



PROPOSED RULE MAKING

CR-102 (June 2024)
(Implements RCW 34.05.320)
Do **NOT** use for expedited rule making

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FILED

DATE: October 01, 2024
TIME: 9:22 AM

WSR 24-20-112

Agency: Department of Labor & Industries (L&I)

- Original Notice**
- Supplemental Notice to WSR** _____
- Continuance of WSR** _____

- Preproposal Statement of Inquiry was filed as WSR 24-15-120 ; or**
- Expedited Rule Making--Proposed notice was filed as WSR _____; or**
- Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or**
- Proposal is exempt under RCW _____.**

Title of rule and other identifying information: (describe subject) Chapter 296-19A WAC, Vocational Rehabilitation.

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
November, 12, 2024	10:00 am	Join in-person: Department of Labor & Industries 7273 Linderson Way SW, Room S117 Tumwater, WA 98501 OR Join electronically: https://lni-wa.gov.zoom.us/j/4283482697?omn=89161792824 Meeting ID:428 348 2697 OR Join by phone (audio only): 253-215-8782 US (Tacoma) Meeting ID:428 348 2697 Find your local number: https://lni-wa.gov.zoom.us/j/kdOkNlaejZ	The in-person and virtual/telephone hearing starts at 10:00 a.m. and will continue until all oral comments are received.

Date of intended adoption: November 19, 2024 (Note: This is **NOT** the **effective** date)

Submit written comments to: Name Sarah Moran Address Department of Labor & Industries, Insurance Services/Return to Work Partnerships P.O. Box 44326 Olympia, WA 98504-4326 Email Sarah.Moran@Lni.wa.gov Fax 360-902-5035 Other Beginning (date and time) October 2, 2024, 8:00 a.m. By (date and time) November 12, 2024, 5:00 p.m.	Assistance for persons with disabilities: Contact Sarah Moran Phone 360-902-6362 Fax 360-902-5035 TTY 360-902-5797 Email Sarah.Moran@Lni.wa.gov Other By (date) November 12, 2024
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Purpose of the proposal and its anticipated effects, including any changes in existing rules: The purpose of this rulemaking is to align Chapter 296-19A WAC with the correct RCW subsection references, update benefit amounts for job modification and prejob accommodations, and clarify the ability of vocational counselors to help workers access skill enhancement training and how these skills are reported.

Proposed amendments include:

The following amendments are proposed to reference the correct RCW subsection:

- WAC 296-19A-040 What vocational rehabilitation services require authorization?
- WAC 296-19A-050 What are vocational recovery services?
- WAC 296-19A-065 What is an ability to work assessment?
- WAC 296-19A-090 What are vocational rehabilitation plan development services?
- WAC 296-19A-098 How often must written progress reports be submitted when plan development services are provided for state fund claims?
- WAC 296-19A-100 What reports are required when vocational rehabilitation plan development services are completed?
- WAC 296-19A-130 What are the requirements for a forensic evaluation?
- WAC 296-19A-191 When may the department authorize prejob accommodations?
- WAC 296-19A-629 After the worker has elected Option 2, can the worker elect Option 1?

WAC 296-19A-050 What are vocational recovery services?

- Clarify that vocational counselors have the ability to help workers access skill enhancement training.

WAC 296-19A-070 What information must an assessment report include?

- Clarify how vocational counselors report skills obtained from skill enhancement training.

WAC 296-19A-100 What reports are required when vocational rehabilitation plan development services are completed?

- Clarify how vocational counselors report skills obtained from skill enhancement training.

WAC 296-19A-190 How much is available for job modification assistance?

- Maximum amount allowed for job modifications is increased from \$5,000 to \$10,000.

WAC 296-19A-192 How much is available for prejob accommodations?

- Maximum amount allowed for prejob accommodations is increased from \$5,000 to \$10,000.

WAC 296-19A-570 What factors will the department consider when deciding whether to approve a nonaccredited or unlicensed training provider for Washington injured workers?

- Replace RCW 51.32.099 with RCW 51.32.096. Substitute House Bill 1496, Chapter 137, Laws of 2015, added a new section codified as RCW 51.32.096, replacing RCW 51.32.099 which subsequently expired.

Reasons supporting proposal: In 2024, the Washington State Legislature passed Substitute House Bill 2127 (Chapter 90, Laws of 2024) concerning a new vocational skill enhancement benefit and increased amounts for job modification and pre-job accommodations. Rulemaking is needed to align L&I's vocational rules with the statutory changes.

Statutory authority for adoption: RCW 51.04.020, 51.04.030, 51.32.095, 51.32.096, 51.36.100, and 51.36.110.

Statute being implemented: Chapter 51.32 RCW: RCW 51.32.090, 51.32.095, 51.32.096, and 51.32.250.

Is rule necessary because of a:

- | | | |
|-------------------------|------------------------------|--|
| Federal Law? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Federal Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| State Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

If yes, CITATION:

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: None

Name of proponent: (person or organization) Department of Labor & Industries

Type of proponent: Private. Public. Governmental.

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting	Sarah Moran	Tumwater, WA	360-902-6362

Implementation	Brenda Heilman	Tumwater, WA	360-902-6369
Enforcement	Brenda Heilman	Tumwater, WA	360-902-6369

Is a school district fiscal impact statement required under [RCW 28A.305.135](#)? Yes No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name
Address
Phone
Fax
TTY
Email
Other

Is a cost-benefit analysis required under [RCW 34.05.328](#)?

Yes: A preliminary cost-benefit analysis may be obtained by contacting:

Name
Address
Phone
Fax
TTY
Email
Other

No: Please explain: This rulemaking is exempt from preparing a cost-benefit analysis under RCW 34.05.328(5)(b)(iii) because it is adopting or incorporating by reference without material change a Washington State statute.

Regulatory Fairness Act and Small Business Economic Impact Statement
 Note: The [Governor's Office for Regulatory Innovation and Assistance \(ORIA\)](#) provides support in completing this part.

(1) Identification of exemptions:
 This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see [chapter 19.85 RCW](#)). For additional information on exemptions, consult the [exemption guide published by ORIA](#). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.061](#) because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.
 Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by [RCW 34.05.313](#) before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of [RCW 15.65.570\(2\)](#) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025\(3\)](#). Check all that apply:

<input type="checkbox"/> RCW 34.05.310 (4)(b) (Internal government operations)	<input checked="" type="checkbox"/> RCW 34.05.310 (4)(e) (Dictated by statute)
<input type="checkbox"/> RCW 34.05.310 (4)(c) (Incorporation by reference)	<input type="checkbox"/> RCW 34.05.310 (4)(f) (Set or adjust fees)
<input type="checkbox"/> RCW 34.05.310 (4)(d) (Correct or clarify language)	<input type="checkbox"/> RCW 34.05.310 (4)(g) ((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit)

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025\(4\)](#). (Does not affect small businesses).

This rule proposal, or portions of the proposal, is exempt under RCW _____.

Explanation of how the above exemption(s) applies to the proposed rule:

(2) Scope of exemptions: Check one.
 The rule proposal: Is fully exempt. (Skip section 3.) Exemptions identified above apply to all portions of the rule proposal.

- The rule proposal: Is partially exempt. (*Complete section 3.*) The exemptions identified above apply to portions of the rule proposal, but less than the entire rule proposal. Provide details here (consider using [this template from ORIA](#)):
- The rule proposal: Is not exempt. (*Complete section 3.*) No exemptions were identified above.


(3) Small business economic impact statement: *Complete this section if any portion is not exempt.*

If any portion of the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

- No Briefly summarize the agency's minor cost analysis and how the agency determined the proposed rule did not impose more-than-minor costs. _____
- Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses and a small business economic impact statement is required. Insert the required small business economic impact statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

- Name
- Address
- Phone
- Fax
- TTY
- Email
- Other

Date: October 1, 2024	Signature: 
Name: Joel Sacks	
Title: Director	