



# PROPOSED RULE MAKING

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

Do NOT use for expedited rule making

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

DATE: June 06, 2018

TIME: 9:21 AM

WSR 18-12-110

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

Original Notice

Supplemental Notice to WSR 18-03-138

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:
July 10, 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 July 11, 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. July 10, 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) June 26, 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 WAC references to cash and food assistance with residency requirements under chapter 182-503 WAC. The department determined additional edits are required so we are filing this supplemental CR 102.

**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:** 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:	Chantelle Diaz	P.O. Box 45310, Olympia, WA 98504-5310	360-407-1589
Implementation:	Lonnie Keesee	P.O. Box 45310, Olympia, WA 98504-5310	360-407-1547
Enforcement:	Lonnie Keesee	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)(c) (Incorporation by reference)
- RCW 34.05.310 (4)(d) (Correct or clarify language)
- RCW 34.05.310 (4)(e) (Dictated by statute)
- RCW 34.05.310 (4)(f) (Set or adjust fees)
- 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) because the rules do not affect small businesses.

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:** June 5, 2018

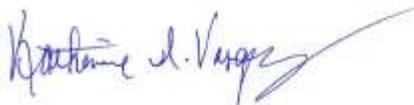
---

**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 legal guardian of an applicant age eighteen years or older, the legal guardian must apply on behalf of the adult applicant; 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 if you are under eighteen;

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

(d) Your spouse;

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

(f) 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 you or your legal representative request it, DDA will withdraw your eligibility application or terminate your eligibility.

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) If DDA learns that you are not a Washington state resident, DDA must terminate your eligibility.

(4) You must inform your DDA case resource manager when your address changes.

(5) If DDA receives returned mail from you with no forwarding address, DDA will try to verify you are a Washington state resident by trying to contact you or anyone identified by you to receive notices.

(6) If DDA cannot contact you or verify you are a Washington state resident, DDA must terminate your eligibility.

(7) If your eligibility was terminated because DDA could not contact you, DDA will restore your eligibility if you:

(a) Verify your continuous Washington state residency;

(b) Request your eligibility be restored; and

(c) Were determined eligible on or after June 1, 2005.