

WSR 24-21-156

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Long-Term Support Administration)

[Filed October 22, 2024, 4:47 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 24-16-001.

Title of Rule and Other Identifying Information: WAC 388-106-1021
Private duty nurse holiday pay. The proposed rule clarifying holiday pay for contracted private duty nurses.

Hearing Location(s): On November 26, 2024, at 10:00 a.m., virtually via Microsoft Teams or call in. See the department of social and health services (DSHS) website at <https://www.dshs.wa.gov/sesa/rpau/proposed-rules-and-public-hearings> for the most current information.

Date of Intended Adoption: No earlier than November 27, 2024.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAURulesCoordinator@dshs.wa.gov, fax 360-664-6185, beginning noon on October 23, 2024, by 5:00 p.m. on November 26, 2024.

Assistance for Persons with Disabilities: Contact Shelley Tencza, rules consultant, phone 360-664-6036, fax 360-664-6185, TTY 711 relay service, email shelley.tencza@dshs.wa.gov, by 5:00 p.m. on November 12, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this rule making is considering adding a new section to WAC 388-106-1000 through 388-106-1055 in the paid private duty nursing (PDN) section of WAC. The new section will be under WAC 388-106-1021, which is related PDN paid holidays. Currently, PDN providers have been receiving holiday pay and referring to a Washington state employee WAC. PDN providers are not Washington state employees and therefore need to have clarity in this WAC section for paid holidays.

Reasons Supporting Proposal: To identify the holidays for which PDN contracted nurses will receive holiday pay.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.520, and 74.39A.030.

Statute Being Implemented: RCW 74.08.090 and 74.09.520.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: DSHS, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Kaila O'Dell, 4500 Blake East Building, Lacey, WA, 360-725-3549.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. DSHS determined this rule is not a significant legislative rule under RCW 34.05.328. Currently, PDN contracted nurses receive holiday pay. This WAC is specifying holidays for contracted nurses rather than referring to state employee holidays.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party; and rules only correct ty-

pographical errors, make address or name changes, or clarify language of a rule without changing its effect.

Is exempt under RCW 19.85.025(4).

Is exempt under RCW 34.05.310 (4)(b) and (d).

Explanation of exemptions: This is an internal process that is already in practice, that is being clarified in rule. RCW 34.05.310 (4)(d) states in part "... or clarify language of a rule without changing its effect."

Scope of exemption for rule proposal:

Is fully exempt.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated.

October 18, 2024
Katherine I. Vasquez
Rules Coordinator

SHS-5057.3

NEW SECTION

WAC 388-106-1021 What days are considered holidays for private duty nursing providers? The following dates are holidays solely for the purpose of contracted services rates for private duty nursing providers:

- (1) The first day of January (New Year's Day);
- (2) The third Monday of January (Martin Luther King, Jr.'s birthday);
- (3) The third Monday of February (Presidents' Day);
- (4) The last Monday of May (Memorial Day);
- (5) The 19th day of June (Juneteenth);
- (6) The fourth day of July (Independence Day);
- (7) The first Monday in September (Labor Day);
- (8) The 11th day of November (Veteran's Day);
- (9) The fourth Thursday in November (Thanksgiving Day);
- (10) The Friday immediately following the fourth Thursday in November (Native American Heritage Day); and
- (11) The 25th day of December (Christmas Day).