



RULE-MAKING ORDER PERMANENT RULE ONLY

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

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STATE OF WASHINGTON
FILED

DATE: October 07, 2020
TIME: 3:46 PM

WSR 20-21-001

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) (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 is amending WAC 388-114-0080 to correct a typographical error in the reference to WAC 388-114-0030.

Citation of rules affected by this order:

New: None
Repealed: None
Amended: WAC 388-114-0080
Suspended: None

Statutory authority for adoption: RCW 74.08.090, RCW 74.09.520

Other authority:

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 20-08-064 on March 26, 2020 (date).
Describe any changes other than editing from proposed to adopted version: None

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Federal statute:	New	___	Amended	___	Repealed	___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	<u>1</u>	Repealed	___
Recently enacted state statutes:	New	___	Amended	___	Repealed	___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New	___	Amended	___	Repealed	___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New	___	Amended	___	Repealed	___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New	___	Amended	___	Repealed	___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	<u>1</u>	Repealed	___
Pilot rule making:	New	___	Amended	___	Repealed	___
Other alternative rule making:	New	___	Amended	<u>1</u>	Repealed	___

Date Adopted: October 7, 2020

Name: Katherine I. Vasquez

Title: DSHS Rules Coordinator

Signature:



WAC 388-114-0080 When may the department temporarily approve a client specific increase to an individual provider's work week limit?

(1) The department may temporarily increase an individual provider's work week limit if it determines the increase is necessary:

(a) Due to a lack of available providers who are able to adequately meet a client's care needs, as evaluated by the department in its consideration of:

(i) The overall availability of providers in the geographic region;

(ii) Whether the client has complex medical or behavioral needs;

(iii) Whether the client requires a provider with specific language skills; and

(iv) The client's good faith efforts and cooperation to manage his or her service hours and locate and select additional providers, examples of which may include:

(A) Making schedule adjustments within the work week limits of current providers who are providing services;

(B) Seeking a qualified family or friend to contract as an individual provider;

(C) Utilizing the home care referral registry; and

(D) Requesting a worker through a home care agency, unless doing so would cost more than paying the individual provider overtime;

(b) To protect a client's health and safety, as evaluated by the department in its consideration of:

(i) Whether the request is to approve service hours the individual provider spent caring for the client because of an emergent condition;

(ii) The nature and severity of the emergent condition; and

(iii) Whether the need could have been postponed until another provider could have arrived;

(c) To prevent an increased risk that the client will be unable to remain in a home or community based setting, except in cases where there are additional qualified providers available to select and the client has chosen not to select them; or

(d) To enable a client to assign to an individual provider the same number of hours in months with thirty days as are assigned in months with thirty-one days, provided that:

(i) The client is unable to assign the same number of the hours due to the individual provider's permanent work week limit;

(ii) There is no other qualified provider assigned that can work the hours within his or her permanent work week limit;

(iii) The increase does not result in a monthly total that exceeds the number of hours assigned to an individual provider in a thirty-one day month; and

(iv) The increase does not exceed two and one-half hours per week.

(2) When a client specific increase is no longer approved by the department, the individual provider's work week limit will revert back to the permanent work week limit described in WAC ((~~388-11-0030~~)) 388-114-0030.

(3) The department may only approve a client specific work week limit in excess of eighty service hours per week for an individual provider if the client's circumstances meet the criteria set out in

WAC 388-440-0001 (1)(a) through (e) and where the department is unaware of any reason that the individual provider will be unable to appropriately meet the needs of the client.

(4) The department will not approve additional service hours to any individual provider's permanent work week limit that would result in a monthly total that exceeds the client's monthly service hours.

(5) The individual provider is not entitled to an administrative hearing under chapter 34.05 RCW regarding the department's decision on whether to approve or continue a client specific temporary increase to the work week limit.