



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: July 06, 2021

TIME: 12:38 PM

WSR 21-14-082

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** 21-09-080 ; 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 388-106-0250, What is the roads to community living (RCL) demonstration project and who is eligible?

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
August 10, 2021	10:00 a.m.	Office Building 2 DSHS Headquarters 1115 Washington Olympia, WA 98504 Or virtual	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 Due to the effects of the COVID-19 pandemic, hearings are being held virtually. Please see the DSHS website for the most current information.

Date of intended adoption: Not earlier than August 11, 2021 (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. on August 10, 2021

Assistance for persons with disabilities:

Contact DSHS rules coordinator
 Phone: 360-664-6097
 Fax: 360-664-6185
 TTY: 711 Relay Service
 Email: DSHSRPAURulesCoordinator@dshs.wa.gov
 Other:
 By (date) July 27, 2021

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

The department is proposing to amend WAC 388-106-0250 to ensure that Roads to Community Living eligibility aligns with the federal Money Follows the Person demonstration eligibility criteria.

Reasons supporting proposal: The Consolidated Appropriations Act of 2021, Section 204 outlines an extension of Money Follows the Person Rebalancing Demonstration and changes the institutional residency period requirement, striking the 90-day institutionalized eligibility period and inserting a 60-day institutionalized period. In addition, Money Follows the Person demonstration eligibility includes all settings identified as home and community-based settings. Roads to Community Living is the name of Washington State's Money Follows the Person Demonstration.

Statutory authority for adoption: RCW 74.08.090; RCW 74.09.520, Affordable Care Act (ACA), Deficit Reduction Act of 2005 (P.L. 109-171), and Consolidated Appropriations Act of 2021 (Section 204)

Statute being implemented: RCW 74.09.520, Consolidated Appropriations Act of 2021 (Section 204)

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:	Julie Cope	P.O. Box 45600, Olympia, WA 98504-5600	360-725-2529
Implementation:	Julie Cope	P.O. Box 45600, Olympia, WA 98504-5600	360-725-2529
Enforcement:	Julie Cope	P.O. Box 45600, Olympia, WA 98504-5600	360-725-2529

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 rule is exempt under 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 19.85.025(4) because the proposed amendments impose no new or disproportionate costs on small businesses so a small business economic impact statement is not required.

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: July 2, 2021

Signature:

Name: Katherine I. Vasquez

Title: DSHS Rules Coordinator

WAC 388-106-0250 What is the roads to community living (RCL) demonstration project and who is eligible? (1) Roads to community living (RCL) is a demonstration project, funded by a "money follows the person" grant originally authorized under section 6071 of the Deficit Reduction Act of 2005 (P.L. 109-171) and extended through the Patient Affordable Care Act (P.L. 111-148). It is designed to test services and supports which help customers move from institutional settings into the community if they wish to.

(2) To be eligible, the department must assess your needs in CARE per chapter 388-106 or 388-845 WAC and you must:

(a) Have a continuous stay of at least ~~((90))~~ sixty days in a qualified institutional setting (hospital, nursing home, residential habilitation center);

(i) Any days you were solely receiving medicare-paid, short term rehabilitation services are excluded from the ~~((90))~~ sixty days.

(ii) If you are discharging from a state psychiatric hospital and meet the length of stay criteria, you must be under age ~~((22))~~ twenty-two, or age ~~((65))~~ sixty-five and older.

(b) Have received at least one day of medicaid-paid inpatient services immediately prior to discharge from the institutional setting;

(c) Intend to move to a ~~((qualified))~~ home and community based setting (home, apartment, licensed residential setting ~~((with four or less unrelated individuals))~~); and

(d) On the day of discharge, you must be functionally and financially eligible for, but are not required to receive, medicaid waiver or state plan services.