

WSR 21-14-082
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Aging and Long-Term Support Administration)
[Filed July 6, 2021, 12:38 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-09-080.

Title of Rule and Other Identifying Information: WAC 388-106-0250
What is the roads to community living (RCL) demonstration project and who is eligible?

Hearing Location(s): On August 10, 2021, at 10:00 a.m., at Office Building 2, Department of Social and Health Services (DSHS) Headquarters, 1115 Washington, 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 virtual. Due to the effects of the COVID-19 pandemic, hearings are being held virtually. Please see the DSHS website for the most current information.

Date of Intended Adoption: Not earlier than August 11, 2021.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAURulesCoordinator@dshs.wa.gov, fax 360-664-6185, by 5:00 p.m., on August 10, 2021.

Assistance for Persons with Disabilities: Contact DSHS rules coordinator, phone 360-664-6097, fax 360-664-6185, TTY 711 relay service, email DSHSRPAURulesCoordinator@dshs.wa.gov, by July 27, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is proposing to amend WAC 388-106-0250 to ensure that roads to community living eligibility aligns with the federal Money Follows the Person Demonstration eligibility criteria.

Reasons Supporting Proposal: The Consolidated Appropriations Act of 2021, Section 204 outlines an extension of Money Follows the Person Rebalancing Demonstration and changes the institutional residency period requirement, striking the ninety-day institutionalized eligibility period and inserting a sixty-day institutionalized period.

In addition, Money Follows the Person demonstration eligibility includes all settings identified as home and community-based settings. Roads to community living is the name of Washington state's money follows the person demonstration.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.520; Affordable Care Act, Deficit Reduction Act of 2005 (P.L. 109-171), and Consolidated Appropriations Act of 2021 (Section 204).

Statute Being Implemented: RCW 74.09.520; Consolidated Appropriations Act of 2021 (Section 204).

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: Julie Cope, P.O. Box 45600, Olympia, WA 98504-5600, 360-725-2529.

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. This rule is exempt under RCW 34.05.328 (5) (b) (vii).

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.

July 2, 2021
Katherine I. Vasquez
Rules Coordinator

SHS-4878.1

AMENDATORY SECTION (Amending WSR 14-01-112, filed 12/18/13, effective 1/18/14)

WAC 388-106-0250 What is the roads to community living (RCL) demonstration project and who is eligible? (1) Roads to community living (RCL) is a demonstration project, funded by a "money follows the person" grant originally authorized under section 6071 of the Deficit Reduction Act of 2005 (P.L. 109-171) and extended through the Patient Affordable Care Act (P.L. 111-148). It is designed to test services and supports which help customers move from institutional settings into the community if they wish to.

(2) To be eligible, the department must assess your needs in CARE per chapter 388-106 or 388-845 WAC and you must:

(a) Have a continuous stay of at least ~~((90))~~ sixty days in a qualified institutional setting (hospital, nursing home, residential habilitation center);

(i) Any days you were solely receiving medicare-paid, short term rehabilitation services are excluded from the ~~((90))~~ sixty days.

(ii) If you are discharging from a state psychiatric hospital and meet the length of stay criteria, you must be under age ~~((22))~~ twenty-two, or age ~~((65))~~ sixty-five and older.

(b) Have received at least one day of medicaid-paid inpatient services immediately prior to discharge from the institutional setting;

(c) Intend to move to a ~~((qualified))~~ home and community based setting (home, apartment, licensed residential setting ~~((with four or less unrelated individuals)))~~; and

(d) On the day of discharge, you must be functionally and financially eligible for, but are not required to receive, medicaid waiver or state plan services.

[Statutory Authority: RCW 74.08.090, 74.09.520, and Affordable Care Act (ACA). WSR 14-01-112, § 388-106-0250, filed 12/18/13, effective 1/18/14. Statutory Authority: RCW 74.08.090, 74.09.520, and Deficit Reduction Act of 2005 (P.L. 109-171). WSR 08-18-046, § 388-106-0250, filed 8/29/08, effective 9/29/08.]