



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: October 16, 2018

TIME: 10:09 AM

WSR 18-21-098

Agency: Department of Social and Health Services, Aging and Long-Term Support Administration

- Original Notice
- Supplemental Notice to WSR
- Continuance of WSR 18-18-091

- Preproposal Statement of Inquiry was filed as WSR 17-18-085 ; 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 amending WAC 388-78A-2190 "Activities of daily living".

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
November 27, 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 November 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
 Fax: 360-664-6185
 Other:
 By (date) 5:00 p.m. November 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
 Other:
 By (date) November 14, 2018

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The department is amending WAC 388-78A-2190 to assure compliance with SHB 1671 (Chapter 201, Laws of 2017), which requires the term "medication assistance" to be added to the "activities of daily living" which currently includes bathing, dressing, eating, personal hygiene, transferring, toileting, and ambulation and mobility.
 This notice is to announce a second public hearing on these proposed rules for November 27, 2018. This notice also extends the written comment deadline to 5:00 pm on November 27, 2018.

Reasons supporting proposal: See purpose statement above.

Statutory authority for adoption: Chapter 18.20 RCW

Statute being implemented: RCW 18.20.310

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:	Jeanette K. Childress	PO Box 45600, Olympia, WA 98504-5600	360-725-2591
Implementation:	Jeanette K. Childress	PO Box 45600, Olympia, WA 98504-5600	360-725-2591
Enforcement:	Jeanette K. Childress	PO Box 45600, Olympia, WA 98504-5600	360-725-2591

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: The proposed rules are exempt under RCW 34.05.328 (5)(b)(v), rules the content of which is explicitly and specifically dictated by statute I

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 34.05.328 (5)(b)(v) .

Explanation of exemptions, if necessary: This proposal implements changes from the 2017 legislative session (Chapter 201, Laws of 2017)

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:

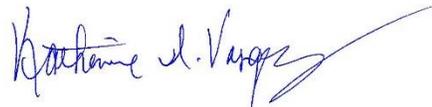
- Name:
- Address:
- Phone:
- Fax:
- TTY:
- Email:
- Other:

Date: October 15, 2018

Name: Katherine I. Vasquez

Title: DSHS Rules Coordinator

Signature:



WAC 388-78A-2190 Activities of daily living. Assistance with activities of daily living is ~~((an optional))~~ a service that the assisted living facility may provide.

(1) If an assisted living facility chooses not to provide assistance with activities of daily living:

(a) The assisted living facility must admit or retain only those residents who are independent in activities of daily living; except that

(b) A resident, or the resident's representative, may independently arrange for outside services to assist with activities of daily living.

(2) When an assisted living facility chooses to provide, either directly or indirectly, assistance with activities of daily living, the assisted living facility must provide that assistance consistent with the reasonable accommodation requirements in state and federal laws.

(3) When an assisted living facility chooses to provide, either directly or indirectly, assistance with activities of daily living, the assisted living facility must provide to each resident, consistent with the resident's assessed needs, minimal assistance with the following activities of daily living:

(a) **Bathing:** Minimal assistance with bathing means the assisted living facility must provide the resident with occasional:

(i) Reminding or cuing to wash and dry all areas of the body as needed;

(ii) Stand-by assistance getting into and out of the tub or shower; and

(iii) Physical assistance limited to steadying the resident during the activity.

(b) **Dressing:** Minimal assistance with dressing means the assisted living facility must provide the resident with occasional:

(i) Reminding or cuing to put on, take off, or lay out clothing, including prostheses when the assistance of a licensed nurse is not required;

(ii) Stand-by assistance during the activity; and

(iii) Physical assistance limited to steadying the resident during the activity.

(c) **Eating:** Minimal assistance with eating means the assisted living facility must provide the resident with occasional:

(i) Reminding or cuing to eat and drink; and

(ii) Physical assistance limited to cutting food up, preparing food and beverages, and bringing food and fluids to the resident.

(d) **Personal hygiene:** Minimal assistance with personal hygiene means the assisted living facility must provide the resident with occasional:

(i) Reminding and cuing to comb hair, perform oral care and brush teeth, shave, apply makeup, and wash and dry face, hands and other areas of the body;

(ii) Stand-by assistance during the activity; and

(iii) Physical assistance limited to steadying the resident during the activity.

(e) **Transferring:** Minimal assistance in transferring means the assisted living facility must provide the resident with occasional:

(i) Reminders or cuing to move between surfaces, for example to and from the bed, chair and standing;

(ii) Stand-by assistance during the activity; and

(iii) Physical assistance limited to steadying the resident during self-transfers.

(f) **Toileting:** Minimal assistance in toileting means the assisted living facility must provide the resident with occasional:

(i) Reminders and cuing to toilet, including resident self-care of ostomy or catheter, to wipe and cleanse, and to change and adjust clothing, protective garments and pads;

(ii) Stand-by assistance during the activity; and

(iii) Physical assistance limited to steadying the resident during the activity.

(g) **Mobility:** Minimal assistance in mobility means the assisted living facility must provide the resident with occasional:

(i) Reminding or cuing to move between locations on the assisted living facility premises;

(ii) Stand-by assistance during the activity; and

(iii) Physical assistance limited to steadying the resident during the activity; and

(h) **Medication assistance:** As defined in RCW 69.41.010.

(4) The assisted living facility may choose to provide more than minimal assistance with activities of daily living consistent with state and federal law.