

WSR 24-24-078

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Long-Term Support Administration)

[Filed December 2, 2024, 10:34 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 22-13-116.

Title of Rule and Other Identifying Information: The department of social and health services (department) is proposing to amend WAC 388-71-0503 What definitions apply to WAC 388-71-0500 through 388-71-05640, 388-106-0010 What definitions apply to this chapter?, 388-106-0060 Who must perform the assessment?, and 388-115-0516 What are the responsibilities of the consumer directed employer when providing care to a client?

WAC 388-106-0010 was filed as a part of a CR-101 on June 17, 2024, with WSR 24-13-075. That rule making will be placed on hold for this rule making to proceed. The department may amend other related rules as required. The department is allowed to contract with a federally recognized Indian tribe to determine eligibility including assessments and reassessments, authorize and reauthorize services, and perform case management functions for medicaid long-term services and supports clients within the tribe's authority.

Hearing Location(s): On January 22, 2025, at 10:00 a.m., virtually via Teams or call in. See the department website at <https://www.dshs.wa.gov/sesa/rpau/proposed-rules-and-public-hearings> for the most current information.

Date of Intended Adoption: Not earlier than January 23, 2025.

Submit Written Comments to: Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAURulesCoordinator@dshs.wa.gov, fax 360-664-6185, beginning noon on December 4, 2024, by 5:00 p.m. on January 22, 2025.

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 January 8, 2025.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this proposal is to amend WAC to implement SB 5866, an act relating to medicaid long-term services and supports eligibility determinations being completed by federally recognized Indian tribes. SB 5866 amended RCW 74.09.520, 74.39A.009, 74.39A.090, 74.39A.095, and 74.39A.515.

Reasons Supporting Proposal: The passage of SB 5866, (chapter 255, Laws of 2022).

Statutory Authority for Adoption: RCW 74.08.090, 74.09.520, 74.39A.009, 74.39A.090, 74.39A.095, and 74.39A.515.

Statute Being Implemented: RCW 74.09.520, 74.39A.009, 74.39A.090, 74.39A.095, and 74.39A.515.

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

Name of Proponent: Tribal governments and department of social and health services, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Dru Aubert, P.O. Box 45600, Olympia, WA 98504-5600, 360-725-2524.

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. These rules are exempt as allowed under RCW 34.05.328 (5)(b)(vii) which states in part, "this section does not apply to rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents.["]

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 are adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule.

Is exempt under RCW 19.85.025(4).

Is exempt under RCW 34.05.328 (5)(b)(vii).

Explanation of exemptions: These amendments do not impact small businesses. They only impact department customers and federally recognized Indian tribes.

Scope of exemption for rule proposal:

Is fully exempt.

November 26, 2024
Katherine I. Vasquez
Rules Coordinator

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 25-01 issue of the Register.