



# EXPEDITED RULE MAKING

## CR-105 (December 2017) (Implements RCW 34.05.353)

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STATE OF WASHINGTON  
FILED

DATE: July 19, 2019

TIME: 9:22 AM

WSR 19-15-085

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

**Title of rule and other identifying information:** (describe subject) WAC 388-105-0005 "The daily medicaid payment rates for clients who have been assessed using the CARE tool and reside at an AFH or assisted living facility contracted to provide assisted living, adult residential care, or enhanced adult residential care services."

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** The department intends to repeal this rule. Providers will still be able to find out their rates from the Aging and Long-Term Support Administration's website, their residents' case managers, from their union if they have one, or by contacting the department.

**Reasons supporting proposal:** When the department first implemented this rule, rule making took less time and less information was available online. Amending the rule now takes significant time each year after the end of the legislative session, leading to the rule being incorrect and in "emergency rule" status for a good portion of the year. Additionally, all rates included in this rule are available online, easy to find, and up to date at all times. Depending on the time of the year, providers checking the rule for their rates may be getting old information unless they check into filings affecting this rule.

It is also important to consider that when this rule was created, the department's methodology for rate setting was not documented in rule or law so this form of rate publishing was necessary for providers. Adult family homes now participate in collective bargaining, meaning that providers are involved in setting their rate and aware of what the rate will be ahead of time, while the methodology for assisted living, adult residential care, and enhanced residential care is in RCW.

**Statutory authority for adoption:** RCW 74.39A.030(3)(a)

**Statute being implemented:**

**Is rule necessary because of a:**

- |                         |                              |  |
|-------------------------|------------------------------|--|
| Federal Law?            | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Federal Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| State Court Decision?   | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

If yes, CITATION:

**Name of proponent:** (person or organization) Department of Social and Health Services

- Private  
 Public  
 Governmental

**Name of agency personnel responsible for:**

	Name	Office Location	Phone
Drafting:	Elizabeth Pashley	4450 10 <sup>th</sup> Ave SE Lacey WA 98503	360-725-2447
Implementation:	Elizabeth Pashley	4450 10 <sup>th</sup> Ave SE Lacey WA 98503	360-725-2447
Enforcement:	Elizabeth Pashley	4450 10 <sup>th</sup> Ave SE Lacey WA 98503	360-725-2447

**Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:** None

**Expedited Adoption - Which of the following criteria was used by the agency to file this notice:**

- Relates only to internal governmental operations that are not subject to violation by a person;
- Adopts or incorporates by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule;
- Corrects typographical errors, make address or name changes, or clarify language of a rule without changing its effect;
- Content is explicitly and specifically dictated by statute;
- Have been the subject of negotiated rule making, pilot rule making, or some other process that involved substantial participation by interested parties before the development of the proposed rule; or
- Is being amended after a review under RCW 34.05.328.

**Expedited Repeal - Which of the following criteria was used by the agency to file notice:**

- The statute on which the rule is based has been repealed and has not been replaced by another statute providing statutory authority for the rule;
- The statute on which the rule is based has been declared unconstitutional by a court with jurisdiction, there is a final judgment, and no statute has been enacted to replace the unconstitutional statute;
- The rule is no longer necessary because of changed circumstances; or
- Other rules of the agency or of another agency govern the same activity as the rule, making the rule redundant.

**Explanation of the reason the agency believes the expedited rule-making process is appropriate pursuant to RCW 34.05.353(4):**

**NOTICE**

**THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO**

Name: DSHS Rules Coordinator

Agency: Department of Social and Health Services

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Other:

**AND RECEIVED BY** (date) September 23, 2019

**Date:** July 18, 2019

**Name:** Katherine I. Vasquez

**Title:** DSHS Rules Coordinator

**Signature:**



REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-105-0005      The daily medicaid payment rates for clients who have been assessed using the CARE tool and reside at an AFH or assisted living facility contracted to provide assisted living, adult residential care, or enhanced adult residential care services.