

## WSR 21-16-025

## AGENDA

## DEPARTMENT OF

## SOCIAL AND HEALTH SERVICES

[Filed July 23, 2021, 3:18 p.m.]

Following is the department of social and health services (DSHS) semi-annual rule-making agenda for July 1 - December 31, 2021. This agenda will be published in the Washington State Register as required in RCW 34.05.314 and distributed to interested parties. It is also available online at <https://www.dshs.wa.gov/office-of-the-secretary/dshs-semi-annual-rule-making-agenda>.

This report represents DSHS rules under development at this time. There may be additional rule-making activity as DSHS responds to legislative actions, to comply with federal mandates, or to meet unforeseen circumstances.

Semi-Annual Rule-Making Agenda  
July 1 - December 31, 2021

Administration/ Division	WAC Sections	Purpose for Rule Making	CR-101 Filings	CR-102 and CR-105 Filings	CR-103E Filings
<b>Aging and Disability Services Administration</b>					
<b>Home and Community Services Division</b>					
	Chapters 388-71, 388-106, 388-113, 388-114 WAC; and creating a new chapter in Title 388 WAC	The department is planning to create a new chapter in Title 388 WAC and amend sections in chapters 388-71, 388-106, 388-113, and 388-114 WAC, and other related rules as may be required.	WSR 20-08-093 Filed 3/30/2020	WSR 21-10-094 Filed 5/4/2021	
	388-71-0975	Amending "Who is required to obtain certification as a home care aide, and when?" to clarify how to interpret the long-term care worker qualifications and requirements in rule that have specific time periods for compliance when there has been a period of time in which the underlying requirements were suspended and waived in whole or part by emergency proclamation by the Governor.	WSR 21-01-121 Filed 12/15/2020		WSR 21-01-018 Filed 12/3/2020
	New section in chapter 388-106 WAC	The department is planning to add a new section in chapter 388-106 WAC for long-term services and supports presumptive eligibility, and may amend other related rules as may be required.	WSR 21-09-071 Filed 4/20/2021		
	388-106-0250	The department is planning to amend "What is the roads to community living demonstration project and who is eligible?" and other related rules as may be required.	WSR 21-09-080 Filed 4/20/2021	WSR 21-14-082 Filed 7/6/2021	
	388-106-0275	The department is planning to amend "Are there limits to the community transition services I may receive?" and other related rules as may be required.	WSR 21-11-022 Filed 5/11/2021		
	388-112A-1240	The department is planning to amend this rule and add a new section in chapter 388-112A WAC, Residential long-term care services training. The department may amend other related rules as required.	WSR 21-11-023 Filed 5/11/2021	WSR 21-14-098 Filed 7/7/2021	
<b>Management Services Division</b>					
	388-96-107	The department is amending WAC 388-96-107 Requests for extensions.			WSR 21-07-106 Filed 3/22/2021
<b>Residential Care Services Division</b>					

Administration/ Division	WAC Sections	Purpose for Rule Making	CR-101 Filings	CR-102 and CR-105 Filings	CR-103E Filings
	Chapter 388-78A WAC	The department is considering adding new sections and repealing and amending existing sections in "Assisted living facility licensing rules" to consolidate the rules related to background checks, negative actions, and character, competence, and suitability determinations between home and community services, residential services, and developmental disabilities administration (DDA).	WSR 18-17-159 Filed 8/21/2018		
	Chapter 388-97 WAC	The department is considering adding new sections and repealing and amending existing sections in "Nursing homes" and other related rules as maybe required.	WSR 18-17-175 Filed 8/22/2018		
	Chapter 388-76 WAC	The department is considering adding new sections and repealing and amending existing sections in "Adult family home minimum licensing requirements."	WSR 18-17-177 Filed 8/22/2018		
	Chapter 388-107 WAC	The department is considering adding new sections and repealing and amending existing sections in "Licensing requirements for enhanced services facilities."	WSR 18-17-178 Filed 8/22/2018		
	Chapter 388-97 WAC; 388-97-1090	The department is planning to add new sections and amend existing sections in "Nursing homes," including "Direct care hours" and other related rules as may be required.	WSR 19-12-109 Filed 6/5/2019		
	Chapter 388-97 WAC	The department is proposing to add new sections, repeal existing sections, and amend sections in "Nursing homes" related to tuberculosis screening.	WSR 19-18-051 Filed 8/30/2019		
	Chapter 388-107 WAC	The department is planning to add new sections, repeal existing sections, and amend sections in "Licensing requirements for enhanced services facilities" related to tuberculosis screening.	WSR 19-18-059 Filed 9/3/2019		
	Chapter 388-76 WAC	The department is planning to add new sections, repeal existing sections, and amend sections in "Adult family home minimum licensing requirements" related to tuberculosis screening.	WSR 19-18-061 Filed 9/3/2019		
	Chapter 388-78A WAC	The department is planning to add new sections, repeal existing sections, and amend sections in "Assisted living facility licensing rules" related to tuberculosis screening.	WSR 19-18-062 Filed 9/3/2019		
	388-97-0001, 388-97-1090	DSHS, aging and long-term support administration, is considering amending definitions; direct care hours; and other related rules as may be required to implement EHB 1564 (chapter 301, Laws of 2019).	WSR 21-10-084 Filed 5/3/2021 WSR 20-08-101 Filed 3/30/2020		
	Chapter 388-76 WAC	The department is considering amending to incorporate ESHB 1023, 2020 regular session, into the rules.	WSR 20-08-110 Filed 3/31/2020		
	388-107-0460, 388-76-10265, 388-76-10285, 388-76-10290, 388-78A-2480, 388-78A-2484, 388-78A-2485, 388-101D-0650, 388-101D-0660, 388-107-0460, 388-107-0490	The department is temporarily repealing or amending these WAC to assure [ensure] long-term care programs are not significantly impeded during the hiring process due to inability to access the tuberculosis (TB) testing required as a part of the hiring process.	WSR 20-16-069 Filed 7/29/2020		WSR 21-15-113 Filed 7/21/2021 WSR 21-07-109 Filed 3/23/2021 WSR 20-24-060 Filed 11/24/2020 WSR 20-16-102 Filed 7/31/2020 WSR 20-09-009 Filed 4/2/2020

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	388-97-0120, 388-97-1000, 388-97-1020, 388-97-1915, 388-97-1975; and repealing 388-97-0920	The department is amending these to [ensure] assure nursing homes are not significantly impeded from admitting and caring for residents during the COVID-19 outbreak.	WSR 21-11-062 Filed 5/14/2020 WSR 20-17-005 Filed 8/5/2020		WSR 21-11-018 Filed 5/10/2021 WSR 21-08-055 Filed 4/5/2021 WSR 21-01-035 Filed 12/7/2020 WSR 20-17-048 Filed 8/11/2020 WSR 20-09-074 Filed 4/13/2020
	388-78A-2524, 388-78A-2525, 388-78A-2526	The department is temporarily amending WAC to assure [ensure] assisted living facilities are not significantly impeded during the hiring process due to an administrator's inability to obtain a certificate of completion of a recognized administrator training as referenced in WAC 388-78A-2521.	WSR 20-17-085 Filed 8/13/2020		WSR 21-09-046 Filed 4/15/2021 WSR 21-01-129 Filed 12/16/2020 WSR 20-18-001 Filed 8/20/2020 WSR 20-10-005 Filed 4/23/2020
	388-97-1260	The department is amending WAC to assure [ensure] nursing homes are not significantly impeded from admitting and caring for residents during the COVID-19 outbreak. These amendments will align state nursing home rules with federal rules that were suspended or amended to help facilitate care during the COVID-19 pandemic.	WSR 20-17-133 Filed 8/18/2020		WSR 21-09-061 Filed 4/19/2021 WSR 21-01-192 Filed 12/22/2020 WSR 20-18-022 Filed 8/26/2020 WSR 20-10-034 Filed 4/28/2020
	Chapter 388-107 WAC	The department is considering amending chapter 388-107 WAC and other related rules as may be required to implement SHB 2448 (chapter 278, Laws of 2020).	WSR 20-10-091 Filed 5/5/2020		
	388-97-0300	The department is amending WAC to assure [ensure] nursing homes are not significantly impeded from [no further information provided].	WSR 20-19-009 Filed 9/3/2020		WSR 21-10-073 Filed 5/3/2021 WSR 21-02-074 Filed 1/5/2021 WSR 20-19-040 Filed 9/10/2020 WSR 20-11-043 Filed 5/15/2020
	388-97-1740, 388-97-1760, 388-97-2400	The department is amending rules in chapter 388-97 WAC to assure [ensure] nursing homes are not significantly impeded from admitting and caring for residents during the COVID-19 outbreak.	WSR 20-21-034 Filed 10/12/2020		WSR 21-13-069 Filed 6/14/2021 WSR 21-05-059 Filed 2/16/2021 WSR 20-21-086 Filed 10/21/2020 WSR 20-14-026 Filed 6/23/2020
	388-101-3130	The department is amending WAC to assure [ensure] certified community residential services and supports service providers are not significantly impeded from providing services and support to clients during the COVID-19 pandemic.	WSR 20-24-092 Filed 11/25/2020		WSR 21-08-036 Filed 4/1/2021 WSR 21-01-010 Filed 12/3/2020 WSR 20-17-012 Filed 8/6/2020
	388-101-3020	The department is considering amending "compliance" and other related rules as may be required.	WSR 20-23-054 Filed 11/13/2020		
	388-97-1380, 388-97-1580	The department is amending WAC to assure [ensure] nursing homes are not obstructed from offering the COVID-19 vaccine to residents and staff because of clinical interference from required TB testing.	WSR 21-11-061 Filed 5/14/2021		WSR 21-11-069 Filed 5/17/2021 WSR 21-04-020 Filed 1/25/2021
	New section in chapter 388-97 WAC	The department is considering adding a new section in chapter 388-97 WAC, Nursing homes, and amending other related rules as may be necessary to implement ESHB 1120 (chapter 203, Laws of 2021).	WSR 21-14-046 Filed 7/1/2021		

Administration/ Division	WAC Sections	Purpose for Rule Making	CR-101 Filings	CR-102 and CR-105 Filings	CR-103E Filings
	388-97-1080, 388-97-1090	The department is considering amending nursing services, direct care hours, and other related rules as may be necessary to implement ESHB 1120 (chapter 203, Laws of 2021).	WSR 21-14-049 Filed 7/1/2021		
	388-97-1660	The department is considering amending staff and equipment, and other related rules as may be necessary to implement ESHB 1120 (chapter 203, Laws of 2021).	WSR 21-14-051 Filed 7/1/2021		
<b>Behavioral Health Administration</b>					
	Chapter 388-878 WAC	The department is planning to amend the chapter to develop rules for the conditions of participation in the outpatient competency restoration program, within the framework of the forensic mental health care system.	WSR 21-08-091 Filed 4/7/2021 WSR 20-08-116 Filed 3/31/2020	WSR 21-12-090 Filed 6/1/2021	
<b>Developmental Disabilities Administration</b>					
	388-845-2019	The department is adopting on an emergency basis to make temporary modifications to DDA's home and community-based services waivers to control the spread of the COVID-19 virus and to meet immediate health and safety needs.	WSR 20-15-010 Filed 7/2/2020		WSR 21-12-049 Filed 5/26/2021 WSR 21-06-036 Filed 2/24/2021 WSR 20-22-035 Filed 10/27/2020 WSR 20-14-101 Filed 6/30/2020 WSR 20-08-056 Filed 3/25/2020
	Chapter 388-828 WAC	The department is planning to amend this chapter and other related rules as may be required to implement the consumer-directed employment program and align with changes being made to modernize the comprehensive assessment reporting evaluation system.	WSR 20-08-058 Filed 3/25/2020	WSR 21-12-048 Filed 5/26/2021	
	388-829R-170, 388-829R-230, 388-829-0005, 388-829-0045	The department is planning to amend these and other related rules as may be required.	WSR 20-14-099 Filed 6/30/2020		
	Chapter 388-829Z WAC	The department is planning to create emergency transitional respite, and create or amend other related rules as may be required.	WSR 20-16-138 Filed 8/3/2020		
	388-845-0001	DDA is enacting these changes to align chapter 388-845 WAC with home and community-based services waiver amendments approved by the Centers for Medicare and Medicaid Services.	WSR 20-20-100 Filed 10/5/2020	WSR 21-12-031 Filed 5/24/2021	WSR 21-13-040 Filed 6/10/2021 WSR 21-06-028 Filed 2/23/2021 WSR 20-22-032 Filed 10/26/2020 WSR 20-20-068 Filed 10/1/2020
	New chapter 388-847 WAC	The department is considering creating a new chapter and amending other related rules as may be required.	WSR 21-01-111 Filed 12/14/2020		
	388-101D-0200	Service provider refusal to serve a client and other related rules as may be required regarding suspending and terminating a client's residential services.	WSR 21-03-042 Filed 1/14/2021		
	388-101D-0500	WAC 388-101D-0500 and other related rules as may be required.	WSR 21-09-085 Filed 4/21/2021	WSR 21-13-082 Filed 6/16/2021	
	388-829C-131	Companion homes and other related rules as may be required.	WSR 21-10-093 Filed 5/4/2021		
<b>Economic Services Administration</b>					
<b>Community Services Division</b>					
	388-412-0046	The department is proposing to amend "What is the purpose of DSHS cash and food assistance benefits and how can I use my benefits?" and other related rules as appropriate.	WSR 21-14-116 Filed 7/7/2021		

Administration/ Division	WAC Sections	Purpose for Rule Making	CR-101 Filings	CR-102 and CR-105 Filings	CR-103E Filings
	388-450-0100	The department is proposing to amend allocating income-definitions.		WSR 21-15-060 Filed 7/15/2021	
	388-436-0040, 388-436-0050, 388-436-0055	The department is amending "Excluded income and resources for CEAP," "Determining financial need and benefit amount for CEAP," and "What is the disaster cash assistance program (DCAP)?" These amendments are necessary to expand consolidated emergency assistance and related disaster cash assistance program during the statewide public health crisis created by the COVID-19 virus (commonly referred to as the "coronavirus").	WSR 20-16-129 Filed 8/3/2020	WSR 21-12-087 Filed 6/1/2021	WSR 21-09-062 Filed 4/19/2021 WSR 20-19-072 Filed 9/14/2020 WSR 20-17-069 Filed 8/13/2020 WSR 20-09-102 Filed 4/16/2020
	388-444-0015, 388-444-0025	The community services division is planning to amend "How can the basic food employment and training program help me find work?"; "What expenses will the department pay to help me participate in BF E&T?"; and other related rules as may be required.	WSR 20-09-134 Filed 4/21/2020	WSR 21-09-075 Filed 4/20/2021	
	388-458-0011	The department is planning to amend "DSHS sends you a denial letter when you can't get benefits" and other related rules as may be required.	WSR 20-12-089 Filed 6/2/2020	WSR 21-12-076 Filed 5/28/2021	
	388-482-0005	The department is planning to amend "How does being a student of higher education affect my eligibility for Washington basic food program?" and other related rules as may be required.	WSR 20-12-095 Filed 6/2/2020	WSR 21-11-046 Filed 5/13/2021 WSR 20-23-050 Filed 11/12/2020	WSR 21-12-005 Filed 5/19/2021 WSR 21-04-110 Filed 2/1/2021
	388-454-0006	The department is planning to amend "The department makes background checks on adults who are acting in place of a parent without court-ordered custody" and other related rules as may be required.	WSR 20-13-047 Filed 6/11/2020	WSR 21-11-068 Filed 5/17/2021 WSR 21-08-072 Filed 4/6/2021 WSR 20-20-086 Filed 10/5/2020	
	388-437-0015, 388-476-0005	The department is adopting new WAC and amending "Social Security number requirements" to align rule language more closely with federal regulation governing the supplemental nutrition assistance program (SNAP).	WSR 21-03-009 Filed 1/8/2021 WSR 20-22-079 Filed 11/3/2020	WSR 21-10-055 Filed 4/29/2021	WSR 21-11-005 Filed 5/7/2021 WSR 21-03-014 Filed 1/8/2021 WSR 20-16-084 Filed 7/30/2020
	388-437-0020	The department is adopting "Availability of pandemic EBT benefits" to describe the eligibility of children under age five, place a deadline on receipt of all pandemic EBT (P-EBT) applications, and place a deadline on the receipt of P-EBT benefits.			WSR 20-19-088 Filed 9/16/2020 WSR 20-19-059 Filed 9/11/2020
	388-412-0025	The department is planning to amend "How do I receive my benefits?" and other related rules as may be required.	WSR 21-07-128 Filed 3/23/2021 WSR 20-22-077 Filed 11/3/2020		
	388-439-0005, 388-439-0010, 388-439-0015, 388-439-0020, 388-439-0025	The department is adopting "What is the pandemic EBT program?"; "Eligibility of pandemic EBT benefits for the 2020-2021 school year"; and "General information about pandemic EBT benefits"; "Eligibility for pandemic EBT benefits for children under age six"; and "Eligibility for pandemic EBT benefits during the 2021 summer period."			WSR 21-16-017 Filed 7/23/2021 WSR 21-08-010 Filed 3/26/2021
	388-437-0002	The department is adopting "What is the minimum emergency food assistance allotment an assistance unit may receive?" to expand adjustments to food assistance benefit issuances implemented under the Families First Coronavirus Response Act (H.R. 6201, Section 2302) and updated guidance from Food and Nutrition Services issued on April 1, 2021.			WSR 21-09-036 Filed 4/13/2021

Administration/ Division	WAC Sections	Purpose for Rule Making	CR-101 Filings	CR-102 and CR-105 Filings	CR-103E Filings
	388-437-0005	The department is amending "Changes to food assistance in response to the COVID-19 pandemic" to define that households that receive a zero benefit are not eligible for emergency adjustments to food assistance benefit issuances implemented under the Families First Coronavirus Response Act (H.R. 6201, Section 2302).			WSR 21-10-048 Filed 4/28/2021
	388-424-0001, 388-400-0010, 388-424-0030, 388-424-0010, 388-424-0015, 388-424-0009; and chapter 388-490 WAC	The department is planning to amend "Citizenship and alien status—Definitions"; "Who is eligible for state family assistance?"; "How does my alien status impact my eligibility for state-funded benefits under the food assistance program?"; "Citizenship and alien status—Eligibility for TANF"; "Immigrant eligibility restrictions for the state family assistance, ABD cash and PWA programs"; "Citizenship and alien status—Social Security number (SSN) requirements"; and other related rules as appropriate. The department is also planning to adopt a new section to "Verification."	WSR 21-11-067 Filed 5/14/2021		
	388-480-0001	The department is proposing to amend "Does being on strike impact my eligibility for the Washington basic food program?"			
	388-478-0020, 388-478-0027, 388-478-0035, 388-436-0050	The department is planning to amend "Payment standards for TANF, SFA and RCA"; "What is the payment standard for pregnant women assistance (PWA)"; "What are the maximum earned income limits for TANF, SFA, PWA and RCA?"; "Determining financial need and benefit amount for CEAP", and other related rules as appropriate.	WSR 21-13-014 Filed 6/7/2021		WSR 21-13-114 Filed 6/21/2021
	388-432-0005	The department is planning to amend "Can I get help from DSHS for a family emergency without receiving monthly cash assistance?" and other related rules as appropriate.	WSR 21-13-016 Filed 6/8/2021		WSR 21-14-032 Filed 6/29/2021
	388-412-0015	The Consolidated Appropriations Act of 2021, P.L. 116-260, enacted December 27, 2020, increased the minimum allotment for SNAP (basic food) from \$16.00 to \$19.00. The American Rescue Plan Act of 2021, P.L. 117-2, enacted March 11, 2021, made this change effective through September 30, 2021.			WSR 21-13-021 Filed 6/8/2021
	388-310-0800	The department is amending WorkFirst—Support services, to expand access of support services during the time of and recovery from the COVID-19 pandemic.	WSR 21-13-124 Filed 6/21/2021		WSR 21-13-031 Filed 6/10/2021
	388-444-0010	The department is proposing to amend "Who is exempt from work registration while receiving basic food?" and other related rules as may be required.	WSR 21-13-107 Filed 6/18/2021		
	388-484-0006	The department is proposing to amend TANF/SFA time limit extensions, and other related rules as may be required.	WSR 21-13-126 Filed 6/22/2021		WSR 21-14-031 Filed 6/29/2021
	388-449-0200	The department is planning to amend "Am I eligible for cash assistance for aged, blind, or disabled (ABD) while waiting for supplemental security income (SSI)?" ; WAC 388-449-0001 What are the disability requirements for the aged, blind, or disabled (ABD) program?; and other related rules as appropriate.	WSR 21-13-157 Filed 6/22/2021		

Administration/ Division	WAC Sections	Purpose for Rule Making	CR-101 Filings	CR-102 and CR-105 Filings	CR-103E Filings
	388-474-0020	The department is planning to amend "What can an aged, blind or disabled (ABD) cash assistance client expect when supplemental security income (SSI) benefits begin?" and other related rules as appropriate.	WSR 21-13-158 Filed 6/22/2021		
<b>Division of Child Support</b>					
	Chapter 388-14A WAC	The department is planning to amend sections in this chapter dealing with the establishment of administrative child support orders including WAC 388-14A-3115 The notice and finding of financial responsibility is used to set child support when paternity is not at issue, 388-14A-3140 What can happen at a hearing on a support establishment notice?, and other related rules as may be required.	WSR 18-07-077 Filed 3/19/2018		
	Chapter 388-14A WAC	The division of child support (DCS) is planning to amend, adopt, or repeal sections in this chapter to: (1) Implement ESSB 6037 (chapter 6, Laws of 2018) and the technical corrections made to ESSB 6037 by SSB 5333 (chapter 46, Laws of 2019); and (2) update terminology and clarify and streamline the rules and procedures regarding parentage from the Uniform Parentage Act (adopted as chapter 26.26A RCW) to conform with current state and federal laws.	WSR 20-07-090 Filed 3/17/2020		
	388-14A-2210	The department is creating WAC 388-14A-2210 to clarify that temporary procedures employed by USPS are acceptable for purposes of certified mail service.	WSR 20-09-148 Filed 4/22/2020		WSR 21-09-003 Filed 4/7/2021 WSR 21-01-040 Filed 12/8/2020 WSR 20-17-060 Filed 8/12/2020 WSR 20-09-081 Filed 4/14/2020
	388-14A-3205	The department is planning to amend this chapter and other related rules as may be required involving DCS income calculation.	WSR 20-14-021 Filed 6/22/2020		WSR 20-22-046 Filed 10/28/2020 WSR 20-14-018 Filed 6/22/2020
	Chapter 388-14A WAC	The department is amending this chapter to implement SHB 2302 (chapter 227, Laws of 2020) regarding incarceration abatement.	WSR 21-05-061 Filed 2/16/2021		WSR 21-13-094 Filed 6/18/2021 WSR 21-06-023 Filed 2/22/2021 WSR 21-05-011 Filed 2/4/2021
<b>Executive</b>					
<b>Division of Vocational Rehabilitation</b>					
	388-891A-0220	What is the client assistance program?		WSR 21-14-036 Filed 6/29/2021	

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Rules Coordinator