



# 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) October 28, 2009

**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 WAC 388-850-045 on an emergency basis to revise the county funding formula to comply with state budget appropriations.

**Citation of existing rules affected by this order:**

Repealed: None  
 Amended: WAC 388-850-045  
 Suspended: None

**Statutory authority for adoption:** RCW 71A.12.030, 71A.12.040; 71A.14.030

**Other authority:** Chapter 564, Laws of 2009 PV 61st Legislature § 205 (1)(n); Chapter 34.05 RCW

**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:** This emergency rule implements changes made to the county funding formula as a result of changes in the state budget appropriation for county programs. An initial public notice was filed December 22, 2008 as WSR 09-01-132. Stakeholder work is continuing. The department plans to file a proposed rule making notice in November of this year.

**Date adopted:**

October 21, 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 27, 2009

TIME: 8:34 AM

**WSR 09-22-028**

(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:**

<b>Federal statute:</b>	New	_____	Amended	_____	Repealed	_____
<b>Federal rules or standards:</b>	New	_____	Amended	_____	Repealed	_____
<b>Recently enacted state statutes:</b>	New	_____	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:**

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	New	_____	Amended	_____	Repealed	_____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	New	_____	Amended	_____	Repealed	_____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	Repealed	_____

AMENDATORY SECTION (Amending WSR 05-11-015, filed 5/9/05, effective 6/9/05)

WAC 388-850-045 (~~(Funding formula--Developmental disabilities.)~~) What is the formula for distribution of funding to the counties? (1) For the purposes of this section, "county" shall mean the legal subdivision of the state, regardless of any agreement with another county to provide developmental disabilities services jointly.

(2) The allocation of funds to counties shall be based on the following criteria:

~~(a) (Each county shall receive a base amount of funds. The amount shall be based on the prior biennial allocation, including any funds from budget provisos from the prior biennium, and subject to the availability of state and federal funds;~~

~~(b))~~ The distribution of ~~((any additional))~~ funds provided by the legislature or other sources shall be based on a distribution formula which best meets the needs of the population to be served ~~((as follows:~~

~~(i) On a basis which))~~ .

~~(b) The distribution formula~~ takes into consideration ~~((minimum grant amounts,))~~ requirements of clients residing in an ICF/MR or clients on one of the division's Title XIX home and community-based waivers, ~~((and the general population of the county, and))~~ eligible birth to three, special education enrollment and the general population of the county as well as the population ~~((eligible for))~~ receiving county-funded developmental disabilities services ~~((?))~~ .

~~((ii) On a basis that takes into consideration the population numbers of minority groups residing within the county;~~

~~(iii) A biennial adjustment shall be made after these factors are considered; and~~

~~(iv) Counties not receiving any portion of additional funds pursuant to this formula shall not have their base allocation reduced due to application of this formula.~~

~~(c) Funding appropriated through legislative proviso, including vendor rate increases, shall be distributed to the population directed by the legislature utilizing a formula as directed by the legislature or using a formula specific to that population or distributed to identified people;~~

~~(d))~~ (c) The ability of the community to provide funds for the developmental disability program provided in chapter 71A.14 RCW may be considered with any or all of the above.

(3) A county may utilize ~~((seven))~~ six and one-half or less percent of the county's allocated funds for county administrative expenses. A county may utilize more than ~~((seven))~~ six and one-half percent for county administration with approval of the division director. ~~((A county electing to provide all services directly, in addition to county administration, is exempt from this requirement.))~~

~~((4) The department may withhold five or less percent of~~

~~allocated funds for new programs, for statewide priority programs,  
and for emergency needs.)~~)