



**STATE OF WASHINGTON
DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

Office of the Secretary
PO Box 45850 – Olympia, WA 98504-5850

Rules and Policies Assistance Unit

July 10, 2020

TO: Office of the Code Reviser
Interested Parties
Office of Financial Management
Joint Administrative Rules Review Committee
Agency Rules Coordinators for the:
 Department of Children, Youth, and Families
 Department of Commerce
 Department of Corrections
 Employment Security Department
 Department of Enterprise Services
 Department of Labor and Industries
 Department of Health
 Health Care Authority
 Military Department
 Office of Administrative Hearings
 Office of the Superintendent of Public Instruction

FROM: Katherine Vasquez, Rules Coordinator
Department of Social and Health Services

SUBJECT: DSHS Semi-Annual Rule-Making Agenda, July 1, 2020 – December 31, 2020

Attached is the Department of Social and Health Services Semi-annual rule-making agenda for July 1, 2020 – December 31, 2020. This agenda will be published in the Washington State Register as required in RCW 34.05.314 and distributed to interested parties. It is also available online at <https://www.dshs.wa.gov/office-of-the-secretary/dshs-semi-annual-rule-making-agenda>.

This report represents DSHS rules under development at this time. There may be additional rule-making activity as DSHS responds to legislative actions, to comply with federal mandates, or to meet unforeseen circumstances.

Attachment

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: July 10, 2020

TIME: 12:32 PM

WSR 20-15-060

DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Semi-Annual Rule-Making Agenda

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Administration / Division	WAC Sections	Purpose for Rule Making	CR-101 Filings	CR-102 and CR 105 Filings	CR-103E Filings
Aging and Long-Term Support Administration					
Home and Community Services Division					
	WAC 388-114-0080	The department is proposing to amend WAC 388-114-0080 to correct a typographical error in the reference to WAC 388-114-0030.		WSR: 20-08-064 Filed: 03/26/2020	
	Title 388 WAC	The department is planning to create a new chapter in Title 388 WAC and amend sections in chapters 388-71, 388-106, 388-113, and 388-114 WAC, and other related rules as may be required.	WSR: 20-08-093 Filed: 03/30/2020		
Management Services Division					
	WAC 388-96-107	Amend existing rules affecting specific programs as a result of the health crisis created by the corona virus.			WSR: 20-08-019 Filed: 03/20/2020
Residential Care Services Division					
	Chapter 388-78A WAC	The department is considering adding new sections and repealing and amending existing sections in “Assisted Living Facility Licensing Rules” to consolidate the rules related to background checks, negative actions, and Character, Competence, and Suitability (CC&S) determinations between Home and Community Services (HCS), Residential Services (RCS), and Developmental Disabilities Administration (DDA).	WSR: 18-17-159 Filed: 08/21/2018		
	Chapter 388-97 WAC	The department is considering adding new sections and repealing and amending existing sections in “Nursing Homes” including WAC 388-97-1790, WAC 388-97-1800, WAC 388-97-1820, and other related rules as maybe required.	WSR: 18-17-175 Filed: 08/22/2018		
	Chapter 388-76 WAC	The department is considering adding new sections and repealing and amending existing sections in “Adult family home minimum licensing requirements”.	WSR: 18-17-177 Filed: 08/22/2018		
	Chapter 388-107 WAC	The department is considering adding new sections and repealing and amending existing sections in “Licensing requirements for enhanced services facilities”.	WSR: 18-17-178		

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			Filed: 08/22/2018		
	Chapter 388-76 WAC	The department is considering amending “Adult Family Home Minimum Licensing Requirements”.	WSR: 19-03-148 Filed: 01/22/2019	WSR: 20-11-055 Filed: 05/19/2020 WSR: 20-02-013 Filed: 12/19/2019	
	Chapter 388-97 WAC WAC 388-97-1090	The department is planning to add new sections and amend existing sections in “Nursing Homes”, including “Direct care hours” and other related rules as may be required.	WSR: 19-12-109 Filed: 06/05/2019		
	Chapter 388-97 WAC	The department is proposing to add new sections, repeal existing sections, and amend sections in “Nursing Homes” related to tuberculosis screening.	WSR: 19-18-051 Filed: 08/30/2019		
	Chapter 388-107 WAC	The department is planning to add new sections, repeal existing sections, and amend sections in “Licensing Requirements for Enhanced Services Facilities” related to tuberculosis screening.	WSR: 19-18-059 Filed: 09/03/2019		
	Chapter 388-76 WAC	The department is planning to add new sections, repeal existing sections, and amend sections in “Adult Family Home Minimum Licensing Requirements” related to tuberculosis screening.	WSR: 19-18-061 Filed: 09/03/2019		
	Chapter 388-78A WAC	The department is planning to add new sections, repeal existing sections, and amend sections in “Assisted Living Facility Licensing Rules” related to tuberculosis screening.	WSR: 19-18-062 Filed: 09/03/2019		
	WAC 388-78A-2371	The department is planning to amend “Investigations”.	WSR: 20-03-179 Filed: 01/22/2020		
	WAC 388-97-0001 WAC 388-97-1090	The department is considering amending Definitions; Direct Care Hours; and other related rules as may be required to implement EHB 1564 (Chapter 301, Laws of 2019).	WSR: 20-08-101 Filed: 03/30/2020		

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	388-107-0460, 388-107-0490, 388-76-10265, 388-76-10285, 388-76-10290, 388-78A-2480, 388-78A-2484, 388-78A-2485	The department is temporarily repealing or amending WAC 388-76-10265, 388-76-10285, 388-76-10290(1), 388-78A-2480(1), 388-78A-2484, 388-78A-2485(1), 388-101D-0650(1), 388-101D-0660(3), 388-107-0460(1), AND 388-107-0490 to assure long-term care programs are not significantly impeded during the hiring process due to inability to access the tuberculosis (TB) testing required as a part of the hiring process.			WSR: 20-09-009 Filed: 04/02/2020
	Chapter 388-97 WAC	The department is amending WAC 388-97-0120, 388-97-1000, 388-97-1020, 388-97-1915, and 388-97-1975 and repealing WAC 388-97-0920 to assure nursing homes are not significantly impeded from admitting and caring for residents during the COVID-19 outbreak.			WSR: 20-09-074 Filed: 04/13/2020
	WAC 388-78A-2524, WAC 388-78A-2525, 388-78A-2526	The department is temporarily amending WAC 388-78A -2524, -2525, and -252 to assure Assisted Living Facilities are not significantly impeded during the hiring process due to an administrator's inability to obtain a certificate of completion of a recognized administrator training as referenced in WAC 388-78A-2521.			WSR: 20-10-005 Filed: 04/23/2020
	388-97-1260	The department is amending WAC 388-97-1260 to assure nursing homes are not significantly impeded from admitting and caring for residents during the COVID-19 outbreak. These amendments will align state nursing home rules with federal rules that were suspended or amended to help facilitate care during the COVID-19 pandemic.			WSR: 20-10-034 Filed: 04/28/2020
	Chapter 388-107 WAC	The department is considering amending these and other related rules as may be required to implement substitute house bill 2448 (Chapter 278, Laws of 2020).	WSR: 20-10-091 Filed: 05/05/2020		
	388-97-0300	The department is amending WAC 388-97-0300 to assure nursing homes are not significantly impeded from			WSR: 20-11-043 Filed: 05/15/2020
	WAC 388-97-1740, WAC 388-97-1760, WAC 388-97-2400	The department is amending rules in chapter 388-97 WAC to assure nursing homes are not significantly impeded from admitting and caring for residents during the COVID-19 outbreak.			WSR: 20-14-026 Filed: 06/23/2020
	Chapter 388-76 WAC 388-76-10695 WAC 388-76-10730	The department is considering amending sections in Adult Family Home Minimum Licensing Requirements, including Building codes – Structural requirements, Grab bars and handrails, and other related rules as may be required.	WSR: 20-14-117 Filed: 07/01/2020		
Behavioral Health Administration					

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	WAC 388-855-0045	The department is planning to amend “Exempt income” and other related rules as may be required.	WSR: 19-15-073 Filed: 07/17/2019		
	WAC 388-875-0200, WAC 388-875-0210, WAC 388-875-0230	The department is considering adding a new section to chapter 388-875 WAC to establish requirements for the Forensic Navigator Program.	WSR: 20-03-155 Filed: 01/21/2020	WSR: 20-14-118 Filed: 07/01/2020	
	Chapter 388-878 WAC	The department is planning to amend to develop rules for the conditions of participation in the outpatient competency restoration program, within the framework of the forensic mental health care system.	WSR: 20-08-116 Filed: 03/31/2020		
Developmental Disabilities Administration					
	WAC 388-101D-0355, WAC 388-101D-0405, WAC 388-101D-0410	The department is considering amending these and other related rules as may be required to add instances when a service provider must develop and implement a functional assessment or positive behavior support plan.	WSR: 19-14-059 Filed: 06/21/2019		
	Chapter 388-829A WAC	The department is planning to amend "Alternative Living" and other related rules as may be required.	WSR: 19-19-040 Filed: 09/12/2019		
	WAC 388-845-2019	The department is enacting WAC 388-845-2019 on an emergency basis to make temporary modifications to DDA’s home and community based services waivers in order to control the spread of the COVID-19 virus and to meet immediate health and safety needs.			WSR: 20-14-101 Filed: 06/30/2020 WSR: 20-08-056 Filed: 03/25/2020
	Chapter 388-828 WAC	The department is planning to amend this chapter and other related rules as may be required to implement the consumer-directed employment program and align with changes being made to modernize the comprehensive assessment reporting evaluation (CARE) system.	WSR: 20-08-058 Filed: 03/25/2020		
	Chapter 388-826 WAC	The Developmental Disabilities Administration (DDA) is planning to amend “voluntary placement services” to align with recent amendments to chapter 74.13 RCW regarding “out-of-home services”.	WSR: 20-09-150 Filed: 04/22/2020		

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	WACs 388-101D-0125, 388-101D-0130, 388-101D-0695, 388-823-1095, 388-829A-130, 388-829C-100	The department is planning to amend these and other related rules as may be required.	WSR: 20-12-096 Filed: 06/02/2020		
	WAC 388-101D-0065, chapter 388-825 WAC, WAC 388-845-2205, WAC 388-845-1615	The department is planning to amend these and other related rules as may be required.	WSR: 20-14-029 Filed: 06/23/2020		
	WAC 388-829R-170, 3WAC 88-829R-230, WAC 388-829-0005, WAC 388-829-0045	The department is planning to amend these and other related rules as may be required.	WSR: 20-14-099 Filed: 06/30/2020		
Economic Services Administration					
Community Services Division					
	WAC 388-412-0040	The department is planning to amend “Can I get my benefits replaced?” and other related rules as may be required to describe the department’s adoption of federal optional regulations requiring the withholding of replacement Electronic Benefit Transfer cards when a recipient requests an excessive number of replacement cards..	WSR: 18-06-103 Filed: 03/07/2018		
	WAC 388-444-0010	The department plans to amend “Who is exempt from work registration while receiving basic food?” and other related rules as may be required.	WSR: 19-22-060 Filed: 11/05/2019		
	388-493-0010	The department plans to amend WAC 388-493-0010 “Working family support” and other related rules as may be required.	WSR: 19-22-070 Filed: 11/05/2019	WSR: 20-09-095 Filed: 04/15/2020 WSR: 20-08-102 Filed: 03/30/2020	
	388-280-0010, 388-280-0020, 388-280-0030, 388-280-0040,	The department is planning to amend chapter 388-280 WAC and other related rules as may be required.	WSR: 20-05-060	WSR: 20-12-040	

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	388-280-0050, 388-280-0060		Filed: 02/14/2020	Filed: 05/27/2020	
	WAC 388-310-0350	The department is amending WorkFirst – Other exemptions from mandatory participation to temporarily exempt Temporary Assistance for Needy Families (TANF) recipients from mandatory WorkFirst participation as a result of the public health crisis created by the COVID-19 virus (commonly referred to as the “Coronavirus”).	WSR: 20-14-104 Filed: 06/30/2020		WSR: 20-07-079 Filed: 03/16/2020
	WAC 388-447-0005, WAC 388-447-0010, WAC 388-447-0110, WAC 388-449-0010, WAC 388-449-0015, and WAC 388-449-0150,	The department is amending “What evidence do we consider to determine incapacity?”; “What medical evidence do I need to provide?”; “When does my eligibility for referral to the housing and essential needs (HEN) program end?”; “What evidence do we consider to determine disability?”; “What medical evidence do I need to provide?”; and “When does my eligibility for aged, blind, or disabled (ABD) cash benefits end?”.	WSR: 20-14-107 Filed: 06/30/2020		WSR: 20-08-074 Filed: 03/26/2020
	WAC 388-437-0005	The department is creating WAC 388-437-0005, Changes to food assistance in response to the COVID-19 pandemic, to implement changes to food assistance benefit issuances as provided in the Families First Coronavirus Response Act (H.R. 6201) Section 2302.			WSR: 20-10-048 Filed: 04/29/2020 WSR: 20-08-107 Filed: 03/31/2020
	Chapter 388-76 WAC	The department is considering amending to incorporate ESHB 1023, 2020 Regular Session, into the rules.	WSR: 20-08-110 Filed: 03/31/2020		
	WAC 388-310-1300	The department is planning to amend community jobs, and other related rules as may be required.	WSR: 20-08-111 Filed: 03/31/2020	WSR: 20-13-009 Filed: 06/05/2020	
	WAC 388-484-0006	The department is amending WAC 388-484-0006, TANF/SFA time limit extensions, to add a Temporary Assistance for Needy Families (TANF) time limit extension hardship category related to impacts of the COVID-19 pandemic (commonly known as the “Coronavirus”).			WSR: 20-09-001 Filed: 04/01/2020
	WACs 388-436-0040, 388-436-0050, 388-436-0055	The department is amending WAC 388-436-0040 Excluded income and resources for CEAP, WAC 388-436-0050 Determining financial need and benefit amount for CEAP, and WAC 388-436-0055 What is the disaster cash assistance program (DCAP)?. These amendments are necessary to expand Consolidated Emergency Assistance and related Disaster Cash Assistance			WSR: 20-09-102 Filed: 04/16/2020

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		program during the statewide public health crisis created by the COVID-19 virus (commonly referred to as the “Coronavirus”).			
	WAC 388-444-0015 WAC 388-444-0025	The department is planning to amend How can the basic food employment and training (BF E&T) program help me find work?, What expenses will the department pay to help me participate in BF E&T?, and other related rules as may be required.	WSR: 20-09-134 Filed: 04/21/2020		
	WAC 388-400-0055, WAC 388-400-0060 WAC 388-400-0070	The department is planning to amend WAC 388-400-0055, Who is eligible for the pregnant women assistance (PWA) program?; WAC 388-400-0060, Who is eligible for aged, blind or disabled (ABD) cash assistance?; WAC 388-400-0070, Who is eligible for referral to the housing and essential needs (HEN) program?; and other related rules as may be required.	WSR: 20-09-137 Filed: 04/21/2020		WSR: 20-13-036 Filed: 06/10/2020
	WAC 388-434-0015	The department is creating WAC 388-434-0015, Extension of certification periods and waiver of eligibility reviews and mid-certification reviews during the COVID-19 pandemic.			WSR: 20-10-046 Filed: 04/29/2020
	WAC 388-466-0120	The department is adopting emergency amendments to Refugee cash assistance (RCA).	WSR: 20-14-024 Filed: 06/23/2020		WSR: 20-10-118 Filed: 05/06/2020
	WAC 388-412-0046	The department is planning to amend WAC 388-412-0046, What is the purpose of DSHS cash and food assistance benefits and how can I use my benefits? and other related rules as may be required.	WSR: 20-11-064 Filed: 05/19/2020		WSR: 20-13-037 Filed: 06/10/2020
	WAC 388-478-0010 WAC 388-418-0020, WAC 388-478-0005, WAC 388-478-0006, WAC 388-478-0010, WAC 388-478-0015, WAC 388-478-0020, WAC 388-478-0027, WAC 388-478-0033, WAC 388-478-0090	The department plans to repeal WAC 388-478-0010, Households with obligations to pay shelter costs; and amend WAC 388-478-0005, Cash assistance need and payment standards and grant maximum; WAC 388-478-0006, the clothing, personal maintenance, and necessary incidentals (CPI) payment standard for cash assistance; WAC 388-478-0015, need standards for cash assistance; WAC 388-478-0020, Payment standards for TANF, SFA, and RCA; WAC 388-478-0027, What are the payment standards for pregnant women assistance (PWA)?; WAC 388-478-0033, What are the payment standards for aged, blind, or disabled (ABD) cash assistance?; WAC 388-478-0090, What are the monthly income limits for the aged, blind, and disabled (ABD) cash assistance and housing and essential needs (HEN) referral program?; WAC 388-418-0020, How does the department determine the date a change affects my cash and basic food benefits?; and other related rules as may be required.	WSR: 20-11-070 Filed: 05/20/2020		WSR: 20-14-087 Filed: 06/30/2020
	WAC 388-436-0060	The department is proposing to amend “How much money can I receive from the disaster cash assistance program (DCAP)?”.			
	WAC 388-458-0011	The department is planning to amend “DSHS sends you a denial letter when you can’t get benefits”, and other related rules as may be required.	WSR: 20-12-089		

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			Filed: 06/02/2020		
	WAC 388-418-0011	The department is planning to amend “What is a mid-certification review, and do I have to complete one in order to keep receiving benefits?”, and other related rules as may be required.	WSR: 20-12-090 Filed: 06/02/2020		WSR: 20-14-085 Filed: 06/30/2020
	WAC 388-310-0800, WAC 388-310-1050, WAC 388-310-1700, WAC 388-310-1800,	The department is planning to amend WorkFirst—Support services; WorkFirst—Vocational education; WorkFirst—Skills enhancement training; WorkFirst—Self-employment; WorkFirst—Post employment services; and other related rules as may be required.	WSR: 20-12-094 Filed: 06/02/2020		
	WAC 388-482-0005,	The department is planning to amend How does being a student of higher education affect my eligibility for Washington basic food program?, and other related rules as may be required.	WSR: 20-12-095 Filed: 06/02/2020		
	WAC 388-454-0006,	The department is planning to amend the department makes background checks on adults who are acting in place of a parent without court-ordered custody, and other related rules as may be required.	WSR: 20-13-047 Filed: 06/11/2020		
	388-437-0010	The department is creating new WAC 388-437-0010, Pandemic EBT benefits, to implement Pandemic EBT benefits as provided under H.R. 6201, The Families First Coronavirus Response Act.			WSR: 20-14-030 Filed: 06/24/2020
Division of Child Support					
	chapter 388-14A WAC	The department is planning to amend sections in child support rules to establish administrative child support orders including WAC 388-14A-3115 “The notice and finding of financial responsibility is used to set child support when paternity is not at issue”, WAC 388-14A-3140 “What can happen at a hearing on a support establishment notice?”, and other related rules as may be required.	WSR: 18-07-077 Filed: 03/19/2018		
	chapter 388-14A WAC	The department is planning to amend, adopt, or repeal sections in child support rules to: 1.) implement ESSB 6037 (Chapter 6, Laws of 2018) and the technical corrections made to ESSB 6037 by SSB 5333 (Chapter 46, Laws of 2019); and 2.) update terminology, clarify, and streamline the rules and procedures regarding parentage from the Uniform Parentage Act (adopted as chapter 26.26A RCW) to conform with current state and federal laws.	WSR: 20-07-090 Filed: 03/17/2020		
	WAC 388-14A-2210	The department is creating to clarify that temporary procedures employed by USPS are acceptable for purposes of certified mail service.	WSR: 20-09-148 Filed: 04/22/2020		WSR: 20-09-081 Filed: 04/14/2020

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	Chapter 388-14A WAC	The department is planning to amend child support rules involving income calculation and other related rules as may be required.	WSR: 20-14-021 Filed: 06/22/2020		WSR: 20-14-018 Filed: 06/22/2020
Executive					
Office of the Secretary Headquarters Units					
	WAC 388-02-0075	The department is filing this emergency in response to the public health crisis created by the COVID-19 virus (commonly referred to as the “Coronavirus”). This emergency allows electronic filing and electronic distribution of notices and orders to the office of administrative hearings via email by striking the email prohibition, adding a provision for email filing with the Office of Administrative Hearings, and adding clarifying language.			WSR: 20-08-049 Filed: 03/25/2020