

## WSR 21-04-080

## AGENDA

## DEPARTMENT OF

## SOCIAL AND HEALTH SERVICES

[Filed January 29, 2021, 5:11 p.m.]

Following is the department of social and health services (DSHS) semi-annual rule-making agenda for January 1 - June 30, 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  
January 1 - June 30, 2021*

Administration/Division	WAC Sections	Purpose for Rule Making	CR-101 Filings	CR-102 and CR-105 Filings	CR-103E Filings
<b>Aging and Long-Term Support Administration</b>					
<b>Home and Community Services Division</b>					
	New chapter in Title 388 WAC; chapters 388-71, 388-106, 388-113, and 388-114 WAC	The department is planning to create a new chapter, amend these and other related rules as may be required.	WSR 20-08-093 Filed 3/30/2020		
	WAC 388-71-0100 through 388-71-01281	The department is planning to amend rules and create a new chapter for adult protective services, add a definition, include the petition process for nursing assistants, and other related rules as may be required.	WSR 20-18-089 Filed 9/02/2020		
	388-106-0050	The department is amending "What is an assessment?"	WSR 20-24-087 Filed 11/25/2020		WSR 20-23-043 Filed 11/12/2020
	388-71-0975	The department is 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 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
<b>Residential Care Services Division</b>					
	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" including WAC 388-97-1790, 388-97-1800, 388-97-1820, 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		

Administration/Division	WAC Sections	Purpose for Rule Making	CR-101 Filings	CR-102 and CR-105 Filings	CR-103E Filings
	Chapter 388-76 WAC	The department is considering amending "adult family home minimum licensing requirements."	WSR 19-03-148 Filed 1/22/2019	WSR 20-22-102 Filed 11/3/2020 WSR 20-11-055 Filed 5/19/2020 WSR 20-02-013 Filed 12/19/2019	
	388-97-0001, 388-97-1090	The department 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 20-08-101 Filed 3/30/2020		
	388-107-0460, 388-107-0490, 388-76-10265, 388-76-10285, 388-76-10290, 388-78A-2480, 388-78A-2484, 388-78A-2485	The department is temporarily repealing or amending rules to assure 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 20-24-060 Filed 11/24/2020 WSR 20-16-102 Filed 7/31/2020 WSR 20-09-009 Filed 4/2/2020
	388-97-0120, 388-97-0920, 388-97-1000, 388-97-1020, 388-97-1915, 388-97-1975	The department is amending rules and repealing WAC 388-97-0920 to assure nursing homes are not significantly impeded from admitting and caring for residents during the COVID-19 outbreak.	WSR 20-17-005 Filed 8/5/2020		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 rules to assure 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 21-01-129 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 to assure 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 21-01-192 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 these 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 rules to assure nursing homes are not significantly impeded from [no further information supplied by agency].	WSR 20-19-009 Filed 9/3/2020		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 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 20-21-086 Filed 10/21/2020 WSR 20-14-026 Filed 6/23/2020
	388-76-10695, 388-76-10730	The department is amending sections in chapter 388-76 WAC, Adult family home minimum licensing requirements, including building codes—Structural requirements, grab bars and hand rails, and other related rules as may be required.	WSR 20-14-117 Filed 7/1/2020	WSR 20-22-100 Filed 11/3/2020	
	388-101-3130	The department is amending to assure 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 21-01-010 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 388-97-1380 and 388-97-1580 to assure nursing homes are not obstructed from offering the COVID-19 vaccine to residents and staff because of clinical interference from required TB testing.			WSR 21-04-020 Filed 1/25/2021

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<b>Behavioral Health Administration</b>					
	Chapter 388-878 WAC	The department is planning 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 20-08-116 Filed 3/31/2020		
<b>Developmental Disabilities Administration</b>					
	388-845-2019	The department is amending 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 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 to implement the consumer-directed employment program and align with changes being made to modernize the comprehensive assessment reporting evaluation (CARE) system.	WSR 20-08-058 Filed 3/25/2020		
	Chapter 388-826 WAC	The department is planning to align with recent amendments to chapter 74.13 RCW regarding "out-of-home services," currently referred to as "voluntary placement services" in chapter 388-826 WAC.	WSR 20-09-150 Filed 4/22/2020		
	388-101D-0065; chapter 388-825 WAC; 388-845-2205, 388-845-1615	The department is planning to amend these and other related rules as may be required to implement the consumer-directed employer program and align with changes being made to modernize the CARE system. DDA is also planning to amend rules to align with amendments being made by the aging and long-term support administration to chapters 388-71 WAC and 388-113 WAC.	WSR 20-14-029 Filed 6/23/2020		
	WAC 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 to add overnight planned respite services providers, to correct and clarify terminology used, and add a new section about client rights.	WSR 20-14-099 Filed 6/30/2020		
	Chapter 388-829Z WAC	The department is planning to create a new chapter for 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	The department 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 20-22-032 Filed 10/26/2020 WSR 20-20-068 Filed 10/1/2020
	388-823-0500, 388-823-0510	The department is planning to amend these and other related rules as may be required to align with changes made to the diagnostic statistical manual and clarify rule language as requested by stakeholders.	WSR 20-21-095 Filed 10/20/2020		
	Chapter 388-847 WAC	The department is considering creating a new chapter and amending other related rules as may be required to govern the new stabilization, assessment, and intervention facility program.	WSR 21-01-111 Filed 12/14/2020		
	388-829-0005	The department [is] planning to amend this and other related rules as may be required to add more provider types.	WSR 21-01-118 Filed 12/14/2020		
	388-101D-0200	The department is amending this 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		
<b>Economic Services Administration</b>					
<b>Community Services Division</b>					
	388-310-0350	The department is amending WorkFirst—Other exemptions from mandatory participation, to temporarily exempt temporary assistance for needy families (TANF) recipients from mandatory WorkFirst participation as a result of the public health crisis created by the COVID-19 virus (commonly referred to as the "coronavirus").	WSR 20-14-104 Filed 6/30/2020	WSR 20-23-040 Filed 11/10/2020	WSR 20-23-045 Filed 11/12/2020 WSR 20-15-079 Filed 7/14/2020 WSR 20-07-079 Filed 3/16/2020

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	388-447-0005, 388-447-0010, 388-447-0110, 388-449-0010, 388-449-0015, 388-449-0150	The department is amending what evidence do we consider to determine incapacity?; what medical evidence do I need to provide?; when does my eligibility for referral to the housing and essential needs (HEN) program end?; what evidence do we consider to determine disability?; what medical evidence do I need to provide?; and when does my eligibility for aged, blind, or disabled cash benefits end?	WSR 20-14-107 Filed 6/30/2020	WSR 20-23-075 Filed 11/16/2020	WSR 20-24-005 Filed 11/19/2020 WSR 20-16-015 Filed 7/23/2020 WSR 20-08-074 Filed 3/26/2020
	388-437-0005	The department is creating changes to food assistance in response to the COVID-19 pandemic, to implement changes to food assistance benefit issuances for March and April 2020 as provided in the Families First Coronavirus Response Act (H.R. 6201) Section 2302.	WSR 20-17-124 Filed 8/18/2020	WSR 20-24-072 Filed 11/24/2020	WSR 21-01-193 Filed 12/22/2020 WSR 20-18-029 Filed 8/27/2020 WSR 20-10-048 Filed 4/29/2020 WSR 20-08-107 Filed 3/31/2020
	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		
	388-484-0006	The department is amending TANF/SFA time limit extensions, to add a TANF time limit extension hardship category related to impacts of the COVID-19 pandemic (commonly known as the "coronavirus").	WSR 20-15-122 Filed 7/17/2020	WSR 20-20-072 Filed 10/2/2020	WSR 20-24-061 Filed 11/24/2020 WSR 20-16-082 Filed 7/30/2020 WSR 20-09-001 Filed 4/1/2020
	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 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 (BF E&T) 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		
	388-434-0015	The department is creating WAC 388-434-0015, Extension of certification periods and waiver of eligibility reviews and midcertification reviews during the COVID-19 pandemic.	WSR 20-22-062 Filed 10/30/2020		WSR 20-22-065 Filed 10/30/2020 WSR 20-10-046 Filed 4/29/2020
	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 to ensure rules are consistent with FNS and Supplemental Nutrition Assistance Program (SNAP) regulations and formal guidance.	WSR 20-12-089 Filed 6/2/2020		
	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 20-23-050 Filed 11/12/2020	
	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 20-20-086 Filed 10/5/2020	
	388-437-0015, 388-476-0005	The department is adopting a new WAC and amending Social Security number requirements, to align rule language more closely with federal regulation governing SNAP.	WSR 21-03-009 Filed 1/8/2021 WSR 20-22-079 Filed 11/3/2020		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

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	388-450-0185, 388-450-0190, 388-450-0195, 388-478-0060	The department is amending "What income deductions does the department allow when determining if I am eligible for food benefits and the amount of my monthly benefits?; How does the department figure my shelter cost income deduction for basic food?; Does the department use my utility costs when calculating my basic food or WASHCAP benefits?; and What are the income limits and maximum benefit amounts for basic food?" to implement annual adjustments to standards for the basic food program.	WSR 20-20-102 Filed 10/5/2020	WSR 20-24-056 Filed 11/24/2020	WSR 21-04-060 Filed 1/28/2021 WSR 20-20-035 Filed 9/30/2020
	388-310-1600	The department is planning to amend WorkFirst-sanctions; and other related rules as may be required.	WSR 20-20-138 Filed 10/7/2020		
	388-434-0005	The department is proposing amendments to How often does the department review my eligibility for benefits?			
	388-412-0025	The department is planning to amend "How do I receive my benefits?" and other related rules as may be required.	WSR 20-22-077 Filed 11/3/2020		
<b>Division of Child Support</b>					
	Chapter 388-14A WAC	The department is planning to amend sections in dealing with the establishment of administrative child support orders including "The notice and finding of financial responsibility is used to set child support when paternity is not at issue," "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 department is planning to amend, adopt, or repeal sections to do the following: (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 a new rule [to] clarify that temporary procedures employed by the United States Postal Service are acceptable for purposes of certified mail service.	WSR 20-09-148 Filed 4/22/2020		WSR 21-01-040 Filed 12/8/2020 WSR 20-17-060 Filed 8/12/2020 WSR 20-09-081 Filed 4/14/2020
	Chapter 388-14A WAC	The department is planning to amend WAC 388-14A-3205 and other related rules as may be required involving division of child support 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

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