

WSR 21-23-107

EMERGENCY RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Long-Term Support Administration)

[Filed November 17, 2021, 9:02 a.m., effective November 23, 2021]

Effective Date of Rule: November 23, 2021.

Purpose: The department is extending the amendment of the rule listed below to assure certified community residential services and supports (CCRSS) providers are not significantly impeded from providing services and support to clients during the COVID-19 pandemic. Governor Inslee's Proclamation 20-18 and subsequent extensions identified that the pandemic has resulted in disruptions of long-term care systems, including the ability to safely conduct inspections. The governor's proclamations included the suspension of licensing inspections for all long-term care settings with the exception of CCRSS settings. Current rule states the department may conduct an on-site certification evaluation for each service provider at any time, but at least once every two years. The amendment lengthens the amount of time to complete certification evaluations that are currently suspended for consistency and safety across all programs regulated by the department. The amendment will allow the department additional time to complete certification evaluations when it is safe and practical to do so. The department filed a CR-101 under WSR 20-24-092 and is continuing the process of permanent rule making. In addition, under the rule development phase of rule making, the department is in discussions with stakeholders about adding language to the rules to explain the circumstances and time periods under which suspension of rules due to COVID[-19] is necessary. In the meantime, the department is extending the emergency rule under RCW 34.05.350.

Citation of Rules Affected by this Order: Amending WAC 388-101-3130.

Statutory Authority for Adoption: RCW 71A.12.030 and 71A.12.080.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The threat of COVID-19 to our most vulnerable populations is significant, especially for those receiving long-term care services in their homes and congregate settings, such as CCRSS settings. Current CCRSS rules ensure the department may conduct on-site certification evaluations of each CCRSS service provider at any time, but at least every two years. Due to the suspension of certification evaluations, as proclaimed for all other long-term care settings related to the COVID-19 pandemic, the amendment allows additional time to complete the certification evaluations when the pandemic subsides.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: November 17, 2021.

Katherine I. Vasquez
Rules Coordinator

SHS-4821.1

AMENDATORY SECTION (Amending WSR 08-02-022, filed 12/21/07, effective 2/1/08)

WAC 388-101-3130 Certification evaluation. (1) The department may conduct an on-site certification evaluation of each service provider at any time (~~(, but at least once every two years)~~).

(2) During certification evaluations the service provider's administrator or designee must:

(a) Cooperate with department representatives during the on-site visit;

(b) Provide all contractor records, client records, and other relevant information requested by the department representatives;

(c) Ensure the service provider's administrator or designee is available during any visit to respond to questions or issues identified by department representatives; and

(d) Ensure the service provider's administrator or designee is present at the exit conference.

[Statutory Authority: Chapter 71A.12 RCW. WSR 08-02-022, § 388-101-3130, filed 12/21/07, effective 2/1/08.]