

**WSR 21-10-094**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
[Filed May 4, 2021, 3:08 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-08-093.

Title of Rule and Other Identifying Information: The department is proposing to amend chapter 388-71 WAC, Home and community services and programs; chapter 388-106 WAC, Long-term care services; and chapter 388-113 WAC, Disqualifying crimes and negative actions. The department is also proposing to create a new chapter 388-115 WAC, Consumer directed employer (CDE).

Hearing Location(s): On July 6, 2021, at 10:00 a.m., at Office Building 2, Department of Social and Health Services (DSHS) Headquarters, 1115 Washington Street S.E., Olympia, WA 98504. Public parking at 11th and Jefferson. A map is available at <https://www.dshs.wa.gov/office-of-the-secretary/driving-directions-office-bldg-2>; or by Skype. Due to the COVID-19 pandemic, hearing may be held via Skype, see DSHS website for most up-to-date information.

Date of Intended Adoption: Not earlier than July 7, 2021.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email [DSHSRPAURulesCoordinator@dshs.wa.gov](mailto:DSHSRPAURulesCoordinator@dshs.wa.gov), fax 360-664-6185, by 5:00 p.m. July 7, 2021.

Assistance for Persons with Disabilities: Contact Jeff Kildahl, DSHS rules consultant, phone 360-664-6092, fax 360-664-6185, TTY 711 relay service, email [Kildaja@dshs.wa.gov](mailto:Kildaja@dshs.wa.gov), by May 22, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is proposing to amend, repeal, and create new sections in chapters 388-71, 388-106, and 388-113 WAC, and create a new chapter 388-115 WAC, Consumer directed employer, as a reference for the individual providers employed by the CDE.

The purpose for making changes is to clarify and consolidate rules related to background checks, disqualifying convictions, and negative actions; and character, competence, and suitability determinations for home and community services, residential care services, and the developmental disabilities administration. These changes will provide better clarity and understanding for the public and contracted entities, reduce the amount of WAC language across programs, and help preserve the health and safety of our clients. Other provisions related to long-term care worker qualifications and a client's choice of provider will also be clarified and consolidated.

Reasons Supporting Proposal: The department is making these changes based on the implementation of the CDE and the change from individual providers contracted with the department to individual providers employed by CDE as a result of the passage of ESSB 6199 (chapter 278, Laws of 2018) in 2018.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.520, 43.43.832, 74.39A.270, 74.39A.056, 74.39A.074, 43.20A.710, 74.39A.525, 43.43.842, 74.39A.326, 74.39A.515, 74.39A.505, 18.88B.021, and 43.43.837.

Statute Being Implemented: RCW 74.08.090, 74.09.520, 43.43.832, 74.39A.270, 74.39A.056, 74.39A.074, 43.20A.710, 74.39A.525, 43.43.842, 74.39A.326, 74.39A.515, 74.39A.505, 18.88B.021, and 43.43.837.

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

Name of Proponent: DSHS, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Carson Crepeaux, P.O. Box 45600, Olympia, WA 98504-5600, 360-725-3714; Enforcement: Karen Fitzharris, P.O. Box 45600, Olympia, WA 98504-5600, 360-725-2536.

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

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Angel Sullivan, P.O. Box 45600, Olympia, WA 98504-5600, phone 360-725-2495, fax 360-407-7582, TTY 360-493-2637, email Angel.Sullivan@dshs.wa.gov.

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(4) because the proposed amendments impose no new or disproportionate costs on small businesses so a small business economic impact statement is not required.

April 29, 2021  
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 [21-12](#) issue of the Register.