



RULE-MAKING ORDER PERMANENT RULE ONLY

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

CODE REVISER USE ONLY

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STATE OF WASHINGTON
FILED

DATE: September 22, 2023

TIME: 7:51 AM

WSR 23-20-013

Agency: Department of Social and Health Services, Aging and Long-Term Support 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: Legislature provided funding for wage equity for certain nursing facility providers and directed DSHS to make rule on verifying the spending and recouping unspent funds.

Citation of rules affected by this order:

New: 388-96-918
Repealed:
Amended:
Suspended:

Statutory authority for adoption: RCW 74.46.800; Biennial budget 21-23 ESSB 5693(204)(53)

Other authority:

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 22-13-097 on 7/14/2022 (date).
Describe any changes other than editing from proposed to adopted version: N/A

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

Name: Elizabeth Pashley
Address: PO Box 45600, Olympia WA 98504-5600
Phone: 360-995-2807
Fax: 1-877-905-0454
TTY: 711 Relay Service
Email: Elizabeth.Pashley@dshs.wa.gov
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Federal statute:	New	___	Amended	___	Repealed	___
Federal rules or standards:	New	___	Amended	___	Repealed	___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>1</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	Amended	___	Repealed	___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New	___	Amended	___	Repealed	___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New	___	Amended	___	Repealed	___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New	___	Amended	___	Repealed	___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>1</u>	Amended	___	Repealed	___

Date Adopted: September 21, 2023

Name: Lisa Yanagida

Title: DSHS Chief of Staff

Signature:



NEW SECTION

WAC 388-96-918 Wage equity funding. (1) The contractor must submit a report of wage equity funding costs in a standardized manner and in accordance with this chapter and chapter 74.46 RCW on the dates specified in this section.

(2) The department will review the contractor's costs of the wage equity funding in accordance with the methodology effective at the time the services were rendered as described in this chapter and session laws of Washington state 2022 c297 §204(53).

(3) No later than September 1, 2023, each contractor must submit to the department a wage equity worksheet for the period of July 1, 2022, through June 30, 2023.

(4) Wage equity worksheets for new contractors must be submitted for the period covering their date of contract through June 30, 2023.

(5) A terminating or assigning contractor must submit to the department a wage equity worksheet for the period from July 1, 2022, through the date the contract was terminated or assigned.

(6) To properly complete the wage equity worksheet, the contractor must submit the wage equity worksheet, including the completed certification page to the document electronically.

(7) If the contractor does not properly complete the wage equity worksheet or the department does not receive it by the due date established in this section, the department may recoup any wage equity funding received by the contractor.

(8) The department may impose civil fines or take adverse rate action against contractors and former contractors who do not submit properly completed wage equity worksheets by the applicable due date established in this section.

(9) The department will review the wage equity worksheet to ensure the contractor has used its wage equity funding to increase wages for low-wage workers by up to four dollars per hour.

(10) The department will recover any funding difference between each contractor's wage equity funding and the amount of wage equity funding that the provider utilizes to increase low-wage worker wages.

(11) The department will separate the settlement amount into the funds attributable to direct care employees and funds attributable to indirect care employees. The direct care portion will be divided into two. One half may be used to offset any direct care final settlement monies owed for the 2022 cost report year. One half may be used to offset any direct care preliminary settlement monies owed for the 2023 cost report year. For partial worksheets due to new contractors, or terminating or assigning contractors, the direct care portion may be offset against the applicable cost report's direct care settlement to the appropriate proportionality.

(12) The verification process must use wages paid as of December 31, 2021, as the base wage to compare contractors' wage spending in the designated job categories to the facility-specific amounts of wage equity funding provided, excluding any amounts adjusted by settlement. If a facility did not have a particular category of staff on December 31, 2021, to set a baseline wage, wages from comparable facilities may be used.

(13) The verification and recovery process in this section is a distinct and separate process from the settlement process described in RCW 74.46.022 and elsewhere described in this chapter.

(14) The provisions of 388-96-901 and 388-96-904 apply to this section.