



# RULE-MAKING ORDER PERMANENT RULE ONLY

## CR-103P (December 2017) (Implements RCW 34.05.360)

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

DATE: April 30, 2018

TIME: 1:55 PM

WSR 18-10-067

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

**Effective date of rule:**

**Permanent Rules**

- 31 days after filing.
- Other (specify) June 1, 2018 (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

**Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?**

- Yes
  - No
- If Yes, explain:

**Purpose:** The department, in coordination with the Health Care Authority, is updating and establishing rules in chapter 388-79A WAC. As part of this review, the department and agency will consider fees allowed for establishing and maintaining guardianships for individuals who must participate in the cost of their health care under chapter 182-513 WAC and chapter 182-515 WAC and will revise rules in chapter 388-79A WAC to clarify the process in place prior to the adoption of the permanent rule that will be in chapter 182-513 WAC.

**Citation of rules affected by this order:**

New: WAC 388-79A-001, WAC 388-79A-005  
 Repealed: None  
 Amended: None  
 Suspended: None

**Statutory authority for adoption:** RCW 43.20B.460, RCW 11.92.180, RCW 74.08.090

**Other authority:**

**PERMANENT RULE (Including Expedited Rule Making)**

Adopted under notice filed as WSR 17-24-129 on December 6, 2017 (date).  
 Describe any changes other than editing from proposed to adopted version: The self-referencing placeholder text intended to identify the effective date of the rule was changed from "(CR-103 effective date)" to "June 1, 2018" under WAC 388-79A-005(2).

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

- Name:
- Address:
- Phone:
- Fax:
- TTY:
- Email:
- Web site:
- Other:

**Note: If any category is left blank, it will be calculated as zero.  
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.  
A section may be counted in more than one category.**

**The number of sections adopted in order to comply with:**

Federal statute:	New	___	Amended	___	Repealed	___
Federal rules or standards:	New	___	Amended	___	Repealed	___
Recently enacted state statutes:	New	<u>2</u>	Amended	___	Repealed	___

**The number of sections adopted at the request of a nongovernmental entity:**

New	___	Amended	___	Repealed	___
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**The number of sections adopted on the agency's own initiative:**

New	___	Amended	___	Repealed	___
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**The number of sections adopted in order to clarify, streamline, or reform agency procedures:**

New	___	Amended	___	Repealed	___
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**The number of sections adopted using:**

Negotiated rule making:	New	___	Amended	___	Repealed	___
Pilot rule making:	New	___	Amended	___	Repealed	___
Other alternative rule making:	New	<u>2</u>	Amended	___	Repealed	___

**Date Adopted:** April 25, 2018

**Name:** Katherine I. Vasquez

**Title:** DSHS Rules Coordinator

**Signature:**



**Chapter 388-79A WAC  
GUARDIANSHIP FEES FOR MEDICAID CLIENTS**

NEW SECTION

**WAC 388-79A-001 Definitions.** The following definitions apply to this chapter:

(1) "Client" means a person who is eligible for and is receiving medicaid-funded long-term care.

(2) "Guardianship fees" or "fees" means necessary fees charged by a guardian for services rendered on behalf of a client.

(3) "Participate" or "participation" means the amount a client must pay each month toward the cost of long-term care services received each month. It is the amount remaining after the post-eligibility process under:

(a) WAC 182-513-1380 for a client residing in a medical institution, as defined under WAC 182-500-0050;

(b) WAC 182-515-1509 for a client receiving home and community services (HCS) waived services in an alternate living facility (ALF), as defined under WAC 182-513-1100, or in an at-home setting; or

(c) WAC 182-515-1514 for a client receiving developmental disability administration (DDA) waived services in an ALF, as defined under WAC 182-513-1100, or in an at-home setting.

(4) "Related costs" or "costs" means necessary costs paid by the guardian, including attorney fees.

NEW SECTION

**WAC 388-79A-005 Maximum amount of guardianship fees and related costs for a long-term care medicaid eligible client.** (1) As mandated by RCW 43.20B.460 and in accordance with RCW 11.92.180, the maximum amount of guardianship fees and related costs must not exceed the limits of this section when the person under guardianship is:

(a) A medicaid eligible client, residing in:

(i) A medical institution, as defined under WAC 182-500-0050;

(ii) An alternate living facility (ALF), as defined under WAC 182-513-1100; or

(iii) An at-home setting; and

(b) Required under chapter 182-513 WAC or chapter 182-515 WAC to participate towards the cost of long-term care.

(2) The maximum amount of guardianship fees and related costs must not exceed the limits of chapter 388-79A WAC when:

(a) The court order establishing guardianship was entered before June 1, 2018; and

(b) The client under guardianship was receiving medicaid-funded long-term care before June 1, 2018.

(3) For all other clients not described under subsection (2) of this section, the maximum amount of guardianship fees and related costs must not exceed the limits under WAC 182-513-1530.