



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 18, 2019

TIME: 8:48 AM

WSR 19-21-115

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 19-06-046 ; 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 388-826-0075 and WAC 388-826-0095, repeal WAC 388-826-0090, and create new sections including WAC 388-826-0096, WAC 388-826-0097, and WAC 388-826-0098.

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
November 26, 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/office-of-the-secretary/driving-directions-office-bldg-2

Date of intended adoption: Not earlier than November 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

Fax: 360-664-6185

Other:

By (date) 5:00 p.m. November 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

Other:

By (date) November 12, 2019

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The Developmental Disabilities Administration is amending these rules to do the following: require a voluntary placement services (VPS) client's parent or legal guardian to apply for all benefits available to the client; require a VPS client's parent or legal guardian to establish a representative payee if the client receives social security income; require a VPS client residing in a licensed staffed residential home, children's state-operated living alternative (SOLA), or group care facility for medically fragile children to pay client responsibility according to WAC 182-515-1510 or WAC 182-513-1235; require a VPS client residing in a child foster home to pay a fixed monthly rate known as "basic expenses"; require a basic expense agreement for a VPS client

residing in a child foster home; and clarify language about a parent or legal guardian's fiscal responsibility to a child receiving VPS.

Reasons supporting proposal: These amendments align the calculation of client participation for VPS clients with that of other waiver participants, clarify parent and guardian responsibilities, and require clients receiving VPS in child foster homes to establish a basic expense agreement.

Statutory authority for adoption: RCW 71A.12.030

Statute being implemented: RCW 74.13.350

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:	Chantelle Diaz	P.O. Box 45310, Olympia, WA 98504-5310	360-407-1589
Implementation:	Nichole Jensen	P.O. Box 45310, Olympia, WA 98504-5310	360-407-1521
Enforcement:	Nichole Jensen	P.O. Box 45310, Olympia, WA 98504-5310	360-407-1521

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:

- | | |
|---|--|
| <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 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:

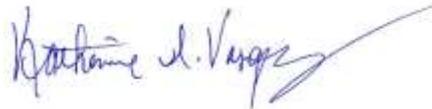
Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

Date: October 16, 2019

Name: Katherine I. Vasquez

Title: DSHS Rules Coordinator

Signature:



AMENDATORY SECTION (Amending WSR 18-23-004, filed 11/7/18, effective 12/8/18)

WAC 388-826-0075 **What are a parent or legal guardian's responsibilities when ~~((their))~~ a child is receiving voluntary placement services?** (1) When a client is receiving voluntary placement services, the client's parent or legal guardian must:

- ~~((1))~~ (a) Maintain weekly contact with the child;
- ~~((2))~~ (b) Comply with the voluntary placement agreement;
- ~~((3—Help))~~ (c) Apply for all income and benefits available to the child ~~((from the Social Security Administration))~~; and
- ~~((4))~~ (d) Participate in:
 - ~~((a))~~ (i) The shared parenting plan;
 - ~~((b))~~ (ii) Team meetings; and
 - ~~((e))~~ (iii) The DDA annual assessment, including the person-centered service plan.

(2) When the child receives social security income, the child's parent or legal guardian must establish a representative payee to manage the child's income and comply with the client responsibility and basic expenses required in this chapter.

(3) Nonpayment of a child's client responsibility or basic expenses may jeopardize the child's placement with a provider.

AMENDATORY SECTION (Amending WSR 02-22-057, filed 10/31/02, effective 12/1/02)

WAC 388-826-0095 ~~((Who pays for a child's care when a child is in out-of-home))~~ **What must a client pay toward the cost of voluntary placement services in a licensed staffed residential home, a children's SOLA, or a group care facility?** ~~((State funds, federal funds and the child's SSI, that is used for basic maintenance support the cost of the child's care while the child is in licensed out-of-home placement. The parent is encouraged to continue to support their child with typical activities, e.g., presents, clothing, special items, special outings. Licensed providers who care for the child in a licensed setting will be paid directly through a contract with DDD and according to an established rate structure, established within DDD.))~~

(1) To receive voluntary placement services in a licensed staffed residential home, a children's SOLA, or a group care facility for medically fragile children, a client may be required to pay client responsibility as required under this section.

(2) The department determines the amount of client responsibility and room and board a client must pay under:

(a) WAC 182-515-1510 if the client is enrolled on a DDA home and community-based (HCB) waiver under chapter 388-845 WAC; or

(b) WAC 182-513-1235 if the client is enrolled in roads to community living under chapter 388-106 WAC.

NEW SECTION

WAC 388-826-0096 What must a client pay toward the cost of voluntary placement services in a child foster home? (1) To receive voluntary placement services in a child foster home, a client must pay the provider a fixed monthly amount referred to as basic expenses, which must be outlined in a basic expense agreement.

(2) The written basic-expense agreement must include:

(a) Monthly amounts for rent, utilities, and food costs; and

(b) The day of the month the payment is due to the provider.

(3) The total monthly obligation in the basic-expense agreement must not exceed the client's available income minus the personal needs allowance under WAC 182-513-1105(5).

(4) Before the client moves into the child foster home, the basic-expense agreement must be:

(a) Signed by the client or the client's legal representative;

(b) Signed by the provider; and

(c) Sent to DDA.

(5) Changes to the basic-expense agreement must be reviewed by DDA before implementation.

NEW SECTION

WAC 388-826-0097 What expenses must a parent pay for the child while receiving voluntary placement services? A parent or legal guardian remains financially responsible for all expenses for the child that are not included in voluntary placement services.

NEW SECTION

WAC 388-826-0098 What does the department pay toward voluntary placement services? (1) For a client residing in a licensed staffed residential home, a children's state-operated living alternative (SOLA), or a group care facility, the department pays the cost of the voluntary placement services minus the amount of client responsibility under WAC 388-826-0095.

(2) For a client residing in a child foster home, the department pays the cost of the voluntary placement services minus basic expenses under WAC 388-826-0096.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-826-0090

What does a parent do with the child's
Social Security benefits when the
parent's child lives outside the
parent's home?