



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 23, 2021

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, 2021 through December 31, 2021

Attached is the Department of Social and Health Services semi-annual rule-making agenda for July 1, 2021 – December 31, 2021. 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 23, 2021

TIME: 3:18 PM

WSR 21-16-025

Department of Social and Health Services

Semi-Annual Rule-Making Agenda

July 1, 2021 – December 31, 2021

Administration / Division	WAC Sections	Purpose for Rule Making	CR-101 Filings	CR-102 & CR-105 Filings	CR-103E Filings
Aging and Disability Services Administration					
Home and Community Services Division					
	Chapter 388-71, 388-106, 388-113, 388-114 WAC, and creating a new chapter in 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	WSR: 21-10-094 Filed: 05/04/2021	
	388-71-0975	Amending "Who is required to obtain certification as a home care aide, and when?", to clarify how to interpret the long term care worker qualifications and requirements in rule that have specific time periods for compliance when there has been a period of time in which the underlying requirements were suspended and waived in whole or part by emergency proclamation by the Governor.	WSR: 21-01-121 Filed: 12/15/2020		WSR: 21-01-018 Filed: 12/03/2020
	New section in chapter 388-106 WAC	The department is planning to add a new section in chapter 388-106 WAC for Long-Term Services and Supports (LTSS) Presumptive Eligibility, and may amend other related rules as may be required.	WSR: 21-09-071 Filed: 04/20/2021		
	388-106-0250	The department is planning to amend What is the roads to community living (RCL) demonstration project and who is eligible?, and other related rules as may be required.	WSR: 21-09-080 Filed: 04/20/2021	WSR: 21-14-082 Filed 07/06/2021	
	388-106-0275	The department is planning to amend "Are there limits to the community transition services I may receive?" and other related rules as may be required.	WSR: 21-11-022 Filed: 05/11/2021		

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	388-112A-1240	The department is planning to amend this rule and add a new section in chapter 388-112A WAC, Residential Long-Term Care Services Training. The department may amend other related rules as required.	WSR: 21-11-023 Filed: 05/11/2021	WSR: 21-14-098 Filed: 07/07/2021	
Management Services Division					
	388-96-107	The department is amending WAC 388-96-107 - Requests for extensions.			WSR: 21-07-106 Filed: 03/22/2021
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, 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 Filed: 08/22/2018		
	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		

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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		
388-97-0001, 388-97-1090	The Department of Social and Health Services, Aging and Long-Term Support Administration, 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: 21-10-084 Filed: 05/03/2021 WSR: 20-08-101 Filed: 03/30/2020		
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		
388-107-0460, 388-76-10265, 388-76-10285, 388-76-10290, 388-78A-2480, 388-78A-2484, 388-78A-2485, 388-101D-0650, 388-101D-0660, 388-107-0460, 388-107-0490	The department is temporarily repealing or amending these WACs 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: 20-16-069 Filed: 07/29/2020		WSR: 21-15-113 Filed: 7/21/2021 WSR: 21-07-109 Filed: 03/23/2021 WSR: 20-24-060 Filed: 11/24/2020 WSR: 20-16-102 Filed: 07/31/2020

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					WSR: 20-09-009 Filed: 04/02/2020
	388-97-0120, 388-97-1000, 388-97-1020, 388-97-1915, and 388-97-1975 and repealing WAC 388-97- 0920	The department is amending these to assure nursing homes are not significantly impeded from admitting and caring for residents during the COVID-19 outbreak.	WSR: 21-11-062 Filed: 05/14/2021 WSR: 20-17-005 Filed: 08/05/2020		WSR: 21-11-018 Filed: 05/10/2021 WSR: 21-08-055 Filed: 04/05/2021 WSR: 21-01-035 Filed: 12/07/2020 WSR: 20-17-048 Filed: 08/11/2020 WSR: 20-09-074 Filed: 04/13/2020
	388-78A-2524, 388-78A-2525, 388-78A-2526	The department is temporarily amending WAC 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: 20-17-085 Filed: 08/13/2020		WSR: 21-09-046 Filed: 04/15/2021 WSR: 21-01-129 Filed: 12/16/2020 WSR: 20-18-001 Filed: 08/20/2020 WSR: 20-10-005 Filed: 04/23/2020
	388-97-1260	The department is amending WAC 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: 20-17-133 Filed: 08/18/2020		WSR: 21-09-061 Filed: 04/19/2021 WSR: 21-01-192 Filed: 12/22/2020 WSR: 20-18-022 Filed: 08/26/2020 WSR: 20-10-034 Filed: 04/28/2020

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	Chapter 388-107 WAC	The department is considering amending chapter 388-107 WAC 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 to assure nursing homes are not significantly impeded from	WSR: 20-19-009 Filed: 09/03/2020		<p>WSR: 21-10-073 Filed: 05/03/2021</p> <p>WSR: 21-02-074 Filed: 01/05/2021</p> <p>WSR: 20-19-040 Filed: 09/10/2020</p> <p>WSR: 20-11-043 Filed: 05/15/2020</p>
	388-97-1740, 388-97-1760, 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: 20-21-034 Filed: 10/12/2020		<p>WSR: 21-13-069 Filed: 06/14/2021</p> <p>WSR: 21-05-059 Filed: 02/16/2021</p> <p>WSR: 20-21-086 Filed: 10/21/2020</p> <p>WSR: 20-14-026 Filed: 06/23/2020</p>
	388-101-3130	The department is amending WAC to assure Certified Community Residential Services and Supports (CCRSS) service providers are not significantly impeded from providing services and support to clients during the COVID-19 pandemic.	WSR: 20-24-092 Filed: 11/25/2020		<p>WSR: 21-08-036 Filed: 04/01/2021</p> <p>WSR: 21-01-010 Filed: 12/03/2020</p> <p>WSR: 20-17-012 Filed: 08/06/2020</p>
	388-101-3020,	The department is considering amending "Compliance" and other related rules as may be required.	WSR: 20-23-054 Filed: 11/13/2020		

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	388-97-1380, 388-97-1580	The department is amending WAC to assure nursing homes are not obstructed from offering the COVID-19 vaccine to residents and staff because of clinical interference from required tuberculosis (TB) testing.	WSR: 21-11-061 Filed: 05/14/2021		WSR: 21-11-069 Filed: 05/17/2021 WSR: 21-04-020 Filed: 01/25/2021
	New section in chapter 388-97 WAC	The department is considering adding a new section in chapter 388-97 WAC, Nursing Homes, and amending other related rules as may be necessary to implement ESHB 1120 (Chapter 203, Laws of 2021).	WSR: 21-14-046 Filed: 07/01/2021		
	388-97-1080 388-97-1090	The department is considering amending Nursing Services, Direct Care Hours, and other related rules as may be necessary to implement ESHB 1120 (Chapter 203, Laws of 2021).	WSR: 21-14-049 Filed: 07/01/2021		
	388-97-1660	The department is considering amending Staff and equipment, and other related rules as may be necessary to implement ESHB 1120 (Chapter 203, Laws of 2021).	WSR: 21-14-051 Filed: 07/01/2021		
Behavioral Health Administration					
	Chapter 388-878 WAC	The department is planning to amend the chapter 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: 21-08-091 Filed: 04/07/2021 WSR: 20-08-116 Filed: 03/31/2020	WSR: 21-12-090 Filed: 06/01/2021	
Developmental Disabilities Administration					
	388-845-2019	The department is adopting on an emergency basis to make temporary modifications to DDA's home and community based services waivers to control the spread of the COVID-19 virus and to meet immediate health and safety needs.	WSR: 20-15-010 Filed: 07/02/2020		WSR: 21-12-049 Filed: 05/26/2021 WSR: 21-06-036 Filed: 02/24/2021 WSR: 20-22-035 Filed: 10/27/2020 WSR: 20-14-101

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					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	WSR: 21-12-048 Filed: 05/26/2021	
	388-829R-170, 388-829R-230, 388-829-0005, 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		
	Chapter 388-829Z WAC	The department is planning to create Emergency Transitional Respite, and create or amend other related rules as may be required.	WSR: 20-16-138 Filed: 08/03/2020		
	388-845-0001	The Developmental Disabilities Administration (DDA) is enacting these changes to align chapter 388-845 WAC with Home and Community Based Services (HCBS) waiver amendments approved by the Centers for Medicare and Medicaid Services (CMS).	WSR: 20-20-100 Filed: 10/05/2020	WSR: 21-12-031 Filed: 05/24/2021	WSR: 21-13-040 Filed: 06/10/2021 WSR: 21-06-028 Filed: 02/23/2021 WSR: 20-22-032 Filed: 10/26/2020 WSR: 20-20-068 Filed: 10/01/2020
	new chapter 388-847 WAC	The department is considering creating a new chapter and amending other related rules as may be required.	WSR: 21-01-111 Filed: 12/14/2020		
	WAC 388-101D-0200	Service provider refusal to serve a client and other related rules as may be required regarding suspending and terminating a client's residential services.	WSR: 21-03-042 Filed: 01/14/2021		
	388-101D-0500	WAC 388-101D-0500 and other related rules as may be required.	WSR: 21-09-085 Filed: 04/21/2021	WSR: 21-13-082 Filed: 06/16/2021	

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	WAC 388-829C-131	Companion homes and other related rules as may be required.	WSR: 21-10-093 Filed: 05/04/2021		
Economic Services Administration					
Community Services Division					
	WAC 388-412-0046	The department is proposing to amend "What is the purpose of DSHS cash and food assistance benefits and how can I use my benefits?" and other related rules as appropriate.	WSR: 21-14-116 Filed: 07/7/2021		
	WAC 388-450-0100	The department is proposing to amend allocating income-definitions.		WSR: 21-15-060 Filed: 07/15/2021	
	WAC 388-436-0040, WAC 388-436-0050, and 388-436-0055	The department is amending "Excluded income and resources for CEAP", "Determining financial need and benefit amount for CEAP", and "What is the disaster cash assistance program (DCAP)?". These amendments are necessary to expand Consolidated Emergency Assistance and related Disaster Cash Assistance program during the statewide public health crisis created by the COVID-19 virus (commonly referred to as the "Coronavirus").	WSR: 20-16-129 Filed: 08/03/2020	WSR: 21-12-087 Filed: 06/01/2021	WSR: 21-09-062 Filed: 04/19/2021 WSR: 20-19-072 Filed: 09/14/2020 WSR: 20-17-069 Filed: 08/13/2020 WSR: 20-09-102 Filed: 04/16/2020
	388-444-0015, 388-444-0025	The Community Services Division 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	WSR: 21-09-075 Filed: 04/20/2021	
	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 Filed: 06/02/2020	WSR: 21-12-076 Filed: 05/28/2021	

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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	WSR: 21-11-046 Filed: 05/13/2021 WSR: 20-23-050 Filed: 11/12/2020	WSR: 21-12-005 Filed: 05/19/2021 WSR: 21-04-110 Filed: 02/01/2021
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	WSR: 21-11-068 Filed: 05/17/2021 WSR: 21-08-072 Filed: 04/06/2021 WSR: 20-20-086 Filed: 10/05/2020	
388-437-0015, 388-476-0005	The department is adopting new WAC and amending "Social Security number requirements", to align rule language more closely with federal regulation governing the Supplemental Nutrition Assistance Program (SNAP).	WSR: 21-03-009 Filed: 01/08/2021 WSR: 20-22-079 Filed: 11/03/2020	WSR: 21-10-055 Filed: 04/29/2021	WSR: 21-11-005 Filed: 05/07/2021 WSR: 21-03-014 Filed: 01/08/2021 WSR: 20-16-084 Filed: 07/30/2020
388-437-0020	The department is adopting "Availability of Pandemic EBT benefits", to describe the eligibility of children under age five, place a deadline on receipt of all Pandemic EBT (P-EBT) applications, and place a deadline on the receipt of P-EBT benefits.			WSR: 20-19-088 Filed: 09/16/2020 WSR: 20-19-059 Filed: 09/11/2020
WAC 388-412-0025	The department is planning to amend "How do I receive my benefits?" and other related rules as may be required.	WSR: 21-07-128 Filed: 03/23/2021 WSR: 20-22-077 Filed: 11/03/2020		
388-439-0005, 388-439-0010, 388-439-0015, 388-439-0020, 388-439-0025	The department is adopting "What is the pandemic EBT program?"; "Eligibility of pandemic EBT benefits for the 2020-2021 school year"; and "General information about pandemic EBT benefits"; "Eligibility for pandemic EBT benefits for children under age			WSR: 21-16-017 Filed: 07/23/2021 WSR: 21-08-010 Filed: 03/26/2021

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		six"; and "Eligibility for pandemic EBT benefits during the 2021 summer period".			
	388-437-0002	The department is adopting "What is the minimum emergency food assistance allotment an assistance unit may receive?", to expand adjustments to food assistance benefit issuances implemented under the Families First Coronavirus Response Act (H.R. 6201, Section 2302) and updated guidance from Food and Nutrition Services issued on April 1, 2021.			WSR: 21-09-036 Filed: 04/13/2021
	388-437-0005	The department is amending "Changes to food assistance in response to the COVID-19 pandemic", to define that households that receive a zero benefit are not eligible for emergency adjustments to food assistance benefit issuances implemented under the Families First Coronavirus Response Act (H.R. 6201, Section 2302).			WSR: 21-10-048 Filed: 04/28/2021
	WAC 388-424-0001, WAC 388-400-0010, WAC 388-424-0030, WAC 388-424-0010, WAC 388-424-0015, WAC 388-424-0009 and chapter 388-490 WAC	The department is planning to amend "Citizenship and alien status – Definitions"; "Who is eligible for state family assistance?"; "How does my alien status impact my eligibility for state-funded benefits under the food assistance program?"; "Citizenship and alien status – Eligibility for TANF"; "Immigrant eligibility restrictions for the state family assistance, ABD cash and PWA programs";, "Citizenship and alien status – Social Security number (SSN) requirements"; and other related rules as appropriate. The department is also planning to adopt a new section to "Verification."	WSR: 21-11-067 Filed: 05/14/2021		
	388-480-0001	The department is proposing to amend "Does being on strike impact my eligibility for the Washington Basic Food program?"			
	388-478-0020, 388-478-0027,	The department is planning to amend "Payment standards for TANF, SFA and RCA";	WSR: 21-13-014 Filed: 06/07/2021		WSR: 21-13-114 Filed: 06/21/2021

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388-478-0035, and 388-436-0050	"What is the payment standard for pregnant women assistance (PWA)"; "What are the maximum earned income limits for TANF, SFA, PWA and RCA?"; "Determining financial need and benefit amount for CEAP", and other related rules as appropriate.			
388-432-0005	The department is planning to amend "Can I get help from DSHS for a family emergency without receiving monthly cash assistance?" and other related rules as appropriate.	WSR: 21-13-016 Filed: 06/08/2021		WSR: 21-14-032 Filed: 06/29/2021
388-412-0015	The Consolidated Appropriations Act of 2021, P.L. 116-260, enacted December 27, 2020, increased the minimum allotment for SNAP (Basic Food) from \$16.00 to \$19.00. The American Rescue Plan Act of 2021, P.L. 117-2, enacted March 11, 2021, made this change effective through September 30, 2021.			WSR: 21-13-021 Filed: 06/08/2021
WAC 388-310-0800	The department is amending WorkFirst— Support services, to expand access of support services during the time of and recovery from the COVID-19 pandemic.	WSR: 21-13-124 Filed: 06/21/2021		WSR: 21-13-031 Filed: 06/10/2021
WAC 388-444-0010	The department is proposing to amend "Who is exempt from work registration while receiving basic food?" and other related rules as may be required.	WSR: 21-13-107 Filed: 06/18/2021		
388-484-0006	The department is proposing to amend TANF/SFA time limit extensions, and other related rules as may be required.	WSR: 21-13-126 Filed: 06/22/2021		WSR: 21-14-031 Filed: 06/29/2021
WAC 388-449-0200	The department is planning to amend Am I eligible for cash assistance for aged blind, or disabled (ABD) while waiting for supplemental security income (SSI)?; WAC 388-449-0001, What are the disability requirements for the aged, blind, or disabled (ABD) program?, and other related rules as appropriate.	WSR: 21-13-157 Filed: 06/22/2021		
WAC 388-474-0020,	The department is planning to amend "What can an aged, blind or disabled (ABD) cash assistance client expect when supplemental	WSR: 21-13-158 Filed: 06/22/2021		

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		security income (SSI) benefits begin?" and other related rules as appropriate.			
Division of Child Support					
	chapter 388-14A WAC	The department is planning to amend sections in this chapter dealing with the establishment of 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 Division of Child Support (DCS) is planning to amend, adopt, or repeal sections in this chapter 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 and 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		
	388-14A-2210	The department is creating WAC 388-14A-2210 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: 21-09-003 Filed: 04/07/2021 WSR: 21-01-040 Filed: 12/08/2020 WSR: 20-17-060 Filed: 08/12/2020 WSR: 20-09-081 Filed: 04/14/2020
	388-14A-3205	The department is planning to amend this chapter and other related rules as may be	WSR: 20-14-021 Filed: 06/22/2020		WSR: 20-22-046 Filed: 10/28/2020

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		required involving Division of Child Support (DCS) income calculation.			WSR: 20-14-018 Filed: 06/22/2020
	chapter 388-14A WAC	The department is amending this chapter to implement Substitute House Bill 2302 (SHB 2302, Chapter 227, Laws of 2020) regarding incarceration abatement.	WSR: 21-05-061 Filed: 02/16/2021		WSR: 21-13-094 Filed: 06/18/2021 WSR: 21-06-023 Filed: 02/22/2021 WSR: 21-05-011 Filed: 02/04/2021
Executive					
Division of Vocational Rehabilitation					
	388-891A-0220	What is the client assistance program (CAP)?		WSR: 21-14-036 Filed 06/29/2021	