



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: December 13, 2018

TIME: 3:55 PM

WSR 19-01-048

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

- Original Notice
- Supplemental Notice to WSR
- Continuance of WSR _____

- Preproposal Statement of Inquiry was filed as WSR 18-21-113 ; 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 388-79A-005 "Maximum amount of guardianship fees and related costs for a long-term care medicaid eligible client".

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
January 22, 2019	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 January 23, 2019 (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. January 22, 2019

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) January 8, 2019

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The department intended to create two classes of clients with guardians: class (1) – those who had the most recent guardianship-related court order signed before June 1, 2018; and class (2) – those with the order signed on or after June 1, 2018. Language in WAC 388-79A-005 could be read to create a third class of clients with guardians, along with the intended two: those who had their guardianship established prior to June 1, 2018, but had the most recent guardianship-related order signed on or after June 1, 2018. Under this reading, inconsistent with the rest of chapters 388-79A WAC and 182-513 WAC, this third class of clients would have no enumerated limits on fees or costs under chapter 388-79A WAC, and therefore no deductions would be allowed under the WAC 388-79A-015, RCW 11.92.180, and RCW 43.20B.460.

The department intends to clarify that there is no third class, and that these clients fall under class (2), and therefore fee and costs deductions would be allowed under WAC 182-513-1530.

Reasons supporting proposal: See purpose statement above.

Statutory authority for adoption: RCW 74.08.090; RCW 43.20B.460; RCW 11.92.180

Statute being implemented: RCW 43.20B.460

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:	Lori Rolley	P.O. Box 45600, Olympia, WA 98504-5600	360-725-2271
Implementation:	Lori Rolley	P.O. Box 45600, Olympia, WA 98504-5600	360-725-2271
Enforcement:	Lori Rolley	P.O. Box 45600, Olympia, WA 98504-5600	360-725-2271

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: Rules are exempt per RCW 34.05.328(5)(b)(vii), rules the of the Department of Social and Health Services relating only to client medical or financial eligibility concerning liability of care of dependents.

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 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 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 34.05.328(5)(b)(vii).

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:

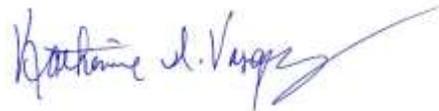
Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

Date: December 13, 2018

Name: Katherine I. Vasquez

Title: DSHS Rules Coordinator

Signature:



AMENDATORY SECTION (Amending WSR 18-10-067, filed 4/30/18, effective 6/1/18)

WAC 388-79A-005 Maximum amount of guardianship fees and related costs for a long-term care medicaid eligible client. (1) As mandated by RCW 43.20B.460 and in accordance with RCW 11.92.180, the maximum amount of guardianship fees and related costs must not exceed the limits of this section when the person under guardianship is:

(a) A medicaid eligible client, residing in:

(i) A medical institution, as defined under WAC 182-500-0050;

(ii) An alternate living facility (ALF), as defined under WAC 182-513-1100; or

(iii) An at-home setting; and

(b) Required under chapter 182-513 WAC or chapter 182-515 WAC to participate towards the cost of long-term care.

(2) The maximum amount of guardianship fees and related costs must not exceed the limits of (~~chapter 388-79A~~) WAC 388-79A-010 when:

(a) The most recent court order establishing or continuing a guardianship was entered before June 1, 2018; and

(b) The client under guardianship was receiving medicaid-funded long-term care before June 1, 2018.

(3) For all other clients not described under subsection (2) of this section, the maximum amount of guardianship fees and related costs must not exceed the limits under WAC 182-513-1530.