



PROPOSED RULE MAKING

CR-102 (December 2017) (Implements RCW 34.05.320)

Do NOT use for expedited rule making

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FILED

DATE: April 10, 2020

TIME: 8:53 AM

WSR 20-09-058

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 20-04-057 ; 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) WAC 388-829C-131, How does DDA determine the daily rate?

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
May 26, 2020	10:00 a.m.	Office Building 2 DSHS Headquarters 1115 Washington Street SE 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 May 27, 2020 (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. May 26, 2020

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) May 12, 2020

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The department is amending this rule to implement a 13.5% daily rate increase for companion home providers.

Reasons supporting proposal: The daily rate increase for companion home providers was approved in the 2019 operating budget under ESHB 1109 (Chapter 415, Laws of 2019), Section 203.

Statutory authority for adoption: RCW 71A.12.030

Statute being implemented: RCW 71A.12.040

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:	Chantelle Diaz	P.O. Box 45310, Olympia, WA 98504-5310	360-407-1589
Implementation:	Kelly Hampton	P.O. Box 45310, Olympia, WA 98504-5310	360-407-1514
Enforcement:	Kelly Hampton	P.O. Box 45310, Olympia, WA 98504-5310	360-407-1514

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 34.05.328(5)(b)(vi).

Explanation of exemptions, if necessary: The proposed amendments "adjust fees or rates pursuant to legislative standards"

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: April 9, 2020

Name: Katherine I. Vasquez

Title: DSHS Rules Coordinator

Signature:

WAC 388-829C-131 How does DDA determine the daily rate? (1) A companion home daily rate equals the sum of the client's support assessment scale scores multiplied by ~~((12.5))~~ 14.2.

(2) The residential algorithm under chapter 388-828 WAC determines the level of services and supports a companion home client may receive.

(3) The CARE assessment assigns support levels of "none," "low," "medium," or "high" to each support assessment scale that correspond to the values below:

Category	None	Low	Medium	High
Activities of daily living	0	1	2	3
Behavior	0	1	2	3
Interpersonal support	0	1	2	3
Medical	0	1	2	3
Mobility	0	1	2	3
Protective supervision	0	1	2	3

(4) DDA assigns a behavior score of four if the client has a:

(a) Behavior score of three on ~~((their))~~ the support assessment scale;

(b) Challenging behavior documented on form DSHS 10-234; and

(c) Current positive behavior support plan.

(5) DDA reviews a companion home daily rate annually and if a significant change assessment occurs during the plan year.

(6) DDA may adjust a companion home daily rate if:

(a) Any of the client's support assessment scale levels change;

(b) The multiplier changes due to a vendor rate change; or

(c) The annual cost of respite services increased because DDA approved additional respite hours under WAC 388-829C-234(3) and the client's assessed support needs remain unchanged since the most recent CARE assessment.