



RULE-MAKING ORDER PERMANENT RULE ONLY

CR-103P (December 2017) (Implements RCW 34.05.360)

CODE REVISER USE ONLY

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STATE OF WASHINGTON
FILED

DATE: February 05, 2019

TIME: 2:40 PM

WSR 19-04-100

Agency: Department of Social and Health Services, Aging and Long Term Supports Administration

Effective date of rule:

Permanent Rules

- 31 days after filing.
- Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

- Yes No If Yes, explain:

Purpose: The department intended to create two classes of clients with guardians: class (1) – those who had the most recent guardianship-related court order signed before June 1, 2018; and class (2) – those with the order signed on or after June 1, 2018. Language in WAC 388-79A-005 could be read to create a third class of clients with guardians, along with the intended two: those who had their guardianship established prior to June 1, 2018, but had the most recent guardianship-related order signed on or after June 1, 2018. Under this reading, inconsistent with the rest of chapters 388-79A WAC and 182-513 WAC, this third class of clients would have no enumerated limits on fees or costs under chapter 388-79A WAC, and therefore no deductions would be allowed under the WAC 388-79A-015, RCW 11.92.180, and RCW 43.20B.460.

The department is clarifying that there is no third class, and that these clients fall under class (2), and therefore fee and costs deductions would be allowed under WAC 182-513-1530.

Citation of rules affected by this order:

- New: None
- Repealed: None
- Amended: WAC 388-79A-005
- Suspended: None

Statutory authority for adoption: RCW 43.20B.460, RCW 11.92.180, RCW 74.08.090

Other authority:

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 19-01-048 on December 13, 2018 (date).
Describe any changes other than editing from proposed to adopted version: None

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

- Name:
- Address:
- Phone:
- Fax:
- TTY:
- Email:
- Web site:
- Other:

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	___	Amended	___	Repealed	___
Federal rules or standards:	New	___	Amended	___	Repealed	___
Recently enacted state statutes:	New	___	Amended	___	Repealed	___

The number of sections adopted at the request of a nongovernmental entity:

New	___	Amended	___	Repealed	___
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The number of sections adopted on the agency's own initiative:

New	___	Amended	<u>1</u>	Repealed	___
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	___	Amended	<u>1</u>	Repealed	___
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The number of sections adopted using:

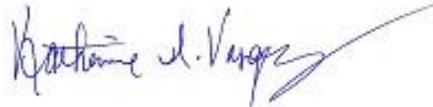
Negotiated rule making:	New	___	Amended	___	Repealed	___
Pilot rule making:	New	___	Amended	___	Repealed	___
Other alternative rule making:	New	___	Amended	<u>1</u>	Repealed	___

Date Adopted: February 5, 2019

Name: Katherine I. Vasquez

Title: DSHS Rules Coordinator

Signature:



AMENDATORY SECTION (Amending WSR 18-10-067, filed 4/30/18, effective 6/1/18)

WAC 388-79A-005 Maximum amount of guardianship fees and related costs for a long-term care medicaid eligible client. (1) As mandated by RCW 43.20B.460 and in accordance with RCW 11.92.180, the maximum amount of guardianship fees and related costs must not exceed the limits of this section when the person under guardianship is:

(a) A medicaid eligible client, residing in:

(i) A medical institution, as defined under WAC 182-500-0050;

(ii) An alternate living facility (ALF), as defined under WAC 182-513-1100; or

(iii) An at-home setting; and

(b) Required under chapter 182-513 WAC or chapter 182-515 WAC to participate towards the cost of long-term care.

(2) The maximum amount of guardianship fees and related costs must not exceed the limits of (~~chapter 388-79A~~) WAC 388-79A-010 when:

(a) The most recent court order establishing or continuing a guardianship was entered before June 1, 2018; and

(b) The client under guardianship was receiving medicaid-funded long-term care before June 1, 2018.

(3) For all other clients not described under subsection (2) of this section, the maximum amount of guardianship fees and related costs must not exceed the limits under WAC 182-513-1530.