



RULE-MAKING ORDER

CR-103E (May 2009)
(Implements RCW 34.05.360)

Agency: Department of Social and Health Services, Aging And Disability Services Administration

Emergency Rule Only

Effective date of rule:

Emergency Rules

- Immediately upon filing.
- Later (specify) 10/22/09

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 is amending chapter 388-828 WAC, the DDD Assessment, to add the Children's Intensive In-Home Behavioral Support Program (CIIBS) eligibility algorithm.

Citation of existing rules affected by this order:

Repealed: None
 Amended: WAC 388-828-1620
 Suspended: None

Statutory authority for adoption: RCW 71A.12.30

Other authority: Chapter 329, laws of 2008, 2008 ESHB 2687, Section 205 (1)(i)

EMERGENCY RULE

Under RCW 34.05.350 the agency for good cause finds:

- That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.
- That in order to implement the requirements or reductions in appropriations enacted in any budget for fiscal years 2009, 2010, or 2011, which necessitates the need for the immediate adoption, amendment, or repeal of a rule, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the fiscal needs or requirements of the agency.

Reasons for this finding: The 2008 supplemental budget, ESHB 2687, section(1)(i) directs the department to develop and implement a federal HCBS Waiver to provide intensive behavior support services for up to one hundred children with developmental disabilities and their families. DDD is incorporating rules for the CIIBS eligibility algorithm into chapter 388-828 WAC. An initial public notice was filed September 29, 2008 as WSR 08-20-087. This 4th emergency rule extends the emergency rule filed June 24, 2009 as WSR 09-14-044.

CMS approved the Waiver as of May 1, 2009 and stakeholder work continues. The rules are expected to be formally proposed by November 2009.

Date adopted:

September 30, 2009

NAME (TYPE OR PRINT)

Stephanie Vaughn

SIGNATURE

TITLE

DSHS Rules Coordinator

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: October 21, 2009
TIME: 7:51 AM

WSR 09-21-103

(COMPLETE REVERSE SIDE)

**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	<u>5</u>	Amended	<u>1</u>	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 in the agency's own initiative:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	_____	Amended	_____	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	<u>5</u>	Amended	<u>1</u>	Repealed	_____

AMENDATORY SECTION (Amending WSR 07-10-029, filed 4/23/07, effective 6/1/07)

WAC 388-828-1620 How does DDD determine which panels are mandatory in your DDD assessment? DDD determines which panels are mandatory in your DDD assessment by assigning you to a client group using the following table:

If you are approved by DDD to receive:	Your client group is:
(1) DDD (DCBS) <u>HCBS</u> waiver services per chapter 388-845 WAC; or (2) State-only residential services per chapter 388-825 WAC; or (3) ICF/MR services per 42 CFR 440 and 42 CFR 483.	Waiver and State-Only Residential
(4) Medicaid personal care (MPC) per chapter 388-106 WAC; or (5) DDD HCBS Basic, Basic Plus, <u>CIIBS</u> or Core waiver services per chapter 388-845 WAC and personal care services per chapter 388-106 WAC; or (6) Medically intensive health care program services per chapter 388-551 WAC; or (7) Adult day health services per chapter 388-106 WAC; or (8) Private duty nursing services per chapter 388-106 WAC; or (9) Community options program entry system (COPES) services per chapter 388-106 WAC; or (10) Medically needy residential waiver services per chapter 388-106 WAC; or (11) Medicaid nursing facility care services per chapter 388-106 WAC.	Other Medicaid Paid Services
(12) County employment services per chapter 388-850 WAC. (13) Other DDD paid services per chapter 388-825 WAC, such as: (a) Family support services; or (b) Professional services. (14) Nonwaiver voluntary placement program services per chapter 388-826 WAC; (15) SSP only per chapter 388-827 WAC;	State-Only Paid Services
(16) You are not approved to receive any DDD paid services.	No Paid Services

NEW SECTION

WAC 388-828-8500 What is the children's intensive in-home behavioral support (CIIBS) program algorithm? The children's intensive in-home behavioral support (CIIBS) program algorithm is a formula in the DDD assessment that calculates your out-of-home

placement risk score to determine your eligibility for the CIIBS waiver per chapter 388-845 WAC.

NEW SECTION

WAC 388-828-8505 When does the DDD assessment run the CIIBS algorithm to determine your eligibility for the CIIBS waiver? The DDD assessment runs the CIIBS algorithm to determine your eligibility for the CIIBS waiver when your support assessment is moved to current and:

- (1) You are the assessed age of eight or older and under age eighteen;
- (2) Your behavior acuity level is high per WAC 388-828-5640;
- (3) Your caregiver's risk score is medium, high or immediate per WAC 388-828-5300;
- (4) Your ICF/MR score is eligible per WAC 388-828-4400; and
- (5) You are not enrolled in the CIIBS waiver.

NEW SECTION

WAC 388-828-8510 What elements does the CIIBS algorithm use to calculate your out-of-home placement risk score? The CIIBS algorithm uses the following elements to determine your out-of-home placement risk score:

- (1) The DDD protective supervision acuity scale (WAC 388-828-5000 to 388-828-5100);
- (2) The DDD caregiver status acuity scale (WAC 388-828-5120 to 388-828-5360);
- (3) The DDD behavioral acuity scale (WAC 388-828-5500 to 388-828-5640);
- (4) The DDD activities of daily living (ADL) acuity scale (WAC 388-828-5380 to 388-828-5480);
- (5) The DDD mobility acuity scale (WAC 388-828-5380 to 388-828-5480); and
- (6) Eligible condition of "autism" as indicated in the DDD determination (WAC 388-823-0500).

NEW SECTION

WAC 388-828-8515 How does DDD determine your CIIBS out-of-home placement risk score? Your CIIBS out-of-home placement risk score is calculated using the following table:

Section and WAC reference	If you meet the following criteria:	Then adjust your score by:	Score if you meet criteria
	Clients meeting eligibility criteria in WAC 388-828-8505		Beginning Score = 0
DDD Determination WAC 388-823-0500	Eligible condition of autism in the DDD determination.	Adding 40 points	=
ADL Acuity Level WAC 388-828-5480	Your ADL support needs level = high, medium or low	Subtracting 54 points	=
Behavior Acuity Scale WAC 388-828-5500 through 388-828-5640	Your most prominent behavior = assault/injury and Severity of your most prominent behavior = "potentially dangerous" or "life threatening"	Adding 14 points	=
Protective Supervision Acuity Scale WAC 388-828-5060	Your answer to the following question: "What level of monitoring does the client typically require during awake hours?" = "Line of sight/earshot"	Adding 13 points	=
DDD Caregiver Status Acuity WAC 388-828-5300	Your caregiver risk level = high or immediate	Adding 136 points	=
Backup Caregiver Status WAC 388-828-5320	Your answer to the following question: "Under what conditions are other caregiver(s) available?" = "No other caregiver available"	Adding 33 points	=
Mobility Acuity Scale WAC 388-828-5900	Your mobility acuity level = high, medium or low	Subtracting 15 points	=
		Sum of all of scores above is your CIIBS out-of-home placement risk score	=

NEW SECTION

WAC 388-828-8520 How does DDD determine if I am eligible for the CIIBS waiver? DDD uses the following table to determine if you are eligible for the CIIBS waiver based on your CIIBS out-of-home placement risk score per WAC 388-828-8510:

If your CIIBS out-of-home placement risk score is:	Then your CIIBS eligibility is:
96 or greater	Yes - Severe
17 through 95	Yes - High
Less than 17	No - (not eligible)