



RULE-MAKING ORDER

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

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

Emergency Rule Only

Effective date of rule:

Emergency Rules

- Immediately upon filing.
- Later (specify) 10/28/09

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 WAC 388-825-068 "What Medicaid State Plan services can DDD authorize?" on an emergency basis to maintain consistency with changes being made to chapters 388-106 and 388-71 WAC as a result of 2009 litigation.

Citation of existing rules affected by this order:

Repealed: None
 Amended: WAC 388-825-068
 Suspended: None

Statutory authority for adoption: RCW 71A.12.030, 71a.12.040

Other authority: Washington State 2009-11 Budget (Engrossed Substitute House Bill 1244), section 205(1)(j); and Social Security Act section 1915 (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: This emergency rule implements changes made to Adult Day Health in the Medicaid State Plan as of June 30, 2009 and the services changes made by the legislature in Engrossed Substitute House Bill (ESHB) 1244, section 205 (1)(j).

An initial public notice was filed March 10, 2009 as WSR 09-07-039. The department proposed the rule as WSR 09-15-161 and held a public hearing on August 25, 2009 and received no public comment.

The department filed an initial emergency as WSR 09-14-084 on June 30, 2009. The department is requesting to have this emergency rule extended pending the outcome of litigation. For the current status of the litigation contact Meredith Kelly at 360-725-3524.

Date adopted:

October 9, 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: 9:25 AM

WSR 09-22-038

**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	<u>1</u>	Repealed	_____

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

New	_____	Amended	_____	Repealed	_____
-----	-------	---------	-------	----------	-------

The number of sections adopted in the agency's own initiative:

New	_____	Amended	_____	Repealed	_____
-----	-------	---------	-------	----------	-------

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

New	_____	Amended	_____	Repealed	_____
-----	-------	---------	-------	----------	-------

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	_____

AMENDATORY SECTION (Amending WSR 08-11-072, filed 5/19/08, effective 6/19/08)

WAC 388-825-068 What medicaid state plan services can DDD authorize? DDD ((can)) may authorize the following medicaid state plan services:

- (1) Medicaid personal care, per chapter 388-106 WAC;
- (2) Private duty nursing for adults age eighteen and older; per chapter 388-106 WAC;
- (3) Private duty nursing for children under the age of eighteen, per WAC 388-551-3000;
- (4) Adult day health for adults, per chapter 388-106 WAC ((388-106-0810 and 388-106-0815)); and
- (5) ICF/MR services, per chapters 388-835 and 388-837 WAC.

((Medicaid State Plan Services))	
((Adult day health ICF/MR services Medically intensive home care program for children Private duty nursing for adults))	((Medicaid personal care ● In-home ● Adult family home ● Adult residential care))