



# 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: February 19, 2019

TIME: 12:32 PM

WSR 19-05-072

**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** 18-20-106 ; 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 388-106-1920 "What is the maximum amount of step three services I may receive a month?" and WAC 388-106-1933 "How is the GetCare screening scored to determine if I am eligible for a GetCare assessment and related step three services?".

**Hearing location(s):**

Date:	Time:	Location: (be specific)	Comment:
March 26, 2019	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 March 27, 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](mailto:DSHSRPAURulesCoordinator@dshs.wa.gov)

Fax: 360-664-6185

Other:

By (date) 5:00 p.m. March 26, 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](mailto:Kildaja@dshs.wa.gov)

Other:

By (date) March 12, 2019

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** The department is amending WAC 388-106-1920 to increase the step three benefit level for Medicaid Alternative Care (MAC) and Tailored Supports for Older Adults (TSOA) participants. This benefit level is tied to the home care agency rate that typically increases every six months. The department recently received notice of the new rate for home care agencies effective January 1, 2019.

The department is also amending WAC 388-106-1933 to describe modifications to the GetCare screening tool questions and risk level scores. A statewide Area Agencies on Aging and Home and Community Services Division workgroup made revisions to the tool and the related risk scores in order to track and trend outcomes for program recipients enrolled in this five year demonstration waiver.

**Reasons supporting proposal:** See purpose statement above.

**Statutory authority for adoption:** RCW 74.39A.030, RCW 74.08.090

**Statute being implemented:** RCW 74.39A.030

**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:	Debbie Johnson	P.O. Box 45600, Olympia, WA 98504-5600	360-725-2531
Implementation:	Debbie Johnson	P.O. Box 45600, Olympia, WA 98504-5600	360-725-2531
Enforcement:	Debbie Johnson	P.O. Box 45600, Olympia, WA 98504-5600	360-725-2531

**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).

**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)(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:

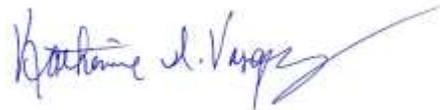
Name:  
Address:  
Phone:  
Fax:  
TTY:  
Email:  
Other:

**Date:** February 14, 2019

**Name:** Katherine I. Vasquez

**Title:** DSHS Rules Coordinator

**Signature:**



AMENDATORY SECTION (Amending WSR 18-20-001, filed 9/19/18, effective 10/20/18)

**WAC 388-106-1920 What is the maximum amount of step three services I may receive a month?** (1) Unless the department authorizes additional funds through an exception to rule under WAC 388-440-0001, beginning January 1, 2019, the maximum amount of step three services you and your caregiver may receive in MAC and TSOA will be published on the ALTSA/HCS rates website found on the MAC and TSOA tab at:

~~((a) From January 1, 2018 through June 30, 2018 is an average of five hundred fifty-eight dollars per month not to exceed three thousand three hundred forty-eight dollars in a six month period.~~

~~(b) Beginning July 1, 2018 is an average of five hundred seventy-three dollars per month not to exceed three thousand four hundred thirty-eight dollars in a six month period)) [https://www.dshs.wa.gov/sites/default/files/ALTSA/msd/documents/All\\_HCS\\_Rates.xls](https://www.dshs.wa.gov/sites/default/files/ALTSA/msd/documents/All_HCS_Rates.xls).~~

(2) If you are a care receiver who does not have an available unpaid caregiver, you are receiving TSOA personal assistance services, and the department has not authorized additional funds through an exception to rule under WAC 388-440-0001, beginning January 1, 2019, the maximum amount of step three services you may receive will be published on the ALTSA/HCS rates website found on the MAC and TSOA tab at:

~~((a) From January 1, 2018 through June 30, 2018 is five hundred fifty-eight dollars per month.~~

~~(b) Beginning July 1, 2018 is five hundred seventy-three dollars per month)) [https://www.dshs.wa.gov/sites/default/files/ALTSA/msd/documents/All\\_HCS\\_Rates.xls](https://www.dshs.wa.gov/sites/default/files/ALTSA/msd/documents/All_HCS_Rates.xls).~~

AMENDATORY SECTION (Amending WSR 18-08-033, filed 3/27/18, effective 4/27/18)

**WAC 388-106-1933 How is the GetCare screening scored to determine if I am eligible for a GetCare assessment and related step three services?** (1) ~~((For TSOA individuals who do not have an unpaid caregiver to support and are seeking step three TSOA services, the)) To be eligible for a GetCare assessment, care plan, and associated step three services as described in WAC 388-106-1915(3)(b)(ii), a TSOA individual without a caregiver ((screening)) must ((result in a risk score of moderate or high to be eligible for a GetCare assessment, care plan, and associated step three services as described in WAC 388-106-1915 (3)(b)(ii).~~

~~(2) There are eight TSOA individual without a caregiver screening questions. The following table indicates the risk score allocated to each potential response to the eight)) have a moderate or high risk score resulting from the thirteen screening questions listed in the following table:~~

No	Question	Scoring							
		Response	Score	Response	Score	Response	Score	Response	Score
1	Do you need help to do the following? Bathing Bed mobility Medication management Transferring Ambulating Eating Toileting Dressing Personal hygiene	Zero to two selected	Zero	Three or more selected	Two				
2	<del>((During the last six months, have you had a fall that caused injuries))</del> Do you need help turning and repositioning?	No	Zero	Yes	Two				
3	<del>((Do you have a family member/friend to give you help when you need it))</del> Who helps you with daily activities?	No <u>one</u>	<del>((Zero))</del> <u>One</u>	<del>((Yes))</del> <u>Family/friend/other/paid help</u>	<del>((Two))</del> <u>Zero</u>				
4	<del>((Have you thought about moving to other housing))</del> During the last six months, have you had a fall that caused injuries?	No	Zero	Yes	Two				
5	<del>((Do you live alone))</del> Have you had a hospitalization, or been admitted to a nursing facility, or both, in the past six months?	No	Zero	Yes	Two				
6	<del>((Do you or your family have concerns about your memory, thinking, ability to make decisions, or remembering to pay your bills))</del> Have you received rehabilitation in the past six months?	No	Zero	Yes(; somewhat concerned)	<del>((One))</del> <u>Two</u>	<del>((Yes, very concerned))</del>	<del>((Two))</del>		
7	<del>((Do you need help turning and repositioning))</del> Have you been treated in an emergency room, called 911 in the past six months, or both?	No	Zero	Yes, <u>one to two times</u>	<del>((Two))</del> <u>One</u>	<del>Yes, three or more times</del>	<u>Two</u>		
8	<del>((Do you or your family have concerns about your mental or emotional well-being))</del> Do you live alone?  If yes, do you feel safe living alone?	No	Zero	Yes(; somewhat concerned)	<del>((One))</del> <u>Two</u>	<del>((Yes, very concerned))</del>	<del>((Two))</del>		
		No	<u>One</u>	Yes	<u>Zero</u>				
9	Do you plan on moving to other housing in the near future?	No	<u>Zero</u>	Yes	<u>Two</u>				
10	Do you or your family have concerns about your memory, thinking, ability to make decisions, or remembering to pay your bills?	No, not concerned	<u>Zero</u>	Yes, somewhat concerned	<u>One</u>	Yes, very concerned	<u>Two</u>		
11	Are you content with your social life?	No	<u>Two</u>	Somewhat	<u>One</u>	Yes	<u>Zero</u>		
12	Over the last two weeks, have you been bothered by, or have little interest in doing things?	Not at all	<u>Zero</u>	<u>Several days</u>	<u>One</u>	<u>More than half the days</u>	<u>Two</u>	<u>Nearly every day</u>	<u>Three</u>
13	Over the last two weeks, have you been bothered by feeling down, depressed, or hopeless?	Not at all	<u>Zero</u>	<u>Several days</u>	<u>One</u>	<u>More than half the days</u>	<u>Two</u>	<u>Nearly every day</u>	<u>Three</u>

~~((+3))~~ (2) The risk level is calculated by totaling the ~~((eight point scores))~~ points assigned to each question as determined by responses to the screening questions in subsection ~~((+2))~~ (1) of this section ~~((to determine))~~ and matching the total points to the risk level in the following ~~((risk categories))~~ table:

Risk level	Point totals
<u>No risk</u>	<u>0</u>
Low risk	1- <del>((5))</del> <u>8</u>
Moderate risk	<del>((6-10))</del> <u>9-16</u>

Risk level	Point totals
High risk	<del>((11-16))</del> 17 and up