

WSR 23-14-029

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Long-Term Support Administration)

[Filed June 26, 2023, 10:16 a.m., effective July 27, 2023]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Amending WAC 388-76-10350 Assessment—Updates required, 388-78A-2100 Ongoing assessments, and 388-107-0080 Ongoing comprehensive assessments; and adding new WAC 388-76-10351, 388-78A-2101, and 388-107-0081 to codify the timeline and requirements established under emergency rules in effect during the COVID-19 public health emergency.

Citation of Rules Affected by this Order: New WAC 388-76-10351, 388-78A-2101 and 388-107-0081; and amending WAC 388-76-10350, 388-78A-2100, and 388-107-0080.

Statutory Authority for Adoption: Chapter 18.51 RCW.

Adopted under notice filed as WSR 23-07-076 on March 13, 2023.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 3, Amended 3, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 3, Amended 3, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 1, Amended 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 2, Amended 2, Repealed 0.

Date Adopted: June 23, 2023.

Katherine I. Vasquez
Rules Coordinator

SHS-4914.5

AMENDATORY SECTION (Amending WSR 07-21-080, filed 10/16/07, effective 1/1/08)

WAC 388-76-10350 Assessment—Updates required. (1) The department amended portions of this rule from January 18, 2022, through June 8, 2023, in response to the state of emergency related to the COVID-19 pandemic. For requirements in place during that time, see WAC 388-76-10351.

(2) The adult family home must ensure each resident's assessment is reviewed and updated to document the resident's ongoing needs and preferences as follows:

((1)) (a) When there is a significant change in the resident's physical or mental condition;

((2)) (b) When the resident's negotiated care plan no longer reflects the resident's current status, needs, and preferences;

~~((3))~~ (c) At the resident's request or at the request of the resident's representative; or
~~((4))~~ (d) At least every ~~((twelve))~~ 12 months.

[Statutory Authority: RCW 70.128.040 and chapters 70.128 and 74.34 RCW. WSR 07-21-080, § 388-76-10350, filed 10/16/07, effective 1/1/08.]

NEW SECTION

WAC 388-76-10351 Assessment—Updates required—Requirements in effect from January 18, 2022, through June 8, 2023, in response to the state of emergency related to COVID-19. (1) In response to the state of emergency related to the COVID-19 pandemic, the department adopted emergency rules under RCW 34.05.320 on January 18, 2022, to amend a portion of WAC 388-76-10350. The emergency rules remained in effect until June 8, 2023. The amended rules in place at that time were:

(2) The adult family home must ensure each resident's assessment is reviewed and updated to document the resident's ongoing needs and preferences as follows:

(a) When there is a significant change in the resident's physical or mental condition;

(b) When the resident's negotiated care plan no longer reflects the resident's current status, needs, and preferences;

(c) At the resident's request or at the request of the resident's representative; or

(d) At least every 12 months, except beginning January 18, 2022, assessments for residents whose care is state funded may be extended an additional 12 months during the COVID-19 public health emergency.

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AMENDATORY SECTION (Amending WSR 13-13-063, filed 6/18/13, effective 7/19/13)

WAC 388-78A-2100 ~~((On-going))~~ Ongoing assessments. (1) The department amended portions of this rule from January 18, 2022, through June 8, 2023, in response to the state of emergency related to the COVID-19 pandemic. For requirements in place during that time, see WAC 388-78A-2101.

(2) The assisted living facility must:

~~((1))~~ (a) Complete a full assessment addressing the elements set forth in WAC 388-78A-2090 for each resident at least annually;

~~((2))~~ (b) Complete an assessment specifically focused on a resident's identified problems and related issues:

~~((a))~~ (i) Consistent with the resident's change of condition as specified in WAC 388-78A-2120;

~~((b))~~ (ii) When the resident's negotiated service agreement no longer addresses the resident's current needs and preferences;

~~((c))~~ (iii) When the resident has an injury requiring the intervention of a practitioner.

~~((3))~~ (c) Ensure the staff person performing the ~~((on-going))~~ ongoing assessments is qualified to perform them.

[Statutory Authority: Chapter 18.20 RCW. WSR 13-13-063, § 388-78A-2100, filed 6/18/13, effective 7/19/13. Statutory Authority: RCW 18.20.090. WSR 06-01-047, § 388-78A-2100, filed 12/15/05, effective 1/15/06. Statutory Authority: RCW 18.20.090 (2004 c 142 § 19) and chapter 18.20 RCW. WSR 04-16-065, § 388-78A-2100, filed 7/30/04, effective 9/1/04.]

NEW SECTION

WAC 388-78A-2101 Ongoing assessments—Requirements in effect from January 18, 2022, through June 8, 2023, in response to the state of emergency related to COVID-19.

(1) In response to the state of emergency related to the COVID-19 pandemic, the department adopted emergency rules under RCW 34.05.320 on January 18, 2022, to amend a portion of WAC 388-78A-2100. The emergency rules remained in effect until June 8, 2023. The amended rules in place at that time were:

(2) The assisted living facility must:

(a) Complete a full assessment addressing the elements set forth in WAC 388-78A-2090 for each resident at least annually, except beginning January 18, 2022, assessments for residents whose care is state funded may be extended an additional 12 months during the COVID-19 public health emergency;

(b) Complete an assessment specifically focused on a resident's identified problems and related issues:

(i) Consistent with the resident's change of condition as specified in WAC 388-78A-2120;

(ii) When the resident's negotiated service agreement no longer addresses the resident's current needs and preferences;

(iii) When the resident has an injury requiring the intervention of a practitioner.

(c) Ensure the staff person performing the ongoing assessments is qualified to perform them.

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AMENDATORY SECTION (Amending WSR 16-14-078, filed 7/1/16, effective 8/1/16)

WAC 388-107-0080 Ongoing comprehensive assessments. (1) The department amended portions of this rule from January 18, 2022, through June 8, 2023, in response to the state of emergency related to the COVID-19 pandemic. For requirements in place during that time, see WAC 388-107-0081.

(2) The enhanced services facility must:

((1)) (a) Complete a comprehensive assessment, addressing the elements set forth in WAC 388-107-0070, upon a significant change in the resident's condition or at least every 180 days if there is no significant change in condition;

((2)) (b) Complete an assessment specifically focused on a resident's identified strengths, preferences, limitations, and related issues:

- ~~((a))~~ (i) Consistent with the resident's change of condition as specified in WAC 388-107-0060;
- ~~((b))~~ (ii) When the resident's person-centered service plan no longer addresses the resident's current needs and preferences; and
- ~~((c))~~ (iii) When the resident has an injury requiring the intervention of a practitioner;
- ~~((3))~~ (c) Review each resident's needs to evaluate discharge or transfer options when the resident:
- ~~((a))~~ (i) No longer needs the level of behavioral support provided by the facility; or
- ~~((b))~~ (ii) Expresses the desire to move to a different type of community based setting;
- ~~((4))~~ (d) Ensure that the person-centered service planning team discusses all available placement options; and
- ~~((5))~~ (e) Ensure the staff person performing the ongoing assessments is a qualified assessor.

[Statutory Authority: RCW 70.97.230 and HCBS Final Rule 42 C.F.R. WSR 16-14-078, § 388-107-0080, filed 7/1/16, effective 8/1/16. Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0080, filed 9/12/14, effective 10/13/14.]

NEW SECTION

WAC 388-107-0081 Ongoing comprehensive assessments—Requirements in effect from January 18, 2022, through June 8, 2023, in response to the state of emergency related to COVID-19. (1) In response to the state of emergency related to the COVID-19 pandemic, the department adopted emergency rules under RCW 34.05.320 on January 18, 2022, to amend a portion of WAC 388-107-0080. The emergency rules remained in effect until June 8, 2023. The amended rules in place at that time were:

- (2) The enhanced services facility must:
 - (a) Complete a comprehensive assessment, addressing the elements set forth in WAC 388-107-0070 on the following timelines:
 - (i) Upon a significant change in the resident's condition; or
 - (ii) At least every 180 days if there is no significant change in condition, except beginning January 18, 2022, assessments for residents whose care is state funded may be extended an additional 12 months during the COVID-19 public health emergency.
 - (b) Complete an assessment specifically focused on a resident's identified strengths, preferences, limitations, and related issues:
 - (i) Consistent with the resident's change of condition as specified in WAC 388-107-0060;
 - (ii) When the resident's person-centered service plan no longer addresses the resident's current needs and preferences; and
 - (iii) When the resident has an injury requiring the intervention of a practitioner;
 - (c) Review each resident's needs to evaluate discharge or transfer options when the resident:
 - (i) No longer needs the level of behavioral support provided by the facility; or
 - (ii) Expresses the desire to move to a different type of community based setting;

(d) Ensure that the person-centered service planning team discusses all available placement options; and

(e) Ensure the staff person performing the ongoing assessments is a qualified assessor.

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