

**WAC 391-25-051 Special provision—Individual providers of home care under RCW 74.39A.270 and 74.39A.300—Family child care providers under RCW 41.56.208—Adult family home providers under RCW 41.56.029—Language access providers under RCW 41.56.510.** (1) This rule consolidates special rules applicable to:

(a) Individual providers under RCW 74.39A.270 and 74.39A.300, which extend the coverage of chapter 41.56 RCW to "individual providers" defined as a person, including a personal aide, who has contracted with the department of social and health services to provide personal care or respite care services to functionally disabled persons under the medicaid personal care, community options program entry system, chore services program, or respite care program, or to provide respite care or residential services and support to persons with developmental disabilities under chapter 71A.12 RCW, or to provide respite care as defined in RCW 74.13.270.

(b) Family child care providers under RCW 41.56.028, which extends coverage of chapter 41.56 RCW to "child care providers" defined as persons who:

(i) Provide regularly scheduled care for a child or children in the home of the provider or in the home of the child or children for periods of less than twenty-four hours or, if necessary due to the nature of the parent's work, for periods equal to or greater than twenty-four hours;

(ii) Receive child care subsidies; and

(iii) Are either licensed by the state under RCW 74.15.030 or are exempt from licensing under chapter 74.15 RCW.

(c) Adult family home providers under RCW 41.56.029, which extends coverage of chapter 41.56 RCW to "adult family home providers" who are persons defined as a provider as defined in RCW 70.128.010 who receives payments from the medicaid and state-funded long-term care programs.

(d) Language access providers under RCW 41.56.510, which extends coverage of chapter 41.56 RCW to "language access providers" who are persons defined as any independent contractor who provides spoken language interpreter services for department of social and health services appointments or medicaid enrollee appointments, or provided these services on or after January 1, 2009, and before June 10, 2010, whether paid by a broker, language access agency, or the department of social and health services.

(2) The showing of interest requirement in WAC 391-25-110 is modified for the bargaining unit affected by RCW 74.39A.270 and 74.39A.300, to require a ten percent showing of interest for either a petitioner or an intervenor.

(3) The posting of notice requirement in WAC 391-25-140 is inapplicable to the bargaining unit affected by RCW 74.39A.270, 74.39A.300, 41.56.028, 41.56.029, and 41.56.510.

(4) A party wishing to participate as an intervenor in representation proceedings governed by this rule must file a motion to intervene no later than ten days following receipt of the petition for investigation of a question concerning representation.

(5) The description of bargaining unit requirement of WAC 391-25-190 is limited to a single, statewide unit of:

(a) Individual providers under RCW 74.39A.270 and 74.39A.300; or

(b) Family child care providers under RCW 41.56.028; or

(c) Adult family home providers under RCW 41.56.029; or

(d) Language access providers under RCW 41.56.510.

- (6) The description of bargaining unit requirement of WAC 391-25-210(2) is limited to a single, statewide unit of:
- (a) Individual providers under RCW 74.39A.270 and 74.39A.300; or
  - (b) Family child care providers under RCW 41.56.028; or
  - (c) Adult family home providers under RCW 41.56.029; or
  - (d) Language access providers under RCW 41.56.510.
- (7) The provisions of WAC 391-25-210(3) relating to alternative units or mergers of units are inapplicable to the bargaining unit affected by RCW 74.39A.270, 74.39A.300, 41.56.028, 41.56.029, and 41.56.510.
- (8) The posting requirement in WAC 391-25-220(2), relating to investigation statements, is inapplicable to the bargaining unit affected by RCW 74.39A.270, 74.39A.300, 41.56.028, 41.56.029, and 41.56.510.
- (9) The posting requirement in WAC 391-25-230(2), relating to election agreements, is inapplicable to the bargaining unit affected by RCW 74.39A.270, 74.39A.300, 41.56.028, 41.56.029, and 41.56.510.
- (10) The cross-check procedures in WAC 391-25-250, 391-25-391, and 391-25-410 are inapplicable to the bargaining unit affected by RCW 74.39A.270, 74.39A.300, 41.56.028, 41.56.029, and 41.56.510.
- (11) The unit determination election procedures in WAC 391-25-420 are inapplicable to the bargaining unit affected by RCW 74.39A.270, 74.39A.300, 41.56.028, 41.56.029, and 41.56.510.
- (12) The requirements of WAC 391-25-430, relating to posting of election notices on the employer's premises, is inapplicable to the bargaining unit affected by RCW 74.39A.270, 74.39A.300, 41.56.028, 41.56.029, and 41.56.510.
- (13) Any representation election for the bargaining unit affected by RCW 74.39A.270, 74.39A.300, 41.56.028, 41.56.029, and 41.56.510 shall be conducted by mail ballot under WAC 391-25-470, with the following modifications:
- (a) Together with the procedures for casting ballots, the notice supplied to providers may describe the collective bargaining rights established by RCW 74.39A.270, 74.39A.300, 41.56.028, 41.56.029, and 41.56.510 and agreements reached by a petitioning union and the employer concerning the election process;
  - (b) The notice and ballot materials supplied to providers shall be set forth in English and any other language the agency deems reasonably necessary to conduct a fair election;
  - (c) The ballot materials supplied to providers shall include a card return-addressed to the commission, by which providers eligible voters can individually request notice and ballot materials in languages other than those received. Upon receipt of such a request card, the agency shall promptly supply notice and ballot materials to the eligible voter in the requested language.
  - (d) At least twenty-one days shall be provided between the date on which ballot materials are mailed to providers and the deadline for return of cast ballots to the commission.
  - (e) The executive director shall have discretion to vary tally arrangements and procedures from those customarily used, because of the large size of the bargaining unit involved.
  - (f) The reference in WAC 391-25-140 through 391-25-470 shall be interpreted in light of subsection (3) of this section.
- (14) The procedure for on-site elections in WAC 391-25-490 is inapplicable to the bargaining unit affected by RCW 74.39A.270, 74.39A.300, 41.56.028, 41.56.029, and 41.56.510.

[Statutory Authority: RCW 41.56.060, 41.56.090, and 41.58.050. WSR 10-20-172, § 391-25-051, filed 10/6/10, effective 11/6/10; WSR 08-04-058, § 391-25-051, filed 1/31/08, effective 4/1/08. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.59.110, 41.58.050, 41.06.340, 41.76.060, 74.39A.240 and [74.39A].270. WSR 03-03-064, § 391-25-051, filed 1/14/03, effective 2/14/03.]