



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: April 16, 2018

TIME: 3:22 PM

WSR 18-09-070

Agency: Department of Social and Health Services, Children's Administration

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR 18-04-084 ; 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 and repeal sections in chapter 388-165 "Children's Administration Child Care Subsidy Programs".

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
May 22, 2018	10:00 a.m.	Office Building 2 DSHS Headquarters 1115 Washington Olympia, WA 98504	Public parking at 11 th and Jefferson. A map is available at: https://www.dshs.wa.gov/sesa/rules-and-policies-assistance-unit/driving-directions-office-bldg-2

Date of intended adoption: Not earlier than May 23, 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

Fax: 360-664-6185

Other:

By (date) 5:00 p.m. May 22, 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

Other:

By (date) May 8, 2018

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The department is proposing to amend and repeal sections in chapter 388-165 WAC in order to help clarify when the Children's Administration (CA) will pay for child care and what rates will be used pursuant to rules governing child care subsidy programs. Other changes are being made to reflect current practice.

Reasons supporting proposal: Representatives from the Service Employees International Union representing child care workers reviewed the proposed changes and concurred.

Statutory authority for adoption: RCW 74.12.340, RCW 74.04.050, RCW 74.04.055, RCW 74.08.090

Statute being implemented:

Is rule necessary because of a:

Federal Law?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Federal Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
State Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

If yes, CITATION:

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

<input type="checkbox"/> Private
<input type="checkbox"/> Public
<input checked="" type="checkbox"/> Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Shelly Arneson	PO Box 45710 Olympia, WA 98504	360-902-8109
Implementation:	Shelly Arneson	PO Box 45710 Olympia, WA 98504	360-902-8109
Enforcement:	Shelly Arneson	PO Box 45710 Olympia, WA 98504	360-902-8109

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:
Address:
Phone:
Fax:
TTY:
Email:
Other:

No: Please explain: Not applicable. These changes are not significant legislative rules and do not require a cost benefit analysis.

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:

- | | |
|---|--|
| <input type="checkbox"/> RCW 34.05.310 (4)(b)
(Internal government operations) | <input type="checkbox"/> RCW 34.05.310 (4)(e)
(Dictated by statute) |
| <input checked="" type="checkbox"/> RCW 34.05.310 (4)(c)
(Incorporation by reference) | <input type="checkbox"/> RCW 34.05.310 (4)(f)
(Set or adjust fees) |
| <input checked="" type="checkbox"/> RCW 34.05.310 (4)(d)
(Correct or clarify language) | <input type="checkbox"/> 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 _____.

Explanation of exemptions, if necessary:

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: April 16, 2018

Name: Katherine I. Vasquez

Title: DSHS Rules Coordinator

Signature:



AMENDATORY SECTION (Amending WSR 99-22-011, filed 10/22/99, effective 11/22/99)

WAC 388-165-108 What are the types of child care subsidies?
This chapter relates to the following ~~((programs))~~ subsidies in children's administration (CA):

- ~~(1) ((Seasonal child care;~~
- ~~(2) Teen parent child care;~~
- ~~(3))~~ Child protective services child care;
- ~~((4))~~ (2) Child welfare services child care; and
- ~~((5))~~ (3) Employed foster parent child care.

AMENDATORY SECTION (Amending WSR 99-15-076, filed 7/20/99, effective 7/20/99)

WAC 388-165-110 Definitions. The following definitions apply ~~((to WAC 388-15-171, 388-15-174, 388-15-175 and 388-15-176))~~ throughout this chapter.

"Child" means a person twelve years of age or younger or a person under nineteen years of age who is physically, mentally, or emotionally incapable of self-care as verified by a licensed medical practitioner or masters level or above mental health professional.

~~(("Copayment" means the amount of money the family is responsible to pay the child care provider toward the cost of child care each month.~~

~~"Income" means the gross earned income minus the average payroll and income tax paid at that income level, plus any unearned income.))~~

~~"In-home/relative child care provider" ((see definition for "in-home/relative provider" under WAC 388-290-020)) means a provider who meets the requirement in WAC 170-290-0130 through 170-290-0167.~~

~~"Parent" ((see definition for "parent" under WAC 388-290-020)) means a biological or adoptive parent of a child or an individual who have an established parent-child relationship under RCW 26.26.101, unless the legal rights of that person have been terminated or paternity has been disestablished.~~

~~(("Teen parent" means a parent twenty one years of age or younger.))~~

AMENDATORY SECTION (Amending WSR 13-08-064, filed 4/1/13, effective 5/2/13)

WAC 388-165-180 What are the maximum child care subsidy rates ((DSHS)) CA pays for child care in a licensed or certified child care center? ~~((DSHS)) CA~~ maximum child care subsidy rates for licensed child care centers ~~((are located on the Washington state child care resource & referral network website at: <http://wa.childcareaware.org>))~~ can be found in WAC 170-290-0200.

AMENDATORY SECTION (Amending WSR 13-08-064, filed 4/1/13, effective 5/2/13)

WAC 388-165-185 What are the maximum child care subsidy rates ((DSHS)) CA pays for child care in a licensed or certified family home child care ((home))? ((DSHS)) CA maximum child care subsidy rates for licensed or certified family home child care ((homes are located on the Washington state child care resource & referral network website at: <http://wa.childcareaware.org>)) can be found in WAC 170-290-0205.

AMENDATORY SECTION (Amending WSR 99-22-011, filed 10/22/99, effective 11/22/99)

WAC 388-165-190 When can ((DSHS)) CA pay ((in addition to)) more than the maximum ((DSHS)) CA child care subsidy rate? ((DSHS)) CA pays additional subsidies to a licensed or certified family child care home or center when:

(1) Care is for nonstandard hours ((+see)) under WAC 388-165-195 and 388-165-200((+));

(2) ((The infant bonus is authorized (see WAC 388-165-205);

+3)) A child has a documented special ((need(s) (see)) needs under WAC 388-165-210, 388-165-215, or 388-165-220((+)); ((or

+4)) (3) Care is not available at the ((DSHS)) CA rate and the provider's usual rate is authorized;

(4) The provider is participating in the state's early achievers program and receives tiered reimbursement and state funds are available; or

(5) A child registration fee is applicable under WAC 170-290-0245.

To the extent that funds are available, CA may pay additional subsidies to licensed or certified family home child care for field trip and quality enhancement fees under WAC 170-290-0245.

AMENDATORY SECTION (Amending WSR 99-22-011, filed 10/22/99, effective 11/22/99)

WAC 388-165-195 What is nonstandard hour child care? ((DSHS)) CA authorizes nonstandard hours child care when ((fifteen or more)) the licensed or certified family home child care or center provider provides at least thirty hours of care ((are needed)) per month((7)) that are:

(1) Before 6:00 a.m. or after 6:00 p.m. Monday through Friday; ((and/or)) or

(2) Anytime on a Saturday ((or)), Sunday, or legal holiday as defined in RCW 1.16.050.

AMENDATORY SECTION (Amending WSR 99-22-011, filed 10/22/99, effective 11/22/99)

WAC 388-165-200 How does ((DSHS)) CA pay for nonstandard hour child care? ((DSHS)) CA authorizes the nonstandard hour bonus to licensed or certified child care providers((, DSHS pays:

- (1) ~~The DSHS maximum child care subsidy rate as listed in WAC 388-165-180 or 388-165-185 or the provider's usual rate for that child, whichever is less; and~~
- (2) ~~The monthly nonstandard hour bonus as listed in the table below)) as specified in WAC 170-290-0249.~~

((Monthly Nonstandard Hour Bonus

Region 1	\$74.00
Region 2	\$73.00
Region 3	\$91.00
Region 4	\$108.00
Region 5	\$80.00
Region 6	\$83.00))

AMENDATORY SECTION (Amending WSR 99-22-011, filed 10/22/99, effective 11/22/99)

WAC 388-165-215 What is the ((DSHS)) CA child care subsidy rate for children with special needs in a licensed or certified child care center? ((DSHS)) For children with documented special needs, CA pays child care subsidies ((for a child with special needs)) to licensed or certified child care centers as described in WAC 388-165-180 ((and whichever of the following is greater)). In addition, CA pays the lesser of:

- (1) ~~The ((provider's documented additional cost associated with the care of that child with)) actual cost of providing the special needs care; or~~
- (2) ~~The applicable rate listed in ((the table below))~~ WAC 170-290-0225 (1)(a) or (b).

~~((Licensed Child Care Centers Special Needs Rate~~

		Infants (Birth-11 mos.)	Toddlers (12-29 mos.)	Preschool (30 mos.-5 years)	School-age (5-12 years)
Region 1	Full-Day	\$6.82	\$5.96	\$5.40	\$5.01
	Half-Day	\$3.41	\$2.98	\$2.70	\$2.51
Region 2	Full-Day	\$6.95	\$6.14	\$5.33	\$5.05
	Half-Day	\$3.48	\$3.07	\$2.66	\$2.52
Region 3	Full-Day	\$9.05	\$7.80	\$6.60	\$5.93
	Half-Day	\$4.53	\$3.90	\$3.30	\$2.97
Region 4	Full-Day	\$11.34	\$8.86	\$7.84	\$7.02
	Half-Day	\$5.67	\$4.43	\$3.92	\$3.51
Region 5	Full-Day	\$7.75	\$6.65	\$5.84	\$5.25
	Half-Day	\$3.87	\$3.33	\$2.92	\$2.63
Region 6	Full-Day	\$7.68	\$6.82	\$6.00	\$6.00
	Half-Day	\$3.84	\$3.41	\$3.00	\$3.00

~~(3) The maximum rate paid for a five year old child is:~~

~~(a) The preschool rate for a child who has not entered kindergarten; or
 (b) The school age rate for a child who has entered kindergarten.)~~

AMENDATORY SECTION (Amending WSR 99-22-011, filed 10/22/99, effective 11/22/99)

WAC 388-165-220 What is the ((DSHS)) CA child care subsidy rate for children with special needs in a licensed or certified family home child care ((home))? ~~((DSHS)) For children with documented special needs, CA pays child care subsidies ((for a child with special needs)) to licensed or certified family child care homes as described in WAC ((388-165-195 and whichever of the following is greater)) 388-165-185. In addition, CA pays the lesser of:~~

- ~~(1) The ((provider's documented additional cost associated with the care of that child with)) actual cost of providing special needs care; or~~
- ~~(2) The applicable rate listed in ((the table below)) WAC 170-290-0230 (1)(a) or (b).~~

~~((Licensed Family Child Care Homes Special Needs Bonus~~

		Infants (Birth-11 mos.)	Toddlers (12-29 mos.)	Preschool (30 mos.-5 years)	School-age (5-12 years)
Region 1	Full-Day	\$5.70	\$5.28	\$5.10	\$4.50
	Half-Day	\$2.85	\$2.64	\$2.55	\$2.25
Region 2	Full-Day	\$5.40	\$5.40	\$4.80	\$4.50
	Half-Day	\$2.70	\$2.70	\$2.40	\$2.25
Region 3	Full-Day	\$8.40	\$7.20	\$6.60	\$6.00
	Half-Day	\$4.20	\$3.60	\$3.30	\$3.00
Region 4	Full-Day	\$9.00	\$8.18	\$7.50	\$6.75
	Half-Day	\$4.50	\$4.09	\$3.75	\$3.38
Region 5	Full-Day	\$6.30	\$6.00	\$5.70	\$5.10
	Half-Day	\$3.15	\$3.00	\$2.85	\$2.55
Region 6	Full-Day	\$6.15	\$6.00	\$5.40	\$5.10
	Half-Day	\$3.08	\$3.00	\$2.70	\$2.55

~~(3) The maximum rate paid for a five year old child is:
 (a) The preschool rate for a child who has not entered kindergarten; or
 (b) The school age rate for a child who has entered kindergarten.)~~

AMENDATORY SECTION (Amending WSR 99-22-011, filed 10/22/99, effective 11/22/99)

WAC 388-165-225 What is the ((DSHS)) CA in-home/relative child care rate for children with special needs? ~~((DSHS subsidy programs pay)) For children with documented special needs, CA may authorize payment to in-home/relative child care providers ((for care of a child)) in accordance with the applicable special needs ((as described in WAC 388-15-185) two dollars per hour plus whichever is greater of the following:~~

~~(1) Sixty two cents per hour; or
(2) The provider's documented additional cost associated with the care for that child with special needs)) rate listed in WAC 170-290-0235.~~

AMENDATORY SECTION (Amending WSR 99-22-011, filed 10/22/99, effective 11/22/99)

WAC 388-165-230 What is the maximum child care subsidy rate ((DSHS)) CA pays for in-home/relative child care? ~~((1) The DSHS child care subsidy programs pay toward)) CA pays the cost of child care directly to the ((parent, who is the employer. DSHS pays whichever of the following that is less:~~

~~(a) Two dollars and six cents per hours for the child who needs the greatest amount of care and one dollar and three cents per hour for the care of each additional child in the family; or~~

~~(b) The provider's usual rate for that care.~~

~~(2) DSHS may pay above the maximum rate for children who have special needs as stated in WAC 388-165-225)) provider as the rate specified in WAC 170-290-0240.~~

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 388-165-120	Subsidized child care for teen parents.
WAC 388-165-205	Does DSHS pay a bonus for infants who receive child care subsidies?
WAC 388-165-240	What are the parent/guardian payment responsibilities when they choose in-home/relative child care?