

WSR 26-08-074

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Home and Community Living Administration)

[Filed March 30, 2026, 12:37 p.m., effective April 30, 2026]

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

Purpose: The adopted rules correct a typographical error in an email address and add a physical address to the long-term care ombuds contact information in WAC 388-76-10617 Resident rights—Transfer and discharge notice—Residents with medicaid as a payor, 388-78A-2661 Resident rights—Transfer and discharge notice—Residents with medicaid as a payor, and 388-107-0281 Transfer and discharge notice—Residents with medicaid as a payor. The adopted rules add a phone number for the long-term care discharge defense screening line, which was not yet established when the rules were drafted. This applies to WAC 388-76-10506 Written residency agreement—Residents with medicaid as a payor, 388-76-10617 Resident rights—Transfer and discharge notice—Residents with medicaid as a payor, 388-78A-2651 Written residency agreement—Residents with medicaid as a payor, 388-78A-2661 Resident rights—Transfer and discharge notice—Residents with medicaid as a payor, 388-107-0161 Written residency agreement—Residents with medicaid as a payor, and 388-107-0281 Transfer and discharge notice—Residents with medicaid as a payor. These amendments will help the regulated entities meet the requirements of the chapter(s).

Citation of Rules Affected by this Order: Amending WAC 388-76-10506, 388-76-10617, 388-78A-2651, 388-78A-2661, 388-107-0161, and 388-107-0281.

Statutory Authority for Adoption: RCW 18.20.090, 70.97.230, and 70.128.040.

Adopted under notice filed as WSR 26-02-042 on January 2, 2026.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 6, Repealed 0.

Date Adopted: March 30, 2026.

Katherine I. Vasquez
Rules Coordinator

SHS-5121.3

AMENDATORY SECTION (Amending WSR 25-18-037, filed 8/25/25, effective 1/1/26)

WAC 388-76-10506 Written residency agreement—Residents with medicaid as a payor. (1) For the purposes of this section "residency agreement" means a legally enforceable written document prepared by the adult family home that contains the rights and responsibilities of the facility and the resident specific to transfer and discharge and is signed by both parties.

(2) For residents with medicaid as a payor the facility must complete a signed written residency agreement with each resident that:

(a) Is signed by the resident or their legal representative and the facility upon admission of the resident to the facility;

(b) Requires the facility to agree to comply with the long-term care residents rights statute transfer and discharge requirements pursuant to RCW 70.129; and

(c) Requires the facility to provide notice to residents before transfer and discharge that includes information about available legal resources and notice that, subject to legislative appropriation, residents have the right to legal counsel at public expense upon notice of transfer or discharge.

(3) For residents whose payor status changes from medicaid to private pay, a new residency agreement is required if the resident's payor status returns to medicaid.

(4) A copy of the residency agreement that is signed and dated by both parties must be:

(a) Kept in the resident record; and

(b) Provided to the resident or their representative.

(5) The residency agreement must be in substantially the following form:

Residency agreement—residents with medicaid as a payor.

(a) [facility name] agrees to comply with the long-term care residents rights statute transfer and discharge requirements pursuant to RCW 70.129.

(b) Subject to legislative appropriation [resident name] has a right to a free lawyer to help them in response to a notice of transfer or discharge. If they want a free lawyer to help them, they must call the long-term care discharge defense screening line at (~~[phone number]~~) (888) 437-0017.

(c) [Signature of resident/legal representative and date].

(d) [Signature of facility and date].

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending WSR 25-18-037, filed 8/25/25, effective 1/1/26)

WAC 388-76-10617 Resident rights—Transfer and discharge notice—Residents with medicaid as a payor. For residents with medicaid as a payor, in addition to the requirements in WAC 388-76-10616, the adult family home must do the following when issuing a written notice of transfer or discharge:

(1) Include in the notice contact information provided by the department for the legal services agencies assigned to provide legal counsel;

(2) Clearly state in the notice that, subject to legislative appropriation, legal counsel at public expense is available to represent the resident's interests in the transfer or discharge process. This language must be substantially in the following form: "Subject to legislative appropriation you have a right to a free lawyer to help you respond to a notice of transfer or discharge. If you want a free lawyer to help you, please call the long-term care discharge defense screening line at (~~{phone number}~~) (888) 437-0017.";

(3) Within three calendar days of issuing the notice, provide a copy of the notice to the resident's assigned department case manager;

(4) Within three calendar days of issuing the notice, provide a copy of the notice to the Washington state long-term care ombudsman program; and

(5) Issue the transfer and discharge notice in substantially the following form:

Notice of transfer or discharge—residents with medicaid as a payor:

- (a) Resident information;
 - (i) Resident name;
 - (ii) Resident address;
- (b) Facility information;
 - (i) Facility name;
 - (ii) Facility address;
 - (iii) Contact person's name;
- (c) Date notice given;
- (d) Effective date: Effective date must be at least 30 days from the date notice is given unless an exception applies according to RCW 70.129.110;
- (e) Location to where resident is transferred or discharged:
 - (i) Name;
 - (ii) Address;
 - (iii) Phone;
- (f) Reason for transfer or discharge: The specific reason for the transfer or discharge must be one or more of the reasons in (i)-(v) of this subsection:
 - (i) Transfer or discharge is necessary for the resident's welfare and the residents' needs cannot be met in the facility;
 - (ii) The safety of individuals in the facility is endangered;
 - (iii) The health of individuals in the facility would otherwise be endangered;
 - (iv) The resident has failed to make the required payment for their stay;
 - (v) The facility ceases to operate.
- (g) Copy of notice given within three days to:
 - (i) Department case manager;
 - (ii) Washington state long-term care ombudsman program;
 - (h) Your rights and resources.
- (i) Legal counsel: Subject to legislative appropriation, you have a right to a free lawyer to help you respond to a notice of transfer or discharge. If you want a free lawyer to help you, please call the long-term care discharge defense screening line at (~~{phone number}~~) (888) 437-0017.
 - (ii) Washington state ombuds: (~~The Washington state long-term care ombudsman program is available to answer questions and provide~~) For assistance (regarding) and information about this notice (and your health, safety, welfare, and rights as a long-term care resident.

~~If you wish to find out more about the)) contact your long-term care ombuds ((, call)) toll free at 1-800-562-6028 ((. You may also contact a long-term care ombuds in writing, by fax at (253) 815-8173,)) or by email at ((ltcop@mschelp.org)) ltcop@mschelps.org. The Washington long-term care ombudsman program is located at ((, or mail at PO Box 23699,)) 1200 South 336th St, Federal Way, WA ((98093-0699)) 98003. You can find your local ombuds person on the Washington state long-term care ombudsman program website at www.waombudsman.org, under "Find an Ombuds".~~

(iii) Disability rights Washington: If you have a diagnosis of a mental illness or an intellectual disability, you may contact disability rights Washington 1-800-562-2702 or (206) 324-1521. You may also make your request in writing by fax at (206) 957-0729, email at info@dr-wa.org or mail at Disability rights Washington, 315 5th Ave S, Suite 850, Seattle WA, 98104.

(iv) DSHS home and community living administration (HCLA): You have the right to make a complaint to the complaint resolution unit (CRU/complaint hotline) 1-800-562-6078.

AMENDATORY SECTION (Amending WSR 25-18-037, filed 8/25/25, effective 1/1/26)

WAC 388-78A-2651 Written residency agreement—Residents with medicaid as a payor. (1) For the purposes of this section "residency agreement" means a legally enforceable written document prepared by the assisted living facility that contains the rights and responsibilities of the facility and the resident specific to transfer and discharge and is signed by both parties.

(2) For residents with medicaid as a payor the facility must complete a signed written residency agreement with each resident that:

(a) Is signed by the resident or their legal representative and the facility upon admission of the resident to the facility;

(b) Requires the facility to agree to comply with the long-term care residents rights statute transfer and discharge requirements pursuant to RCW 70.129; and

(c) Requires the facility to provide notice to residents before transfer and discharge that includes information about available legal resources, and notice that, subject to legislative appropriation, residents have the right to legal counsel at public expense upon notice of transfer or discharge.

(3) For residents whose payor status changes from medicaid to private pay, a new residency agreement is required if the resident's payor status returns to medicaid.

(4) A copy of the residency agreement that is signed and dated by both parties must be:

(a) Kept in the resident record; and

(b) Provided to the resident or their representative.

(5) The residency agreement must be in substantially the following form:

Residency agreement—residents with medicaid as a payor.

(a) [facility name] agrees to comply with the long-term care residents rights statute transfer and discharge requirements pursuant to RCW 70.129.

(b) Subject to legislative appropriation [resident name] has a right to a free lawyer to help them in response to a notice of transfer or discharge. If they want a free lawyer to help them, they must call the long-term care discharge defense screening line at ((~~phone number~~)) (888) 437-0017.

(c) [Signature of resident/legal representative and date].

(d) [Signature of facility and date].

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending WSR 25-18-037, filed 8/25/25, effective 1/1/26)

WAC 388-78A-2661 Resident rights—Transfer and discharge notice—Residents with medicaid as a payor. For residents with medicaid as a payor, in addition to the requirements in WAC 388-78A-2660, the assisted living facility must do the following when issuing a written notice of transfer or discharge:

(1) Include in the notice contact information provided by the department for the legal services agencies assigned to provide legal counsel;

(2) Clearly state in the notice that, subject to legislative appropriation, legal counsel at public expense is available to represent the resident's interests in the transfer or discharge process. This language must be substantially in the following form: "Subject to legislative appropriation you have a right to a free lawyer to help you respond to a notice of transfer or discharge. If you want a free lawyer to help you, please call the long-term care discharge defense screening line at ((~~phone number~~)) (888) 437-0017.";

(3) Within three calendar days of issuing the notice, provide a copy of the notice to the resident's assigned department case manager;

(4) Within three calendar days of issuing the notice, provide a copy of the notice to the Washington state long-term care ombudsman program; and

(5) Issue the transfer and discharge notice in substantially the following form:

Notice of transfer or discharge—residents with medicaid as a payor:

(a) Resident information;

(i) Resident name;

(ii) Resident address;

(b) Facility information;

(i) Facility name;

(ii) Facility address;

(iii) Contact person's name;

(c) Date notice given;

(d) Effective date: Effective date must be at least 30 days from the date notice is given unless an exception applies according to RCW 70.129.110;

(e) Location to where resident is transferred or discharged:

(i) Name;

(ii) Address;

(iii) Phone;

(f) Reason for transfer or discharge: The specific reason for the transfer or discharge must be one or more of the reasons in (i)-(v) of this subsection:

(i) Transfer or discharge is necessary for the resident's welfare and the residents' needs cannot be met in the facility;

(ii) The safety of individuals in the facility is endangered;

(iii) The health of individuals in the facility would otherwise be endangered;

(iv) The resident has failed to make the required payment for their stay;

(v) The facility ceases to operate.

(g) Copy of notice given within three days to:

(i) Department case manager;

(ii) Washington state long-term care ombudsman program;

(h) Your rights and resources;

(i) Legal counsel: Subject to legislative appropriation, you have a right to a free lawyer to help you respond to a notice of transfer or discharge. If you want a free lawyer to help you, please call the long-term care discharge defense screening line at (~~{phone number}~~) (888) 437-0017.

(ii) Washington state ombuds: (~~The Washington state long-term care ombudsman program is available to answer questions and provide~~) For assistance (regarding) and information about this notice (and your health, safety, welfare, and rights as a long-term care resident. If you wish to find out more about the) contact your long-term care ombuds (call) toll free at 1-800-562-6028 (You may also contact a long-term care ombuds in writing, by fax at (253) 815-8173, or by email at (ltcop@mschelp.org) ltcop@mschelps.org (or). The Washington long-term care ombudsman program is located (mail at PO Box 23699) at 1200 South 336th St, Federal Way, WA (98093-0699) 98003. You can find your local ombuds person on the Washington state long-term care ombudsman program website at www.waombuds.org, under "Find an Ombuds".

(iii) Disability rights Washington: If you have a diagnosis of a mental illness or an intellectual disability, you may contact disability rights Washington 1-800-562-2702 or (206) 324-1521. You may also make your request in writing by fax at (206) 957-0729, email at info@dr-wa.org or mail at disability rights Washington, 315 5th Ave S, Suite 850, Seattle WA, 98104.

(iv) DSHS home and community living administration (HCLA): You have the right to make a complaint to the complaint resolution unit (CRU/complaint hotline) 1-800-562-6078.

AMENDATORY SECTION (Amending WSR 25-18-037, filed 8/25/25, effective 1/1/26)

WAC 388-107-0161 Written residency agreement—Residents with medicaid as a payor. (1) For the purposes of this section "residency agreement" means a legally enforceable written document prepared by the enhanced services facility that contains the rights and responsibilities of the facility and the resident specific to transfer and discharge and is signed by both parties.

(2) For residents with medicaid as a payor the facility must complete a signed written residency agreement with each resident that:

(a) Is signed by the resident or their legal representative and the facility upon admission of the resident to the facility;

(b) Requires the facility to agree to comply with the long-term care residents rights statute transfer and discharge requirements pursuant to RCW 70.129; and

(c) Requires the facility to provide notice to residents before transfer and discharge that includes information about available legal resources, and notice that, subject to legislative appropriation, residents have the right to legal counsel at public expense upon notice of transfer or discharge.

(3) For residents whose payor status changes from medicaid to private pay, a new residency agreement is required if the resident's payor status returns to medicaid.

(4) A copy of the residency agreement that is signed and dated by both parties must be:

(a) Kept in the resident record; and

(b) Provided to the resident or their representative.

(5) The residency agreement must be in substantially the following form:

Residency agreement—residents with medicaid as a payor.

(a) [facility name] agrees to comply with the long-term care residents rights statute transfer and discharge requirements pursuant to RCW 70.129.

(b) Subject to legislative appropriation [resident name] has a right to a free lawyer to help them in response to a notice of transfer or discharge. If they want a free lawyer to help them, they must call the long-term care discharge defense screening line at (~~phone number~~) (888) 437-0017.

(c) [Signature of resident/legal representative and date].

(d) [Signature of facility and date].

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending WSR 25-18-037, filed 8/25/25, effective 1/1/26)

WAC 388-107-0281 Transfer and discharge notice—Residents with medicaid as a payor. For residents with medicaid as a payor, in addition to the requirements in WAC 388-107-0280, the enhanced services facility must do the following when issuing a written notice of transfer or discharge:

(1) Include in the notice contact information provided by the department for the legal services agencies assigned to provide legal counsel;

(2) Clearly state in the notice that, subject to legislative appropriation, legal counsel at public expense is available to represent the resident's interests in the transfer or discharge process. This language must be substantially in the following form: "Subject to legislative appropriation you have a right to a free lawyer to help you respond to a notice of transfer or discharge. If you want a free lawyer to help you, please call the long-term care discharge defense screening line at (~~phone number~~) (888) 437-0017.";

(3) Within three calendar days of issuing the notice, provide a copy of the notice to the resident's assigned department case manager;

(4) Within three calendar days of issuing the notice, provide a copy of the notice to the Washington state long-term care ombudsman program; and

(5) Issue the transfer and discharge notice in substantially the following form:

Notice of transfer or discharge—residents with medicaid as a payor:

- (a) Resident information;
 - (i) Resident name;
 - (ii) Resident address;
- (b) Facility information;
 - (i) Facility name;
 - (ii) Facility address;
 - (iii) Contact person's name;
- (c) Date notice given;
- (d) Effective date: Effective date must be at least 30 days from the date notice is given unless an exception applies according to RCW 70.129.110;
- (e) Location to where resident is transferred or discharged:
 - (i) Name;
 - (ii) Address;
 - (iii) Phone;
- (f) Reason for transfer or discharge: The specific reason for the transfer or discharge must be one or more of the reasons in (i)-(v) of this subsection:
 - (i) Transfer or discharge is necessary for the resident's welfare and the residents' needs cannot be met in the facility;
 - (ii) The safety of individuals in the facility is endangered;
 - (iii) The health of individuals in the facility would otherwise be endangered;
 - (iv) The resident has failed to make the required payment for their stay;
 - (v) The facility ceases to operate.
- (g) Copy of notice given within three days to:
 - (i) Department case manager;
 - (ii) Washington state long-term care ombudsman program;
 - (h) Your rights and resources:
 - (i) Legal counsel: Subject to legislative appropriation, you have a right to a free lawyer to help you respond to a notice of transfer or discharge. If you want a free lawyer to help you, please call the long-term care discharge defense screening line at (~~{phone number}~~) (888) 437-0017.
 - (ii) Washington state ombuds: (~~The Washington state long-term care ombudsman program is available to answer questions and provide assistance regarding~~) For assistance and information about this notice (and your health, safety, welfare, and rights as a long-term care resident. If you wish to find out more about the) contact your long-term care ombuds (call) toll free at 1-800-562-6028 (You may also contact a long-term care ombuds in writing, by fax at (253) 815-8173,) or by email at ltcop@mschelp.org) ltcop@mschelps.org (or). The Washington long-term care ombudsman program is located (mail at PO Box 23699) at 1200 South 336th St, Federal Way, WA (98093-0699) 98003. You can find your local ombuds person on the Washington state long-term care ombudsman program website at www.waom-budsman.org, under "Find an Ombuds".

(iii) Disability rights Washington: If you have a diagnosis of a mental illness or an intellectual disability, you may contact disability rights Washington 1-800-562-2702 or (206) 324-1521. You may also make your request in writing by fax at (206) 957-0729, email at info@dr-wa.org or mail at disability rights Washington, 315 5th Ave S, Suite 850, Seattle WA, 98104.

(iv) DSHS home and community living administration (HCLA): You have the right to make a complaint to the complaint resolution unit (CRU/complaint hotline) 1-800-562-6078.