



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: March 12, 2019

TIME: 1:08 PM

WSR 19-07-023

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

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR 19-03-147 ; 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 388-845-1410 "Are there limits to the prevocational services you may receive?".

Hearing location(s):

| Date: | Time: | Location: (be specific) | Comment: |
|----------------|------------|--|---|
| April 23, 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 April 24, 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. April 23, 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) April 9, 2019

Purpose of the proposal and its anticipated effects, including any changes in existing rules: Proposed amendments to this rule ensure that prevocational services are no longer available as of March 1, 2019. An emergency rule filed as WSR 19-03-123 on January 17, 2019 is currently enacted on this section until the permanent rulemaking process is complete.

Reasons supporting proposal: Prevocational services do not meet federal integration requirements under 42 C.F.R. Section 441.301(c)(4) for HCBS settings. The Developmental Disabilities Administration (DDA) must enact this mass change to comply with the CMS-approved waiver amendments that eliminate prevocational services on the Basic Plus and Core waivers by March 1, 2019. DDA is also amending this rule to replace "community access" with the service's new name, "community inclusion".

Statutory authority for adoption: RCW 71A.12.030

Statute being implemented: RCW 71A.12.120

Is rule necessary because of a:

| | | |
|-------------------------|---|--|
| Federal Law? | <input checked="" type="checkbox"/> Yes | <input 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: 42 C.F.R. Section 441.301(c)(4)

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: | Chantelle Diaz | P.O. Box 45310, Olympia, WA 98504-5310 | 360-407-1589 |
| Implementation: | Kari Freer | P.O. Box 45310, Olympia, WA 98504-5310 | 360-407-1553 |
| Enforcement: | Kari Freer | P.O. Box 45310, Olympia, WA 98504-5310 | 360-407-1553 |

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: March 11, 2019

Name: Katherine I. Vasquez

Title: DSHS Rules Coordinator

Signature:



WAC 388-845-1410 Are there limits to the prevocational services you may receive? The following limits apply to your receipt of prevocational services:

(1) Effective September 1, 2015, no new referrals are accepted for prevocational services.

(2) Effective March 1, 2019, prevocational services are no longer available.

(3) Clinical and support needs for prevocational services are limited to those identified in your developmental disabilities administration (DDA) assessment and documented in your person-centered service plan (~~/individual support plan~~).

~~((3))~~ (4) You must be age twenty and graduating from high school before your July or August twenty-first birthday, age twenty-one and graduated from high school, or age twenty-two or older to receive prevocational services.

~~((4))~~ (5) Prevocational services are a time limited step on the pathway toward individual employment and are dependent on your demonstrating steady progress toward gainful employment over time. Your annual employment plan will include exploration of integrated settings within your next service year. Criteria that would trigger a review of your need for these services include, but are not limited to:

(a) Compensation at more than fifty percent of the prevailing wage;

(b) Significant progress made toward your defined goals; and

(c) Recommendation by your individual support plan team.

~~((5))~~ (6) You will not be authorized to receive prevocational services in addition to community (~~access~~) inclusion services or supported employment services.

~~((6))~~ (7) Your service hours are determined by the assistance you need to reach your employment outcomes as described in WAC 388-828-9325.