388-97	Amending the following sections in, Nursing Homes,	WSR: 15-15-125		WSR: 16-02-

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	WAC, WAC 388-97-0001, WAC 388-97-1080, WAC 388-97-1660, WAC 388-97-4600	Definitions, Nursing Services, Staff and Equipment, WAC 388-97-4560 Amount of Civil Fine, Civil Penalty Fund, and other related rules as may be required. The Department may also develop new rule sections related to staffing ratio requirements.	Filed: 07/16/2015		043 Filed: 12/30/2015
	Chapter 388-107 WAC	Adding new sections and amending sections. The purpose for the changes is to consolidate the Negative Actions and Character, Competence, and Suitability Rules related to background checks for Home and Community Services (HCS), Residential Services (RCS), and Developmental Disabilities Administration (DDA).	WSR: 15-15-122 Filed: 07/16/2015		
Office of Deaf and Hard of Hearing					
No rule making at this time					
Behavioral Health Administration					
Division of Behavioral Health and Recovery					
	Chapter 388-865 WAC	The department is adopting new sections to comply with Second Engrossed Second Substitute Senate Bill (2E2SSB) 5177 (Chapter 7, Laws of 2015).	WSR: 15-18-070 Filed: 08/28/2015	WSR: 16-01-124 Filed: 12/18/2015	WSR: 16-04-040 Filed: 01/26/2016 WSR: 15-20-121 Filed: 10/07/2015

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Developmental Disabilities Administration					
	Chapter 388-827 WAC	Amending State Supplementary Payment Program, that will improve the management of the program and more easily meet the needs of DDA clients on the program, by streamlining the methods currently used.	WSR: 15-05-045 Filed: 02/12/2015		
	Chapter 388-829A WAC	Updating “Alternative Living” and other related rules as may be required to comply with the requirements in chapter 74.39A RCW. This update will also include housekeeping changes to replace outdated terminology and update incorrect RCW and WAC references.	WSR: 15-09-115 Filed: 04/21/2015		
	Chapter 388-829C WAC	Updating “Companion Homes” and other related rules as may be required to comply with the requirements in chapter 74.39A RCW. This update will also include housekeeping changes to replace outdated terminology and update incorrect RCW and WAC references.	WSR: 15-09-116 Filed: 04/21/2015		
	WAC 388-828-1500 and WAC 388-828-1520	“When does DDD conduct a reassessment?” and “Where is the DDD assessment and reassessment administered?” to more closely align with the 42 CFR 441.540 (a)(3) requirement that allows the individual to select a time and location of their convenience for assessments.	WSR: 15-12-060 Filed: 05/28/2015		
	WAC 388-825-315, WAC 388-825-370 through WAC 388-825-395, and other related rules as may be required	Amending to change the allocation of personal care hours from a monthly basis to a weekly basis.	WSR: 15-19-160 Filed: 09/23/2015		
	Title 388 WAC	The 2015-2017 biennium budgets provided funding to	WSR: 15-20-015		WSR: 16-04-

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		develop eight community respite beds for adults with developmental disabilities for the provision of short-term community-based planned respite services across the state. The Department intends to make updates to rules related to funding for respite beds.	Filed: 09/24/2015		073 Filed: 01/29/2016
	WAC 388-832-0015 and repealing WAC 388-832-0085	Amending due to the 2014 Operating Supplemental Budget directing DDA to move the state funded Individual and Family Services (IFS) program into a 1915 (C) Home and Community Based Services (HCBS) Waiver.	WSR: 16-02-110 Filed: 01/06/2016	WSR: 16-06-048 Filed: 02/24/2016	WSR: 16-02-035 Filed: 12/30/2015
Children's Administration					
	Chapter 388-70 WAC	The department is making changes to match requirements in chapter 13.38 RCW, the Washington State Indian Child Welfare Act and the federal Indian Child Welfare Act, 25 USC Chapter 21, as well as to reflect changes in Children's Administration policy.	WSR: 15-11-090 Filed: 05/20/2015		
	Chapter 388-25 WAC	The department proposes to amend to add a fifth eligibility criterion to the Extended Foster Care WACs that goes into effect on July 1, 2016 in order to align with federal legislation.	WSR: 16-06-111 Filed: 03/02/2016		
	Chapters 388-145, 388-147, and 388-148 WAC	The department is proposing to amend to provide foster parents, DSHS staff, private agency and group care staff additional clarification on the minimum licensing requirements	WSR: 16-06-112 Filed: 03/02/2016		
Economic Services Administration					
Community Services Division					

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	WAC 388-450-0200	The department is proposing to amend “Will the medical expenses of elderly persons or individuals with disabilities in my assistance unit be used as an income deduction for Basic Food?”, and other related rules as may be required.	WSR: 15-08-047 Filed: 03/27/2015		
	Chapter 388-406 WAC	The Department is proposing to amend “Applications” and other related rules as may be required. The amendments propose to use the option under 7 CFR 273.2 (h)(i)(2)(A) of sending an applicant for Basic Food a notice of pending status on the thirtieth (30th) day when there has been a delay in processing a food assistance application and the delay is caused by the household.	WSR: 15-14-035 Filed: 06/23/2015		
	WAC 388-450-0015, WAC 388-470-0045, WAC 388-470-0055, and other related rules as may be required.	The amendments propose to implement income and asset exclusions for ABLE (Achieving a Better Life Experience) tax-deferred accounts and associated distributions.	WSR: 15-16-051 Filed: 07/29/2015	WSR: 15-23-072 Filed: 11/16/2015	
	Chapter 388-493 WAC	The Community Services Division is creating "Working Family Support" to implement a new program that will provide additional resources for Basic Food clients.	WSR: 16-01-154 Filed: 12/21/2015	WSR: 16-05-091 Filed: 02/16/2016	
	WAC 388-450-0200	The department is amending to clarify that medical marijuana is not an acceptable medical expense.	WSR: 16-01-153 Filed: 12/21/2015	WSR: 16-06-098 Filed: 03/01/2016	
	WAC 388-426-0005	The department is amending to correct contact information for the USDA in order to file a civil rights complaint or receive more information.			
	WAC 388-400-0047 and other related rules as may	The department may amend to provide a small energy assistance payment to certain Basic Food households who are not eligible for a Standard Utility Allowance income	WSR: 16-04-122 Filed: 02/02/2016		

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	be required	deduction.			
Division of Child Support					
	Chapter 388-14A WAC	In order to implement SB 5793, DCS is amending WAC 388-14A-4200, "Do I get credit for dependent disability payments paid on my behalf to my children?"	WSR: 15-15-169 Filed: 07/22/15	WSR: 15-23-097 Filed: 11/17/2015	WSR: 16-03-024 Filed: 01/11/2016
Rehabilitation Administration					
Division of Vocational Rehabilitation					
No rule making at this time					
Financial Services Administration					
Operations Support & Services Division					
	Chapter 388-03 WAC	1. Add "(c) Continuing education credits (CEC) earned before January 1, 2015 will not be accepted, even if the CEC were DSHS approved." under WAC 388-03-160(2) to clarify the beginning date that CEC are accepted for certification status maintenance. 2. Correct the typo "processional" to "professional" in 388-03-114(2).		WSR: 15-23-007 Filed: 11/05/2015	WSR: 16-04-021 Filed: 01/22/2016
Executive					
No rule making at this time					