

WSR 21-05-036

EXPEDITED RULES

HEALTH CARE AUTHORITY

[Filed February 11, 2021, 10:58 a.m.]

Title of Rule and Other Identifying Information: WAC 182-513-1380 Determining a client's financial participation in the cost of care for long-term care in a medical institution.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The agency is revising this section to fix a broken hyperlink for apple health income and resource standards. No other changes are being proposed to this section. This is strictly a housekeeping change.

Reasons Supporting Proposal: Providers and stakeholders need to be able to locate income and resource standards.

Statutory Authority for Adoption: RCW 41.05.021 and 41.05.160.

Statute Being Implemented: Not applicable.

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

Name of Proponent: Health care authority (HCA), governmental.

Name of Agency Personnel Responsible for Drafting: Michael Williams, P.O. Box 2213, Olympia, WA 98501, 360-725-1346; Implementation and Enforcement: Mark Westenhaver, P.O. Box 3035A, Olympia, WA 98501, 360-725-1324.

This notice meets the following criteria to use the expedited adoption process for these rules:

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

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO HCA, Rules Coordinator, P.O. Box 42716, Olympia, WA 98504-2716, phone 360-725-1306, fax 360-586-9727, email arc@hca.wa.gov, AND RECEIVED BY April 20, 2021.

February 11, 2021

Wendy Barcus

Rules Coordinator

OTS-2915.1

AMENDATORY SECTION (Amending WSR 20-08-082, filed 3/27/20, effective 4/27/20)

WAC 182-513-1380 Determining a client's financial participation in the cost of care for long-term care in a medical institution. This rule describes how the agency or the agency's designee allocates income and excess resources when determining participation in the cost of care in a medical institution.

(1) The agency or the agency's designee defines which income and resources must be used in this process under WAC 182-513-1315.

(2) The agency or the agency's designee allocates nonexcluded income in the following order, and the combined total of (a), (b), (c), and (d) of this subsection cannot exceed the effective one-person medically needy income level (MNIL):

(a) A personal needs allowance (PNA) under WAC 182-513-1105.

(b) Mandatory federal, state, or local income taxes owed by the client.

(c) Wages for a client who:

(i) Is related to the supplemental security income (SSI) program under WAC 182-512-0050(1); and

(ii) Receives the wages as part of an agency-approved or department-approved training or rehabilitative program designed to prepare the client for a less restrictive placement. When determining this deduction, employment expenses are not deducted.

(d) Guardianship fees and administrative costs, including any attorney fees paid by the guardian, as allowed under chapter 388-79A WAC.

(3) The agency or the agency's designee allocates nonexcluded income after deducting amounts under subsection (2) of this section in the following order:

(a) Current or back child support garnished or withheld from income according to a child support order in the month of the garnishment if it is:

(i) For the current month;

(ii) For the time period covered by the PNA; and

(iii) Not counted as the dependent member's income when determining the dependent allocation amount under WAC 182-513-1385.

(b) A monthly maintenance needs allowance for the community spouse as determined using the calculation under WAC 182-513-1385. If the community spouse is also receiving long-term care services, the allocation is limited to an amount that brings the community spouse's income up to the PNA.

(c) A dependent allowance for each dependent of the institutionalized client or the client's spouse, as determined using the calculation under WAC 182-513-1385.

(d) Medical expenses incurred by the institutionalized individual and not used to reduce excess resources. Allowable medical expenses and reducing excess resources are described in WAC 182-513-1350.

(e) Maintenance of the home of a single institutionalized client or institutionalized couple:

(i) Up to one hundred percent of the one-person federal poverty level per month;

(ii) Limited to a six-month period;

(iii) When a physician has certified that the client or couple is likely to return to the home within the six-month period; and

(iv) When social services staff documents the need for the income deduction.

(4) A client may have to pay third-party resources as defined under WAC 182-513-1100 in addition to the participation.

(5) A client is responsible to pay only up to the state rate for the cost of care. If long-term care insurance pays a portion of the state rate cost of care, a client pays only the difference up to the state rate cost of care.

(6) When a client lives in multiple living arrangements in a month, the agency allows the highest PNA available based on all the living arrangements and services the client has in a month.

(7) Standards under this section for long-term care are found at (~~www.heca.wa.gov/free-or-low-cost-health-care/program-administration/standards-lte~~) <https://www.hca.wa.gov/health-care-services-supports/program-standard-income-and-resources>.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 20-08-082, § 182-513-1380, filed 3/27/20, effective 4/27/20. Statutory Authority: RCW 41.05.021, 41.05.160, 2017 c 270. WSR 17-23-039, § 182-513-1380, filed 11/8/17, effective 1/1/18. Statutory Authority: RCW 41.05.021, 41.05.160, P.L. 111-148, 42 C.F.R. §§ 431, 435, and 457, and 45 C.F.R. § 155. WSR 17-03-116, § 182-513-1380, filed 1/17/17, effective 2/17/17. WSR 13-01-017, recodified as WAC 182-513-1380, filed 12/7/12, effective 1/1/13. Statutory Authority: RCW 74.04.050, 74.04.057, 74.08.090, 74.09.530, section 6014 of the Deficit Reduction Act of 2005 (DRA), and 2010 1st sp.s. c 37 § 209(1). WSR 12-21-091, § 388-513-1380, filed 10/22/12, effective 11/22/12. Statutory Authority: RCW 74.04.050, 74.04.057, 74.08.090, 74.09.500, 74.09.530, and Deficit Reduction Act of 2005, 42 C.F.R. Section 435. WSR 09-07-037, § 388-513-1380, filed 3/10/09, effective 4/10/09. Statutory Authority: RCW 74.04.050, 74.04.057, 74.08.090, 74.09.500, and 74.09.530. WSR 08-13-072, § 388-513-1380, filed 6/16/08, effective 7/17/08. Statutory Authority: RCW 74.04.050, 74.04.057, 74.08.090, 74.09.500, 74.09.530, and 2006 c 372. WSR 07-19-126, § 388-513-1380, filed 9/19/07, effective 10/20/07; WSR 07-01-072, § 388-513-1380, filed 12/18/06, effective 1/18/07. Statutory Authority: RCW 74.04.050, 74.04.057, 74.08.090, 74.09.500, 74.09.530 and 2005 c 518 § 207 and Sec. 1924 Social Security Act (42 U.S.C. 1396r-5). WSR 06-07-144, § 388-513-1380, filed 3/21/06, effective 4/21/06. Statutory Authority: RCW 74.04.050, 74.04.057, 74.08.090, 74.09.500, 42 U.S.C. 9902(2). WSR 05-07-033, § 388-513-1380, filed 3/9/05, effective 4/9/05. Statutory Authority: RCW 74.04.050, 74.04.057, 74.08.090, 74.09.500, 74.09.575; 2003 1st sp.s. c 28, and section 1924 of the Social Security Act (42 U.S.C. 1396R-5). WSR 04-04-072, § 388-513-1380, filed 2/2/04, effective 3/4/04. Statutory Authority: RCW 74.04.050, 74.04.057, 74.08.090, 74.09.500, and Section 1924(g) of the Social Security Act. WSR 00-17-058, § 388-513-1380, filed 8/9/00, effective 9/9/00. Statutory Authority: RCW 72.36.160, 74.04.050, 74.04.057, 74.08.090, 74.09.500 and Section 1924(g) of the Social Security Act, Section 4715 of the BBA of 1997 (Public Law 105-33, HR 2015). WSR 99-11-017, § 388-513-1380, filed 5/10/99, effective 6/10/99. Statutory Authority: RCW 74.04.050, 74.04.057, 74.08.090, 74.09.500, 43.20B.460, 11.92.180, and Section 1924 (42 U.S.C. 396r-5). WSR 98-08-077, § 388-513-1380, filed 3/31/98, effective 4/1/98. Statutory Authority: RCW 74.04.050, 74.04.057, 74.08.090, 74.09.530 and Social Security Act, Federal Register, March 10, 1997, pgs. 10856 - 10859, 42 U.S.C. 1396 (a)(1)(m). WSR 97-16-008, § 388-513-1380, filed 7/24/97, effective 7/24/97. Statutory Authority: RCW 74.08.090 and Title XIX State Agency Letter 95-44. WSR 96-09-033 (Order 3963), § 388-513-1380, filed 4/10/96, effective 5/11/96. Statutory Authority: RCW 74.08.090. WSR 95-11-045 (Order 3848), § 388-513-1380, filed 5/10/95, effective 6/10/95. Statutory Authority: RCW 74.08.090 and Title XIX State Agency Letter 94-49, notice of increase in SSI level. WSR 95-05-022 (Order

3832), § 388-513-1380, filed 2/8/95, effective 3/11/95. Statutory Authority: RCW 74.08.090. WSR 94-10-065 (Order 3732), § 388-513-1380, filed 5/3/94, effective 6/3/94. Formerly WAC 388-95-360.]

WSR 21-05-047

EXPEDITED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Long-Term Support Administration)

[Filed February 12, 2021, 8:49 a.m.]

Title of Rule and Other Identifying Information: WAC 388-112A-0105 Who is required to obtain home care aide certification and by when?, and 388-112A-0550 Who is required to complete nurse delegation core training and nurse delegation specialized diabetes training and by when?

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is proposing to amend WAC 388-112A-0105 and 388-112A-0550 to change an outdated WAC reference from WAC 246-980-070 to 246-980-025.

Reasons Supporting Proposal: The proposed changes are for house-keeping purposes only to update an outdated WAC reference.

Statutory Authority for Adoption: RCW 74.39A.009, 74.39A.070, 74.39A.074, 74.39A.351, 74.39A.341, 18.20.270, 18.88B.021, 18.88B.035, 70.128.230, 71A.12.030.

Statute Being Implemented: RCW 74.39A.009, 74.39A.070.

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

Name of Proponent: Department of social and health services (DSHS), governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: David Chappell, P.O. Box 45600, Olympia, WA 98504-5600, 360-725-2466.

This notice meets the following criteria to use the expedited adoption process for these rules:

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

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: The proposed rule only corrects an outdated WAC reference.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO DSHS, Rules Coordinator, P.O. Box 45850, Olympia, WA 98504-5850, phone 360-664-6097, fax 360-664-6185, email DSHSRPAURulesCoordinator@dshs.wa.gov, AND RECEIVED BY 5:00 p.m., April 19, 2021.

February 11, 2021
Katherine I. Vasquez
Rules Coordinator

SHS-4851.1

AMENDATORY SECTION (Amending WSR 17-22-036, filed 10/24/17, effective 11/24/17)

WAC 388-112A-0105 Who is required to obtain home care aide certification and by when? Unless exempt under WAC ((246-980-070)) 246-980-025, the following individuals must be certified by the department of health as a home care aide within the required time frames:

- (1) All long-term care workers, within two hundred days of the date of hire;
- (2) If a long-term care worker is limited-English proficient and the department of health has issued a provisional certification, within two hundred sixty days of the date of hire;
- (3) Adult family home applicants, before licensure;
- (4) Adult family home entity representatives and resident managers, before assuming the duties of the position;
- (5) Assisted living facility administrators or their designees within two hundred calendar days of the date of hire.
- (6) Enhanced services facility applicants, before licensure; and
- (7) Enhanced services facility administrators or their designees within two hundred days of the date of hire.

[Statutory Authority: RCW 74.39A.009, 74.39A.070, 74.39A.074, 74.39A.351, 74.39A.341, 18.20.270, 18.88B.021, 18.88B.035, 70.128.230, 71A.12.030. WSR 17-22-036, § 388-112A-0105, filed 10/24/17, effective 11/24/17.]

AMENDATORY SECTION (Amending WSR 17-22-036, filed 10/24/17, effective 11/24/17)

WAC 388-112A-0550 Who is required to complete nurse delegation core training and nurse delegation specialized diabetes training and by when? (1) Before performing any delegated nursing task, long-term care workers in adult family homes and assisted living facilities must:

- (a) Successfully complete the DSHS designated nurse delegation core training, "nurse delegation for nursing assistants & home care aides";
- (b) Be one or more of the following:
 - (i) Certified home care aide under chapter 18.88B RCW;
 - (ii) Nursing assistant certified under chapter 18.88A RCW;
 - (iii) If the long-term care worker is exempt from the home care aide certification under WAC ((246-980-070)) 246-980-025, the long-term care worker must be a nursing assistant registered and complete the core competencies of basic training, unless they already completed the twenty-eight hours of revised fundamentals of care or a department approved alternative;
 - (iv) If nurse delegation is needed to implement a care plan or negotiated service agreement earlier than home care aide certification can be obtained, the long-term care worker must become a nursing assistant registered and complete core competencies (the core basic training) of the seventy-hour long-term care worker basic training.
- (2) Before long-term care workers in adult family homes and assisted living facilities may perform the task of insulin injections, the long-term care workers must:

(a) Meet the requirements in subsection (1)(a) and (b) of this section; and

(b) Successfully complete the DSHS designated specialized diabetes nurse delegation training.

[Statutory Authority: RCW 74.39A.009, 74.39A.070, 74.39A.074, 74.39A.351, 74.39A.341, 18.20.270, 18.88B.021, 18.88B.035, 70.128.230, 71A.12.030. WSR 17-22-036, § 388-112A-0550, filed 10/24/17, effective 11/24/17.]

**WSR 21-05-058
EXPEDITED RULES
DEPARTMENT OF**

SOCIAL AND HEALTH SERVICES

(Aging and Long-Term Support Administration)

[Filed February 16, 2021, 10:07 a.m.]

Title of Rule and Other Identifying Information: WAC 388-106-0665
How are volunteers qualified to provide volunteer services?

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is proposing to amend WAC 388-106-0665 to change an outdated WAC reference from WAC 388-71-0105 to WAC 388-103-0001.

Reasons Supporting Proposal: The proposed change is for house-keeping purposes only to update an outdated WAC reference.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.520.

Statute Being Implemented: RCW 74.08.090, 74.09.520.

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

Name of Proponent: Department of social and health services (DSHS), governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Rosemary Biggins, P.O. Box 45600, Olympia, WA 98504-5600, 360-725-2466.

This notice meets the following criteria to use the expedited adoption process for these rules:

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

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: The proposed rule only corrects an outdated WAC reference.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO DSHS, Rules Coordinator, P.O. Box 45850, Olympia, WA 98504-5850, phone 360-664-6097, fax 360-664-6185, email DSHSRPAURulesCoordinator@dshs.wa.gov, AND RECEIVED BY 5:00 p.m., April 19, 2021.

February 1, 2021
Katherine I. Vasquez
Rules Coordinator

SHS-4849.1

AMENDATORY SECTION (Amending WSR 15-07-074, filed 3/17/15, effective 4/17/15)

WAC 388-106-0665 How are volunteers qualified to provide volunteer services? Volunteers are qualified to provide volunteer services through the following mechanisms:

(1) Volunteers who will have unsupervised access to vulnerable adults cannot have any convictions, pending crimes or findings that are listed in WAC (~~(388-71-0105)~~) 388-103-0001 or provide contracted services per RCW 43.20A.0710 (1)(c) prior to working alone with them.

(2) The volunteer services contractor(s) will provide orientation and ongoing training as needed to volunteers.

[Statutory Authority: RCW 74.08.090 and 74.09.520. WSR 15-07-074, § 388-106-0665, filed 3/17/15, effective 4/17/15.]