



# PROPOSED RULE MAKING

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

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

DATE: August 05, 2025

TIME: 3:53 PM

WSR 25-16-096

**Agency:** Department of Social and Health Services, Home and Community Living Administration, WA Cares Fund]

☒ **Original Notice**

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

☐ **Continuance of WSR** \_\_\_\_\_

☒ **Preproposal Statement of Inquiry** was filed as WSR 25-04-062, 25-04-063, 25-04-064, 25-04-065, 25-04-066 & 25-04-068 ; 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) This proposal would add new language to the currently proposed new chapter 388-116 WAC. Proposed rules include payment and reimbursement for approved services, notice of department determinations, and administrative hearings.

**Hearing location(s):**

Date:	Time:	Location: (be specific)	Comment:
September 9, 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 September 10, 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 August 6, 2025

By (date and time) September 9, 2025, at 5:00 p.m.

**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) August 26, 2025, at 5:00 p.m.

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** The proposed rules implement requirements under chapter 50B.04 RCW, including payment and reimbursement for approved services, notices of department determinations, and administrative hearings. The rules govern beneficiaries of the long-term services and supports trust and long-term services and supports providers providing approved services to beneficiaries.

**Reasons supporting proposal:** This rulemaking is necessary for the WA Cares Fund program to set maximum rates, payment requirements, requirements for notices of department determinations, and administrative hearings.

**Statutory authority for adoption:** RCW 50B.04.020(k)

**Statute being implemented:**

**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	Arielle Finney	PO Box 45600 Olympia, WA 98504-5600	360-764-0384
Implementation	Katie Kelnhofer (provider)	PO Box 45600 Olympia, WA 98504-5600	564-669-4440
Tracey Rollins (beneficiary)		PO Box 45600 Olympia, WA 98504-5600	360-688-6359
Enforcement	Katie Kelnhofer (provider)	PO Box 45600 Olympia, WA 98504-5600	564-669-4440
Tracey Rollins (beneficiary)		PO Box 45600 Olympia, WA 98504-5600	360-688-6359

**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 Arielle Finney  
Address PO Box 45600, Olympia, WA 98504-5600  
Phone 360-764-0384  
Fax  
TTY  
Email [Arielle.finney2@dshs.wa.gov](mailto:Arielle.finney2@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:

**(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. The rules are the least burdensome route to achieving the goals and objectives of the program. The rules do not require an action that violates federal or state law. The rules do not impose more stringent requirements on private entities than on public entities. There are no applicable federal regulations related to the subject of these rules. WA Cares program launches in July 2026. At the time of this filing, no long-term services and supports providers are registered for the WA Cares program and therefore would not incur cost associated with the material of the proposed rules
- ☐ 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 Arielle Finney

Address PO Box 45600, Olympia, WA 98504-5600

Phone 360-764-0384

Fax

TTY

Email [Arielle.finney2@dshs.wa.gov](mailto:Arielle.finney2@dshs.wa.gov)

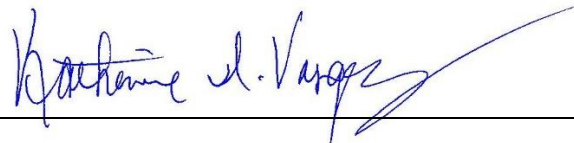
Other

**Date:** August 1, 2025

**Name:** Katherine I. Vasquez

**Title:** DSHS Rules Coordinator

**Signature:**



## NEW SECTION

**WAC 388-116-3080 Exception to an approved services rule.** (1) A long-term services and supports provider may request an exception to an approved services rule.

(2) To request an exception to an approved services rule, a long-term services and supports provider must submit a written request, including justification, to the department.

(3) Decisions about exception requests are not appealable.

## **PAYMENT AND REIMBURSEMENT FOR APPROVED SERVICES**

## NEW SECTION

**WAC 388-116-4010 Payment for approved services.** (1) To receive payment for services rendered, a long-term services and supports provider must:

(a) Enroll in a department-authorized payment system; and

(b) Adhere to billing standards and guides established by the department.

(2) A long-term services and supports provider may claim up to the maximum rate for an approved service.

(a) Unless excluded under subsection (3) of this section, the rate charged for an approved service is determined and agreed upon by the eligible beneficiary and the long-term services and supports provider.

(b) A long-term services and supports provider must not charge an eligible beneficiary more than the maximum rate unless approved to do so under WAC 388-116-3080.

(3) The consumer-directed employer must claim at a set rate as established in its contract.

(4) For the purposes of this section, "claim" means to formally request payment from the department for approved services provided to an eligible beneficiary.

## NEW SECTION

**WAC 388-116-4020 Maximum rates.** (1) The department will pay long-term services and supports providers for approved services rendered up to the following maximum rates:

(a) Adaptive equipment and technology: \$15,450.00 each;

(b) Adult day services: \$338.00 daily or \$11 per 15-minute unit;

(c) Adult family home services: \$473.00 daily;

(d) Assisted living services: \$562.00 daily;

- (e) Care transition coordination: \$374.00 per month for up to two consecutive months;
- (f) Dementia and behavioral supports: \$42.00 per 15-minute unit;
- (g) Education and consultation: \$83.00 per 15-minute unit;
- (h) Environmental modifications: Up to the fund's maximum benefit amount;
- (i) Home delivered meals: \$16.00 each;
- (j) Home safety evaluation: \$47.00 per 15-minute unit, not to exceed \$300.00;
- (k) In-home personal care: \$47.00 hourly or \$12.00 per 15-minute unit;
- (l) Memory care: \$624.00 daily;
- (m) Nursing home services: \$556.00 daily;
- (n) Personal emergency response system: \$103.00 per installation and \$85.00 monthly;
- (o) Professional nursing services: \$68.00 per 15-minute unit;
- (p) Respite for family caregivers:
  - (i) In-home respite: \$47.00 hourly or \$12.00 per 15-minute unit;
  - (ii) Adult day service: \$338.00 daily or \$11.00 per 15-minute unit;
  - (iii) Adult family home: \$473.00 daily;
  - (iv) Assisted living services: \$562.00 daily; and
  - (v) Nursing homes: \$556.00 daily;
- (q) Services that assist paid and unpaid family members caring for eligible beneficiaries:
  - (i) Housework and errands: Not to exceed \$412.00 monthly;
  - (ii) Yardwork and snow removal: \$36.00 per 15-minute unit, not to exceed \$412.00 monthly; and
  - (r) Transportation. Up to \$412 for the total of:
    - (i) 260 miles per month, paid at the standard federal mileage rate as set by the internal revenue service; and
    - (ii) Monthly transportation expenses, such as public transit passes, ferry tickets, parking, and other transportation-related expenses.
- (2) For the purposes of this section, the following definitions apply.
  - (a) "Maximum rate" means the highest amount the department will pay for an approved service.
  - (b) "Unit" means the smallest amount in which an approved service is authorized, provided, and billed.

## NEW SECTION

**WAC 388-116-4030 Eligible beneficiary reimbursement.** (1) An eligible beneficiary may pay privately, and request reimbursement up to the maximum rate, for the following approved services:

- (a) Adaptive equipment and technology; and
- (b) Transportation.
- (2) To request reimbursement, the eligible beneficiary must submit a reimbursement request and a receipt for the purchased item to a financial management services vendor.
- (3) The receipt must include the:
  - (a) Name of the seller;
  - (b) Date of the transaction;

- (c) Name of the approved service;
  - (d) Method of payment; and
  - (e) Total amount paid for the approved service, which includes additional required fees or costs, such as tax, shipping, or transaction fees.
- (4) A request for reimbursement must be submitted to the financial management services vendor no more than 60 days after the date of the transaction.
- (5) For the purposes of this section, the following definitions apply.
- (a) "Financial management services vendor" means an entity contracted with the department to administer reimbursements to eligible beneficiaries, acquire adaptive equipment and technology on behalf of an eligible beneficiary, and process claims for provider payment.
  - (b) "Reimbursement" means payment to an eligible beneficiary from their benefit, by the financial management services vendor, for costs incurred in the purchase of an approved service.

## **NOTICE OF DEPARTMENT DETERMINATIONS AND ADMINISTRATIVE HEARINGS**

### NEW SECTION

- WAC 388-116-5000 Notice of department determinations.** (1) The department will provide written notice when a determination is made by the department.
- (2) Written notice will include:
    - (a) The name of the beneficiary;
    - (b) The date of the notice;
    - (c) The effective date of the determination;
    - (d) The determination that has been made by the department;
    - (e) The reason(s) for the determination;
    - (f) The specific regulation(s) on which the determination is based;
    - (g) Contact information for a department representative;
    - (h) Administrative hearing rights, if applicable; and
    - (i) Other information required by state or federal law.
  - (3) Except as described in subsection (4) of this section, the department will send notice of a determination that terminates benefits or discontinues provider registration at least 10 calendar days before the effective date of the determination. The 10-day notice period starts on the day after the date of the notice.
  - (4) The department may send notice to a long-term services and supports provider fewer than 10 days before the effective date if:
    - (a) The provider requests the determination;
    - (b) The provider violates registration requirements or operational standards; or
    - (c) The provider dies.

(5) The department will electronically notify long-term services and supports providers and provider applicants of department determinations.

(6) The department will electronically notify applicants and eligible beneficiaries of department determinations. If the determination denies a beneficiary application or terminates beneficiary benefits, the department will also send a copy of the notice via US Mail.

#### NEW SECTION

**WAC 388-116-5010 Eligible beneficiary administrative hearing rights.** (1) A person applying to be an eligible beneficiary may request an administrative hearing to dispute a department determination under RCW 50B.04.120.

(2) An eligible beneficiary may request an administrative hearing to dispute a denial of reimbursement or termination of their benefits under RCW 50B.04.120.

#### NEW SECTION

**WAC 388-116-5020 Long-term services and supports provider administrative hearing rights.** (1) A provider applicant applying to be registered as a long-term services and supports provider may request an administrative hearing to dispute a department determination under RCW 50B.04.120.

(2) A long-term services and supports provider may request an administrative hearing to dispute a discontinuation of their registration under RCW 50B.04.120.

#### NEW SECTION

**WAC 388-116-5030 Administrative hearing requests.** (1) A request for an administrative hearing must be received by the department no later than 5:00 p.m. on the 30th day from the date the notice was sent. Days are counted as described under WAC 388-02-0035.

(2) An administrative hearing request may be made by:

(a) Submitting an electronic request to the department as directed by the department;

(b) Calling 844-CARE4WA (844-227-3492);

(c) Mailing a request to the department at P.O. BOX 45612, Olympia WA 98504-5612;

(d) Notifying a program employee in-person at any of the department's regional office locations, or at an area agency on aging office; or

(e) Submitting an online request to the office of administrative hearings or contacting the office of administrative hearings in writing, in person, or by telephone at a location specified in WAC 388-02-0025.

(3) To ask for assistance in requesting an administrative hearing, contact:

- (a) One of the department's regional offices;
- (b) An area agency on aging; or
- (c) The department at 844-CARE4WA (844-227-3492).

(4) To be complete, an administrative hearing request must contain:

- (a) Enough information to identify the person filing the request;
- (b) The department determination being disputed; and
- (c) The contact information of the requester.

(5) If a party disagrees with an initial order and wants it changed, the party must timely request review by a review judge as provided in WAC 388-02-0560 through 388-02-0595. If a party requests review of the initial order by a review judge, the initial order will not be effected.

(6) Appeals will be resolved through adjudicative proceedings governed by this chapter and:

- (a) Chapter 34.05 RCW;
- (b) Chapter 50B.04 RCW;
- (c) Chapter 10-08 WAC; and
- (d) Chapter 388-02 WAC.

(7) If there is a conflict between this chapter and chapters 10-08 and 388-02 WAC, this chapter prevails; and if there is a conflict between chapters 10-08 and 388-02 WAC, chapter 388-02 WAC prevails.





Office of the Secretary  
Rules and Policies Assistance Unit  
PO Box 45850, Olympia WA 98504

August 1, 2025

**To:** Mike Anbesse, Assistant Secretary  
Kathy Morgan, Deputy Assistant Secretary  
Aging and Long-Term Support Administration

**From:** Katherine Vasquez, DSHS Rules and Policies Administrator  
DSHS Rules and Policies Assistance Unit

**Subject:** Chapter 388-116 WAC – new WACs 388-116-3080, 388-116-4010, 388-116-4020, 388-116-4030, 388-116-5000, 388-116-5010, 388-116-5020 & 388-116-5030  
**Significant Legislative Rule – Proposed Rule-Making**

Arielle Finney is proposing the above rules for permanent adoption. Enclosed are the proposed rules and related documents.

The program is requesting that this proposal be filed no later than the Code Reviser's deadline of noon on August 6, 2025.

The rule is considered critical and meets the criteria for exemption from the DSHS Rule Moratorium as outlined in OFM Guideline 3(a) *required by federal or state law*.

If you concur, please affirm your approval via email response back to me by **noon on August 5, 2025**. When possible, please also indicate your approval to file on line 14 of the attached Review and Approval forms and email the forms to me with a cc to Shelley Tencza. RPAU does not need the entire packet back.

Please contact me by email or Teams, or Arielle Finney at (360) 764-0384 if you would like more information. Thank you.

Attachments

cc: Official Rule-Making File





**STATE OF WASHINGTON**  
**DEPARTMENT OF SOCIAL AND HEALTH SERVICES**  
**Home and Community Living Administration**  
**PO Box 45600, Olympia, WA 98504-5600**

July 28, 2025

TO: Katherine Vasquez, DSHS Rules Coordinator  
Rules and Policies Assistance Unit  
Office of the Secretary

FROM: Ben Veghte, Director  
WA Cares Fund Division  
Home and Community Living Administration

SUBJECT: CR-102 for new chapter of rule for the WA Cares Fund Program

I have reviewed and approved the filing of the attached CR-102. The rulemaking is expected to result in additions to Chapter 388-116 WAC, a new chapter of Washington Administrative Code, for implementation of the WA Cares Fund Program under chapter 50B.04 RCW. The new rules address payment and reimbursement for approved services, notice of department determinations, and administrative hearings.

Please contact Arielle Finney at [Arielle.Finney2@dshs.wa.gov](mailto:Arielle.Finney2@dshs.wa.gov) if you have any questions.

A handwritten signature in black ink, reading "Benjamin W. Veghte".



**Review and Approval for Proposed DSHS Rules**Date Sent: 07/09/2025

Dear Reviewer:

You are considered an interested party and have been selected to review and comment on the attached Department of Social and Health Services (DSHS) proposed rule (WAC). Please review and make any comments on the rule. Complete Sections 9 and 10 below and return everything by 07/16/2025 to:

Originator: Arielle Finney Division: WA CaresMail Stop: 45600 Telephone Number: 360-764-0384 FAX Number: \_\_\_\_\_**ORIGINATOR: YOU MUST COMPLETE THIS SECTION. IN THE FOLLOWING SECTIONS, YOU MAY NEED TO USE YOUR MOUSE TO MOVE FROM ONE AREA TO THE NEXT.**

1. The attached text is a DSHS rule (WAC) being proposed as: ☒ Regular adoption (CR-102 notice)  
☐ Expedited adoption (CR-105 notice)
2. The DSHS rule number and title is:

**NEW WAC 388-116-3080 Exception to a provider-related rule.****NEW WAC 388-116-4010 Payment for approved services.****NEW WAC 388-116-4020 Maximum rates.****NEW WAC 388-116-4030 Eligible beneficiary reimbursement.**

3. The projected effective date of this rule is 11/01/2025.

4. The reason for the rule and a summary of its impact are:

5. This rule is: ☐ Not a significant rule, as defined in RCW 34.05.328(5)(c)(iii).  
☒ A significant rule and a draft Cost-Benefit Analysis (CBA) is attached.  
☐ A significant rule and no CBA is attached because (state reason and statutory authority):

6. This rule: ☒ Does not impact small businesses or small nonprofits.  
☐ Impacts small businesses and/or small nonprofits and a draft Small Businesses Economic Impact Statement (SBEIS) is attached.  
☐ Impacts small businesses and/or small nonprofits and no SBEIS is attached because (state reason and statutory authority):

7. The fiscal impact and/or caseload impact on DSHS, if any (other than printing or distribution costs), is:

**None**

REVIEW/COMMENT INFORMATION					
ORIGINATOR COMPLETES 8		REVIEWER COMPLETES 9 AND 10		ORIGINATOR COMPLETES 11	
8. REVIEWER'S NAME AND/OR ORGANIZATION	9. REVIEWER'S COMMENTS		10. DATE RETURNED (MM/DD/YYYY)	11. ORIGINATOR'S RESPONSE TO REVIEWER COMMENTS	
	REVIEWED NO COMMENTS	COMMENTS ATTACHED		INCORPORATED COMMENTS	DID NOT INCORPORATE COMMENTS (REASONS BELOW)
A. RPAU		Yes	07/15/2025		
B. Internal Audit	No comments received				
C. Board of Appeals		Yes	07/10/2025	Yes	
D. Office of Fraud and Accountability	No comments received				

E.						
APPROVAL/SIGNATURES						
12. DIVISION DIRECTOR'S APPROVAL SIGNATURE					DATE	
<i>Benjamin W. Vetter</i>					7/25/2025	
13. RULES AND POLICIES ADMINISTRATOR'S APPROVAL SIGNATURE					DATE	
<i>Katherine J. Vasquez</i>					August 1, 2025	
14. ASSISTANT SECRETARY'S APPROVAL SIGNATURE					DATE	
<i>Kathy Morgan</i>					August 5, 2025	

**Review and Approval for Proposed DSHS Rules**Date Sent: 07/09/2025

Dear Reviewer:

You are considered an interested party and have been selected to review and comment on the attached Department of Social and Health Services (DSHS) proposed rule (WAC). Please review and make any comments on the rule. Complete Sections 9 and 10 below and return everything by 07/16/2025 to:

Originator: Arielle Finney Division: WA CaresMail Stop: 45600 Telephone Number: 360-764-0384 FAX Number: \_\_\_\_\_**ORIGINATOR: YOU MUST COMPLETE THIS SECTION. IN THE FOLLOWING SECTIONS, YOU MAY NEED TO USE YOUR MOUSE TO MOVE FROM ONE AREA TO THE NEXT.**

1. The attached text is a DSHS rule (WAC) being proposed as: ☒ Regular adoption (CR-102 notice)  
☐ Expedited adoption (CR-105 notice)
2. The DSHS rule number and title is:

**NEW WAC 388-116-5000 Notice of department actions.****NEW WAC 388-116-5010 Eligible beneficiary administrative hearing rights.****NEW WAC 388-116-5020 Provider administrative hearing rights.****NEW WAC 388-116-5030 Administrative hearing requests.**

3. The projected effective date of this rule is 11/01/2025.
4. The reason for the rule and a summary of its impact are:

5. This rule is: ☐ Not a significant rule, as defined in RCW 34.05.328(5)(c)(iii).  
☒ A significant rule and a draft Cost-Benefit Analysis (CBA) is attached.  
☐ A significant rule and no CBA is attached because (state reason and statutory authority):

6. This rule: ☒ Does not impact small businesses or small nonprofits.  
☐ Impacts small businesses and/or small nonprofits and a draft Small Businesses Economic Impact Statement (SBEIS) is attached.  
☐ Impacts small businesses and/or small nonprofits and no SBEIS is attached because (state reason and statutory authority):

7. The fiscal impact and/or caseload impact on DSHS, if any (other than printing or distribution costs), is:

**None**

REVIEW/COMMENT INFORMATION					
ORIGINATOR COMPLETES 8		REVIEWER COMPLETES 9 AND 10		ORIGINATOR COMPLETES 11	
8. REVIEWER'S NAME AND/OR ORGANIZATION	9. REVIEWER'S COMMENTS		10. DATE RETURNED (MM/DD/YYYY)	11. ORIGINATOR'S RESPONSE TO REVIEWER COMMENTS	
	REVIEWED NO COMMENTS	COMMENTS ATTACHED		INCORPORATED COMMENTS	DID NOT INCORPORATE COMMENTS (REASONS BELOW)
A. RPAU	Yes		06/16/2025		
B. Internal Audit	No comments received				
C. Board of Appeals		Yes	07/10/2025	Yes	
D. Office of Fraud and Accountability	No comments received				

E.	
APPROVAL/SIGNATURES	
12. DIVISION DIRECTOR'S APPROVAL SIGNATURE <i>Benjamin W. Vagstad</i>	DATE 7/25/2025
13. RULES AND POLICIES ADMINISTRATOR'S APPROVAL SIGNATURE <i>Katherine J. Vasquez</i>	DATE August 1, 2025
14. ASSISTANT SECRETARY'S APPROVAL SIGNATURE	DATE



# Rule Implementation Plan

WAC Chapter or Sections: Chapter 388-116 WAC – WAC 388-116-3080, 388-116-4010, 388-116-4020, 388-116-4030, 388-116-5000, 388-116-5010, 388-116-5020 & 388-116-5030.

Title or Subject: WA Cares Fund Program

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**Note:** Complete this form only if you have prepared a *Cost-Benefit Analysis* (CBA) for your proposed rules. You also must complete a *Significant Rule Analysis* form. Submit the *CBA*, *Significant Rule Analysis* and *Rule Implementation Plan* to RPAU with your CR-102 proposed rule-making packet. See the [instructions](#) for completing this form, or visit the RPAU online Rules Manual at: [https://rpau.dshs.wa.lcl/RPAU-Manual/RPAU\\_Manual-FORMS\\_SigRulAnalysisIntro.htm](https://rpau.dshs.wa.lcl/RPAU-Manual/RPAU_Manual-FORMS_SigRulAnalysisIntro.htm).

## 1. Describe how the department will:

### a. Implement and enforce the rule (describe any resources you intend to use):

For beneficiaries: Reimbursements to beneficiaries will be implemented and enforced through a financial management services vendor who will oversee reimbursements to beneficiaries with oversight by the department. Notices of department determinations and administrative hearings will be implemented and enforced by the department with collaboration from the Office of Administrative Hearings and Board of Appeals.

For providers: Payment to providers will be implemented and enforced by the department and Area Agencies on Aging with collaboration from the Health Care Authority (through audits). The department and Area Agencies on Aging will monitor provider contracts to ensure compliance with these requirements. For notices of department determinations and administrative hearings, these will be implemented and enforced by the department with collaboration from the Office of Administrative Hearings and Board of Appeals.

### b. Inform and educate affected people.

WA Cares will create information for beneficiaries and providers on requirements within the rule. This will be shared through Area Agencies on Aging who network with local communities and through other WA Cares marketing information, such as webinars and newsletters.

### c. Offer technical assistance or other resources to help people comply with the rule.

WA Cares has a Benefits and Customer Care unit that provides customer service to beneficiaries and providers. The call center will handle inquiries and escalate any questions as needed to policy subject matter experts. In addition, WA Cares has a Provider Network Navigator team who will support providers applying to provide approved services.

## 2. How will the department evaluate the rule to determine whether it achieves its purpose?

WA Cares will be closely monitoring data related to eligibility outcomes and provider applications. This will inform rulemaking to determine if any rule is not aligning with the intended purpose. In addition, WA Cares works closely with Area Agencies on Aging and other interested parties who will report any concerns to WA Cares on the rules.



# Significant Rule Analysis

WAC Chapter or Sections: Chapter 388-116 Title or Subject: Payment and reimbursement for approved services, notices of department determinations, and administrative hearings.

WAC 388-116-3080, 388-116-4010, 388-116-4020, 388-116-4030, 388-116-5000, 388-116-5010, 388-116-5020 & 388-116-5030

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**Note:** Complete this form only if you have prepared a *Cost-Benefit Analysis* (CBA) for your proposed rules. You also must complete a *Rule Implementation Plan* form. Submit the *CBA*, *Significant Rule Analysis* and *Rule Implementation Plan* to RPAU with your CR-102 proposed rule-making packet. See the [instructions](https://rpau.dshs.wa.lcl/RPAU-Manual/RPAU_Manual-FORMS_SigRulAnalysisIntro.htm) for completing this form, or visit the RPAU online Rules Manual at: [https://rpau.dshs.wa.lcl/RPAU-Manual/RPAU\\_Manual-FORMS\\_SigRulAnalysisIntro.htm](https://rpau.dshs.wa.lcl/RPAU-Manual/RPAU_Manual-FORMS_SigRulAnalysisIntro.htm).

**1. What statute's goals and objectives are you implementing with your proposed rule? List the statute(s) and goals.**

WA Cares is implementing requirements from RCW 50B.04.020(3) including making determinations regarding an individual's status as an eligible beneficiary, approving long-term services and supports eligible for payment as approved services, registering long-term services and supports providers that meet minimum qualifications, discontinuing the registration for long-term services and supports providers, and disbursing payments of benefits to registered long-term services and supports providers.

**2. Why is the rule needed to achieve the statute's goals?**

WA Cares needs to provide further instruction and requirements for payments and reimbursements for approved services, notices of department determinations related to eligibility and registration, and administrative hearing rights. This will allow WA Cares to go-live in 2026 with direction for beneficiaries and long-term services and supports providers.

**3. Are there any alternatives other than adopting a rule?**

☒ No ☐ Yes.

**Explain:**

These rules are necessary to meet the duties of the department within RCW 50B.04.020(3). Beneficiary eligibility and provider registration are both appealable determinations by the department. Therefore, administrative rules are required to set requirements.

**4. What are the consequences of not adopting the rule?**

There will not be sufficient rules to provide direction to participants of the program.

**5. Is adopting the rule the least burdensome alternative to meet the statute's objectives?**

☐ No ☒ Yes

**If no, explain:**

**6. Does the rule require a person to take an action that violates state or federal law?**

☒ No ☐ Yes

**If yes, explain:**

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**7. Does the rule impose more stringent performance requirements on private entities than on public entities?**

☒ No            ☐ Yes

**7a. If yes, are the more stringent requirements justified by state or federal law:**

☐ No            ☐ Yes

**Explain:**

**8. Does the rule differ from the objectives of federal rules or statute relating to the same subject matter?**

☒ No            ☐ Yes            ☐ Not applicable

**8a. If yes, explain how the differences are justified by a state law or by the specific objectives of the law that your rule implements?**

**9. Do other federal, state or local agencies regulate the same subject matter as your proposed rules?**

☐ No            ☒ Yes

**9a. If yes, explain how you coordinated your rule adoption with the federal/state/local regulatory agencies?**

No other agency directly regulates the same content; however, Health Care Authority and Employment Security Department have duties related to WA Cares Program. The rules were reviewed by both agencies and all agencies agree on the scope and need of the rules submitted by DSHS.



## MEMORANDUM

**DATE:** 7/28/2025

**TO:** Interested parties  
Katherine Vasquez, DSHS Rules Coordinator  
DSHS Rules and Policies Assistance Unit

**FROM:** Ben Veghte, WA Cares Director  
Home and Community Living Administration

**SUBJECT:** Cost-Benefit Analysis and Small Business Economic Impact Statement for Proposed Language to New Chapter 388-116 WAC  
WACs 388-116-3080, 388-116-4010, 388-116-4020, 388-116-4030, 388-116-5000, 388-116-5010, 388-116-5020 & 388-116-5030

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### SUMMARY OF PROPOSED RULES

The Department of Social and Health Services (DSHS), Home and Community Living Administration (HCLA) is proposing adoption of a new chapter of Washington Administrative Code (WAC) for the Washington Cares Fund (WCF) program.

The proposed rules implement the general goals and specific objectives of the statute being implemented and are guided by the findings under RCW 50B.04.900 as summarized here:

- Expand the availability of long-term care insurance in Washington state to close the gap in coverage for the 90% of seniors who are uninsured;
- Reduce the economic burden on family caregivers as the senior population needing long-term care is projected to grow to more than two million people by 2040;
- Reduce or eliminate how much individuals must pay out-of-pocket for needed long-term care;
- Increase access to long-term care insurance and paid caregiving because demographic shifts over time are limiting the number of relatives who can provide care to the growing population of seniors;
- Support positive economic growth to Washington state through increased competition and fewer people leaving the workforce to provide unpaid care;
- Continue the state's commitment of promoting choice in approved services and long-term care settings;
- Reduce anticipated costs of future growth to state and Medicaid-funded long-term services and supports programs; and

- Create a long-term care insurance benefit for Washington state.

The proposed rules implement the specific objectives of the statute under RCW 50B.04.020(3)(k) where DSHS is directed to “adopt rules and procedures necessary to implement and administer the activities specified in RCW 50B.04.020(3) related to the program.” These proposed rules help operationalize the DSHS duty to:

- Disburse payments of benefits to registered long-term services and supports providers, utilizing, and leveraging existing payment systems for the provision of approved services to eligible beneficiaries under RCW 50B.04.070.” RCW 50B.04.020(3)(e);
- Make determinations regarding an individual status as an eligible beneficiary;
- Register long-term services and supports providers that meet minimum qualifications; and
- Discontinue the registration of long-term services and supports providers that fail to meet the minimum qualifications or violate the operational standards of the program.

The purpose of the proposed rulemaking is to set requirements for:

- Receipt of payment for long-term services and supports providers and maximum rates for approved services;
- Eligible beneficiaries to receive reimbursement for items purchased privately that are eligible for reimbursement through WA Cares; and
- Notices of department determinations and administrative hearing rights, including notice standards, notice timeframes, and timing and methods for hearing requests.

After considering alternatives to the proposed rules, the department has determined the rules are needed to address the general goals and specific objectives of the statute being implemented. Without adoption of the proposed rules, the benefits articulated above for beneficiaries and their families, as well as the broader benefit to all Washingtonians of expanding the long-term services and supports infrastructure would not be realized.

## **SMALL BUSINESS ECONOMIC IMPACT STATEMENT**

Chapter 19.85 RCW, The Regulatory Fairness Act, requires that the economic impact of proposed regulations be analyzed in relation to small businesses. This statute outlines information that must be included in a Small Business Economic Impact Statement (SBEIS). Preparation of a SBEIS is required when a proposed rule has the potential of placing more than a minor impact on a business.

RCW 19.85.020 defines a "small business" as “any business entity, including a sole proprietorship, corporation, partnership, or other legal entity, that is owned and operated independently from all other businesses, and that has fifty or fewer employees.”

These proposed rules impact long-term care services and supports providers which ranges from health care to social assistance under title 62 of the North American Industry Classification System (NAICS) codes. These businesses fall under the following codes:

- 624120: Adult day services
- 623990: Adult family home
- 623312: Assisted living facility
- 623110: Nursing home
- 621340: Occupational therapist
- 621340: Physical therapy
- 621330: Behavioral health agency
- 621330: Agency affiliated counselor
- 621330: Certified advisor
- 621330: Certified counselor
- 621399: Hypnotherapist
- 621330: Behavior analyst
- 621330: Assistant behavior analyst
- 621330: Behavior technician
- 621330: Marriage and family therapist
- 621330: Marriage and family therapist associate
- 621330: Mental health counselor
- 621330: Mental health counselor associate
- 621330: Social worker
- 621330: Social worker associate
- 621330: Psychologist
- 624120: Health home care coordination organization
- 624120: Home health agency
- 621399: Licensed practical nurse
- 621399: Registered nurse
- 621399: Dietician
- 621399: Nutritionist
- 621610: Home health agency
- 624120: Home care agency
- 611210: Community colleges
- 813920: Pharmacist
- 624120: Centers for independent living
- 621340: Music therapist
- 621340: Recreational therapist
- 236118: Contractor
- 492210: Food establishment
- 624120: Consumer directed employer
- 622110: Critical access hospital

- 485113, 485210, 485991, 485999: Transportation company

HCLA has analyzed the economic impact of the rules for businesses and concluded that the requirements within the new chapter of rule do not impose or create more than minor costs to businesses who wish to participate in the WA Cares program.

The WA Cares program launches in July 2026. At the time of this filing, no long-term services and supports providers are registered for the WA Cares program and therefore would not incur cost associated with the material of the proposed rules.

### **EVALUATION OF PROBABLE COSTS AND PROBABLE BENEFITS**

Since the proposed rules “adopts a new, or make significant amendments to, a policy or regulatory program” under RCW 34.05.328(5)(c)(iii), HCLA has determined the proposed rules to be “significant” as defined by the legislature.

As required by RCW 34.05.328(1)(d), HCLA has analyzed the probable costs and probable benefits of the proposed amendments, considering both the qualitative and quantitative benefits and costs. HCLA analyzed each section of the rule to determine if the rule asks a regulated entity to obtain anything in order to comply with the rule that would result in costs and determined the answer is “no”. The proposed rules set requirements for receipt of payment, maximum rates, and exception to rules for long-term services and supports providers for approved services.

The rules are the least burdensome to achieve the goals and objectives of the program. The rules do not require an action that violates federal or state law. The rules do not impose more stringent requirements on private entities than on public entities. There are no applicable federal regulations related to the subject of these rules.

### **INVOLVEMENT OF SMALL BUSINESSES AND INTERESTED PARTIES**

To inform the proposed rules and this analysis, HCLA worked with the Long-Term Services and Supports Trust Commission (the commission), who is responsible for proposing recommendations on the establishment of payment maximums for approved services as specified under RCW 50B.04.030(4)(c). Through the Provider Payment Maximum Workgroup, the department supported the development of provider maximum payments and beneficiary reimbursements for approved services. The department is proposing to adopt the commission’s recommendations.

An interested parties meeting was held on July 16, 2025, with representatives from local Area Agencies on Aging and SEIU775 who work directly with small businesses and interested parties. The interested parties did not identify more than minor costs for the proposed rules.

### **Costs**

Compliance with these proposed rules should not impose more than minor costs.

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**Benefits**

Adopting these proposed rules should result in the following benefits:

- Providers and beneficiaries and their families having access to the maximum rates established for WA Cares;
- Potential for exceptions when necessary to meet a long-term care need of an eligible beneficiary;
- Process for beneficiaries to seek reimbursement via their fund after privately paying for approved services;
- Clear notice requirements; and
- Transparent hearing processes for beneficiaries and providers, including references to applicable statutes.

**CONCLUSION**

HCLA concludes that the benefits of these regulations exceed any possible cost. HCLA has complied with the appropriate sections of the Administrative Procedure Act and is prepared to proceed with the rule filing.

Please contact me by email at [Arielle.Finney2@dshs.wa.gov](mailto:Arielle.Finney2@dshs.wa.gov) or by telephone at 360-764-0384 if you have questions.



## **RCW 50B.04.020**

### **Duties—Health care authority, department of social and health services, office of the state actuary, employment security department. *(Effective until July 1, 2025.)***

(1) The health care authority, the department of social and health services, the office of the state actuary, and the employment security department each have distinct responsibilities in the implementation and administration of the program. In the performance of their activities, they shall actively collaborate to realize program efficiencies and provide persons served by the program with a well-coordinated experience.

(2) The health care authority shall:

(a) Track the use of lifetime benefit units to verify the individual's status as an eligible beneficiary as determined by the department of social and health services;

(b) Ensure approved services are provided through audits or service verification processes within the service provider payment system for registered long-term services and supports providers and recoup any inappropriate payments;

(c) Establish criteria for the payment of benefits to registered long-term services and supports providers under RCW **50B.04.070**;

(d) Establish rules and procedures for benefit coordination when the eligible beneficiary is also funded for medicaid and other long-term services and supports, including medicare, coverage through the department of labor and industries, and private long-term care coverage; and

(e) Adopt rules and procedures necessary to implement and administer the activities specified in this section related to the program.

(3) The department of social and health services shall:

(a) Make determinations regarding an individual's status as an eligible beneficiary under RCW **50B.04.060**;

(b) Approve long-term services and supports eligible for payment as approved services under the program, as informed by the commission;

(c) Register long-term services and supports providers that meet minimum qualifications;

(d) Discontinue the registration of long-term services and supports providers that: (i) Fail to meet the minimum qualifications applicable in law to the approved service that they provide; or (ii) violate the operational standards of the program;

(e) Disburse payments of benefits to registered long-term services and supports providers, utilizing and leveraging existing payment systems for the provision of approved services to eligible beneficiaries under RCW **50B.04.070**;

(f) Prepare and distribute written or electronic materials to qualified individuals, eligible beneficiaries, and the public as deemed necessary by the commission to inform them of program design and updates;

(g) Provide customer service and address questions and complaints, including referring individuals to other appropriate agencies;

(h) Provide administrative and operational support to the commission;

(i) Track data useful in monitoring and informing the program, as identified by the commission; and

(j) Adopt rules and procedures necessary to implement and administer the activities specified in this section related to the program.

(4) The employment security department shall:

(a) Collect and assess employee premiums as provided in RCW **50B.04.080**;

(b) Assist the commission, council, and state actuary in monitoring the solvency and financial status of the program;

(c) Perform investigations to determine the compliance of premium payments in RCW **50B.04.080** and **50B.04.090** in coordination with the same activities conducted under the family and medical leave act, Title **50A** RCW, to the extent possible;

(d) Make determinations regarding an individual's status as a qualified individual under RCW **50B.04.050**, including criteria to determine the status of persons receiving partial benefit units under RCW **50B.04.050(2)**; and

(e) Adopt rules and procedures necessary to implement and administer the activities specified in this section related to the program.

(5) The office of the state actuary shall:

(a) Beginning July 1, 2025, and biennially thereafter, perform an actuarial audit and valuation of the long-term services and supports trust fund. Additional or more frequent actuarial audits and valuations may be performed at the request of the council;

(b) Make recommendations to the council and the legislature on actions necessary to maintain trust solvency. The recommendations must include options to redesign or reduce benefit units, approved services, or both, to prevent or eliminate any unfunded actuarially accrued liability in the trust or to maintain solvency; and

(c) Select and contract for such actuarial, research, technical, and other consultants as the actuary deems necessary to perform its duties under chapter 363, Laws of 2019.

(6) By October 1, 2021, the employment security department and the department of social and health services shall jointly conduct outreach to provide employers with educational materials to ensure employees are aware of the program and that the premium assessments will begin on July 1, 2023. In conducting the outreach, the employment security department and the department of social and health services shall provide on a public website information that explains the program and premium assessment in an easy to understand format. Outreach information must be available in English and other primary languages as defined in RCW **74.04.025**.

[ **2022 c 1 s 1**; **2021 c 113 s 2**; **2020 c 98 s 2**; **2019 c 363 s 3**.]

## **NOTES:**

**Effective date—2022 c 1:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [January 27, 2022]." [ **2022 c 1 s 9**.]

## **RCW 50B.04.020**

**Duties—Health care authority, department of social and health services, office of the state actuary, employment security department. (*Effective July 1, 2025.*)**

(1) The health care authority, the department of social and health services, the office of the state actuary, and the employment security department each have distinct responsibilities in the implementation and administration of the program. In the performance of their activities, they shall actively collaborate to realize program efficiencies and provide persons served by the program with a well-coordinated experience.

(2) The health care authority shall:

(a) Track the use of lifetime benefit units to verify the individual's status as an eligible beneficiary as determined by the department of social and health services;

(b) Ensure approved services are provided through audits or service verification processes within the service provider payment system for registered long-term services and supports providers and recoup any inappropriate payments;

(c) Establish criteria for the payment of benefits to registered long-term services and supports providers under RCW **50B.04.070**;

(d) Establish rules and procedures for benefit coordination when the eligible beneficiary is also funded for medicaid and other long-term services and supports, including medicare, coverage through the department of labor and industries, and private long-term care coverage; and

(e) Adopt rules and procedures necessary to implement and administer the activities specified in this section related to the program.

(3) The department of social and health services shall:

(a) Make determinations regarding an individual's status as an eligible beneficiary under RCW

**50B.04.060;**

(b) Approve long-term services and supports eligible for payment as approved services under the program, as informed by the commission;

(c) Register long-term services and supports providers that meet minimum qualifications;

(d) Discontinue the registration of long-term services and supports providers that: (i) Fail to meet the minimum qualifications applicable in law to the approved service that they provide; or (ii) violate the operational standards of the program;

(e) Disburse payments of benefits to registered long-term services and supports providers, utilizing and leveraging existing payment systems for the provision of approved services to eligible beneficiaries under RCW **50B.04.070;**

(f) Prepare and distribute written or electronic materials to qualified individuals, eligible beneficiaries, and the public as deemed necessary by the commission to inform them of program design and updates;

(g) Provide customer service and address questions and complaints, including referring individuals to other appropriate agencies;

(h) Provide administrative and operational support to the commission;

(i) Track data useful in monitoring and informing the program, as identified by the commission;

(j) Develop criteria to deem a family member as qualified when providing approved services outside of Washington; and

(k) Adopt rules and procedures necessary to implement and administer the activities specified in this section related to the program.

(4) The employment security department shall:

(a) Collect and assess employee premiums as provided in RCW **50B.04.080**, **50B.04.090**, and **50B.04.180;**

(b) Assist the commission, council, and state actuary in monitoring the solvency and financial status of the program;

(c) Perform investigations to determine the compliance of premium payments in RCW **50B.04.080**, **50B.04.090**, and **50B.04.180** in coordination with the same activities conducted under the family and medical leave act, Title **50A** RCW, to the extent possible;

(d) Make determinations regarding an individual's status as a qualified individual under RCW **50B.04.050**, including criteria to determine the status of persons receiving partial benefit units under RCW **50B.04.050(2)** and out-of-state participants under RCW **50B.04.180;** and

(e) Adopt rules and procedures necessary to implement and administer the activities specified in this section related to the program.

(5) The office of the state actuary shall:

(a) Beginning July 1, 2025, and biennially thereafter, perform an actuarial audit and valuation of the long-term services and supports trust fund. Additional or more frequent actuarial audits and valuations may be performed at the request of the council;

(b) Make recommendations to the council and the legislature on actions necessary to maintain trust solvency. The recommendations must include options to redesign or reduce benefit units, approved services, or both, to prevent or eliminate any unfunded actuarially accrued liability in the trust or to maintain solvency; and

(c) Select and contract for such actuarial, research, technical, and other consultants as the actuary deems necessary to perform its duties under chapter 363, Laws of 2019.

(6) By October 1, 2021, the employment security department and the department of social and health services shall jointly conduct outreach to provide employers with educational materials to ensure employees are aware of the program and that the premium assessments will begin on July 1, 2023. In conducting the outreach, the employment security department and the department of social and health services shall provide

on a public website information that explains the program and premium assessment in an easy to understand format. Outreach information must be available in English and other primary languages as defined in RCW 74.04.025.

[ 2024 c 120 s 4; 2022 c 1 s 1; 2021 c 113 s 2; 2020 c 98 s 2; 2019 c 363 s 3.]

## **NOTES:**

**Purpose—Effective date—2024 c 120:** See notes following RCW 50B.04.180.

**Effective date—2022 c 1:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [January 27, 2022]." [ 2022 c 1 s 9.]