

WSR 23-20-013
PERMANENT RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Long-Term Support Administration)
[Filed September 22, 2023, 7:51 a.m., effective October 23, 2023]

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

Purpose: The legislature provided funding for wage equity for certain nursing facility providers and directed the department of social and health services to make a rule verifying spending and recouping unspent funds.

Citation of Rules Affected by this Order: New WAC 388-96-918.

Statutory Authority for Adoption: RCW 74.46.800; biennial budget 2021-2023, ESSB 5693 (204) (53).

Adopted under notice filed as WSR 22-13-097 [23-15-114] on July 14, 2022 [July 19, 2023].

A final cost-benefit analysis is available by contacting Elizabeth Pashley, P.O. Box 45600, Olympia, WA 98504-5600, phone 360-995-2807, fax 1-877-905-0454, TTY 711 relay service, email Elizabeth.Pashley@dshs.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 0, Repealed 0.

Date Adopted: September 21, 2023.

Lisa N. H. Yanagida
Chief of Staff

SHS-4992.1

NEW SECTION

WAC 388-96-918 Wage equity funding. (1) The contractor must submit a report of wage equity funding costs in a standardized manner and in accordance with this chapter and chapter 74.46 RCW on the dates specified in this section.

(2) The department will review the contractor's costs of the wage equity funding in accordance with the methodology effective at the time the services were rendered as described in this chapter and session laws of Washington state 2022 c 297 § 204(53).

(3) No later than September 1, 2023, each contractor must submit to the department a wage equity worksheet for the period of July 1, 2022, through June 30, 2023.

(4) Wage equity worksheets for new contractors must be submitted for the period covering their date of contract through June 30, 2023.

(5) A terminating or assigning contractor must submit to the department a wage equity worksheet for the period from July 1, 2022, through the date the contract was terminated or assigned.

(6) To properly complete the wage equity worksheet, the contractor must submit the wage equity worksheet, including the completed certification page to the document electronically.

(7) If the contractor does not properly complete the wage equity worksheet or the department does not receive it by the due date established in this section, the department may recoup any wage equity funding received by the contractor.

(8) The department may impose civil fines or take adverse rate action against contractors and former contractors who do not submit properly completed wage equity worksheets by the applicable due date established in this section.

(9) The department will review the wage equity worksheet to ensure the contractor has used its wage equity funding to increase wages for low-wage workers by up to four dollars per hour.

(10) The department will recover any funding difference between each contractor's wage equity funding and the amount of wage equity funding that the provider utilizes to increase low-wage worker wages.

(11) The department will separate the settlement amount into the funds attributable to direct care employees and funds attributable to indirect care employees. The direct care portion will be divided into two. One half may be used to offset any direct care final settlement monies owed for the 2022 cost report year. One half may be used to offset any direct care preliminary settlement monies owed for the 2023 cost report year. For partial worksheets due to new contractors, or terminating or assigning contractors, the direct care portion may be offset against the applicable cost report's direct care settlement to the appropriate proportionality.

(12) The verification process must use wages paid as of December 31, 2021, as the base wage to compare contractors' wage spending in the designated job categories to the facility-specific amounts of wage equity funding provided, excluding any amounts adjusted by settlement. If a facility did not have a particular category of staff on December 31, 2021, to set a baseline wage, wages from comparable facilities may be used.

(13) The verification and recovery process in this section is a distinct and separate process from the settlement process described in RCW 74.46.022 and elsewhere described in this chapter.

(14) The provisions of 388-96-901 and 388-96-904 apply to this section.

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