WSR 26-14-005
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Home and Community Living Administration)

[Filed June 17, 2026, 3:08 p.m., effective July 18, 2026]

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

Purpose: The purpose of this filing is to adopt amendments to chapter 388-116 WAC to allow additional adaptive equipment and technology items, add and clarify definitions for the chapter, address questions related to minimum qualifications, reduce background check burden for provider applicants and long-term services and supports providers, clarify exception to rule requirements, and clarify responsibility of fees related to administrative hearings.

Citation of Rules Affected by this Order: Amending WAC 388-116-1010, 388-116-3020, 388-116-3030, 388-116-3080, and 388-116-5030.

Statutory Authority for Adoption: RCW 50B.04.020 (k) and (l).

Adopted under notice filed as WSR 26-07-051 on March 16, 2026.

Changes Other than Editing from Proposed to Adopted Version: (1) WAC 388-116-1010 removed consumer-to-consumer online platform definition; removed financial management services vendor definition; and removed reimbursement definition.

(2) Struck proposed revisions to WAC 388-116-4030.

The changes were made because additional consideration is needed for the organization and language related to reimbursements. The department of social and health services decided not to proceed with those amendments for this rule-making project.

A final cost-benefit analysis is available by contacting Arielle Finney, P.O. Box 45600, Olympia, WA 98504-5600, phone 360-764-0384, TTY 711 relay service, email Arielle.Finney2@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Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 5, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 6, Repealed 0.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: June 16, 2026.

David Brummel
for Lisa Yanagida
Chief of Staff

SHS-5128.3

AMENDATORY SECTION (Amending WSR 25-18-020, filed 8/21/25, effective 9/21/25)

WAC 388-116-1010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly indicates otherwise.

(1) **"Activities of daily living"** means bathing, bed mobility, continence, dressing, eating, medication management, mobility, personal hygiene, toileting, or transferring.

(a) **"Bathing"** means how a person washes their body including showers, baths, sponge baths, or bed baths, and how a person gets into and out of a shower or bathtub.

(b) **"Bed mobility"** means how a person moves to and from a lying position, turns side-to-side, and positions their body while in bed, in a recliner, or other furniture used for sleeping.

(c) **"Continence"** means the ability to control bladder and bowel functions, or, when unable to maintain control of bowel or bladder function, the ability to perform associated care and hygiene, including caring for a catheter or colostomy bag.

(d) **"Dressing"** means how a person puts on and takes off all items of clothing including prosthesis, splints, braces, and orthotics.

(e) **"Eating"** means how a person eats and drinks. Eating includes any method of receiving nutrition by mouth, tube, or through a vein. Eating does not include any set-up help received.

(f) **"Medication management"** means how a person organizes and takes prescription medications, over the counter medications, or supplements.

(g) **"Mobility"** means how a person gets from one place to another within their immediate environment and from outside their home to inside their home.

(h) **"Personal hygiene"** means how a person completes self-care activities such as combing hair, brushing teeth, shaving, applying make-up, washing face, drying face, washing hands, nail care, perineum care, and menses care. Personal hygiene does not include hygiene tasks completed during bathing.

(i) **"Toileting"** means how a person uses a toilet, commode, bedpan, or urinal to eliminate, and how they transfer on and off the toilet, perform associated hygiene, and adjust clothing.

(j) **"Transferring"** means how a person moves between surfaces such as to and from a bed, a chair, wheelchair, or standing position. Transferring does not include how a person moves to and from the bath, toilet, or vehicle.

(2) **"Approved services"** means long-term services and supports including:

(a) **"Adaptive equipment and technology"** means devices and services available in the categories listed in (2)(a)(i) through (v) of this subsection that maintain or improve the ability to perform activities of daily living; or maintain or improve functional capabilities; and increase independence, safety, and welfare including:

(i) Assistive technology items used to increase, maintain, or improve the functional capabilities of persons with physical or mental impairment;

(ii) Assistive technology services to evaluate, consult, train, and provide technical assistance regarding assistive or adaptive devices;

(iii) Medical equipment and supplies within one of the following categories:

(A) Incontinence supplies such as reusable or disposable briefs, pullups, wipes, and underpads;

(B) Personal protective equipment;

(C) Bathroom and toileting equipment such as urinals, bedside commodes, raised toilet seats, toilet and tub rails, bath and shower stools, chairs, and benches, including transfer benches and rolling shower chairs;

(D) Blood pressure monitoring devices;

(E) Over the counter non-custom surgical stockings;

(F) Grab bars for use anywhere in the home; ((~~and~~))

(G) Lift chairs; and

(H) Crutches, canes, and walkers, and their accessories and replacement materials;

(iv) Specialized equipment and supplies, including non-medical goods and adaptive devices that provide remedial benefit, including weight utensils, waterproof mattress covers, long-handled brushes, and baskets for walkers; and

(v) Vehicle modifications that are necessary to accommodate a disability, including wheelchair ramps and lifts, adding hand controls, and modifying foot pedals, steering devices, or seating;

(vi) Excluded from allowable adaptive equipment and technology are:

(A) Any item purchased for recreational purposes;

(B) Software, game applications, or gift cards;

(C) Exercise equipment;

(D) Pressure reducing support surfaces;

(E) Hospital beds, including their accessories and other positioning devices;

(F) Patient lifts and transfer devices, not including lift chairs;

(G) Wound care supplies;

(H) Diabetic equipment and supplies;

(I) Nutrition equipment and supplies;

(J) Orthotic equipment and supplies;

(K) Ostomy supplies;

(L) Respiratory equipment and supplies;

(M) Transcutaneous electrical nerve stimulation (TENS) systems;

(N) ((~~Mobility aids, including but not limited to, crutches, canes, gait trainers, and walkers, as well as their accessories and replacement materials;~~

~~(O)~~)) Wheelchairs and their accessories and replacement materials;

((~~(P)~~)) (O) Eyeglasses, contact lenses, and hearing aids;

((~~(Q)~~)) (P) Therapy or service animals and their related expenses; and

((~~(R)~~)) (Q) Experimental or investigational medical devices or drugs.

(b) **"Adult day services"** means adult day care or adult day health.

(i) **"Adult day care"** means a program that provides the services under WAC 388-71-0704.

(ii) **"Adult day health"** means a program that provides the services under WAC 388-71-0706.

(c) **"Adult family home services"** means services provided in a home-like residential setting where two to eight adults live and receive personal care, special care, and room and board under chapter 70.128 RCW and chapter 388-76 WAC.

(d) **"Assisted living services"** means services provided in a residential setting where seven or more adults live and receive basic services for their safety and well-being under chapter 18.20 RCW and chapter 388-78A WAC.

(e) **"Care transition coordination"** means services that provide comprehensive discharge planning and coordination of health care services for up to 60 days after being discharged from a hospital or nursing home with the goal of avoiding preventable poor outcomes as beneficiaries return home.

(f) **"Dementia and behavioral supports"** means an assessment by a mental health professional to determine causes, triggers, and purposes behind documented or identified behaviors such as wandering or aggression, and the development of a written strategy with recommendations for specific interactions designed to address identified behaviors.

(g) **"Education and consultation"** means non-medical skills training for eligible beneficiaries and their paid and unpaid caregivers related to an eligible beneficiary's diagnoses and chronic health issues to support managing their activities of daily living, behavior, health, and wellness.

(h) **"Environmental modification"** means alterations to a residence that accommodate an eligible beneficiary's disability and promote functional independence, health, welfare, and safety. Environmental modifications include, but are not limited to, installing grab bars, building ramps, widening doorways, and modification to bathrooms.

(i) **"Home delivered meals"** means nutritionally balanced meals prepared and delivered to an eligible beneficiary's home. Home delivered meals includes, but is not limited to, box meals, prepackaged meals, and hot meals, and must be from a provider that meets the requirements of chapter 246-215 WAC.

(j) **"Home safety evaluation"** means an assessment of a home to identify and reduce potential hazards, to minimize or prevent injury, and improve accessibility in the home.

(k) **"In-home personal care"** means assistance with activities of daily living and instrumental activities of daily living provided to a person in their own home.

(l) **"Long-term services and supports provided in nursing homes"** or **"nursing home services"** means long-term care or custodial services provided in one of the following settings:

(i) A setting that operates or maintains facilities providing convalescent or chronic care, or both, consistent with chapter 18.51 RCW and chapter 388-97 WAC, for a period in excess of 24 consecutive hours for three or more patients who are not related by blood or marriage to the operator, and who, by reason of illness or infirmity, are unable to properly care for themselves; or

(ii) A swing bed in a critical access hospital to provide post-acute nursing services, where "swing bed" is defined under WAC 246-310-410 and "critical access hospital" is defined under WAC 182-550-2598.

(iii) Excluded from nursing home services is medically necessary care provided in a skilled nursing facility that requires a licensed medical practitioner to perform, including, but not limited to:

(A) Rehabilitation services such as physical or occupational therapy; and

(B) Skilled nursing services such as wound care, intravenous injections, and catheter care.

(m) **"Memory care"** means a service provided in an assisted living facility that provides specialized, long-term care for individuals with memory loss under chapter 18.20 RCW and chapter 388-78A WAC.

(n) **"Personal emergency response system"** means a service to secure help in an emergency through an electronic device programmed to signal a response center that is staffed by trained professionals who immediately summon help. Systems must be approved by the Federal Communications Commission and meet the Underwriters Laboratories solutions or Intertek Electronic Testing Laboratories standards for home health care signaling equipment. Personal emergency response systems are limited to basic systems, global positioning systems, medication reminders, and fall detections.

(o) **"Professional nursing services"** means one or more of the following services:

(i) **"Skilled nursing"** means a short-term intermittent treatment of a chronic condition, or the treatment of chronic, stable, long-term conditions where the treatment cannot be delegated or self-directed. Excluded from skilled nursing services are treatments for acute care due to acute injury or illness.

(ii) **"Nurse delegation"** means specific nursing tasks assigned by a registered nurse to a nursing assistant certified pursuant to chapter 18.88A RCW or home care aide certified pursuant to chapter 18.88B RCW. Nurse delegation must be performed pursuant to RCW 18.79.260.

(iii) **"Private duty nursing"** means in-home skilled nursing care to a person who would otherwise be served in a medical institution. A person receiving private duty nursing is dependent on a technology modality, including mechanical ventilation, complex respiratory support, tracheostomy, intravenous or parenteral, administration of medication, or intravenous administration of nutritional substances.

(p) **"Respite for family caregivers"** means a short-term service that allows family caregivers a break from caregiving duties while the eligible beneficiary is cared for by an in-home service provider, or in the community by an adult day service provider, adult family home, assisted living facility, or nursing home.

(q) **"Services that assist paid and unpaid family members caring for eligible individuals"** which means housework, errands, yardwork, and snow removal tasks that are typically done by family members.

(i) **"Housework"** and **"errands"** are services supporting beneficiaries to remain in their own home by assisting with ((~~instrumental activities of daily living related to their health and safety~~)) ordinary housework and running errands, such as essential shopping and trips to the post office.

(ii) **"Yardwork"** and **"snow removal"** are services to allow safe egress and entry into the home, reduce potential fire danger, assist the beneficiary to comply with local city and county codes, or other local requirements, such as a Homeowner's Association, in order to remain in their choice of setting.

(r) **"Transportation"** which means services that support the ability to travel to therapeutic activities that support mental health, physical health, or wellbeing, the grocery store, medical appointments, and social services. Services include, but are not limited to, trip or mileage reimbursement, bus passes, taxi scripts, bridge tolls, and ferry tickets.

(3) **"Area agency on aging"** means an agency, other than a state agency, designated by the department to carry out certain programs or services in a defined geographical area of the state.

(4) **"Benefit unit"** has the same meaning as defined in RCW 50B.04.010.

(5) **"Care needs assessment"** means the department's or its designee's evaluation of a person's ability to complete activities of daily living.

(6) **"Custodial services"** means long-term, non-medical care for individuals who need assistance with activities of daily living due to aging, disability, or chronic medical condition.

(7) **"Department"** means the department of social and health services.

(8) **"Eligible beneficiary"** has the same meaning as defined in RCW 50B.04.010.

(9) **"Eligibility determination"** means the department's or its designee's determination of whether a person is an eligible beneficiary.

(10) **"Evidence-based program provider"** means an entity that provides the approved service of care transition coordination or education and consultation, and whose programs have been rigorously tested in controlled settings, proven effective, and translated into practical models. Programs include Enhance®Wellness, Enhance®Fitness, program to encourage active and rewarding lives for seniors (PEARLS), star-caregivers program (STAR-C), powerful tools for caregivers, and community aging in place—advancing better living for elders (CAPABLE).

(11) **"Health home"** means a set of services designed to support individuals with serious chronic conditions, a medical need, or a social service need with the goal of reducing visits to the emergency department and supporting the individual's health, well-being, and self-care.

(12) **"Health home care coordination organization"** means an organization that operationalizes the health home program through a contract with a lead entity.

(13) **"Health home lead entity"** means a managed care organization or qualified community-based organization contracted with the health care authority to oversee the health home program in specific parts of the state.

(14) **"In-state applicant"** means an individual who resides in Washington state and is applying to become an eligible beneficiary to receive services in Washington state.

(15) **"Instrumental activities of daily living"** means essential shopping, meal preparation, ordinary housework, telephone use, travel to medical services, or wood supply.

(a) **"Essential shopping"** means how a person completes brief, occasional trips within their local area to shop for food, medical necessities, and household items required for their health, nutrition, daily maintenance, or well-being.

(b) **"Meal preparation"** means how a person completes meal planning, cooking, assembling ingredients, setting out food or utensils, and cleaning up after meals;

(c) **"Ordinary housework"** means how a person completes routine household chores;

(d) **"Telephone use"** means how a person makes and receives calls, including dialing, answering, and comprehending spoken information, on the telephone;

(e) **"Travel to medical services"** means how a person travels by vehicle to a physician's office or clinic within their local area to

obtain medical diagnosis or treatment. This travel includes driving a vehicle or traveling as a passenger in a vehicle; and

(f) **"Wood supply"** means how a person prepares wood or pellets when using wood, pellets, or both, as the only source of fuel for heating or cooking.

(16) **"Level of assistance"** means the amount and type of care a person needs to perform activities of daily living.

(17) **"Licensed practical nurse"** means an individual licensed pursuant to chapter 18.79 RCW and meets the definition of licensed practical nurse pursuant to RCW 18.79.060.

(18) **"Long-term services and supports"** means services and goods purchased that support quality of life, and the ability to perform activities of daily living and instrumental activities of daily living at an eligible beneficiary's own home, in the community, in residential settings, and nursing homes; and

(a) Support the eligible beneficiary's welfare, independence, and wellbeing;

(b) Do not replace services and goods otherwise available under medical insurance; and

(c) Do not include paying for services and goods that are for general utility, meaning the goods and services are not specific to the person's needs based on their disabilities or health conditions.

(19) **"Long-term services and supports provider"** has the same meaning as defined in RCW 50B.04.010.

(20) **"Own home"** means an eligible beneficiary's domicile, their present or intended place of residence:

(a) In a building that is rented where the rental is not contingent upon the purchase of services for assistance with activities of daily living and instrumental activities of daily living;

(b) In a building that is owned by the eligible beneficiary;

(c) In an established residence of a relative of the eligible beneficiary; or

(d) In the home of another where rent is not charged and residence is not contingent upon the purchase of services for assistance with activities of daily living and instrumental activities of daily living.

(21) **"Provider applicant"** means any individual, firm, partnership, corporation, company, association, joint stock association, or any other legal or commercial entity that is applying to become a long-term services and supports provider.

(22) **"Qualified individual"** has the same meaning as defined in RCW 50B.04.010.

(23) **"Registered nurse"** means an individual licensed pursuant to chapter 18.79 RCW and who meets the definition of registered nursing practice pursuant to RCW 18.79.040.

AMENDATORY SECTION (Amending WSR 25-18-020, filed 8/21/25, effective 9/21/25)

WAC 388-116-3020 Minimum qualifications. A person or entity seeking to provide long-term services and supports under this chapter must meet the following minimum qualifications:

(1) Comply with chapter 50B.04 RCW, this chapter, and other applicable federal, state, and local laws and regulations, including, but not limited to, chapters 49.60, 70.129, and 74.34 RCW;

(2) Comply with background check requirements under WAC 388-116-3030; and

(3) Hold all current licenses, certifications, credentials, trainings, and authorizations identified for the type of approved service they are seeking to provide or are registered to provide, which are not suspended or revoked. Providers seeking to ((~~furnish~~)) deliver multiple types of approved services must meet the requirements applicable to each approved service, as follows:

(a) Adaptive equipment and technology:

(i) Business license pursuant to chapter 19.02 RCW; and

(ii) Furnish, sell, or provide equipment or technology meeting the definition of adaptive equipment and technology equipment in WAC 388-116-1010.

(b) Adult day services:

(i) Adult day care providers: Requirements applicable to private pay providers as described under WAC 388-71-0702. The requirements include:

(A) WAC 388-71-0704, but the services do not need to meet the level of care needed by the client as assessed by the department case manager;

(B) WAC 388-71-0723;

(C) WACs 388-71-0736 through 388-71-0740;

(D) WAC 388-71-0744, but the individual client file does not need to include the department-authorized service plan and service authorization;

(E) WAC 388-71-0746, but the provider does not need to comply with documentation requirements under WAC 182-502-0020;

(F) WAC 388-71-0748 through 388-71-0752;

(G) WAC 388-71-0754, except subsections (6) and (7) of that section; and

(H) WACs 388-71-0760 through 388-71-0774.

(ii) Adult day health providers: Requirements applicable to private pay providers as described under WAC 388-71-0702. The requirements include:

(A) WAC 388-71-0704, but the services do not need to meet the level of care needed by the client as assessed by the department case manager;

(B) WAC 388-71-0706;

(C) WAC 388-71-0714;

(D) WAC 388-71-0723;

(E) WACs 388-71-0736 through 388-71-0740;

(F) WAC 388-71-0744, but the individual client file does not need to include the department-authorized service plan and service authorization;

(G) WAC 388-71-0746, but the provider does not need to comply with documentation requirements under WAC 182-502-0020;

(H) WAC 388-71-0748 through 388-71-0752;

(I) WAC 388-71-0754, except subsections (6) and (7) of that section; and

(J) WACs 388-71-0760 through 388-71-0774.

(c) Adult family home service providers:

(i) Business license pursuant to chapter 19.02 RCW; and

(ii) Adult family home license pursuant to chapter 70.128 RCW and chapter 388-76 WAC.

(d) Assisted living facility service providers:

(i) Business license pursuant to chapter 19.02 RCW; and

(ii) Assisted living facility license pursuant to chapter 18.20 RCW and chapter 388-78A WAC.

(e) Care transition coordination service providers:

(i) Must be a:

(A) Government agency;

(B) Organization approved as a non-profit 501 (c)(3) by the Internal Revenue Service; or

(C) Business license pursuant to chapter 19.02 RCW; and

(ii) Be a:

(A) Health home care coordination organization contracted with a health home lead entity that employs nurses with the applicable license;

(B) Home health agency license pursuant to chapter 70.127 RCW; or

(C) Evidence-based program provider that meets the affiliated organization's requirements to provide care transition coordination including, but not limited to, Care Transitions Interventions®, transitional care model, and project RED (re-engineered discharge).

(f) Dementia and behavioral supports service providers:

(i) Business license pursuant to chapter 19.02 RCW; and

(ii) Have one of the following:

(A) Certified behavioral health agency certification or license pursuant to chapter 71.24 RCW;

(B) Agency affiliated counselor license pursuant to chapter 18.19 RCW;

(C) Certified adviser license pursuant to chapter 18.19 RCW;

(D) Certified counselor license pursuant to chapter 18.19 RCW;

(E) Hypnotherapist license pursuant to chapter 18.19 RCW;

(F) Licensed behavior analyst license pursuant to chapter 18.380 RCW;

(G) Licensed assistant behavior analyst license pursuant to chapter 18.380 RCW;

(H) Certified behavior technician license pursuant to chapter 18.380 RCW;

(I) Licensed marriage and family therapist license pursuant to chapter 18.225 RCW;

(J) Licensed marriage and family therapist associate license pursuant to chapter 18.225 RCW;

(K) Licensed mental health counselor license pursuant to chapter 18.225 RCW;

(L) Licensed mental health counselor associate license pursuant to chapter 18.225 RCW;

(M) Licensed social worker license pursuant to chapter 18.225 RCW;

(N) Licensed social worker associate license pursuant to chapter 18.225 RCW; or

(O) Licensed psychologist license pursuant to chapter 18.83 RCW.

(g) Education and consultation service providers:

(i) Business license pursuant to chapter 19.02 RCW; and

(ii) Have or be one of the following:

(A) Registered nurse license pursuant to chapter 18.79 RCW;

(B) Licensed practical nurse license pursuant to chapter 18.79 RCW;

(C) Certified dietician license pursuant to chapter 18.138 RCW;

(D) Certified nutritionist license pursuant to chapter 18.138 RCW;

(E) Licensed physical therapist license pursuant to chapter 18.74 RCW;

(F) Licensed occupational therapist license pursuant to chapter 18.59 RCW;

(G) Licensed home health agency license pursuant to chapter 70.127 RCW;

(H) Licensed home care agency license pursuant to chapter 70.127 RCW;

(I) Community college programs license pursuant to chapter 28B.50 RCW;

(J) Behavioral health agency license pursuant to chapter 71.24 RCW;

(K) Licensed pharmacist license pursuant to chapter 18.64 RCW;

(L) Evidence-based program provider that meets the affiliated organization's requirements to provide education and consultation services including, but not limited to, chronic disease self-management programs, Enhance®Wellness, Enhance®Fitness, program to encourage active and rewarding lives for seniors (PEARLS), star-caregivers program (STAR-C), powerful tools for caregivers, and community aging in place —advancing better living for elders (CAPABLE);

(M) Recognized centers for independent living pursuant to 45 C.F.R. Part 1329;

(N) Licensed music therapist license pursuant to chapter 18.233 RCW;

(O) Registered recreational therapist license pursuant to chapter 18.230 RCW;

(P) Health home care coordination organization contracted with a health home lead entity with the applicable license and is recognized pursuant to the Social Security Act §1945; or

(Q) Learning management systems and community instructors that meet department training and continuing education requirements pursuant to chapter 388-112A WAC.

(h) Environmental modification service providers:

(i) Must be a:

(A) Non-profit 501 (c)(3) organization approved by the Internal Revenue Service and is bonded and insured; or

(B) Business licensed pursuant to chapter 19.02 RCW; and

(ii) Have a contractor registration pursuant to chapter 18.27 RCW.

(i) Home delivered meals service providers:

(i) Business license pursuant to chapter 19.02 RCW; and

(ii) Food establishment permit pursuant to chapter 43.20 RCW.

(j) Home safety evaluation service providers:

(i) Business license pursuant to chapter 19.02 RCW; and

(ii) Have one of the following:

(A) Home health agency license pursuant to chapter 70.127 RCW; and the staff completing evaluations must have one of the following:

(I) Physical therapist license pursuant to chapter 18.74 RCW; or

(II) Occupational therapist license pursuant to chapter 18.59 RCW;

(B) Occupational therapist license pursuant to chapter 18.59 RCW; or

(C) Physical therapist license pursuant to chapter 18.74 RCW.

(k) In-home personal care providers:

(i) Business license pursuant to chapter 19.02 RCW; and

(ii) Consumer directed employer contract pursuant to chapter 74.39A RCW; or

(iii) Home care agency license pursuant to chapter 70.127 RCW for a minimum of three consecutive years, providing long-term services and supports to in-home clients, and:

(A) Have no significant licensing deficiencies during the three-year period prior to registration. For the purposes of this requirement, significant means deficiencies related to standards of care, and beneficiary or client health and safety that result in enforcement action by the department of health; and

(B) Use electronic visit verification to document in-home visits.

(l) Memory care service providers:

(i) Business license pursuant to chapter 19.02 RCW;

(ii) Assisted living facility license pursuant to chapter 18.20 RCW and chapter 388-78A WAC; and

(iii) Meet the requirements under chapter 18.20 RCW and chapter 388-78A WAC for memory care facility or memory care unit.

(m) Nursing home service providers:

(i) Business license pursuant to chapter 19.02 RCW; and

(ii) Have one of the following:

(A) Nursing home license pursuant to chapter 18.51 RCW and chapter 388-97 WAC; or

(B) Critical access hospital license pursuant to 42 U.S.C. 1895i-4 and chapter 70.38 RCW.

(n) Personal emergency response system providers:

(i) Business license pursuant to chapter 19.02 RCW; and

(ii) Personal emergency response systems must meet the following requirements:

(A) Systems must be approved by the Federal Communications Commission. Approval will be determined by the system's Federal Communications Commission identification label being documented in the Federal Communications Commission equipment authorization database; and

(B) Systems must meet the Underwriters Laboratories solutions or Intertek Electronic Testing Laboratories standards for home health care signaling equipment. The Underwriters Laboratories or Electronic Testing Laboratories listing mark on the equipment will be accepted as evidence of the equipment's compliance with Underwriters Laboratories or Electronic Testing Laboratories standards.

(o) Professional nursing service providers:

(i) Business license pursuant to chapter 19.02 RCW; ((~~and~~))

(ii) If providing private duty nursing (PDN) services, certificate of completion from the private duty nursing program: classes for all PDN applicants available through home and community services; and

(iii) Have one of the following:

(A) Registered nurse license pursuant to chapter 18.79 RCW;

(B) Licensed practical nurse license pursuant to chapter 18.79 RCW;

(C) Home health agency license pursuant to chapter 70.127 RCW; or

(D) Health home care coordination organization contract with a health home lead entity that employs nurses with the applicable license.

(p) Respite for family caregivers service providers:

(i) Business license pursuant to chapter 19.02 RCW; and

(ii) Have or be one of the following:

(A) Adult family home license pursuant to chapter 70.128 RCW;

(B) Assisted living facility license pursuant to chapter 18.20 RCW;

(C) Consumer directed employer contract pursuant to chapter 74.39A RCW;

(D) Home care agency license pursuant to chapter 70.127 RCW, and meet the additional requirements under subsection (3)(k)(iii);

(E) Nursing home license pursuant to chapter 18.51 RCW; or

(F) Adult day care provider under (3)(b)(1) of this section.

(q) Services that assist paid and unpaid family caregivers:

(i) Business license pursuant to chapter 19.02 RCW; and

(ii) One year legally operating as a business in the state of Washington.

(r) Transportation service providers:

(i) Business license pursuant to chapter 19.02 RCW;

(ii) Driver license pursuant to chapter 46.20 RCW; and

(iii) Have one of the following:

(A) Auto transportation company certification from the Washington utilities and transportation commission pursuant to chapter 81.68 RCW and chapter 480-30 WAC; ((~~or~~))

(B) Private, non-profit transportation provider certification from the Washington utilities and transportation commission pursuant to chapter 81.66 RCW and chapter 480-31 WAC; or

(C) For-hire endorsement from the department of revenue.

AMENDATORY SECTION (Amending WSR 25-18-020, filed 8/21/25, effective 9/21/25)

WAC 388-116-3030 Background checks for provider applicants and long-term services and supports providers. (1) ((~~Subsection~~)) Subsections (2) and (3) of this section ((~~applies~~)) apply to the following provider applicants of these approved services:

(a) Adaptive equipment and technology;

(b) Adult day services (adult day care and adult day health);

(c) Care transition coordination;

(d) Dementia and behavioral supports;

(e) Education and consultation;

(f) Environmental modifications;

(g) Home delivered meals;

(h) Home safety evaluation;

(i) In-home personal care (home care agencies and the consumer directed employer);

(j) Personal emergency response system;

(k) Professional nursing services;

(l) Services that assist paid and unpaid family members caring for eligible individuals; and

(m) Transportation.

(2) ((~~Entity owners and contract signatories for the approved services listed under subsection (1) of this section must pass a DSHS background check as required under:~~)) For the approved services listed in subsection (1) of this section, one of the following people must comply with the background check requirements in subsection (3) of this section:

(a) A person with 5% or more ownership interest; or

(b) The person who signs the contract with the department or area agency on aging.

(3) Background checks must be completed as required by:

(a) RCW 43.20A.710 subsection (1)(b) or (1)(c) as applicable; and

(b) Chapter 388-113 WAC. Notwithstanding any limitations to provider type or program, this chapter applies to provider applicants.

((~~(3)~~)) (4) Adult family home services provider applicants must pass a background check as required under chapter 70.128 RCW and chapter 388-76 WAC.

((~~(4)~~)) (5) Assisted living facility services provider applicants and memory care provider applicants must pass a background check as required under chapter 18.20 RCW and chapter 388-78A WAC.

((~~(5)~~)) (6) Nursing home services provider applicants must pass a background check as required under chapter 18.51 RCW and chapter 388-97 WAC.

((~~(6)~~)) (7) Respite for family caregiver provider applicants must pass a background check applicable to their provider type:

(a) Home care agency - subsection (1)(i) of this section;

(b) Individual provider - subsection (1)(i) of this section;

(c) Adult family home - subsection (3) of this section;

(d) Assisted living facility - subsection (4) of this section;

(e) Nursing home - subsection (5) of this section; or

(f) Adult day care - subsection (1)(b) of this section.

((~~(7)~~)) (8) If any individual required to complete a background check under this section provides verification that an equivalent background check was completed within 90 days before the date of application and it is non-disqualifying, that individual is not required to complete another background check under this section.

AMENDATORY SECTION (Amending WSR 25-20-048, filed 9/25/25, effective 10/26/25)

WAC 388-116-3080 Exception to an approved services rule. (1) A long-term services and supports provider may request an exception to an approved services rule.

(2) To request an exception to an approved services rule, a long-term services and supports provider must submit a written request and justification to the department using the form provided by the department.

(3) A long-term services and supports provider may not request an administrative hearing to dispute decisions on exception requests.

AMENDATORY SECTION (Amending WSR 25-20-048, filed 9/25/25, effective 10/26/25)

WAC 388-116-5030 Administrative hearing requests. (1) A request for an administrative hearing must be received no later than 5:00 p.m. on the 30th day from the date the notice was sent. Days are counted as described under WAC 388-02-0035.

(2) An administrative hearing request may be made by:

(a) Submitting an electronic request to the department as directed by the department;

(b) Calling 844-CARE4WA (844-227-3492);

(c) Mailing a request to the department at P.O. BOX 45612, Olympia, WA 98504-5612;

(d) Notifying a program employee in-person at any of the department's regional office locations, or at an area agency on aging office; or

(e) Submitting an online request to the office of administrative hearings or contacting the office of administrative hearings in writing, in person, or by telephone at a location specified in WAC 388-02-0025.

(3) To ask for assistance in requesting an administrative hearing, contact:

(a) One of the department's regional offices;

(b) An area agency on aging;

(c) The department at 844-CARE4WA (844-227-3492); or

(d) The office of administrative hearings.

(4) To be complete, an administrative hearing request must contain:

(a) Enough information to identify the person appealing the determination, and the person filing the request, if they are not the same person;

(b) The department determination being appealed; and

(c) The contact information of the appellant.

(5) If a party disagrees with an initial order, they may request review by the department's board of appeals under WACs 388-02-0560 through 388-02-0595. If a party requests review, the initial order is stayed pending the final order.

(6) If an appellant disagrees with a final order, they may request judicial review under WAC 388-02-0640 through 388-02-0650.

(7) The department does not pay any fees or costs incurred by an appellant.

(8) Appeals will be resolved through adjudicative proceedings governed by this chapter and:

(a) Chapter 50B.04 RCW;

(b) Chapter 34.05 RCW;

(c) Chapter 388-02 WAC; and

(d) Chapter 10-08 WAC.

((~~(8)~~)) (9) If there is a conflict between this chapter and chapter 388-02 WAC or 10-08 WAC, this chapter prevails; and if there is a conflict between chapter 388-02 WAC and 10-08 WAC, chapter 388-02 WAC prevails.