



# PROPOSED RULE MAKING

## CR-102 (July 2022) (Implements RCW 34.05.320) Do NOT use for expedited rule making

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STATE OF WASHINGTON  
FILED

DATE: November 06, 2023

TIME: 9:32 AM

WSR 23-23-043

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

- Original Notice**
- Supplemental Notice to WSR** \_\_\_\_\_
- Continuance of WSR** \_\_\_\_\_

- Preproposal Statement of Inquiry was filed as WSR 23-15-074 ; 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 of Social and Health Services (department) is planning to amend WAC sections 388-71-0523, 388-71-0836, 388-71-0837, 388-71-0839, 388-71-0875, 388-71-0880, 388-71-0888, 388-71-0893, 388-71-0975, 388-71-0977, 388-71-0980, 388-71-1001, 388-112A-0010, 388-112A-0110, 388-112A-0115, 388-115-0503, 388-115-0505, 388-115-0520, 388-115-0523, 388-115-0540, 388-115-05410, and repeal section 388-112A-0130 in response and in compliance to E2SHB 1694 (chapter 424 Laws of 2023) passed during the 2023 legislative session.

**Hearing location(s):**

Date:	Time:	Location: (be specific)	Comment:
December 26, 2023	10:00 AM	Virtually via Teams or Call in	Hearings are held virtually, see the DSHS website <a href="https://www.dshs.wa.gov/office-of-the-secretary/filings-and-rulings">https://www.dshs.wa.gov/office-of-the-secretary/filings-and-rulings</a> for the most up to date information

**Date of intended adoption:** Not earlier than December 27, 2023 (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](mailto:DSHSRPAURulesCoordinator@dshs.wa.gov)  
 Fax: 360-664-6185  
 Other:  
 By (date) December 26, 2023, at 5:00 PM

**Assistance for persons with disabilities:**

Contact DSHS Rules Consultant  
 Phone: 360-664-6036  
 Fax: 360-664-6185  
 TTY: 711 Relay Service  
 Email: [shelley.tencza@dshs.wa.gov](mailto:shelley.tencza@dshs.wa.gov)  
 Other:  
 By (date) December 12, 2023, at 5:00 PM

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** The proposed changes to chapters 388-71, 388-112A, and 388-115 WAC will bring them into compliance with E2SHB 1694 (chapter 424 Laws of 2023). The following changes included the definition of "date of hire", clarification on when the date of hire may be re-set, and additional family relationships related to long-term care worker training and continuing education requirements. Additional changes were made relating to numerical representation, consistency, and inclusive language..

**Reasons supporting proposal:** Changes to law related to training and continuing education affect all long-term care workers, and those that fall into newly added familial relationships. Rules are being changed to be in compliance with the new laws. The department is also taking this opportunity to make necessary changes related to numerical representation, consistency regarding the Consumer Direct Employer relationship to individual providers, and inclusive language.

**Statutory authority for adoption:** RCW 18.88B.021,18.88B.041, 18.88B.060, 74.08.090, 74.39A.076, 74.39A.341

**Statute being implemented:** RCW 18.88B.010, 18.88B.021, 18.88B.041, 74.39A.076, 74.39A.341

**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

**Type of proponent:**  Private  Public  Governmental

**Name of proponent:** (person or organization) Department of Social and Health Services

**Name of agency personnel responsible for:**

	Name	Office Location	Phone
Drafting:	David Chappell	PO Box 45600, Lacey WA 98504-5600	360-725-2516
Implementation:	David Chappell	PO Box 45600, Lacey WA 98504-5600	360-725-2516
Enforcement:	David Chappell	PO Box 45600, Lacey WA 98504-5600	360-725-2516

**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: Dave Chappell

Address: PO Box 45600, Lacey WA 98504-5600

Phone: 360-725-2516

Fax:

TTY:

Email: [david.chappell@dshs.wa.gov](mailto:david.chappell@dshs.wa.gov)

Other:

No: Please explain:

**Regulatory Fairness Act and Small Business Economic Impact Statement**

Note: The [Governor's Office for Regulatory Innovation and Assistance \(ORIA\)](#) provides support in completing this part.

**(1) Identification of exemptions:**

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see [chapter 19.85 RCW](#)). For additional information on exemptions, consult the [exemption guide published by ORIA](#). 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"/> <a href="#">RCW 34.05.310</a> (4)(b)<br>(Internal government operations) | <input checked="" type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(e)<br>(Dictated by statute)   |
| <input type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(c)<br>(Incorporation by reference)     | <input type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(f)<br>(Set or adjust fees)   |
| <input type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(d)<br>(Correct or clarify language)    | <input type="checkbox"/> <a href="#">RCW 34.05.310</a> (4)(g)<br>(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\(4\)](#) (does not affect small businesses).
- This rule proposal, or portions of the proposal, is exempt under RCW RCW 18.88B.010, 18.88B.021, 18.88B.041, 74.39A.341, and 74.39A.076.
- Explanation of how the above exemption(s) applies to the proposed rule: Changes to listed statutes require rule changes to reflect new language.

**(2) Scope of exemptions:** *Check one.*

- The rule proposal is fully exempt (*skip section 3*). Exemptions identified above apply to all portions of the rule proposal.
- The rule proposal is partially exempt (*complete section 3*). The exemptions identified above apply to portions of the rule proposal, but less than the entire rule proposal. Provide details here (consider using [this template from ORIA](#)):
- The rule proposal is not exempt (*complete section 3*). No exemptions were identified above.

**(3) Small business economic impact statement:** *Complete this section if any portion is not exempt.*

If any portion of 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 minor cost analysis and how the agency determined the proposed rule did not impose more-than-minor costs. \_\_\_\_\_
- Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses and a small business economic impact statement is required. Insert the required small business economic impact 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:** November 1, 2023

**Name:** Katherine I. Vasquez

**Title:** DSHS Rules Coordinator

**Signature:**

**WAC 388-71-0523 What are the training and certification requirements for individual providers and home care agency long-term care workers?** The following chart provides a summary of the training and certification requirements for individual providers and home care agency long-term care workers ~~((, including))~~ . This includes criteria for those providers working limited hours for one person, caring only for one's child, ~~((or))~~ parent, sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, ~~((and))~~ providing respite services ~~((only))~~ , or providing approved services only for a spouse or registered domestic partner and funded through the United States department of veterans' affairs home and community-based programs:

Who	Status	Orientation training	Safety training	Basic training	Continuing education	Required credential
(1) An individual provider or home care agency long-term care worker who is a licensed, certified health care professional in good standing through the Washington state department of health, or an individual provider or home care agency long-term care worker with special education training who meets the criteria in RCW 18.88B.041(1)(a)(i)(A).	ARNP, RN, LPN, HCA, CN-A, or other professionals listed in WAC 388-71-0839.	Not required.	Not required.	Not required.	Not required of ARNPs, RNs, or LPNs in chapter 388-71 WAC. Required 12 hours under WAC 388-71-0990 and 388-71-0991 of NA-Cs, HCAs, and other professionals listed in WAC 388-71-0839, such as an individual with special education training with an endorsement granted by the superintendent of public instruction under RCW 28A.300.010. <u>For NA-C and those with special education training 12 hours is required for each year worked in long-term care.</u>	<del>((Not required. Must maintain in good standing the certification or credential or other professional role listed in WAC 388-71-0839))</del> <u>Required under chapter 246-980 WAC.</u>
(2) An individual provider or home care agency long-term care worker with specific employment history.	A long-term care worker employed at some point between January 1, 2011, and January 6, 2012, and has completed the basic training requirements in effect on the date of <del>((his or her))</del> hire. WAC 388-71-0839.	Not required.	Not required.	Not required.	<u>12 hours is required for each year worked in long-term care</u> <del>((Required, 12 hours))</del> under WAC 388-71-0990 and 388-71-0991.	Not required.

Who	Status	Orientation training	Safety training	Basic training	Continuing education	Required credential
(3) An individual provider or home care agency long-term care worker.	Hired by a licensed home care agency or the consumer directed employer to provide personal care service as defined in WAC 388-71-0836 and is not exempt under subsection (1) or (2) of this section.	Required. Two hours under WAC 388-71-0860.	Required. Three hours under WAC 388-71-0860.	Required. 70 hours under WAC 388-71-0870 and 388-71-0875.	Required. 12 hours under WAC 388-71-0990 and 388-71-0991.	((Home care aide certification required under WAC 388-71-0975. Home care aide certification required under WAC 388-71-0975 within 200 days of the date of hire as provided in WAC 246-980-050 (unless the department of health issues a provisional certification under WAC 246-980-065))) Required under chapter 246-980 WAC.
(4) An individual provider who works limited hours for one person.	((Contracted individual)) An individual provider employed by the consumer directed employer providing 20 hours or less of nonrespite care for one person per calendar month and does not meet the criteria in subsection (1) or (2) of this section.	Required. Two hours under WAC 388-71-0860.	Required. Three hours under WAC 388-71-0860.	Required. 30 hours under WAC 388-71-0880.	Not required.	Not required.

Who	Status	Orientation training	Safety training	Basic training	Continuing education	Required credential
<p><del>[(5)]</del> An individual who provides <del>((only))</del> respite services and works 300 hours or less in any calendar year.</p>	<p>(a) An individual providing <del>((only))</del> respite care who <del>((and))</del> works no more than 300 hours in the calendar year, is not exempt in subsection (1) or (2) of this section, and does not meet criteria in subsection <del>((7))</del> (6) of this section.  (b) Individual providing <del>((only))</del> respite services for individuals with developmental disabilities that receive services under Title 71A RCW and for individuals that receive services under chapter 74.39A, that is working 300 hours or less in any calendar year, and that is not exempt in subsection (1) or (2) of this section.</p>	<p>Required. Two hours under WAC 388-71-0860.</p>	<p>Required. Three hours under WAC 388-71-0860.</p>	<p>Required. <del>((Seven))</del> <u>Nine</u> hours under WAC 388-71-0890.</p>	<p>Not required.</p>	<p>Not required.</p>
<p>(6) An individual provider caring only for <del>((his or her))</del> <u>the provider's</u> biological, step, or adoptive adult child.</p>	<p>An individual providing care only for <del>((his or her))</del> <u>the provider's</u> adult child <b>that receives services through the developmental disabilities administration</b> and not exempt under subsection (1) or (2) of this section.</p>	<p>Required. Two hours per WAC 388-71-0895.</p>	<p>Required. Three hours under WAC 388-71-0895.</p>	<p>Required. Seven hours under WAC 388-71-0890.</p>	<p>Not required.</p>	<p>Not required.</p>

Who	Status	Orientation training	Safety training	Basic training	Continuing education	Required credential
(7) An individual provider caring only for <del>(his or her)</del> the provider's biological, step, or adoptive child, or parent.	An individual providing care <b>only</b> to <del>(his or her)</del> the individual's child or parent, who is not exempt in subsection (1) or (2) of this section, and does not meet criteria in subsection (6) of this section.	Required. Two hours under WAC 388-71-0860.	Required. Three hours under WAC 388-71-0860.	Required. 30 hours under WAC 388-71-0880.	<del>(Required for an)</del> <u>12 hours is required for each year worked in long-term care for an individual provider caring only for <del>(his or her)</del> the provider's biological, step, or adoptive <del>(child or)</del> parent under WAC 388-71-0990 and 388-71-0991. Not required for an individual provider caring only for <del>(his or her)</del> the provider's biological, step, or adoptive child under WAC 388-71-1001.</u>	Not required.
(8) An individual provider caring only for the provider's sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership.	An individual providing care only for the individual provider's sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership, who is not exempt in subsection (1) or (2) of this section, and does not meet the criteria in subsection (6) of this section.	Required. Two hours under WAC 388-71-0860.	Required. Three hours under WAC 388-71-0860.	Required. 30 hours under WAC 388-71-0880.	Not required.	Not required.
(9) A long-term care worker providing approved services only for a spouse or registered domestic partner and funded through the United States department of veterans' affairs home and community-based programs.	A long-term care worker providing approved services only for a spouse or registered domestic partner and funded through the United States department of veterans' affairs home and community-based programs who is not exempt in subsection (1) or (2) of this section.	Required. Two hours under WAC 388-71-0860.	Required. Three hours under WAC 388-71-0860.	Required. 30 hours under WAC 388-71-0880.	12 hours is required for each year worked in long-term care under WAC 388-71-0990 and 388-71-0991.	Not required.

**WAC 388-71-0836 What definitions apply to the long-term care worker training requirements?** The following definitions apply to the long-term care worker training requirements:

(1) **"Activities of daily living"** means self-care abilities related to personal care such as bathing, eating, using the toilet, medication assistance, dressing, and transfer. Instrumental activities of daily living may also be used to assess a person's functional abilities in the home and the community such as cooking, shopping, house cleaning, doing laundry, working, and managing personal finances.

(2) **"Care team"** means the client and everyone involved in (~~his or her~~) the individual's care. The care team may include family, friends, doctors, nurses, long-term care workers, social workers, and case managers. The role of the care team is to support the client's well-being. However, the client directs the care plan.

(3) **"Challenge test"** means a competency test taken for specialty training without first taking the class for which the test is designed and may only be used when basic training is not required.

(4) **"Client"** means an individual receiving in-home services.

(5) **"Competency"** means the integrated knowledge, skills, or behavior expected of a long-term care worker after completing training in a required topic area. Learning objectives are associated with each competency.

(6) **"Competency testing"** means evaluating a student to determine if (~~he or she~~) the student can demonstrate the required level of skill, knowledge, and behavior with respect to the identified learning objectives of a particular course. The department only requires competency testing for nurse delegation core and specialized diabetes training, and the specialty and expanded specialty trainings. Training programs may integrate competency testing within (~~their~~) each program's approved curricula.

(7) **"Core basic training"** means the portion of the 70-hour home care aide basic training that covers the core competencies and skills that long-term care workers need in order to provide personal care services efficiently and safely. The core basic training hours also includes hours devoted to student practice and demonstration of skills.

(8) **"Date of hire"** for determining time frames related to training and certification, means the (~~date of hire as described in chapter 246-980 WAC~~) first day the long-term care worker is employed by any employer.

(9) **"DDA"** refers to the developmental disabilities administration.

(10) **"Direct care worker"** means a paid individual who provides direct, personal care services to persons with disabilities or the elderly requiring long-term care (see also the definition of long-term care worker, which includes client care workers).

(11) **"Department"** or **"DSHS"** means the department of social and health services.

(12) **"Enhancement"** means additional time provided for skills practice and additional training materials or classroom activities that help a long-term care worker to thoroughly learn the course content and skills. Enhancements can include new student materials, videos or DVDs, online materials, and additional student activities.



(13) **"Expanded specialty training"** means optional curricula that provide caregivers with advanced knowledge and skills to provide person-centered care to clients or residents living with conditions other than developmental disabilities, dementia, and mental health. The optional expanded specialty training may include such topics as traumatic brain injury, diabetes care, and bariatric care. The optional expanded specialty training curricula must be DSHS developed and based on competencies and learning objectives established by the department.

(14) **"Guardian"** means an individual as defined in chapter ~~((11.88))~~ 11.130 RCW.

(15) **"Home care aide"** or **"certified home care aide"** means a long-term care worker who has obtained and maintains a home care aide certification through the department of health.

(16) **"Hybrid"** means a combination of online training and in-person, remote, or virtual classroom instruction.

(17) **"Individual provider"** or **"IP"** means a person (~~(who has contracted with the department)~~) employed by the consumer directed employer to provide personal care or respite care services to persons with functional disabilities under a medicaid state plan program, such as the medicaid personal care or community first choice programs, ~~((or))~~ under a federal medicaid waiver program, or through the veteran directed home care (VDHC) program.

(18) **"Learning objectives"** means measurable, written statements that clearly describe what a long-term care worker must minimally learn to meet each competency. Learning objectives are identified for each competency. Learning objectives provide consistent, common language and a framework for curriculum designers, the curriculum approval process, and testing. Curriculum developers have the flexibility to determine how learning objectives are met and may include additional content deemed necessary to best meet the competency in a particular setting.

(19) **"Long-term care worker"** means:

(a) All persons who provide paid, personal care services for the elderly or persons with disabilities, including but not limited to individual providers of home care services, direct care workers employed by home care agencies, providers of home care services to persons with developmental disabilities under Title 71A RCW, all direct care workers in state-licensed assisted living facilities, adult family homes, respite care providers, community residential service providers, and any other direct care staff who provide home or community-based services to the elderly or persons with functional disabilities or developmental disabilities.

(b) Long-term care workers do not include:

(i) Persons employed by the following facilities or agencies: Nursing homes subject to chapter 18.51 RCW, hospitals or other acute care settings, residential habilitation centers under chapter 71A.20 RCW, facilities certified under 42 C.F.R., Part 483, hospice agencies subject to chapter 70.127 RCW, adult day care centers; or

(ii) Persons who are not paid by the state, by a private agency, or facility licensed by the state to provide personal care services.

(20) **"Online training"** means a course taken through an automated, asynchronous learning management system or other technology that conforms to the online training standards posted on the DSHS website at <https://bit.ly/dshs-online-standards>.

(21) **"Personal care services"** means physical or verbal assistance with activities of daily living, or activities of daily living and instrumental activities of daily living that are provided to the client.

(22) **"Remote skills training"** means training conducted in a virtual classroom environment, or online when a student either demonstrates a skill live or provides a video recorded file of themselves performing a skill that is forwarded for feedback to an approved instructor or a proctor trained by an approved instructor, or both. A training program must be approved by DSHS to provide remote skills training.

(23) **"70-hour home care aide training"** means the 70 hours of required training that a new long-term care worker must complete within 120 days of hire. It has three components: Core competencies, practice of skills, and population specific topics, which may include specialty and nurse delegation training.

(24) **"Specialty training"** means curricula that meets the requirements of RCW 18.20.270 and 70.128.230 to provide basic core knowledge and skills that caregivers need to learn and understand to effectively and safely provide care to residents living with mental illness, dementia, or developmental disabilities. The specialty training curricula may be DSHS developed or DSHS approved and must be based on the competencies and learning objectives in WAC 388-112A-0430, 388-112A-0440, or 388-112A-0450.

(25) **"Training entity"** means an organization, including an independent contractor, who provides or may provide training under this chapter using approved curriculum. Training entities may only deliver approved curriculum.

(26) **"Training partnership"** means a joint partnership or trust that includes the office of the governor, and the exclusive bargaining representative of individual providers under RCW 74.39A.270 with the capacity to provide training, peer mentoring, and workforce development, or other services to individual providers.

(27) **"Virtual classroom"** means a synchronous, instructor-led, remote learning environment conducted in real time that conforms to the virtual classroom standards posted on the DSHS website at <https://bit.ly/dshs-online-standards>. A training program must be approved by DSHS to provide virtual classroom instruction.

AMENDATORY SECTION (Amending WSR 23-01-022, filed 12/9/22, effective 1/9/23)

**WAC 388-71-0837 How does DSHS determine a long-term care worker's date of hire and when may a long-term care worker be eligible to have the date of hire reset?** (1) The department determines a long-term care worker's date of hire according to ~~((chapter 246-980-WAC))~~ the first day the long-term care worker is employed by any employer.

(2) The date of hire is specific to each long-term care worker. ~~((It does not change when a long-term care worker changes clients or employers unless the long-term care worker meets the criteria in WAC 388-71-0980.))~~ A long-term care worker, including an individual or agency provider who has worked as a long-term care worker in the past, but who did not complete the training or certification that was required at the time, and a worker who is not currently certified or eligible to reactivate an expired credential, shall receive a new date of hire when beginning work with either a new employer or returning to a former employer after prior employment has ended.

(3) This section does not apply to background check requirements under this chapter.

AMENDATORY SECTION (Amending WSR 23-01-022, filed 12/9/22, effective 1/9/23)

**WAC 388-71-0839 Which long-term care workers are exempt from the 70-hour, 30-hour, nine-hour, or seven-hour basic training requirements?** The following long-term care workers are exempt from the 70-hour, 30-hour, nine-hour, or seven-hour (~~home care aide~~) basic training requirement:

(1) An individual employed as a long-term care worker on January 6, 2012, who complied with the basic training requirements in effect on the date of hire;

(2) An individual previously employed as a long-term care worker who completed the basic training requirements in effect on the date of hire, and was employed as a long-term care worker at some point between January 1, 2011, and January 6, 2012;

(3) Registered nurses, licensed practical nurses, and advanced registered nurse practitioners licensed under chapter 18.79 RCW;

(4) Nursing assistants certified under chapter 18.88A RCW and persons in an approved training program for certified nursing assistants under chapter 18.88A RCW provided that they complete the training program within 120 days of the date of hire and the department of health has issued a nursing assistant certified credential within 200 days of the date of hire;

(5) A home health aide who was employed by a medicare certified home health agency within the year before being hired as a long-term care worker and has met the requirements of 42 C.F.R., Sec. 484.36;

(6) An individual with special education training who has an endorsement granted by the Washington state superintendent of public instruction as described in RCW 28A.300.010; and

(7) A home care aide (HCA) certified under chapter 18.88B RCW.

AMENDATORY SECTION (Amending WSR 23-01-022, filed 12/9/22, effective 1/9/23)

**WAC 388-71-0875 Who must complete the 70-hour basic training and by when?** Unless exempt from training in WAC 388-71-0839(1) through (7), all long-term care workers must complete core and population specific competencies within 120 days of the date of hire as described in (~~chapter 246-980~~) WAC 388-71-0837.

AMENDATORY SECTION (Amending WSR 21-18-081, filed 8/30/21, effective 10/1/21)

**WAC 388-71-0880 Who must ~~((take))~~ complete the ~~((thirty))~~ 30-hour basic training and by when must it be completed?** Unless exempt

from the basic training requirements under WAC 388-71-0839 (1) through (7), the following individuals must ~~((take))~~ complete the ~~((thirty))~~ 30-hour basic training under WAC 388-71-0885 within 120 days of the date of hire as described in WAC 388-71-0837:

(1) An individual provider who only cares for that provider's:

~~((i))~~ (a) ~~((Cares for his or her))~~ biological, step, or adoptive child, or parent; or

(b) sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership; or

(2) A long-term care worker providing approved services only for a spouse or registered domestic partner and funded through the United States department of veterans' affairs home and community-based programs; or

~~((ii))~~ (3) ~~((Provides))~~ A long-term care worker who provides no more than ~~((twenty))~~ 20 hours of nonrespite care for one person who is not the individual provider's:

(a) biological, step, or adoptive child, or parent((-)) ; or

(b) sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership.

~~((2) An individual who provides only respite services to clients not covered under title 71A RCW, works three hundred hours or less in any calendar year and is not exempt from basic training under WAC 388-71-0839.))~~

AMENDATORY SECTION (Amending WSR 21-18-081, filed 8/30/21, effective 10/1/21)

**WAC 388-71-0888 When do the ~~((seventy))~~ 70-hour basic training and certification requirements apply to an individual whose required basic training was previously less than ~~((seventy))~~ 70 hours?** (1) The following individual providers ~~((eligible for limited training under WAC 388-71-0880 and 388-71-0893, who begin to work for a second client who is not))~~ must complete 70 hours of basic training and become a certified home care aide under WAC 388-71-0523:

(a) Individual providers who previously provided no more than 20 hours of nonrespite care in any calendar month for one person who is not the provider's:

(i) ~~((their))~~ biological, step, or adoptive child or parent((-)) ; ~~((or))~~

(ii) sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership; or

(iii) spouse or registered domestic partner and funded through the United States department of veterans' affairs home and community-based programs;

(A) who continue to work for one unrelated client whose authorized monthly hours fluctuate above 20 hours per month; or

(B) who begin to work for a second client.

(b) Individual providers who provide respite services and worked more than 300 respite hours in any calendar year;

(c) Individual providers who begin working for an unrelated client who previously only provided personal care to the provider's:

(i) biological, step, or adoptive child, or parent; or  
(ii) sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership; or

(iii) spouse or registered domestic partner and funded through the United States department of veterans' affairs home and community-based programs.

~~((continue to work for one client whose authorized monthly hours fluctuate above twenty hours per month must:~~

~~(a) Complete the seventy hours of basic training; and~~

~~(b) Become a certified home care aide under WAC 388-71-095.)~~

(2) When an IP described in subsection (1) of this section is required to complete the 70-hour basic training and become a certified home care aide, the IP will:

(a) Have 120 days from the date of the change to complete the 70-hour basic training and 200 days from the date of the change to become certified; and

(b) Be required to complete continuing education under WAC 388-71-0990.

~~((2) Individual providers who provide only respite services and worked more than three hundred hours in any calendar year must complete the seventy hours of basic training and become a certified home care aide.))~~

(3) For the purpose of this section, the date of the change means the date on which the IP:

(a) Began working for a client that is not the individual's:

(i) biological, step, or adoptive child, or parent; or

(ii) sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership; or

(iii) spouse or registered domestic partner receiving approved services funded through the United States department of veterans' affairs home and community-based programs.

(b) Exceeded 20 hours of work in one month; or

(c) Exceeded 300 respite hours in one calendar year.

~~((3) Individual providers who previously only provided personal care to their biological, step, or adoptive child or parent through DDA or HCS who begin working for an unrelated client must complete the seventy hour basic training and become a certified home care aide.))~~

(4) If an IP is required to or chooses to become a certified home care aide and completes the 70-hour training requirements under this section, the individual will be required to continue to comply with these requirements to maintain the credential and complete continuing education requirements even if:

(a) The monthly authorized hours are later reduced to 20 or fewer hours;

(b) The individual no longer works for more than one unrelated client; or

(c) The individual works 300 or fewer respite hours in a calendar year.

~~((4) When an IP described in subsections (1), (2), or (3) of this section is required to complete the seventy hour basic training and become a certified home care aide, the IP will:~~

~~(a) Have one hundred twenty days from the date of the change to complete the seventy hour basic training and two hundred days from the date of the change to become certified; and~~

~~(b) Be required to complete continuing education under WAC 388-71-0990.)~~

(5) The training and certification requirements for an individual that met the criteria in subsection (4) of this section does not apply if the individual returns to work only for the individual's:

(a) biological, step, or adoptive parent, or adult child,

(b) sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership; or

(c) spouse or registered domestic partner receiving approved services funded through the United States department of veterans' affairs home and community-based programs.

~~((5) For the purpose of this section, the date of the change means the date on which the IP:~~

~~(a) Began working for a client that is not his or her biological, step or adoptive child or parent;~~

~~(b) Exceeded twenty hours of work in one month; or~~

~~(c) Exceeded more than three hundred respite hours in one calendar year.~~

~~(6) If an IP is required to or chooses to become a certified home care aide and completes the seventy hour training requirements under this section, the individual will be required to continue to comply with these requirements to maintain his or her credential and complete continuing education requirements even if:~~

~~(a) The monthly authorized hours are later reduced to twenty or fewer hours;~~

~~(b) He or she no longer works for a second unrelated client; or~~

~~(c) The individual works less than three hundred respite hours in a calendar year.~~

~~(7) The training and certification requirements for an individual that met the above criteria in subsection (6) does not apply if the individual returns to work only for his or her biological, step, or adoptive parent or adult child.)~~

AMENDATORY SECTION (Amending WSR 21-18-081, filed 8/30/21, effective 10/1/21)

**WAC 388-71-0893 Who must ~~((take))~~ complete the nine-hour basic training and by when must it be completed?** (1) Unless exempt from the basic training requirements under WAC 388-71-0839 (1) through (7), an individual provider must ~~((take))~~ complete orientation and safety training and nine hours of training within 120 days of the date of hire as described in WAC 388-71-0837 if ~~((he or she))~~ the provider meets the following criteria:

(a) Provides ~~((only))~~ respite services for individuals with developmental disabilities receiving services under Title 71A RCW; and

(b) Works ~~((three hundred))~~ 300 hours or less of respite in any calendar year.

(2) The individual provider must complete the orientation and safety training before providing care.

(3) The training partnership identified in RCW 74.39A.360 must offer at least ~~((twelve))~~ 12 of the ~~((fourteen))~~ 14 total hours online and five of these online hours must be individually selected from elective courses.

(4) An individual must complete the nine hours basic training required under this section within (~~one hundred twenty~~) 120 days of the long-term care worker's date of hire.

AMENDATORY SECTION (Amending WSR 21-18-081, filed 8/30/21, effective 10/1/21)

**WAC 388-71-0975 Who is required to obtain certification as a home care aide, and by when?** In order to be authorized to provide department paid in-home services, all long-term care workers must obtain home care aide certification as provided in chapter 246-980 WAC unless exempt for the 70-hour basic training as described in WAC 388-71-0875.

AMENDATORY SECTION (Amending WSR 21-18-081, filed 8/30/21, effective 10/1/21)

**WAC 388-71-0977 Once an individual is required to obtain certification as a home care aide, may that individual revert to exempt status?** (1) If an individual is required to or chooses to become a certified home care aide and completes the (~~seventy~~) 70-hour training requirements under this section, the individual will be required to continue to comply with these requirements to maintain (~~his or her~~) the credential and complete continuing education requirements even if:

(a) The monthly authorized hours are later reduced to (~~twenty~~) 20 or fewer hours;

(b) (~~He or she~~) The individual no longer works for a second unrelated client; or

(c) The individual works 300 (~~less than three hundred~~) respite hours or less in a calendar year.

(2) The training and certification requirements for an individual that met the (~~above~~) criteria in subsection (1) of this section does not apply when the individual returns to work only for (~~his or her~~) the individual's:

(a) biological, step, or adoptive parent, or adult child((-)) ;  
or

(b) sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership; or

(c) spouse or registered domestic partner receiving approved services funded through the United States department of veterans' affairs home and community-based programs.

AMENDATORY SECTION (Amending WSR 23-01-022, filed 12/9/22, effective 1/9/23)

**WAC 388-71-0980 ((May)) When may a home care agency or client employ a long-term care worker who has not completed the 70-hour basic training or certification requirements?** (1) If an individual has pre-

viously worked as a long-term care worker, but did not complete the training or certification requirements under RCW 18.88B.041, 74.39A.074, and (~~74.39A.096~~) 74.39A.076, and this chapter, a home care agency or client must not employ the individual to work as a long-term care worker until the individual has completed the required training certification unless the date of hire has been reset as described under subsection (2) of this section.

(2) The date of hire may be reset according to (~~chapter 246-980~~) WAC 388-71-0837.

(3) Unless exempt from the 70-hour basic training as described in WAC 388-71-0875, individuals who meet the criteria in subsection (2) of this section are allowed a new 120 days to complete the 70-hour home care aide basic training and a new 200 days to become certified as a home care aide, if required by WAC 246-980-020.

(4) Individuals who meet the criteria in subsection (2) of this section must submit a new application and fee to the department of health.

AMENDATORY SECTION (Amending WSR 23-01-022, filed 12/9/22, effective 1/9/23)

**WAC 388-71-1001 Which long-term care workers are exempt from the continuing education requirement?** Continuing education is not required for any of the following:

(1) Individual providers caring only for the provider's:

(a) (~~their~~) biological, step, or adoptive child; or

(b) sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership.

(2) Individual providers that:

(a) Provide (~~care to only one person and provide~~) no more than 20 hours of nonrespite care in any calendar month to only one person who is not the provider's: (~~(~~or~~)~~)

(i) biological, step, or adoptive child; or

(ii) sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership;

(b) (~~(Individual providers who only)~~) Provide respite services and work 300 hours or less of respite in any calendar year;

(3) Before January 1, 2016, a long-term care worker employed by a community residential service business; and

(4) Registered nurses, licensed practical nurses, and advanced registered nurse practitioners licensed under chapter 18.79 RCW, even if voluntarily certified as a home care aide under chapter 18.88B RCW.

AMENDATORY SECTION (Amending WSR 22-10-024, filed 4/25/22, effective 5/26/22)

**WAC 388-112A-0010 What definitions apply to this chapter?** The following definitions apply to this chapter:



(1) **"Activities of daily living"** means self-care abilities related to personal care such as bathing, eating, using the toilet, dressing, medication assistance, and transfer. Instrumental activities of daily living may also be used to assess a person's functional abilities in the home and the community such as cooking, shopping, house cleaning, doing laundry, working, and managing personal finances.

(2) **"Adult family home training network"** means a nonprofit organization established by the exclusive bargaining representative of adult family homes designated under RCW 41.56.026 with the capacity to provide training, workforce development, and other services to adult family homes.

(3) **"Applicant"** means:

(a) An individual who is applying for an adult family home license;

(b) An individual with an ownership interest in a partnership, corporation, or other entity that is applying for an adult family home license; or

(c) An individual who is applying for an enhanced services facility license.

(4) **"Capable caregiving training"** means the DSHS developed training curricula in dementia and mental health that will be available in three class levels. The level one series of the class in both dementia and mental health meets the requirements under RCW 18.20.270 and RCW 70.128.230 for specialty training. The level two and level three capable caregiving classes, when developed in both topics, may be completed for continuing education credits.

(5) **"Care team"** includes the resident and everyone involved in ~~((their))~~ the individual's care. The care team may include family, friends, doctors, nurses, long-term care workers, social workers, and case managers. The role of the care team is to support the resident's well-being. However, the resident directs the service plan when able.

(6) **"Challenge test"** means a competency test taken for specialty training without first taking the class for which the test is designed.

(7) **"Competency"** means the integrated knowledge, skills, or behavior expected of a long-term care worker after completing the training in a required topic area. Learning objectives are associated with each competency.

(8) **"Competency testing"** including challenge testing, evaluates a student to determine if they can demonstrate the required level of skill, knowledge, and behavior with respect to the identified learning objectives of a particular course.

(9) **"Core basic training"** is the portion of the 70-hour home care aide basic training that covers the core competencies and skills that long-term care workers need in order to provide personal care services efficiently and safely. The core basic training hours also includes hours devoted to student practice and demonstration of skills.

(10) **"Date of hire"** for determining time frames related to training and certification ~~((r))~~ means ~~((date of hire according to chapter 246-980-WAC))~~ the first day the long-term care worker is employed by any employer.

(11) **"DDA"** means the developmental disabilities administration.

(12) **"Designee"** means a person in an assisted living facility or enhanced services facility who supervises long-term care workers and is designated by an assisted living facility administrator or enhanced services facility administrator to take the trainings in this chapter required of the facility administrator. An assisted living facility or

enhanced services facility administrator may have more than one designee.

(13) **"Direct care worker"** means a paid individual who provides direct, personal care services to persons with disabilities or the elderly requiring long-term care (see also the definition of long-term care worker, which includes direct care workers).

(14) **"Direct supervision"** means oversight by a person who has demonstrated competency in basic training and if required, specialty training, or has been exempted from the basic training requirements, and is on the premises and quickly available to the caregiver.

(15) **"DSHS"** or **"department"** means the department of social and health services.

(16) **"Enhancement"** means additional time provided for skills practice and additional training materials or classroom activities that help a long-term care worker to thoroughly learn the course content and skills. Enhancements may include new student materials, videos or DVDs, online materials, and additional student activities.

(17) **"Entity representative"** means the individual designated by an adult family home provider who is or will be responsible for the daily operations of an adult family home.

(18) **"Expanded specialty training"** means optional curricula that provide caregivers with advanced knowledge and skills to provide person-centered care to clients or residents living with conditions other than developmental disabilities, dementia, and mental health. The optional expanded specialty training may include such topics as traumatic brain injury, diabetes care, and bariatric care. The optional expanded specialty training curricula must be DSHS developed and based on competencies and learning objectives established by the department.

(19) **"Guardian"** means an individual as defined in chapter ~~((11.88))~~ 11.130 RCW.

(20) **"Home"** means adult family homes, enhanced services facilities, and assisted living facilities.

(21) **"Home care aide certified"** or **"home care aide"** means a person who obtained and maintains a home care aide certification through the department of health.

(22) **"Hybrid"** means a combination of online training and in-person, remote, or virtual classroom instruction.

(23) **"Indirect supervision"** means oversight by a person who has demonstrated competency in basic training and if required, specialty training, or was exempted from basic training requirements, and who is quickly and easily available to the long-term care worker, but not necessarily on-site.

(24) **"Learning objectives"** means measurable, written statements that clearly describe what a long-term care worker must minimally learn to meet each competency. Learning objectives are identified for each competency. Learning objectives provide consistent, common language and a framework for curriculum designers, the curriculum approval process, and testing.

(25) **"Long-term care worker"** means:

(a) All persons who provide paid, personal care services for the elderly or persons with disabilities, including but not limited to individual providers of home care services, direct care workers employed by home care agencies, providers of home care services to persons with developmental disabilities under Title 71A RCW, all direct care workers in state-licensed assisted living facilities, adult family homes, respite care providers, community residential service providers, and any other direct care staff who provide home or community-based serv-

ices to the elderly or persons with functional disabilities or developmental disabilities.

(b) Long-term care workers do not include:

(i) Persons employed by the following facilities or agencies: Nursing homes subject to chapter 18.51 RCW, hospitals or other acute care settings, residential habilitation centers under chapter 71A.20 RCW, facilities certified under 42 C.F.R., Part 483, hospice agencies subject to chapter 70.127 RCW, adult day care centers, and adult day health care centers; or

(ii) Persons who are not paid by the state, by a private agency, or facility licensed by the state to provide personal care services.

(26) **"Online training"** means a course taken through an automated, asynchronous learning management system or other technology that conforms to the online training standards posted on the DSHS website at <https://bit.ly/dshs-online-standards>.

(27) **"Personal care services"** means physical or verbal assistance with activities of daily living, or activities of daily living and instrumental activities of daily living, which is provided to meet the resident's care needs.

(28) **"Provider"** means any person or entity licensed by the department to operate an adult family home, enhanced services facility, or assisted living facility, or any person or entity certified by the department to provide instruction and support services to meet the needs of persons receiving services under Title 71A RCW.

(29) **"Remote skills training"** means training conducted in a virtual classroom environment, or online when a student either demonstrates a skill live or provides a video recorded file of themselves performing a skill that is forwarded for feedback to an approved instructor or a proctor trained by an approved instructor, or both. A training program must be approved by DSHS to provide remote skills training.

(30) **"Renewal period"** means the certification renewal period as defined in WAC 246-12-010.

(31) **"Resident"** means a person residing and receiving long-term care services at an assisted living facility, enhanced services facility, or adult family home. As applicable, "resident" also means the resident's legal guardian or other surrogate decision maker.

(32) **"Resident manager"** means a person employed or designated by the provider to manage the adult family home who meets the requirements in WAC 388-76-10000 and this chapter.

(33) **"Routine interaction"** means regular contact with residents.

(34) **"70-hour home care aide basic training"** means the 70-hours of required training that a new long-term care worker must complete within 120 days of hire. It has three components: Core competencies, practice of skills, and population specific topics, which may include specialty and nurse delegation training.

(35) **"Special needs"** means a resident has dementia consistent with WAC 388-78A-2510 for assisted living or WAC 388-76-10000 for adult family homes; mental illness consistent with WAC 388-78A-2500 for assisted living or WAC 388-76-10000 for adult family homes; or developmental disabilities consistent with WAC 388-78A-2490 for assisted living or WAC 388-76-10000 for adult family homes.

(36) **"Specialty training"** means curricula that meets the requirements of RCW 18.20.270 and 70.128.230 to provide basic core knowledge and skills that caregivers need to learn and understand to effectively and safely provide care to residents living with mental illness, dementia, or developmental disabilities. The specialty training curricu-

la may be DSHS developed or DSHS approved and must be based on the competencies and learning objectives in WAC 388-112A-0430, ((WAC)) 388-112A-0440, or ((WAC)) 388-112A-0450.

(37) **"Training entity"** means an organization, including an independent contractor, who provides or may provide training under this chapter using approved curriculum.

(38) **"Virtual classroom"** means a synchronous, instructor-led, remote learning environment conducted in real time that conforms to the virtual classroom standards posted on the DSHS website at <https://bit.ly/dshs-online-standards>. A training program must be approved by DSHS to provide virtual classroom instruction.

AMENDATORY SECTION (Amending WSR 23-01-022, filed 12/9/22, effective 1/9/23)

**WAC 388-112A-0110 May a home employ a long-term care worker who has not completed the 70-hour home care aide training or certification requirements?**

(1) If an individual previously worked as a long-term care worker, but did not complete the training or certification requirements under RCW 18.88B.041, 74.39A.074, 74.39A.076, and this chapter, an adult family home, enhanced services facility, or assisted living facility must not employ the individual to work as a long-term care worker until the individual has completed the required training or certification unless the date of hire has been reset as described under subsection (2) of this section.

(2) The original date of hire may be reset according to ((chapter 246-980)) WAC 388-112A-0115. A long-term care worker who is not currently certified or eligible to reactivate an expired credential shall receive a new date of hire when beginning work with either a new employer or returning to a former employer after prior employment has ended.

(3) Individuals who meet the criteria in subsection (2) of this section are allowed a new 120 days to complete the orientation, safety, and 70-hour home care aide basic trainings and a new 200 days to become certified as a home care aide, if required by WAC 246-980-020.

(4) Individuals who meet the criteria in subsection (2) of this section must submit ((a new)) an application and fee to the department of health.

AMENDATORY SECTION (Amending WSR 23-01-022, filed 12/9/22, effective 1/9/23)

**WAC 388-112A-0115 How does DSHS determine a long-term care worker's date of hire and when may a long-term care worker be eligible to have the date of hire reset?**

(1) The department determines a long-term care worker's date of hire according to ((chapter 246-980-WAC)) the first day the long-term care worker is employed by any employer.

(2) The date of hire is specific to each long-term care worker. ((It does not change when a long-term care worker changes clients or employers unless the long-term care worker meets the criteria in WAC 388-112A-0110)) A long-term care worker, including an individual who

has worked as a long-term care worker in the past, but who did not complete the training or certification that was required at the time, and a worker who is not currently certified or eligible to reactivate an expired credential, shall receive a new date of hire when beginning work with either a new employer or returning to a former employer after prior employment has ended.

(3) This section does not apply to background check requirements under this chapter.

AMENDATORY SECTION (Amending WSR 21-18-081, filed 8/30/21, effective 10/1/21)

**WAC 388-115-0503 What definitions apply to WAC 388-115-0500 through 388-115-05640?**

(1) "Area agencies on aging (AAA)" means a contracted entity that aging and long-term support administration (AL TSA) grants funds to in order to carry out the functions of the Older Americans Act, general-fund state programs, and to provide case management services and supports to individuals 18 and older who receive medicaid-funded LTC in ~~((their))~~ the individual's own ~~((homes))~~ home.

(2) "Applicant" means a person who is in the process of becoming an in-home long-term care worker.

(3) "Negative actions" are listed in WAC 388-113-0030.

(4) "Background check" means a name and date of birth check or a fingerprint-based background check, or both.

(5) "Background check result" is defined in WAC 388-113-0101.

(6) "Background check central unit ~~((=))~~ (BCCU)" means the DSHS entity responsible for conducting background checks for the department.

(7) "Character, competence, and suitability determination (CC&S)" is defined in WAC 388-113-0050.

(8) "Client" means an individual receiving medicaid ~~((=))~~ or veterans' administration funded in-home long term services from the department.

(9) "Consumer directed employer (CDE)" is a private entity that contracts with the department to be the legal employer of individual providers for purposes of performing administrative functions. The consumer directed employer is patterned after the agency with choice model, recognized by the federal centers for medicare and medicaid services for financial management in consumer directed programs. The entity's responsibilities are described in RCW 74.39A.515 and throughout ~~((this))~~ chapter 74.39A RCW and include:

~~((1))~~ (a) Coordination with the consumer, who is the individual provider's managing employer;

~~((2))~~ (b) Withholding, filing, and paying income and employment taxes, including workers' compensation premiums and unemployment taxes, for individual providers;

~~((3))~~ (c) Verifying an individual provider's qualifications; and

~~((4))~~ (d) Providing other administrative and employment-related supports. The consumer directed employer is a social service agency and its employees are mandated reporters as defined in RCW 74.34.020.

(10) "Date of hire" for determining time frames related to training and certification means the first day the long-term care worker is employed by any employer.

(11) "**Department**" means the department of social and health services (DSHS).

(12) "**Fingerprint-based background check**" means an in-state criminal history records check through the Washington state patrol and a national criminal history records check through the Federal Bureau of Investigation.

(13) "**Individual provider (IP)**" as defined in RCW 74.39A.240 limited to individual providers employed by the consumer directed employer.

(14) "**Managing employer**" means a consumer who employs one or more individual providers and whose responsibilities include:

~~((1))~~ (a) Choosing potential individual providers and referring them to the consumer directed employer;

~~((2))~~ (b) Selecting an individual provider(s);

~~((3))~~ (c) Overseeing the day-to-day management and scheduling of the individual provider's tasks consistent with the plan of care; and

~~((4))~~ (d) Dismissing the individual provider when desired.

(15) "**Name and date of birth check**" is a search, conducted by the background check central unit (BCCU), of Washington state ~~((check))~~ criminal history and negative action records using the applicant's name and date of birth.

AMENDATORY SECTION (Amending WSR 21-18-081, filed 8/30/21, effective 10/1/21)

**WAC 388-115-0505 What is the client's role as managing employer of an individual provider?** The client, or ~~((their))~~ the client's representative, is the managing employer and:

(1) Has the primary responsibility to select, dismiss, assign hours, and supervise the work of one or more individual providers; and

(2) May receive assistance from the consumer directed employer or other resources in identifying potential providers.

AMENDATORY SECTION (Amending WSR 21-18-081, filed 8/30/21, effective 10/1/21)

**WAC 388-115-0520 What are the training requirements for an individual provider?** An individual hired on or after January 7, 2012, must meet the training requirements described in WAC 388-71-0836 through 388-71-1006. ~~((These training requirements also apply to individual providers who were hired before January 7, 2012, if they did not complete prior training requirements within one hundred twenty days of hire and they want to be reinstated to work. These training requirements and certification if required must be met prior to reinstating these individuals to work.))~~

**WAC 388-115-0523 What are the training and certification requirements for individual providers?** The following chart provides a summary of the training and certification requirements for individual providers (~~(, including)~~) . This includes criteria for those providers working limited hours for one person, caring only for one's child, (~~(or)~~) parent, sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, (~~(and)~~) providing respite services (~~(only)~~) , or providing approved services only for a spouse or registered domestic partner and funded through the United States department of veterans' affairs home and community-based programs:

Who	Status	Orientation training	Safety training	Basic training	Continuing education ( <del>((CE))</del> )	Required credential
(1) An individual provider who is a licensed, certified health care professional in good standing through the Washington state department of health, or an individual provider or home care agency long-term care worker with special education training who meets the criteria in RCW 18.88B.041(1)(a)(i)(A).	ARNP, RN, LPN, HCA, NA-C, or other professionals listed in WAC 388-71-0839.	Not required.	Not required.	Not required.	Not required of ARNPs, RNs, or LPNs in chapter 388-71 WAC. Required <del>((twelve))</del> <u>12</u> hours under WAC 388-71-0990 and 388-71-0991 of NA-Cs, HCAs, and other professionals listed in WAC 388-71-0839, such as an individual with special education training with an endorsement granted by the superintendent of public instruction under RCW 28A.300.010. For NA-C and those with <u>special education training, 12 hours is required for each year worked in long-term care.</u>	<del>((Not required. Must maintain in good standing the certification or credential or other professional role listed in WAC 388-71-0839))</del> <u>Required under chapter 246-980 WAC.</u>
(2) An individual provider with specific employment history.	A long-term care worker employed at some point between January 1, 2011, and January 6, 2012, and has completed the basic training requirements in effect on <del>((his or her))</del> <u>the</u> worker's date of hire. WAC 388-71-0839.	Not required.	Not required.	Not required.	<del>((Required- Twelve))</del> <u>12</u> hours is <u>required for each year worked in long-term care</u> under WAC 388-71-0990 and 388-71-0991.	Not required.

Who	Status	Orientation training	Safety training	Basic training	Continuing education ((CE))	Required credential
(3) An individual provider.	Hired by the consumer directed employer to provide personal care service as defined in WAC 388-71-0836((;)) and is not exempt under subsection (1) or (2) of this section.	Required. Two hours under WAC 388-71-0860.	Required. Three hours under WAC 388-71-0860.	Required. <del>((Seventy))</del> 70 hours under WAC 388-71-0870 and 388-71-0875.	Required. <del>((Twelve))</del> 12 hours under WAC 388-71-0990 and 388-71-0991.	<del>((Home care aide certification required under WAC 388-71-0975 within two hundred days of the date of hire as provided in WAC 246-980-050 (unless the department of health issues a provisional certification under WAC 246-980-065)))</del> Required under chapter 246-980 WAC.
(4) An individual provider who works limited hours for one person.	<u>An individual provider employed by the consumer directed employer providing <del>((twenty))</del> 20 hours or less of nonrespite care for one person per calendar month((;)) and does not meet the criteria in subsection (1) or (2) of this section.</u>	Required. Two hours under WAC 388-71-0860.	Required. Three hours under WAC 388-71-0860.	Required. <del>((Thirty))</del> 30 hours under WAC 388-71-0880.	Not required.	Not required.



Who	Status	Orientation training	Safety training	Basic training	Continuing education ((CE))	Required credential
<p>(5) An individual who provides <del>((only))</del> respite services and works <del>((three hundred))</del> 300 hours or less in any calendar year.</p>	<p>(a) <u>An individual providing ((only))</u> respite care and works no more than <del>((three hundred))</del> 300 hours in the calendar year, is not exempt in subsection (1) or (2) of this section, and does not meet criteria in subsection (7) of this section.  (b) <u>An individual providing ((only))</u> respite services for individuals with developmental disabilities that receive services under Title 71A RCW and for individuals that receive services under chapter 74.39A, that is working <del>((three hundred))</del> 300 hours or less in any calendar year, and that is not exempt in subsection (1) or (2) of this section.</p>	<p>Required. Two hours under WAC 388-71-0860.</p>	<p>Required. Three hours under WAC 388-71-0860.</p>	<p>Required. <del>((Thirty))</del> <u>Nine</u> hours under WAC <del>((388-71-0880))</del> <u>388-71-0890</u>.</p>	<p>Not required.</p>	<p>Not required.</p>
<p>(6) An individual provider caring only for <del>((his or her))</del> <u>the provider's</u> biological, step, or adoptive adult child.</p>	<p><u>An individual providing care only for ((his or her))</u> <u>the provider's</u> adult child that receives services through the developmental disabilities administration and not exempt under <u>subsection (1) or (2)</u> of this section.</p>	<p>Required. Two hours per WAC 388-71-0895.</p>	<p>Required. Three hours under WAC 388-71-0895.</p>	<p>Required. Seven hours under WAC 388-71-0890.</p>	<p>Not required.</p>	<p>Not required.</p>

Who	Status	Orientation training	Safety training	Basic training	Continuing education ((CE))	Required credential
(7) An individual provider caring only for <del>((his or her))</del> the provider's biological, step, or adoptive child, or parent.	<u>An individual providing care only to <del>((his or her))</del> the provider's child or parent, who is not exempt in subsection (1) or (2) of this section, and does not meet criteria in subsection (6) of this section.</u>	Required. Two hours under WAC 388-71-0860.	Required. Three hours under WAC 388-71-0860.	Required. <del>((Thirty))</del> 30 hours under WAC 388-71-0880.	<u>12 hours is required for each year worked in long-term care for an individual provider caring only for <del>((his or her))</del> the individual's biological, step, or adoptive parent under WAC 388-71-0990 and 388-71-0991. Not required for an individual provider caring only for <del>((his or her))</del> the individual's biological, step, or adoptive child under WAC 388-71-1001.</u>	Not required.
(8) <u>An individual provider caring only for the individual provider's sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership.</u>	<u>An individual providing care only for the individual provider's sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership, who is not exempt in subsection (1) or (2) of this section, and does not meet criteria in subsection (6) of this section.</u>	Required. Two hours under WAC 388-71-0860.	Required. Three hours under WAC 388-71-0860.	Required. 30 hours under WAC 388-71-0880.	Not required.	Not required.
(9) <u>A long-term care worker providing approved services only for a spouse or registered domestic partner and funded through the United States department of veterans' affairs home and community-based programs.</u>	<u>A long-term care worker providing approved services only for a spouse or registered domestic partner and funded through the United States department of veterans' affairs home and community-based programs who is not exempt in subsection (1) or (2) of this section.</u>	Required. Two hours under WAC 388-71-0860.	Required. Three hours under WAC 388-71-0860.	Required. 30 hours under WAC 388-71-0880.	<u>12 hours is required for each year worked in long-term care under WAC 388-71-0990 and 388-71-0991.</u>	Not required.

AMENDATORY SECTION (Amending WSR 21-18-081, filed 8/30/21, effective 10/1/21)

**WAC 388-115-0540 When will the consumer directed employer (CDE) reject your selected individual provider?** (1) The CDE will reject an individual provider who:

(a) Is the client's spouse, except in the case of an individual provider for a chore services client or when the client is receiving services under the veteran directed home care program;

(b) Is the natural, step, or adoptive parent of a minor client aged ((seventeen)) 17 or younger;

(c) Is the foster parent providing personal care or skills acquisition training to a child residing in ((~~their~~)) the individual's licensed foster home; or

(d) Does not meet the qualifications under WAC 388-115-0510.

(2) The CDE will also reject an individual provider when the CDE believes that the individual will be unable to appropriately meet the care needs of the consumer, including health and safety.

AMENDATORY SECTION (Amending WSR 21-18-081, filed 8/30/21, effective 10/1/21)

**WAC 388-115-05410 What are the client's rights if the consumer directed employer rejects ((~~their~~)) the selection of a person to serve as ((~~their~~)) the client's individual provider or discontinues ((~~their~~)) the current individual provider's assignment?** (1) The client may choose to receive services from a different individual provider or another qualified provider.

(2) The client has the right to dispute the decision under the consumer directed employer's dispute resolution process.

(3) The client does not have a right to a hearing under chapter 34.05 RCW.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-112A-0130 When and how may a long-term care worker be eligible to reset date of hire?