



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: April 14, 2020

TIME: 8:56 AM

WSR 20-09-075

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

- Original Notice
- Supplemental Notice to WSR _____
- Continuance of WSR 20-08-042

- Preproposal Statement of Inquiry was filed as WSR 20-03-124 ; 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 388-106-0715, How do I end my enrollment in the PACE program?

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 filing a Continuance to WSR 20-08-042 in order to allow the department and interested parties more time to plan and prepare for the public hearing during this uncertain time with the COVID-19 pandemic.

The department is proposing to amend WAC 388-106-0715 to provide PACE clients, PACE organizations, and other stakeholders information about how clients can end their enrollment in the PACE program. This rule making will give guidance how to disenrollment and the specific timelines. The amendment updates the WAC language to align with recent Centers for Medicare and Medicaid (CMS) changes to CFR 460.162 and CFR 460.164.

Reasons supporting proposal: See purpose statement above.

Statutory authority for adoption: RCW 74.08.090, RCW 74.09.520, RCW 74.39A.010, RCW 74.39A.020

Statute being implemented: RCW 74.08.090, RCW 74.09.520

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:

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:	Kathryn Pittelkau	P.O. Box 45600, Olympia, WA 98504-5600	360-725-2366
Implementation:	Kathryn Pittelkau	P.O. Box 45600, Olympia, WA 98504-5600	360-725-2366
Enforcement:	Kathryn Pittelkau	P.O. Box 45600, Olympia, WA 98504-5600	360-725-2366

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: This amendment is exempt as allowed under RCW 34.05.328(5)(b)(vii) which states in part, "[t]his section does not apply to...rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for 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 19.85.025.

Explanation of exemptions, if necessary: The proposed rule does not have an economic impact on small businesses. It only impacts DSHS clients.

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 13, 2020

Name: Katherine I. Vasquez

Title: DSHS Rules Coordinator

Signature:



WAC 388-106-0715 How do I end my enrollment in the PACE program?

(1) You may choose to voluntarily end your enrollment in the PACE program without cause at any time. To do so, you must give the PACE provider written notice. ~~((If you give notice:~~

~~(a) Before the fifteenth of the month, the department will end your enrollment effective at the end of the month; or~~

~~(b) After the fifteenth, the department will end your enrollment effective until the end of the following month))~~ A PACE participant's voluntary disenrollment is effective on the first day of the month following the date the PACE organization receives the participant's notice of voluntary disenrollment.

(2) Your enrollment may also end involuntarily if you:

(a) Move out of the designated service area or are out of the service area for more than thirty consecutive days, unless the PACE provider agrees to a longer absence due to extenuating circumstances;

(b) Engage in disruptive or threatening behavior such that the behavior jeopardizes your health or safety, or the safety of others;

(c) Fail to comply with your plan of care or the terms of the PACE enrollment agreement;

(d) Fail to pay or make arrangements to pay your part of the costs after the thirty-day grace period;

(e) Become financially ineligible for medicaid services, unless you choose to pay privately;

(f) Are enrolled with a provider that loses its license ~~((and/ or))~~ or contract, or both; or

(g) No longer meet the nursing facility level of care requirement as defined in WAC 388-106-0205.

(3) For any of the above reasons, the PACE provider must give you written notice, including your appeal rights, explaining that they are terminating benefits. ~~((If the provider gives you notice:~~

~~(a) Before the fifteenth of the month, then the department will end your enrollment at the end of the month; or~~

~~(b) After the fifteenth, then the department will end your enrollment at the end of the following month))~~ A PACE participant's involuntary disenrollment is effective on the first day of the next month that begins thirty days after the day the PACE organization sends notice of the disenrollment to the participant.

(4) Before the PACE provider can involuntarily end your enrollment in the PACE program, the department must review and approve it.