



# PROPOSED RULE MAKING

## CR-102 (December 2017) (Implements RCW 34.05.320)

Do NOT use for expedited rule making

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STATE OF WASHINGTON  
FILED

DATE: January 22, 2018

TIME: 10:53 AM

WSR 18-03-138

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

- Original Notice**
- Supplemental Notice to WSR** \_\_\_\_\_
- Continuance of WSR** \_\_\_\_\_

- Preproposal Statement of Inquiry was filed as WSR 17-23-160 ; 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); or**
- Proposal is exempt under RCW \_\_\_\_\_.**

**Title of rule and other identifying information:** (describe subject) The department is proposing to amend WAC 388-823-0025 "Who can apply for DDA eligibility determination?" and WAC 388-823-0050 "For DDA eligibility, who is considered to be a resident of the state of Washington?".

**Hearing location(s):**

Date:	Time:	Location: (be specific)	Comment:
February 27, 2018	10:00 a.m.	Office Building 2 DSHS Headquarters 1115 Washington Olympia, WA 98504	Public parking at 11 <sup>th</sup> and Jefferson. A map is available at: <a href="https://www.dshs.wa.gov/sesa/rules-and-policies-assistance-unit/driving-directions-office-bldg-2">https://www.dshs.wa.gov/sesa/rules-and-policies-assistance-unit/driving-directions-office-bldg-2</a>

**Date of intended adoption:** Not earlier than February 28, 2018 (Note: This is **NOT** the **effective** date)

**Submit written comments to:**

Name: DSHS Rules Coordinator  
 Address: PO Box 45850  
 Olympia, WA 98504  
 Email: [DSHSRPAURulesCoordinator@dshs.wa.gov](mailto:DSHSRPAURulesCoordinator@dshs.wa.gov)  
 Fax: 360-664-6185  
 Other:  
 By (date) 5:00 p.m. February 27, 2018

**Assistance for persons with disabilities:**

Contact Jeff Kildahl, DSHS Rules Consultant  
 Phone: 360-664-6092  
 Fax: 360-664-6185  
 TTY: 711 Relay Service  
 Email: [Kildaja@dshs.wa.gov](mailto:Kildaja@dshs.wa.gov)  
 Other:  
 By (date) February 13, 2018

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** The proposed amendments to these rules align requirements with the Health Care Authority's rules under Title 182 WAC, amend who can request a DDA eligibility determination, and clarify who is considered a Washington state resident.

**Reasons supporting proposal:** The proposed amendments simplify the application process for potential clients, including children receiving foster care and dependents of military service members. The proposed amendments also replace inaccurate references to cash and food assistance with residency requirements under chapter 182-503 WAC.

**Statutory authority for adoption:** RCW 71A.12.030

**Statute being implemented:** RCW 74.04.815

**Is rule necessary because of a:**

- Federal Law?  Yes  No  
Federal Court Decision?  Yes  No  
State Court Decision?  Yes  No

If yes, CITATION:

**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:	Chantelle Diaz	P.O. Box 45310, Olympia, WA 98504-5310	360-407-1589
Implementation:	Beth Krehbiel	P.O. Box 45310, Olympia, WA 98504-5310	360-407-1547
Enforcement:	Beth Krehbiel	P.O. Box 45310, Olympia, WA 98504-5310	360-407-1547

**Is a school district fiscal impact statement required under RCW 28A.305.135?**  Yes  No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name:

Address:

Phone:

Fax:

TTY:

Email:

Other:

**Is a cost-benefit analysis required under RCW 34.05.328?**

Yes: A preliminary cost-benefit analysis may be obtained by contacting:

Name: Chantelle Diaz

Address: P.O. Box 45310, Olympia, WA 98504-5310

Phone: 360-407-1589

Fax: 360-407-0955

TTY: 1-800-833-6388

Email: Chantelle.Diaz@dshs.wa.gov

Other:

No: Please explain:

**Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:**

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

RCW 34.05.310 (4)(b)  
(Internal government operations)

RCW 34.05.310 (4)(e)  
(Dictated by statute)

RCW 34.05.310 (4)(c)  
(Incorporation by reference)

RCW 34.05.310 (4)(f)  
(Set or adjust fees)

RCW 34.05.310 (4)(d)  
(Correct or clarify language)

RCW 34.05.310 (4)(g)  
((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit)

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(4) .

Explanation of exemptions, if necessary: The proposed amendments impose no new or disproportionate costs on small businesses so a small business economic impact statement is not required.

**COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES**

If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

No Briefly summarize the agency's analysis showing how costs were calculated. \_\_\_\_\_

Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

- Name:
- Address:
- Phone:
- Fax:
- TTY:
- Email:
- Other:

**Date:** January 18, 2018

**Name:** Katherine I. Vasquez

**Title:** DSHS Rules Coordinator

**Signature:**

AMENDATORY SECTION (Amending WSR 14-12-046, filed 5/29/14, effective 7/1/14)

**WAC 388-823-0025 Who ((can)) may apply for a DDA eligibility determination?** (1) You ((must be a resident of the state of Washington, as described in WAC 388-823-0050, to)) may apply for ((an)) a DDA eligibility determination on your own behalf.

(2) ((The following individuals can apply)) A person may submit an application for a DDA eligibility determination on your behalf if the person is:

(a) ((If a court has not appointed the child as his own decision maker, a parent or legal representative must apply on behalf of a child under the age of eighteen years)) Delegated to consent to routine medical care for you under WAC 388-148-1560;

(b) ((If there is a)) Your legal ((guardian of an applicant age eighteen years or older, the legal guardian must apply on behalf of the adult applicant)) representative; ((or))

(c) ((If there is no legal guardian of an adult applicant age eighteen years or older, the adult applicant can apply on his/her own behalf)) Your parent;

(d) Your caretaker relative under WAC 182-500-0020;

(e) Your spouse;

(f) Your authorized representative under WAC 182-503-0130; or

(g) Applying for you because a medical condition prevents you from applying on your own behalf.

(3) ((A request for eligibility determination requires the signature of the applicant or their legal representative. With the consent of the applicant, any person, agency, or advocate may assist with the application process)) If your authorized representative or a person applying on your behalf submits your application, DDA will not make a final eligibility decision until DDA receives consent from:

(a) A person delegated to consent to routine medical care for you under WAC 388-148-1560;

(b) Your legal representative;

(c) Your parent; or

(d) Your caretaker relative under WAC 182-500-0020.

AMENDATORY SECTION (Amending WSR 14-12-046, filed 5/29/14, effective 7/1/14)

**WAC 388-823-0050 ((For DDA eligibility, who is considered to be a resident of the state of)) Do I have to be considered a Washington state resident to be eligible for DDA?** (1) You must ((live in the state of)) be considered a Washington state resident to ((apply or continue to be a client of)) be eligible for DDA. If ((you are a child under the age of eighteen, your primary custodian or legal guardian must also live in the state of)) DDA does not consider you a Washington state resident, you are not eligible for DDA and DDA will deny or terminate your eligibility. ((Proof that you live in the state of Washington may include documentation such as a lease agreement, school records, or mail addressed to you. Such documentation will not be considered proof of residency if you have been denied medicaid or other

~~benefits due to failure to meet residency requirements under WAC 388-468-0005.)~~

~~(2) ((DDA will not process your request for determination of eligibility or will terminate your eligibility if you do not live in the state of)) You are considered a Washington state resident if you:~~

~~(a) Meet residency requirements under WAC 182-503-0520 or 182-503-0525; or~~

~~(b) Are a dependent of a military service member and legal resident under RCW 74.04.815.~~

~~(3) Evidence that you are a Washington state resident includes but is not limited to your:~~

~~(a) Lease agreement;~~

~~(b) Voter registration;~~

~~(c) Washington state driver's license;~~

~~(d) Washington state identification card; or~~

~~(e) Receipt of benefits under one of the Washington public assistance or medicaid programs.~~

~~(4) If DDA learns that you are not a Washington state resident, DDA terminates your eligibility.~~

~~(5) You must inform DDA if your address changes. DDA will deny or terminate your eligibility if DDA does not learn your correct address.~~