



# PROPOSED RULE MAKING

**CR-102 (June 2024)**  
**(Implements RCW 34.05.320)**  
Do **NOT** use for expedited rule making

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OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

DATE: July 15, 2025

TIME: 3:57 PM

WSR 25-15-074

**Agency:** Department of Social and Health Services, Home and Community Living Administration (HCLA), HCS

☒ **Original Notice**

☐ **Supplemental Notice to WSR** \_\_\_\_\_

☐ **Continuance of WSR** \_\_\_\_\_

☒ **Preproposal Statement of Inquiry was filed as WSR 25-08-030 ; 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 388-106-0274 Are there limits to the assistive technology I may receive? Modification to subsection (1)(c) subscriptions, data plan charges, and ongoing recurring fees to remove the limitation of "ongoing recurring fees".

**Hearing location(s):**

Date:	Time:	Location: (be specific)	Comment:
August 26, 2025	10:00 a.m.	Virtually via Teams or Call in	Hearings are held virtually, see the DSHS website at <a href="https://www.dshs.wa.gov/sesa/rpau/proposed-rules-and-public-hearings">https://www.dshs.wa.gov/sesa/rpau/proposed-rules-and-public-hearings</a> for the most current information.

**Date of intended adoption:** Not earlier than August 27, 2025 (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 n/a

Other

Beginning (date and time) noon on July 23, 2025

By (date and time) 5:00 p.m. on August 26, 2025

**Assistance for persons with disabilities:**

Contact Shelley Tencza, Rules Consultant

Phone 360-664-6036

Fax n/a

TTY 711 Relay Service

Email [shelley.tencza@dshs.wa.gov](mailto:shelley.tencza@dshs.wa.gov)

Other

By (date) 5:00 p.m. on August 12, 2025

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** The purpose of the proposed removal of this limitation and its anticipated effect is that it will allow for increased access to a wider range of eligible assistive devices/services, some of which may have an ongoing recurring fee, for a client on the Community First Choice (CFC) program.

**Reasons supporting proposal:** see above

**Statutory authority for adoption:** RCW 74.08.090, 74.09.520, 74.39A.400, and 42 C.F.R. 441.500-590

**Statute being implemented:** RCW 74.08.090, 74.09.520, 74.39A.400, and 42 C.F.R. 441.500-590

**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

**Type of proponent:** ☐ Private. ☐ Public. ☒ Governmental.

Name of agency personnel responsible for:			
	Name	Office Location	Phone
Drafting and Peggy Dotson	Victoria Nuesca; Sue Halle;	PO Box 45600, Olympia, WA 98504-5600	360-725-2393; 360-764-3561; 360-407-1563
Implementation and Peggy Dotson	Victoria Nuesca; Sue Halle;	PO Box 45600, Olympia, WA 98504-5600	360-725-2393; 360-764-3561; 360-407-1563
Enforcement and Peggy Dotson	Victoria Nuesca; Sue Halle;	PO Box 45600, Olympia, WA 98504-5600	360-725-2393; 360-764-3561; 360-407-1563

**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 Victoria Nuesca  
Address PO Box 45600, Olympia, WA 98504-5600  
Phone 360-725-2393  
Fax  
TTY  
Email [victoria.nuesca@dshs.wa.gov](mailto:victoria.nuesca@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 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 \_\_\_\_.

Explanation of how the above exemption(s) applies to the proposed rule: The rule is exempt because it is a change to a client benefit and does not impose any costs on small businesses, it relates only to client benefits.

**(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:

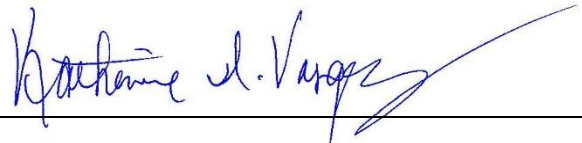
Name  
Address  
Phone  
Fax  
TTY  
Email  
Other

**Date:** July 11, 2025

**Name:** Katherine I. Vasquez

**Title:** DSHS Rules Coordinator

**Signature:**



**WAC 388-106-0274 Are there limits to the assistive technology I may receive?** (1) There are limits to the assistive technology you may receive. Assistive technology excludes:

- (a) Any purchase solely for recreational purposes;
- (b) Items of general utility, meaning they are used by people in the absence of illness, injury, or disability, such as a wood splitter, facial wipes, menstrual supplies, or a slow cooker;
- (c) Subscriptions((~~7~~)) and data plan charges ((~~7~~ and ongoing recurring fees));
- (d) Educational software, game applications, or gift cards for educational/game applications;
- (e) Medical supplies and medical equipment, items available as specialized equipment and supplies, or durable medical equipment;
- (f) Specialized clothing or slip-on shoes that are for convenience and not adaptive in nature;
- (g) Exercise equipment;
- (h) Home/environmental modifications;
- (i) Medically necessary items, including but not limited to compression socks/stockings, orthotics, hearing aids, and eyeglasses; and
- (j) Any item that would otherwise be covered under any other payment source, including but not limited to medicare, medicaid, private insurance, or another resource.

(2) In combination with skills acquisition training, assistive technology purchases are limited to a yearly amount determined by the department per fiscal year.

(3) To help decide whether to authorize assistive technology the department may require a treating professional's written recommendation regarding the need for an assistive technology evaluation. The treating professional who makes this recommendation must:

- (a) Have personal knowledge of and experience with the requested assistive technology that is in alignment with their profession; and
- (b) Have evaluated you, reviewed your medical records, have knowledge of your level of functioning, and your ability to use the requested assistive technology or device.

(4) Your choice of assistive technology is limited to the most cost effective option that meets your health and welfare needs.

(5) Replacement of an assistive technology item or piece of equipment is limited to once every two years.