

## Chapter 257-10 WAC REFERRAL REGISTRY

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### WAC

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**WAC 257-10-020 What is the purpose of WAC 257-10-020 through 257-10-420?** The purpose of this chapter is to ensure compliance by the home care quality authority with the provisions of RCW 74.39A.250. The home care quality authority is authorized to adopt rules under the provisions of the Administrative Procedure Act, chapter 34.05 RCW.

[Statutory Authority: RCW 74.39A.280(3) and 74.39A.250 (1)(a)-(h). WSR 05-14-113, § 257-10-020, filed 7/1/05, effective 8/1/05.]

**WAC 257-10-040 What definitions apply to WAC 257-10-020 through 257-10-420?** "AAA" refers to the local area agency on aging office.

"ALJ" refers to administrative law judge.

"Authority" means the home care quality authority.

"Consumer/employer" refers to an adult or child with functional or developmental disabilities who qualifies for and uses personal care or respite care paid for through medicaid or state only funds.

"Consumer representative" refers to an individual who is acting on behalf of the consumer/employer.

"DSHS" refers to the department of social and health services.

"Emergency" provider means an individual provider who is employed as a back-up for a provider who did not show up or who was unable to work due to unexpected circumstances.

"Employer" refers to the consumer.

"HCQA" refers to the home care quality authority.

"Individual provider" means a person, regardless of relationship, including a personal aide working for a consumer under self-directed care, who has a contract with the department of social and health services to provide personal care or respite care services to adults

or children with functional or developmental disabilities and is reimbursed for those services through medicaid or state only funding.

"IP" refers to an individual provider.

"Malfeasance" means any unlawful act committed by the provider, whether in the course of employment or otherwise.

"Mandatory reporter" is an employee of the authority; DSHS; law enforcement officer; social worker; professional school personnel; individual provider; an employee of a facility; an operator of a facility; an employee of a social service, welfare, mental health, adult day health, adult day care, home health, home care, or hospice agency; county coroner or medical examiner; Christian Science practitioner; or health care provider subject to chapter 18.130 RCW.

"Misfeasance" means performance of a workplace duty in an improper manner; including events which jeopardize the health and safety of persons, unresolved pattern of performance, issues related to truth or dishonesty, including failure to report a criminal conviction.

"OAH" refers to the office of administrative hearings.

"Prospective individual provider" refers to someone who is seeking employment with a consumer/employer.

"Provider" means an individual provider.

"Referral registry" is a database that is designed to assist consumers with finding individual providers and to assist individual providers to find employment.

"Respite" provider means an individual provider who is employed on a prearranged short-term basis to fill in for a routine caregiver.

"Routine" provider means an individual provider who is employed on a regularly scheduled basis.

[Statutory Authority: RCW 74.39A.280(3) and 74.39A.250 (1) (a)-(h). WSR 05-14-113, § 257-10-040, filed 7/1/05, effective 8/1/05.]

**WAC 257-10-060 What is the purpose of the referral registry?**

The referral registry was designed to increase consumer/employer choice while providing assistance in finding individual providers and prospective individual providers. In addition, the referral registry:

(1) Takes into account the consumer/employer needs and preferences when identifying potential individual providers;

(2) Provides for reasonable standards of accountability for individual providers and prospective individual providers listed through the registry;

(3) Is voluntary for individual providers and prospective individual providers and consumers/employers;

(4) Promotes job opportunities for individual providers and prospective individual providers;

(5) Provides access to the database for consumer/employers who want to query a referral independently; and

(6) Increases a consumer/employer's choice of individual providers and prospective individual providers via an established pool of available individual providers and prospective individual providers on the registry.

[Statutory Authority: RCW 74.39A.280(3) and 74.39A.250 (1) (a)-(h). WSR 05-14-113, § 257-10-060, filed 7/1/05, effective 8/1/05.]

**WAC 257-10-080 Who is eligible to request a referral from the referral registry?** (1) Consumer/employers who are adults or children with functional or developmental disabilities who qualify for and use personal care or respite care paid for through medicaid or state only funds.

(2) People who are authorized to request a referral on behalf of a consumer including family members, area agency on aging case managers, DSHS social workers and/or a consumer representative.

[Statutory Authority: RCW 74.39A.280(3) and 74.39A.250 (1)(a)-(h). WSR 05-14-113, § 257-10-080, filed 7/1/05, effective 8/1/05.]

**WAC 257-10-100 What is the difference between an individual provider and a prospective individual provider?** An individual provider is someone who has signed a DSHS contract. A prospective individual provider is someone who is seeking employment with a consumer/employer and who has not yet signed a DSHS contract.

[Statutory Authority: RCW 74.39A.280(3) and 74.39A.250 (1)(a)-(h). WSR 05-14-113, § 257-10-100, filed 7/1/05, effective 8/1/05.]

**WAC 257-10-120 What qualifies individual providers or prospective individual providers to be included on the referral registry?** The individual provider or prospective individual provider must:

(1) Satisfactorily complete a Washington state patrol background check and not be convicted of a disqualifying crime based on the appropriate department of social and health services list of crimes and negative actions; and

(2) Complete an FBI fingerprint-based background check if the person has lived in the state of Washington fewer than three years. An individual provider or prospective individual providers who has lived in the state fewer than three years may be included on the referral registry for a one hundred twenty-day provisional period as allowed by law or program rules when:

(a) A fingerprint-based background check is pending; and

(b) The individual provider or prospective individual provider is not disqualified based on the immediate result of the Washington state patrol background check.

(3) Not be listed on any long-term care abuse and neglect registry used by DSHS;

(4) Be eighteen years of age or older;

(5) Provide picture identification;

(6) Have a Social Security card or authorization to work in the United States; and

(7) Comply with requirements listed in WAC 257-10-180.

[Statutory Authority: RCW 74.39A.280(3). WSR 09-20-051, § 257-10-120, filed 10/1/09, effective 11/1/09. Statutory Authority: RCW 74.39A.280(3) and 74.39A.250 (1)(a)-(h). WSR 05-14-113, § 257-10-120, filed 7/1/05, effective 8/1/05.]

**WAC 257-10-130 What information may be considered cause for denying an individual provider or prospective individual provider place-**

**ment on the referral registry?** An individual provider may be denied placement on the referral registry for the following reasons:

(1) A background check that results in disqualifying crimes based on appropriate department of social and health services list of crimes and negative actions.

(2) Lack of disclosure on background authorization form.

(3) Inclusion on any state abuse and neglect directory.

(4) Information that a current and valid protective order exists and was issued in the state of Washington barring contact with children, vulnerable adults or persons with disabilities.

(5) A reasonable, good faith belief that an individual provider or prospective individual provider is unable to meet the care needs of consumers.

(6) The background check reveals an offense or pattern of offenses that the executive director determines may put consumers at risk.

(7) Department of social and health services IP contract is denied.

[Statutory Authority: RCW 74.39A.280(3). WSR 09-21-100, § 257-10-130, filed 10/20/09, effective 11/20/09. Statutory Authority: RCW 74.39A.280(3) and Title 74 RCW. WSR 09-10-005, § 257-10-130, filed 4/22/09, effective 5/23/09.]

**WAC 257-10-140 How does an individual provider or prospective individual provider apply to be listed on the registry?** The individual provider or prospective individual provider must contact their local source of registry operations, request and complete an application packet and meet the qualifications specified in WAC 257-10-120.

[Statutory Authority: RCW 74.39A.280(3) and 74.39A.250 (1)(a)-(h). WSR 05-14-113, § 257-10-140, filed 7/1/05, effective 8/1/05.]

**WAC 257-10-160 Does an individual provider or prospective individual provider have any ongoing responsibilities to stay on the registry?** Yes, the individual provider or prospective individual provider must:

(1) Contact the referral registry office once a month to verify that the information in the system is accurate and up-to-date; and

(2) Successfully complete a Washington state patrol criminal history background check every twelve months.

Failure to comply with ongoing responsibilities will result in placing the individual provider or prospective individual provider in an "inactive" status. The provider will not be referred to a consumer/employer when in "inactive" status.

[Statutory Authority: RCW 74.39A.280(3) and 74.39A.250 (1)(a)-(h). WSR 05-14-113, § 257-10-160, filed 7/1/05, effective 8/1/05.]

**WAC 257-10-180 Are there any training requirements for being listed on the referral registry?** Yes. An individual provider or prospective individual provider must complete the "becoming a professional IP" training prior to being referred to a consumer, with the exception of any person who has already worked as an individual provider

for more than three months under DSHS contract. All other mandatory training requirements established by DSHS are in effect.

[Statutory Authority: RCW 74.39A.280(3) and 74.39A.250 (1)(a)-(h). WSR 05-14-113, § 257-10-180, filed 7/1/05, effective 8/1/05.]

**WAC 257-10-200 Can an individual provider or prospective individual provider be removed from the registry?** Yes. An individual provider or prospective individual provider will be removed from the referral registry for the following reasons:

(1) Failure to meet the qualifications identified in WAC 257-10-120 to 257-10-180.

(2) A determination by the HCQA that the person has committed misfeasance in the performance of his or her duties as an individual provider.

(3) A determination of malfeasance.

(4) A request is made by the person to be removed from the registry.

(5) DSHS IP contract termination.

(6) Information considered cause for denial as referenced in WAC 257-10-130.

[Statutory Authority: RCW 74.39A.280(3) and Title 74 RCW. WSR 09-10-005, § 257-10-200, filed 4/22/09, effective 5/23/09. Statutory Authority: RCW 74.39A.280(3) and 74.39A.250 (1)(a)-(h). WSR 05-14-113, § 257-10-200, filed 7/1/05, effective 8/1/05.]

**WAC 257-10-220 What is the procedure for removing an individual provider or prospective individual provider from the registry?** The procedure for removing an individual provider or prospective individual provider from the referral registry is as follows:

The authority and/or its designee will review all complaints and disqualification information received by the authority and:

(1) For those complaints that fall under the legal jurisdiction of law enforcement or adult protective services (APS) or child protective services (CPS), an immediate referral shall be made to the appropriate agency.

(a) The HCQA may initiate an emergency proceeding to inactivate the individual provider or prospective individual provider on the registry pending the investigation.

(b) If APS, CPS and/or law enforcement declines the referral, the complaint will proceed to assessment, recommendation and decision.

(c) If APS, CPS and/or law enforcement accepts the complaint, then action beyond the emergency adjudicative process per RCW 34.05.479, will be stayed pending APS, CPS and/or law enforcement action.

(2) For those complaints not forwarded to APS, CPS or law enforcement, HCQA will conduct an internal assessment.

(a) Upon assessment, a decision will be made and notification will be sent, in writing to the individual provider or prospective individual provider.

(b) The individual provider or prospective individual provider has the right to appeal an adverse decision within twenty-eight days of the date the formal notice was mailed by HCQA.

(c) The appeal must be sent in writing to the office of administrative hearings (OAH) as designated on the formal notice within twenty-eight days of the date the formal notice was mailed by HCQA.

(d) The OAH will schedule the hearing and notify interested parties.

(e) An administrative law judge (ALJ) from OAH shall act as presiding officer for the adjudicative proceeding as provided in RCW 34.05.425 (1)(c).

(f) The ALJ shall render an initial decision.

(g) The initial decision will be reviewed and final agency action shall be taken by the HCQA board, either adopting, modifying, or reversing the initial decision which shall be reduced to a final order of the board.

(h) The final order is the final agency action and will be provided to all interested parties and to the individual provider or prospective individual provider along with information regarding the right to seek judicial review in superior court when applicable.

(i) The final order shall include, or incorporate by reference to the initial order, all matters required by RCW 34.05.461(3).

[Statutory Authority: RCW 74.39A.280(3) and 74.39A.250 (1)(a)-(h). WSR 05-14-113, § 257-10-220, filed 7/1/05, effective 8/1/05.]

**WAC 257-10-240 What is the procedure for the denial of an individual provider or prospective individual providers application to be listed on the referral registry?** For those individual providers or prospective individual providers whose application to be listed on the registry results in a reasonable, good faith belief by HCQA that the person will be unable to appropriately meet the care needs of consumers, the following procedure applies:

(1) An internal assessment will be conducted, a decision will be made and notification will be sent, in writing to the individual provider or prospective individual provider.

(2) The individual provider or prospective individual provider has the right to appeal an adverse decision within twenty-eight days of receiving formal notice.

(3) The appeal must be sent in writing to the office of administrative hearings as designated on the formal notice.

(4) The OAH will schedule the hearing and notify interested parties.

(5) An administrative law judge from OAH shall act as presiding officer for the adjudicative proceeding as provided in RCW 34.05.425 (1)(c).

(6) The ALJ shall render an initial decision.

(7) The initial decision will be reviewed and final agency action shall be taken by the HCQA board, either adopting, modifying, or reversing the initial decision which shall be reduced to a final order of the board.

(8) The final order is the final agency action and will be provided to all interested parties and to the individual provider or prospective individual providers along with information regarding the right to seek judicial review in superior court when applicable.

(9) The final order shall include, or incorporate by reference to the initial order, all matters required by RCW 34.05.461(3).

[Statutory Authority: RCW 74.39A.280(3) and 74.39A.250 (1) (a)-(h). WSR 05-14-113, § 257-10-240, filed 7/1/05, effective 8/1/05.]

**WAC 257-10-260 Who must be notified if a complaint is received about an individual provider?** If, in the course of carrying out its duties, the authority or its designee identifies concerns regarding the services being provided by an individual provider, the authority or its designee must notify the relevant area agency on aging case manager or DSHS social worker regarding such concerns per RCW 74.39A.250 (1) (h).

[Statutory Authority: RCW 74.39A.280(3) and 74.39A.250 (1) (a)-(h). WSR 05-14-113, § 257-10-260, filed 7/1/05, effective 8/1/05.]

**WAC 257-10-280 Are registry staff considered mandatory reporters?** Any HCQA staff or subcontracted staff working for the authority are considered mandatory reporters.

[Statutory Authority: RCW 74.39A.280(3) and 74.39A.250 (1) (a)-(h). WSR 05-14-113, § 257-10-280, filed 7/1/05, effective 8/1/05.]

**WAC 257-10-300 What is reasonable cause for mandatory reporting?** RCW 74.34.035 outlines reasonable cause for mandatory reporting.

[Statutory Authority: RCW 74.39A.280(3) and 74.39A.250 (1) (a)-(h). WSR 05-14-113, § 257-10-300, filed 7/1/05, effective 8/1/05.]

**WAC 257-10-320 Does an individual provider or prospective individual provider have the right to appeal being removed from the registry?** The individual provider or prospective individual provider or the consumer/employer, to whom the individual provider is providing services, may request an adjudicative hearing to contest removal from the referral registry, as provided in WAC 257-10-220 and RCW 74.39A.250 (1) (e).

A letter will be sent notifying the individual provider or prospective individual provider of being removed from the registry and will include information pertaining to the appeal and hearing process.

[Statutory Authority: RCW 74.39A.280(3) and 74.39A.250 (1) (a)-(h). WSR 05-14-113, § 257-10-320, filed 7/1/05, effective 8/1/05.]

**WAC 257-10-340 How does a consumer/employer apply to use the referral registry services?** A consumer/employer or consumer representative must complete the registration process in order to use the referral registry. The registration process conducted by local operations must confirm that the consumer/employer is qualified to use personal care or respite care paid for through medicaid or state only funds.

[Statutory Authority: RCW 74.39A.280(3) and 74.39A.250 (1) (a)-(h). WSR 05-14-113, § 257-10-340, filed 7/1/05, effective 8/1/05.]

**WAC 257-10-360 How does a consumer/employer obtain a referral list of names?** The consumer/employer or consumer representative completes and submits a request application to the local source of registry operations. The completed application may indicate the days and times an individual provider is needed, the personal care tasks that need to be performed, and any preferences the consumer/employer may have. Upon completion of the application, a registry coordinator will conduct a query which will generate a list of names that best match the consumer/employer's specific criteria. The list will be given to the consumer/employer via mail, or phone, or fax or email within a reasonable time frame.

Upon successful submission of a request application, a consumer/employer or consumer representative may request a user name and password to access the registry independently to generate a list of names.

[Statutory Authority: RCW 74.39A.280(3) and 74.39A.250 (1) (a)-(h). WSR 05-14-113, § 257-10-360, filed 7/1/05, effective 8/1/05.]

**WAC 257-10-380 Who hires an individual provider or prospective individual provider?** It is the consumer/employer or consumer representative's responsibility to interview, screen, hire and terminate an individual provider or prospective individual provider.

[Statutory Authority: RCW 74.39A.280(3) and 74.39A.250 (1) (a)-(h). WSR 05-14-113, § 257-10-380, filed 7/1/05, effective 8/1/05.]

**WAC 257-10-400 Does a consumer/employer who wants their individual provider to receive medicaid or public funding from DSHS need to gain approval from his/her case manager?** Yes. DSHS or AAA may deny payment upon a client's request to have a family member or other person serve as his or her individual provider if the case manager has a reasonable, good faith belief that the person will be unable to appropriately meet the consumer/employer needs.

[Statutory Authority: RCW 74.39A.280(3) and 74.39A.250 (1) (a)-(h). WSR 05-14-113, § 257-10-400, filed 7/1/05, effective 8/1/05.]

**WAC 257-10-420 How can a consumer/employer obtain emergency or critical personal care back-up referrals?** A consumer/employer must complete an application with the referral registry office. Registry applications can be obtained by contacting the local source of registry operations. Although a consumer/employer must complete the application process he/she is not required to have previously used the registry prior to requesting back-up referrals.

[Statutory Authority: RCW 74.39A.280(3) and 74.39A.250 (1) (a)-(h). WSR 05-14-113, § 257-10-420, filed 7/1/05, effective 8/1/05.]