

WSR 26-07-019

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Behavioral Health and Habilitation Administration)

[Filed March 9, 2026, 1:24 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 25-15-137.

Title of Rule and Other Identifying Information: Implementation of chapter 410, Laws of 2025, closing the Rainier school by June 30, 2027. WAC 388-825-091 Am I eligible for intermediate care or nursing facility services at an RHC?, 388-825-093 Can I receive a short-term stay at a residential habilitation center (RHC)?, and 388-825-094 What is the process to receive services in an RHC?

Hearing Location(s): On April 21, 2026, at 10:00 a.m., virtually via Teams or call in. See the department of social and health services (DSHS) website at <https://www.dshs.wa.gov/sesa/rpau/proposed-rules-and-public-hearings> for the most current information.

Date of Intended Adoption: Not earlier than April 22, 2026.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAURulesCoordinator@dshs.wa.gov, beginning noon on March 18, 2026, by 5:00 p.m. on April 21, 2026.

Assistance for Persons with Disabilities: Contact Shelley Tencza, rules consultant, phone 360-664-6036, TTY 711 relay service, email shelley.tencza@dshs.wa.gov, by 5:00 p.m. on April 7, 2026.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: In the 2025 legislative session, the legislature passed SSB 5393, closing the Rainier school by June 30, 2027. This legislation directs that DSHS will not permit "any new long-term admissions" to Rainier school as of July 27, 2025, and no new admissions as of June 30, 2027, except those clients who have return rights as defined in the bill. These rules are necessary to set standard definitions and implement the legislation.

Reasons Supporting Proposal: Implementation of legislation.

Statutory Authority for Adoption: RCW 71A.12.030, 71A.12.120, 71A.16.010, 71A.16.020, 71A.20.010, 71A.20.020, 71A.20.050, 71A.20.080, and 71A.20.090.

Statute Being Implemented: Chapter 410, Laws of 2025.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Governmental.

Name of Agency Personnel Responsible for Drafting: Luisa Parada Estrada, P.O. Box 45090, Olympia, WA 98504-5090, 360-890-2218; Implementation and Enforcement: Leina Barnes, P.O. Box 45320, Olympia, WA 98504-5320, 360-489-4556.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. Although this rule meets the definition of a significant legislative rule under RCW 34.05.328 (5)(c)(iii), the requirement for a cost-benefit analysis does not apply because rules of DSHS relating only to client medical or financial eligibility and rules concerning liability for care of dependents are exempt under RCW 34.05.328 (5)(b)(vii).

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rule content is explicitly and specifically dictated by statute.

Is exempt under RCW 19.85.025(4).

Is exempt under RCW 34.05.328 (5)(b)(vii).

Explanation of exemptions: These rules do not affect small business. They only impact DSHS customers.

Scope of exemption for rule proposal:

Is fully exempt.

March 6, 2026
Katherine I. Vasquez
Rules Coordinator

SHS-5098.7

AMENDATORY SECTION (Amending WSR 19-12-088, filed 6/4/19, effective 7/5/19)

WAC 388-825-091 Am I eligible for (~~residential habilitation center (RHC) services~~) intermediate care or nursing facility services at a residential habilitation center (RHC)? (1) If you are (~~twenty-one~~) 21 years of age or over, you are eligible to receive services at a residential habilitation center (RHC) (~~services~~) if:

(a) You have been determined to meet (~~DDA~~) eligibility criteria as defined in chapter 388-823 WAC;

(b) You choose to receive services in (~~the~~) an RHC;

(c) (~~DDA~~) Behavioral health and habilitation administration (BHHA) has determined that you can be supported safely in an RHC environment and will not pose a danger to other residents of the RHC; and

(d) You need the level of care provided at (~~the~~) an RHC, which is either:

(i) Nursing facility level of care under WAC 388-106-0355 for a client admitted to, or seeking admission to, a state-operated nursing facility; or

(ii) Intermediate care facility for individuals with intellectual disabilities (ICF/IID) level of care under WAC 388-828-1020 for a client admitted to, or seeking admission to, a state-operated ICF/IID.

(2) If you meet (1)(a) through (d) of this section, the service will be offered at an RHC that has capacity to meet your needs.

(~~(2)~~) (3) If you are (~~sixteen~~) 16 through (~~twenty~~) 20 years of age, and meet (1)(a) through (d) (~~above~~) of this section you may not be admitted to receive services at a residential habilitation center unless there are no service options available in the community to appropriately meet your needs. Such admission is limited to the provision of a short-term (~~respite or crisis stabilization services~~) stay per WAC 388-825-093.

(~~(3)~~) (4) If you are under age (~~sixteen~~) 16 you are not eligible to receive services at a residential habilitation center.

(~~(4)~~) (5) Admission to a nursing facility at (~~a~~) an RHC also requires completion of preadmission screening and resident review (PASRR) requirements as described in chapter 388-97 WAC.

(6) You have a right to return to Rainier RHC if:

- (a) You are a long-term resident which means you are a resident of Rainier ICF/IID on July 27, 2025;
- (b) You discharged from Rainier RHC to a community setting;
- (c) You meet the eligibility requirements in (1)(a) through (d) of this section; and
- (d) You submit a request to return within 365 days after your discharge from Rainier RHC; and
- (e) Additional requests to return require the approval of the DSHS secretary or designee based on the recommendation of the Rainier RHC interdisciplinary team.

AMENDATORY SECTION (Amending WSR 15-17-094, filed 8/18/15, effective 9/18/15)

WAC 388-825-093 Can I receive a short-term stay at a residential habilitation center (RHC)? ((If there is capacity at a residential habilitation center (RHC), the vacancies may be available for short term stays.))

- (1) Short-term stays are for the purpose of:
 - (a) Planned respite to provide a scheduled break in caregiving;

or

 - (b) Crisis stabilization to provide safety and stability when your current living situation puts you at risk of hospitalization or in a hospital without medical need.
- (2) Short-term stays are limited ((by)) to an available ((vacan-
cies)) vacancy with admission to((+)):
 - (a) A state-operated nursing facility for planned respite;
 - (b) Yakima Valley RHC for planned respite or crisis stabiliza-
tion;
 - (c) Effective July 27, 2025, Rainier RHC; or
 - (d) An intermediate care facility if you are age 16 through 20.
 - ((2) Short term stays must be included in your individual sup-
port plan)
- (3) You must meet eligibility requirements as stated in WAC
388-825-091;
 - ((3) Short term stays)
 - (4) Approval is required by the assistant secretary of the behav-
ioral health and habilitation administration or designee for:
 - (a) Crisis stabilization; and
 - (b) Planned respite in excess of ((thirty)) 30 days in a calendar
year. ((require approval by the assistant secretary of the developmen-
tal disabilities administration or designee; and))
 - ((4) You are sixteen years of age or older.

If you are sixteen through twenty years of age your stay will on-
ly be for short-term respite or crisis stabilization purposes.))
 - (5) Effective July 1, 2027, no admissions are permitted at Raini-
er RHC unless the admission is for return rights as described in WAC
388-825-091(6).

AMENDATORY SECTION (Amending WSR 15-17-094, filed 8/18/15, effective 9/18/15)

WAC 388-825-094 What is the process to receive services in an RHC? You may request to receive services in an RHC at any time. RHC admissions are not considered permanent.

(1) Your case/resource manager (~~((will))~~) may update your (~~((DDA))~~) assessment as described in chapter 388-828 WAC and gather other information.

(2) Long-term admission to an RHC requires approval by the assistant secretary of the (~~((developmental disabilities))~~) behavioral health and habilitation administration or designee.

(3) You must be (~~((twenty-one))~~) 21 years old or older to be admitted as a long-term resident.

(4) Long-term admission is not permitted at:

(a) Yakima Valley RHC; and

(b) Rainier RHC, except if you have return rights as described in WAC 388-825-091(6).