

WSR 24-04-036

AGENDA

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

[Filed January 30, 2024, 3:31 p.m.]

Following is the department of social and health services (department) semi-annual rule-making agenda for January 1 - June 30, 2024. 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 department rules under development at this time. There may be additional rule-making activity as the department responds to legislative actions, complies with federal mandates, or meets unforeseen circumstances.

**Semi-Annual Rule-Making Agenda
January 1 - June 30, 2024**

Administration/ Division	WAC Sections	Purpose for Rule Making	CR-101 Filings	CR-102 Filings	CR-103E Filings
Aging and Disability Services Administration					
Home and Community Services Division					
	388-71-0503, 388-106-0010, 388-106-0060, 388-115-0516	The department is planning to amend WAC to support the passage of SB 5866, an act relating to medicaid long-term services and supports eligibility determinations being completed by federally recognized Indian tribes. The department is planning to amend the following WAC: What definitions apply to WAC 388-71-0500 through 388-71-05640?, What definitions apply to this chapter?, Who must perform the assessment?, and What are the responsibilities of the consumer directed employer when providing care to a client?; and other related rules as required.	WSR 22-13-116 Filed 6/16/2022		
	388-112A-0081, 388-71-0876, 388-71-0992, 388-112A-0081	When must long-term care workers (LTCWs) who were working or hired during the COVID-19 public health emergency complete training, including required specialty training?; and When must long-term care workers who were working or hired during the COVID-19 public health emergency complete training, including required specialty training? The department is requiring that LTCWs complete training and certification by certain dates in response to the COVID-19 public health emergency. The department divided the group of LTCWs into cohorts based on the employee's date of hire or rehire. The rule requires each cohort to complete the requirements by deadlines in rule with the "oldest" LTCWs having the first deadline and then working through the groups chronologically. The department is extending the deadline of the first cohort by folding them into the second cohort deadline. WAC 388-71-0992 and 388-112A-0081 were added later for permanent process.	WSR 23-11-075 Filed 5/17/2023	WSR 23-18-069 Filed 9/1/2023	WSR 23-23-126 Filed 11/16/2023 WSR 23-16-019 Filed 7/20/2023 WSR 23-09-052 Filed 4/17/2023 WSR 23-04-055 Filed 1/27/2023 WSR 22-22-043 Filed 10/26/2022

Administration/ Division	WAC Sections	Purpose for Rule Making	CR-101 Filings	CR-102 Filings	CR-103E Filings
	388-106-0336	The intent is to amend WAC 388-106-0336 to add a new service, community stability supports, under the residential support waiver. Minor language changes may also be made for consistency in service language.	WSR 23-05-081 Filed 2/14/2023	WSR 24-03-086 Filed 1/17/2024	
	388-112A-0613, 388-71-0992	The department is providing an extended time for LTCWs to complete continuing education (CE) requirements in response to the COVID-19 public health emergency; granting 12 hours of on-the-job training CE. A set deadline of 120 days after the gubernatorial waivers to complete any other CE that may become due while the waivers were in place.			WSR 23-13-091 Filed 6/20/2023 WSR 23-06-023 Filed 2/22/2023
	Chapters 388-71, 388-112A, 388-115 WAC	Amend in response to E2SHB 1694 (chapter 424, Laws of 2023), dealing with date of hire reset, additional family relationships related to LTCW training and CE.	WSR 23-15-074 Filed 7/17/2023	WSR 23-23-043 Filed 11/6/2023	WSR 23-23-055 Filed 11/8/2023 WSR 23-16-033 Filed 7/21/2023
	388-112A-0080	The department is planning to amend Who is required to complete the seventy-hour long-term care worker basic training and by when? This section relates to adult family home administrator training certification. During the course of this rule making, we may amend other related rules as required.	WSR 23-16-088 Filed 7/31/2023		
	388-112A-0800	The department is planning to amend What is residential care administrator training?, and other related rules as may be required.	WSR 23-17-025 Filed 8/8/2023	WSR 23-23-143 Filed 11/20/2023	
	388-71-0971, 388-71-0990, 388-71-0991	The department is considering amendments related to CE requirements that must be verified by an employer when an LTCW is hired.	WSR 23-24-018 Filed 11/28/2023		
	Chapter 388-106 WAC	New WAC sections relating to the civil transitions program WAC. These sections include WAC 388-106-2000 through 388-106-2050 based on ESB [E2SSB] 5440 (chapter 453, Laws of 2023) provisions. The department may adopt or amend other related rules as may be required to implement provisions of ESB [E2SSB] 5440. The rules provide conditional services for individuals who are referred by the behavioral health administration who have been found not functionally and financially eligible for long-term support services. During this rule making, the department may make additional changes necessary to improve the program requirements and provide clarity.	WSR 23-24-046 Filed 11/30/2023		
	388-112A-0118	What documentation is required for completion of each training?; other rules related to documentation of facility orientation.	WSR 24-03-107 Filed 1/18/2024		

Administration/ Division	WAC Sections	Purpose for Rule Making	CR-101 Filings	CR-102 Filings	CR-103E Filings
	Chapter 388-106 WAC	The department is considering adding new sections to implement a state-funded guardianship, conservatorship, and alternative arrangements assistance program. The rules will describe the program requirements including, but not limited to, eligibility criteria, application process, payment details, administrative appeals, and overpayments. During this rule making, the department may make additional changes necessary to improve the program requirements, provide clarity, and add or amend other related rules as may be necessary	WSR 24-04-015		
Management Services Division					
No rule-making activity at this time.					
Residential Care Services Division					
	Chapter 388-97 WAC	The department is proposing to add new, repeal, and amend sections in chapter 388-97 WAC, Nursing homes, related to tuberculosis (TB) screening.	WSR 19-18-051 Filed 8/30/2019		
	Chapter 388-107 WAC	The department is planning to add new, repeal, and amend sections in licensing requirements for enhanced services facilities, related to TB screening.	WSR 19-18-059 Filed 9/3/2019		
	Chapter 388-76 WAC	The department is planning to add new, repeal, and amend sections in adult family home minimum licensing requirements, related to TB screening.	WSR 19-18-061 Filed 9/3/2019		
	Chapter 388-78A WAC	The department is planning to add new, repeal, and amend sections in assisted living facility licensing rules, related to TB screening.	WSR 19-18-062 Filed 9/3/2019		
	388-76-10265, 388-76-10285, 388-76-10290(1), 388-78A-2480(1), 388-78A-2484, 388-78A-2485(1), 388-101D-0650(1), 388-101D-0660(3), 388-107-0460(1), 388-107-0490	The department is temporarily repealing or amending WAC to assure [ensure] long-term care programs are not significantly impeded during the hiring process due to inability to access TB testing required as a part of the hiring process. *COVID-19*	WSR 20-16-069 Filed 7/29/2020		WSR 22-07-004 Filed 3/3/2022 WSR 21-23-015 Filed 11/5/2021 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
	Chapter 388-107 WAC	The department is considering adding a new section in licensing requirements for enhanced services facilities, and amending other related rules as may be necessary to implement ESHB 1120 (chapter 203, Laws of 2021).	WSR 21-17-121 Filed 8/17/2021		
	Chapter 388-78A WAC	The department is considering adding a new section in assisted living facility licensing rules, and amending other related rules as may be necessary to implement ESHB 1120 (chapter 203, Laws of 2021).	WSR 21-17-123 Filed 8/17/2021		
	Chapter 388-76 WAC	The department is considering adding a new section in adult family home minimum licensing requirements, and amending other related rules as may be necessary to implement ESHB 1120 (chapter 203, Laws of 2021).	WSR 21-18-001 Filed 8/18/2021		

Administration/ Division	WAC Sections	Purpose for Rule Making	CR-101 Filings	CR-102 Filings	CR-103E Filings
	388-97-0140	The department is amending to waive and suspend the requirement for nursing homes to suspend transfers and discharges pending the outcome of a resident appeal of the nursing home transfer or discharge decision. The COVID-19 pandemic continues to require more rapid transfers and discharges than the rule permits. This emergency rule waives the requirement for nursing homes to suspend transfers and discharges pending the outcome of a resident appeal hearing and improves resident safety by allowing faster grouping of COVID-19 positive residents in one facility or grouping asymptomatic residents together. This helps expedite infection control processes and maximizes the availability of nursing home beds. Also WAC 388-97-0120 and 388-97-0130.	WSR 22-08-060 Filed 4/4/2022		WSR 23-07-108 Filed 3/20/2023 WSR 22-23-155 Filed 11/22/2022 WSR 22-16-063 Filed 7/29/2022 WSR 22-08-062 Filed 4/4/2022 WSR 22-01-072 Filed 12/10/2021 WSR 21-24-069 Filed 11/30/2021
	Chapters 388-76, 388-78A, 388-97, 388-107 WAC	The department is considering amending specific sections to [implement] SHB 1218. The department may amend other related rules as necessary. The department is considering amending the rules to adopt requirements for providers to publicly post stop placement orders, adopt requirements for providers to create and maintain resident rosters as well as responding to requests from ombuds for roster information, incorporate new definition of resident representative, and replace the phrase "his or her" with appropriate gender-neutral terms.	WSR 22-04-046 Filed 1/26/2022		
	Chapters 388-76, 388-78A, 388-97, 388-107 WAC	The department is considering amending specific sections to [implement] SHB 1218. The department may amend other related rules as necessary to meet the legislative intent of SHB 1218. The department is considering amending the rules to add requirements related to facility communication system, resident access to communications, and facility responsiveness to outside communications, comprehensive disaster preparedness plans and related policies and procedures, equipment for a range of potential hazards, emergencies, and disasters, visitation of essential support persons, and resident's rights to a safe and healthy environment.	WSR 22-04-047 Filed 1/26/2022		
	Chapter 388-76 WAC	The department is considering amending adult family home minimum licensing requirements to address a process gap that occurs when residents transfer or discharge from adult family homes and prescription medications for those residents continue to be filled by pharmacies. These filled prescriptions may not be returned to the pharmacy and are subject to diversion and misuse by others. The department may amend other related rules as appropriate.	WSR 22-23-041 Filed 11/8/2022		

Administration/ Division	WAC Sections	Purpose for Rule Making	CR-101 Filings	CR-102 Filings	CR-103E Filings
	Chapter 388-76 WAC	The department is considering amending the following section in adult family home minimum licensing requirements: WAC 388-76-10750 Safely [Safety] and maintenance. The intent is to provide clarity about access to hand sanitizer in compliance with infection control, safety, and maintenance regulations in adult family homes. Homes must meet infection control requirements while also ensuring resident safety. The department may amend other related rules as appropriate.	WSR 22-24-012 Filed 11/29/2022		
	Chapter 388-97 WAC	Combining former WSR 20-17-005, 20-17-133, 20-19-009, 20-21-034, and 21-11-061. Nursing homes - post pandemic, WAC 388-97-0300, 388-97-0920, 388-97-1000, 388-97-1020, 388-97-1260, 388-97-1380, 388-97-1580, 388-97-1740, 388-97-1760, 388-97-2400 and new sections to show what was in place during the COVID-19 pandemic.		WSR 24-01-015 Filed 12/7/2023 WSR 23-06-063 Filed 2/28/2023	
	Chapters 388-76, 388-78A, 388-97, 388-107 WAC	The department is considering amending the following rules, adding a new section, and amending other sections as needed regarding death with dignity (DWD), including labeling, documentation, and storage of resident medications, specifically related to the DWD Act.	WSR 23-08-038 Filed 3/29/2023		
	388-76-10315	The department is considering amending Resident record—Required. The intent is to help the regulated community comply with the rule by providing clear language about long-term care ombuds access to resident records. The department may amend other related rules as appropriate.	WSR 23-09-049 Filed 4/17/2023		
	388-101-3020; Chapter 388-101 WAC	The department is considering amending compliance and adding a new section as necessary to make clear compliance and reporting requirements in the event of an outbreak of a communicable disease or suspected food poisoning, and other related rules as may be required.	WSR 23-13-042 Filed 6/13/2023		
	388-76-10031	The department is considering amending License requirements—Seven or eight bed adult family homes—Licensure, to clarify requirements for adult family homes (homes) wishing to increase capacity to seven or eight beds when the home serves only residents who do not require assistance with evacuation and the home does not have a residential sprinkler system. The department may amend other related rules as necessary.	WSR 23-17-056 Filed 8/11/2023		
	388-76-10780	The department is considering amending toilets and bathing facilities to clarify requirements for homes licensed after August 1, 2023, that have a licensed capacity of more than five. The department may amend other related rules as necessary.	WSR 23-17-058 Filed 8/11/2023		

Administration/ Division	WAC Sections	Purpose for Rule Making	CR-101 Filings	CR-102 Filings	CR-103E Filings
	Chapter 388-76 WAC	The department is considering adding new, repealing, and amending existing sections in adult family home minimum licensing requirements; chapter 388-78A WAC, Assisted living facility licensing rules; chapter 388-97 WAC, Nursing homes; chapter 388-107 WAC, Licensing requirements for enhanced services facilities; and other related rules as may be required.	WSR 23-21-034 Filed 10/6/2023		
Long-Term Services and Supports Trust Program (WA Cares)					
	New chapter in Title 388 WAC	The department is creating rules in a new chapter for WA Cares. This rule making will address the assessment and service delivery process for beneficiaries and other related rules as appropriate.	WSR 24-04-030 Filed 1/30/2024		
	New chapter in Title 388 WAC	The department is creating rules in a new chapter for WA Cares. This rule making will address general provisions, approved services, and other related rules as appropriate.	WSR 24-04-031 Filed 1/30/2024		
	New chapter in Title 388 WAC	The department is creating rules for WA Cares. This rule making will address the intake and application process for beneficiaries and other related rules as appropriate.	WSR 24-04-032 Filed 1/30/2024		
	New chapter in Title 388 WAC	The department is creating rules for WA Cares. This rule making will address provider registration and other related rules as appropriate.	WSR 24-04-033 Filed 1/30/2024		
Behavioral Health Administration					
	Chapter 388-880 WAC	The department may also amend other related sections as may be necessary. WAC haven't been updated since 2013 and the department has decided to change the name of the treatment program from "sexual predator program" to "sex offense treatment program."	WSR 23-15-035 Filed 7/11/2023		
Developmental Disabilities Administration (DDA)					
	Chapter 388-833 WAC	Chapter 388-833 WAC and other related rules as may be required.	WSR 23-05-048 Filed 2/9/2023		
	388-825-335, 388-825-615, 388-825-620	DDA is enacting these amendments on an emergency basis to align with SB 5252 (2023) and FBI background check requirements.	WSR 23-14-038 Filed 6/26/2023	WSR 23-20-108 Filed 10/3/2023	WSR 23-22-008 Filed 10/19/2023 WSR 23-14-032 Filed 6/26/2023
	388-825-206	The department is planning to repeal WAC 388-825-206 and other related rules as may be required.	WSR 23-20-054 Filed 9/28/2023		
	388-850-020, 388-850-025, 388-850-035, 388-850-045	Chapter 388-850 WAC and other related rules as may be required. DDA is planning to amend these rules to increase the percentage of a county's allocated funds for county administrative expenses; remove text that duplicates requirements dictated by statute; and update the distribution formula and other outdated service names and processes. During the course of this review, the department may make additional changes that are necessary to improve clarity or update policy.	WSR 23-20-065 Filed 9/29/2023	WSR 24-03-051 Filed 1/10/2024	
	New chapter in Title 388 WAC	New chapter within DDA's portion of Title 388 WAC; rules will establish the process for certifying DDA providers not otherwise certified by residential care services.	WSR 23-23-133 Filed 11/17/2023		

Administration/ Division	WAC Sections	Purpose for Rule Making	CR-101 Filings	CR-102 Filings	CR-103E Filings
	388-825-058, 388-825-082, 388-825-083, 388-828-9000, 388-828-9140; Chapter 388-832 WAC; 388-845-0220, 388-845-0500, 388-845-0505, 388-845-0510, 388-845-2010	DDA is considering amending rules from these chapters and other related rules as may be required in order to update lists of available services, their names, descriptions, limits, and qualified providers, and to increase the individual and family service award amounts.	WSR 24-02-034 Filed 12/26/2023		
	Chapter 388-826 WAC	Chapter 388-826 WAC and other related rules as may be required.	WSR 24-02-088 Filed 1/3/2024		
	Chapter 388-829 WAC	DDA is enacting these changes on an emergency basis to require providers in the scope to complete the skills demonstration portion of CPR training in person. The department is also proceeding with permanent adoption and may amend other related rules as may be required.	WSR 24-04-019 Filed 1/29/2024		WSR 24-04-018 Filed 1/29/2024
Economic Services Administration					
Community Services Division					
	388-412-0040	Can I get my benefits replaced?, to issue replacement benefits to households whose cash benefits were either cloned or skimmed between March 1, 2022, and December 31, 2022. Loss in benefits must be reported to and verified by the department no later than March 31, 2023, and the department will provide a one-time replacement of no more than \$300.	WSR 23-10-018 Filed 4/25/2023		WSR 23-02-011 Filed 12/22/2022
	388-400-0005	The department is planning to amend Who is eligible for temporary assistance for needy families?, and other rules as may be required.	WSR 23-10-032 Filed 4/27/2023		
	388-310-1600	The department is planning to amend WorkFirst sanctions, and other related rules as appropriate. Amendments will support implementation of 2SHB 1447 (chapter 418, Laws of 2023), which adds good cause reason for failure to participate in WorkFirst activities when the recipient is experiencing a hardship as defined by department rule.	WSR 23-13-025 Filed 6/9/2023	WSR 23-23-147 Filed 11/20/2023	WSR 24-04-028 Filed 1/30/2024 WSR 23-23-093 Filed 11/14/2023 WSR 23-16-012 Filed 7/19/2023
	388-447-0001, 388-449-0001	The department is planning to amend What are the disability requirements for the aged, blind, or disabled program?, What are the incapacity requirements for referral to the housing and essential needs program?, and other related rules as may be required.	WSR 23-16-126 Filed 8/1/2023	WSR 24-03-151 Filed 1/23/2024 WSR 23-21-078 Filed 10/16/2023	

Administration/ Division	WAC Sections	Purpose for Rule Making	CR-101 Filings	CR-102 Filings	CR-103E Filings
	388-60B-0015, 388-60B-0025, 388-60B-0120, 388-60B-0125, 388-60B-0315, 388-60B-0325, 388-60B-0345, 388-60B-0500	The department is planning to amend What definitions apply to this chapter?, What is the purpose of this chapter?, Facility requirements—What facility requirements must a program meet for the space where domestic violence intervention assessments or treatment services are provided?, Quality management—What are the minimum treatment outcomes for participants and how must a program measure staff and treatment effectiveness?, Group treatment—What standards must programs follow regarding the provision of group treatment?, Victim safety—What steps must programs take in order to help increase victim safety?, Participant requirements—What must the program require of participants accepted into a domestic violence intervention treatment program?, On-site reviews and plans of correction—How does the department review certified programs for compliance with the regulations of this chapter?, and other rules as may be required.	WSR 23-18-016 Filed 8/25/2023		
	388-444-0030, 388-444-0035	The department is amending Are able-bodied adults without dependents (ABAWD) subject to additional work requirements and time limits to be eligible for basic food? and Who is exempt from ABAWD time limits and minimum work requirements? Adoption of these emergency amendments is necessary to comply with federal regulatory changes under the Fiscal Responsibility Act of 2023, effective September 1, 2023.	WSR 23-18-018 Filed 8/25/2023	WSR 24-02-045 Filed 12/27/2023	WSR 24-01-133 Filed 12/19/2023 WSR 23-18-017 Filed 8/25/2023
	388-450-0185, 388-450-0190, 388-450-0195, 388-478-0060	The department is adopting emergency amendments to 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? The department is concurrently proceeding with the permanent rule-making process.	WSR 23-22-053 Filed 10/25/2023 WSR 23-20-073 Filed 9/29/2023	WSR 24-01-092 Filed 12/18/2023	WSR 24-03-150 Filed 1/23/2024 WSR 23-20-061 Filed 9/28/2023
	388-412-0025, 388-450-0162, 388-450-0200, 388-450-0225, 388-473-0010, 388-473-0040, 388-473-0050, 388-473-0070, 388-473-0080, 388-478-0050	WAC 388-412-0025, 388-450-0162, 388-450-0165, 388-450-0200, 388-450-0225, 388-455-0015, 388-473-0010, 388-473-0020, 388-473-0040, 388-473-0050, 388-473-0060, two new sections, and WAC 388-478-0050 ongoing additional requirements.	WSR 23-20-093 Filed 10/2/2023	WSR 24-02-046 Filed 12/27/2023	
	388-478-0055	The department is planning to amend How much do I get from my state supplemental payments? and other related rules as appropriate.	WSR 23-24-068 Filed 12/4/2023	WSR 24-03-123 Filed 1/19/2024	WSR 24-02-041 Filed 12/27/2023
	388-436-0065	The department is proposing to amend WAC 388-436-0065 What is the pandemic emergency assistance fund (PEAF)?		CR-105 WSR 24-01-066 Filed 12/13/2023	

Administration/ Division	WAC Sections	Purpose for Rule Making	CR-101 Filings	CR-102 Filings	CR-103E Filings
	388-439-0020, 388-439-0025	The department is adopting amendments to the following WAC sections to more accurately align pandemic EBT (P-EBT) program rules with federal regulations: Eligibility for pandemic EBT benefits for children under age six, and Eligibility for pandemic EBT benefits during the 2023 summer period.	WSR 24-01-094 Filed 12/18/2023		WSR 24-01-090 Filed 12/18/2023
	388-478-0015	The department is planning to amend Need standards for cash assistance, and other related rules as may be required.	WSR 24-02-035 Filed 12/26/2023		
	388-408-0020, 388-450-0050, 388-450-0105, 388-450-0106, 388-450-0112, 388-450-0113, 388-450-0115, 388-450-0116, 388-450-0120, 388-450-0130, 388-450-0137, 388-450-0138, 388-450-0170, 388-450-0177, 388-450-0178, 388-478-0035	The department is amending these and other related rules as may be required. Effective August 1, 2024, planned amendments will incorporate changes to earned income disregards for cash assistance programs, per 2SHB 1447 (chapter 418, Laws of 2023).	WSR 24-02-043 Filed 12/27/2023		
	388-416-0005, 388-418-0011	The department is adopting emergency amendments to the following WAC sections: How long can I get basic food? and What is a mid-certification review, and do I have to complete one in order to keep receiving benefits? These amendments are necessary to comply with the approved federal waiver for the elderly simplified application project, extending the basic food certification period from 12 months to 36 months for households where all members are age 60 or older and/or disabled adults with no earned income.	WSR 24-02-044 Filed 12/27/2023		WSR 24-02-040 Filed 12/27/2023
	388-449-0015	What medical evidence do I need to provide?, and other related rules as may be required.	WSR 24-03-108 Filed 1/18/2024		
	388-437-0001	The department is proposing to amend WAC 388-437-0001 Disaster food stamp program.			
Division of Child Support					
No rule-making activity at this time.					
Executive					
Office of the Secretary					
	388-02-0020, 388-02-0085	The department is considering amending What does good cause mean?, Do you have a right to a hearing?, and other related rules as may be required to incorporate "good cause" provisions of RCW 74.08.080 (2)(a) into the general hearing rules of the board of appeals at the department. During this rule making, the department may make additional changes that are necessary to improve clarity.	WSR 23-24-017 Filed 11/28/2023	WSR 24-03-124 Filed 1/19/2024	

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