

WAC 388-106-0015 What long-term care services does the department provide? The department provides long-term care services through programs that are designed to help you remain in the community. These programs offer an alternative to nursing home care (which is described in WAC 388-106-0350 through 388-106-0360). You may receive services from any of the following:

(1) **Medicaid personal care (MPC)** is a medicaid state plan program authorized under RCW 74.09.520. Clients eligible for this program may receive personal care in their own home, adult family home, or in ((a)) an adult residential facility, as defined in WAC 388-110-0020.

(2) **Community options program entry system (COPES)** is a medicaid waiver program authorized under RCW 74.39A.030. Clients eligible for this program may receive personal care in their own home or in a residential facility.

(3) Community first choice (CFC) is a medicaid state plan program authorized under RCW 74.39A.400. Clients eligible for this program may receive services in their own home or in a residential setting, as defined in WAC 388-110-0020.

(4) Chore is a state-only funded program authorized under RCW 74.39A.110. Grandfathered clients may receive assistance with personal care in their own home.

((+4)) (5) **Volunteer chore** is a state-funded program that provides volunteer assistance with household tasks to eligible clients.

((+5)) (6) **Program of all-inclusive care for the elderly (PACE)** is a medicaid/medicare managed care program authorized under 42 CFR 460.2. Clients eligible for this program may receive personal care and medical services in their own home, in residential facilities, and in adult day health centers.

((+6)) (7) **Adult day health** is a supervised daytime program providing skilled nursing and rehabilitative therapy services in addition to core services outlined in WAC 388-106-0800.

((+7)) (8) **Adult day care** is a supervised daytime program providing core services, as defined under WAC 388-106-0800.

((+8)) (9) **Medical care services** is a state-funded program authorized under RCW 74.09.035. Clients eligible for this program may receive personal care services in an adult family home or an adult residential care facility.

((+9)) (10) **Residential care discharge allowance** is a service that helps eligible clients to establish or resume living in their own home.

((+10)) (11) **Private duty nursing** is a medicaid service that provides an alternative to institutionalization in a hospital or nursing facility setting. Clients eligible for this program may receive at least four continuous hours of skilled nursing care on a day to day basis in their own home.

((+11)) (12) **Senior Citizens Services Act (SCSA)** is a program authorized under chapter 74.38 RCW. Clients eligible for this program may receive community-based services as defined in RCW 74.38.040.

((+12)) (13) **Respite program** is a program authorized under RCW 74.41.040 and WAC 388-106-1200. This program provides relief care for unpaid family or other caregivers of adults with a functional disability.

~~((13))~~ (14) **Programs for persons with developmental disabilities** are discussed in chapter 388-823 through 388-850 WAC.

~~((14))~~ (15) **Nursing facility.**

~~((15))~~ (16) **New Freedom consumer directed services (NFCDS)** is a medicaid waiver program authorized under RCW 74.39A.030.

~~((16))~~ (17) **Residential support** is a medicaid waiver program authorized under RCW 74.39A.030. Clients eligible for this program may receive personal care in a licensed and contracted enhanced services facility or in a licensed adult family home with a contract to provide specialized behavior services.

AMENDATORY SECTION (Amending WSR 12-16-026, filed 7/25/12, effective 8/25/12)

WAC 388-106-0020 Under the MPC, CFC, COPES, and chore programs, what services are not covered? The following types of services are not covered under MPC, CFC, COPES, and chore:

- (1) Child care.
- (2) Individual providers must not provide:
 - (a) Sterile procedures unless the provider is a family member or the client self directs the procedure;
 - (b) Administration of medications or other tasks requiring a licensed health professional unless these tasks are provided through nurse delegation, self-directed care, or the provider is a family member.
- (3) Agency providers must not provide:
 - (a) Sterile procedures;
 - (b) Self-directed care;
 - (c) Administration of medications or other tasks requiring a licensed health care professional unless these tasks are provided through nurse delegation.
- (4) Services provided over the telephone.
- (5) Services to assist other household members not eligible for services.
- (6) Development of social, behavioral, recreational, communication, or other types of community living skills.
- (7) Nursing care.
- (8) Pet care.
- (9) Assistance with managing finances.
- (10) Respite.
- (11) Yard care.

AMENDATORY SECTION (Amending WSR 14-15-071, filed 7/15/14, effective 8/15/14)

WAC 388-106-0033 When may I receive services in a facility contracted to provide specialized dementia care services? (1) You may be eligible to receive services in a licensed assisted living facility that has a DSHS "enhanced adult residential care-specialized dementia care ("EARC-SDC")," which is defined in WAC 388-110-220. You may be

eligible to receive EARC-SDC services in a licensed assisted living facility under the following circumstances:

(a) You are enrolled in ((COPEs)) CFC, as defined in WAC 388-106-0015;

(b) The department has received written or verbal confirmation from a health care practitioner that you have an irreversible dementia (such as Alzheimer's disease, multi-infarct or vascular dementia, Lewy body dementia, Pick's disease, alcohol-related dementia);

(c) You are receiving services in an assisted living facility that has a current EARC-SDC contract, and you are living in the part of the facility that is covered by the contract;

(d) The department has authorized you to receive EARC-SDC services in the assisted living facility; and

(e) You are assessed by the comprehensive assessment reporting evaluation tool ("CARE") as having a cognitive performance score of 3 or above; and any one or more of the following:

(i) An unmet need for assistance with supervision, limited, extensive or total dependence with eating/drinking;

(ii) Inappropriate toileting/menses activities;

(iii) Rummages/takes others belongings;

(iv) Up at night when others are sleeping and requires intervention(s);

(v) Wanders/exit seeking;

(vi) Wanders/not exit seeking;

(vii) Has left home and gotten lost;

(viii) Spitting;

(ix) Disrobes in public;

(x) Eats non-edible substances;

(xi) Sexual acting out;

(xii) Delusions;

(xiii) Hallucinations;

(xiv) Assaultive;

(xv) Breaks, throws items;

(xvi) Combative during personal care;

(xvii) Easily irritable/agitated;

(xviii) Obsessive regarding health/body functions;

(xix) Repetitive movement/pacing;

(xx) Unrealistic fears or suspicions;

(xxi) Repetitive complaints/questions;

(xxii) Resistive to care;

(xxiii) Verbally abusive;

(xxiv) Yelling/screaming;

(xxv) Inappropriate verbal noises; or

(xxvi) Accuses others of stealing.

AMENDATORY SECTION (Amending WSR 05-11-082, filed 5/17/05, effective 6/17/05)

WAC 388-106-0045 When will the department authorize my long-term care services? The department will authorize long-term care services when you:

(1) Are assessed using CARE;

(2) Are found financially and functionally eligible for services including, if applicable, the determination of the amount of partici-

pation toward the cost of your care and/or the amount of room and board that you must pay;

(3) Have given written consent for services and approved your plan of care; and

(4) Have chosen a provider(s), qualified for payment.

AMENDATORY SECTION (Amending WSR 15-03-038, filed 1/12/15, effective 2/12/15)

WAC 388-106-0047 When can the department terminate or deny long-term care services to me? (1) The department will deny or terminate long-term care services if you are not eligible for long-term care services pursuant to WAC 388-106-0210, 388-106-0310, or 388-106-0610.

(2) The department may deny or terminate long-term care services to you if, after exhaustion of standard case management activities and the approaches delineated in the department's challenging cases protocol, which must include an attempt to reasonably accommodate your disability or disabilities, any of the following conditions exist:

(a) After a department representative reviews with you your rights and responsibilities as a client of the department, per WAC 388-106-1300 and 388-106-1303, you refuse to accept those long-term care services identified in your plan of care that are vital to your health, welfare or safety;

(b) You choose to receive services in your own home and you or others in your home demonstrate behaviors that are substantially likely to cause serious harm to you or your care provider;

(c) You choose to receive services in your own home and hazardous conditions in or immediately around your home jeopardize the health, safety, or welfare of you or your provider. Hazardous conditions include but are not limited to the following:

(i) Threatening, uncontrolled animals (e.g., dogs);

(ii) The manufacture, sale, or use of illegal drugs;

(iii) The presence of hazardous materials (e.g., exposed sewage, evidence of a methamphetamine lab).

(d) You do not approve the plan of care by signing and returning your service summary document within sixty days of when your assessment is finalized.

AMENDATORY SECTION (Amending WSR 13-18-039 and 13-17-125, filed 8/29/13 and 8/21/13, effective 10/1/13)

WAC 388-106-0050 What is an assessment? (1) An assessment is an in-person interview in your home, ~~((or your place of))~~ current residence, or another location that is convenient to you that is conducted by the department, to inventory and evaluate your ability to care for yourself. The department will assess you at least ~~((annually))~~ every twelve months, or more often when there are significant changes ~~((to your ability to care for yourself))~~ necessitating revisions to your CARE plan, or at your request. If the assessment is not completed in the residence where your services will be provided, a visit to that

residence will be made to evaluate your living situation and environment.

(2) Between assessments, the department may modify your current assessment without an in-person interview in your home or place of residence. The reasons that the department may modify your current assessment without conducting an in-person interview in your home or place of residence include but are not limited to the following:

(a) Errors made by department staff in coding the information from your in-person interview;

(b) New information requested by department staff at the time of your assessment and received after completion of the in-person interview (e.g. medical diagnosis);

(c) Changes in the level of informal support available to you; or

(d) Clarification of the coding selected.

(3) When the department modifies your current assessment, it will notify you using a Planned Action Notice of the modification regardless of whether the modification results in a change to your benefits. You will also receive a new service summary and assessment details, if requested.

AMENDATORY SECTION (Amending WSR 06-16-035, filed 7/25/06, effective 8/25/06)

WAC 388-106-0055 What is the purpose of an assessment? The purpose of an assessment is to:

(1) Determine eligibility for long-term care programs;

(2) Identify your strengths, limitations, goals, and preferences;

(3) Evaluate your living situation and environment;

(4) Evaluate your physical health, functional and cognitive abilities;

(5) Determine availability of informal supports, shared benefits, and other nondepartment paid resources;

(6) Determine need for intervention;

(7) Determine need for case management activities;

(8) Determine your classification group that will set your payment rate for residential care or number of hours of in-home care;

(9) Determine need for referrals; and

(10) Develop a plan of care, as defined in WAC 388-106-0010.

(11) In the case of New Freedom consumer directed services, the purpose of an assessment is to determine functional eligibility and for the participant to develop the New Freedom spending plan, as defined in WAC 388-106-0010.

AMENDATORY SECTION (Amending WSR 14-15-092, filed 7/18/14, effective 8/18/14)

WAC 388-106-0070 Will I be assessed in CARE? You will be assessed in CARE if you are applying for or receiving DDA services, CFC, COPEs, MPC, chore, respite, adult day health, medical care services, PACE, private duty nursing, residential support, and new freedom.

If you are under the age of eighteen and within thirty calendar days of your next birthday, CARE determines your assessment age to be that of your next birthday.

AMENDATORY SECTION (Amending WSR 15-01-085, filed 12/16/14, effective 1/16/15)

WAC 388-106-0120 What is the payment rate that the department will pay the provider if I receive personal care services in a residential facility? The department publishes rates and/or adopts rules to establish how much the department pays toward the cost of your care in a residential facility.

(1) For CFC, COPES, MPC, medical care services, RCL, and new freedom programs, the department assigns payment rates to the CARE classification group. Under these programs, payment for care in a residential facility corresponds to the payment rate assigned to the classification group in which the CARE tool has placed you.

(2) The enhanced services facility rate is determined by legislative action and appropriation.

(3) The rate for adult family homes with a specialized behavior support contract is based on the CARE classification group and an add-on amount, which is negotiated through the collective bargaining process.

Community First Choice

NEW SECTION

WAC 388-106-0270 What services are available under community first choice (CFC)? The services you may receive under the community first choice program include:

(1) Personal care services, as defined in WAC 388-106-0010, in your own home, in an adult family home (AFH), or in an assisted living facility (ALF), and, as applicable, while you are out of the home accessing the community or working.

(2) Relief care, which provides personal care services by a second individual or agency provider as a back-up to your primary paid personal care provider.

(3) Skills acquisition training which is defined as training that allows you to:

(a) Acquire, maintain, and enhance skills necessary to accomplish ADLs, IADLs, or health related tasks more independently. Health related tasks are defined as specific tasks related to the needs of an individual, which under state law licensed health professionals can delegate or assign to a qualified health care practitioner;

(b) Skills acquisition training does not replace any training or therapy otherwise provided under medicaid, medicare, or any private insurance; and

(c) Skills acquisition training for children must be related to the child's disability and will not be provided for tasks that are determined to be age appropriate as described in WAC 388-106-0130(7).

(4) Personal emergency response systems (PERS):

(a) A standard PERS, if the service is necessary and appropriate to enable you to secure help in the event of an emergency and if:

(i) You live alone in your own home;

(ii) You are alone, in your own home, for significant parts of the day and have no provider for extended periods of time; or

(iii) No one in your home, including you, can secure help in an emergency.

(b) A fall detection system, if:

(i) You are eligible for a standard PERS unit; and

(ii) You have a recent documented history of falls.

(c) A global positioning system (GPS) tracking device with locator capabilities if:

(i) You have a recent documented history of short-term memory loss; and

(ii) A recent documented history of wandering with exit seeking behavior; or

(iii) A recent documented history of leaving your residence and getting lost.

(d) A medication reminder if:

(i) You are eligible for a standard PERS unit;

(ii) You do not have a caregiver available to provide the service; and

(iii) You are able to use the reminder to take your medications.

(5) Assistive technology:

(a) If the item increases your independence or substitutes for human assistance, including but not limited to:

(i) Additions to the standard PERS unit such as fall detection, GPS, or medication delivery and/or reminder systems. Any amount above the cost of the standard PERS unit will be considered assistive technology.

(ii) Devices that monitor or sense movement and react in a prescribed manner such as turning off an appliance or detecting an individual's specific location;

(iii) Computing devices that can, or have an application that can, increase independence or substitute for human assistance specifically with ADL, IADL, or health related tasks to the extent that the expenditure would otherwise be made for human assistance.

(b) Excludes:

(i) Any purchase that is solely for recreational purposes;

(ii) Applications for devices, subscriptions, and data plan charges, or items that require a monthly recurring fee;

(iii) Medical supplies and medical equipment;

(iv) Home modifications; and

(v) Any item that would otherwise be covered under any other payment source, including but not limited to, medicare, medicaid, and private insurance.

(6) Nurse delegation services, when:

(a) You are receiving personal care services from a certified home care aide or a registered or certified nursing assistant who has completed nurse delegation core training;

(b) Your medical condition is considered stable and predictable by the delegating nurse; and

(c) Services are provided in compliance with WAC 246-840-930.

(7) Nursing services, when you are not already receiving this type of service from another source. The frequency and scope of the nursing services is based on your individual need as determined by your CARE assessment and any additional collateral contact information obtained by your case manager. A registered nurse may visit you and perform any of the following activities:

(a) Nursing assessment/reassessment;

(b) Instruction to you and your providers;

(c) Care coordination and referral to other health care providers;

(d) Skilled treatment, only in the event of an emergency. A skilled treatment is care that would require authorization, prescription, and supervision by an authorized practitioner prior to its provision by a nurse, for example, medication administration or wound care such as debridement. In nonemergency situations, the nurse will refer the need for any skilled medical or nursing treatments to a health care provider, a home health agency or other appropriate resource.

(e) File review; and

(f) Evaluation of health-related care needs affecting service plan and delivery.

(8) Community transition services, if you are being discharged from a nursing facility, institution for mental diseases, or intermediate care facility for individuals with intellectual disabilities, and if services are necessary for you to set up your own home. Services may include:

(a) Security deposits that are required to obtain a lease on an apartment or home, including first month's rent;

(b) Essential household furnishings required to occupy and use a community domicile, including furniture, window coverings, food preparation items, and bath and linen supplies;

(c) Set-up fees or deposits for utilities, including telephone, electricity, heating, water, and garbage;

(d) Services necessary for the participant's health and safety such as pest eradication and one-time cleaning prior to occupancy;

(e) Moving expenses; and

(f) Activities to assess need, arrange for, and procure needed resources.

Community transition services do not include recreational or diverting items, such as a television, cable or VCR and are limited to one per discharge and may not exceed eight hundred fifty dollars per occurrence;

(9) Caregiver management training on how to select, manage and dismiss personal care providers. Training is provided in written, DVD, and web-based formats.

NEW SECTION

WAC 388-106-0275 Where can I receive CFC services? You may receive CFC services;

(1) In your own home; or

(2) In a residential facility, which include licensed and contracted:

- (a) Adult family homes, as defined in RCW 70.128.010; or
- (b) Assisted living facilities as defined in RCW 18.20.020.

NEW SECTION

WAC 388-106-0277 Am I eligible for CFC services? You are eligible for CFC-funded services if you meet all of the following criteria:

(1) Your CARE assessment shows you need the level of care provided in a hospital, nursing facility, an intermediate care facility for the intellectually disabled (ICF/ID), an institution providing psychiatric services for individuals under age twenty-one, or an institution for mental diseases for individuals age sixty-five or over (or will likely need the level of care within thirty days unless CFC services are provided); and

(2) You are eligible for a categorically needy (CN) or the alternative benefit plan (ABP) Washington apple health program. Financial eligibility rules for CFC are described in WAC 182-513-1210 through WAC 182-513-1220.

(3) If you are not financially eligible for a non-institutional CN or ABP program, but are financially eligible for a home and community based waiver, you are eligible for CFC as long as you continue to receive at least one monthly waiver service.

NEW SECTION

WAC 388-106-0280 When do CFC services begin? Your services begin on the date the department authorizes services.

NEW SECTION

WAC 388-106-0283 How do I remain eligible for CFC services? (1) In order to remain eligible for CFC, you must remain financially eligible and be in need of services in accordance with WAC 388-106-0310 as determined through a CARE assessment. The assessment in CARE must be completed at least annually or more often when there are significant changes in your functional or financial circumstances; or

(2) If you receive services through DDA, you must remain financially eligible and eligible for ICF/MR or nursing facility level of care as described in WAC 388-828-4400, 388-828-3080 and 388-106-0355.

(3) When your eligibility is dependent on your eligibility for a home and community based waiver, you must receive at least one waiver service every month. If you do not receive a waiver service for more than thirty calendar days, you will no longer be eligible for CFC and the department will terminate your CFC services.

(4) If eligibility laws, regulations, or rules for CFC change, and if you do not meet the changed eligibility requirements, the de-

partment will terminate your CFC services, even if your functional or financial circumstances have not changed.

NEW SECTION

WAC 388-106-0285 What do I pay for if I receive CFC services?

(1) If you are receiving services through CFC only, you may be required to pay toward the cost of your care as outlined in WAC 182-513-1215. If you are receiving services in:

(a) Your own home, you will not have to pay toward the cost of your care.

(b) A residential facility, you must use your income to pay for your room and board. You are allowed to keep some of your income for personal needs allowance (PNA). Depending on your financial eligibility group and income, you may also be responsible to pay an additional amount towards the cost of your care.

(2) If you are receiving services through CFC and a home and community based waiver, you may be required to pay toward the cost of your care as outlined in WAC 182-515-1509. If you are receiving services in:

(a) Your own home, you are allowed to keep some of your income for a maintenance allowance.

(b) If you are living in a residential facility, you must use your income to pay for your room and board and may have to pay an additional amount towards the cost of services. You are allowed to keep some of your income for PNA.

NEW SECTION

WAC 388-106-0290 What does the department pay towards the cost of care when you are receiving CFC services and live in a residential facility? When you receive CFC services and live in a residential facility, the department pays the facility the difference between what you pay the facility and the department-set rate for the facility. The department pays the residential facility from the first day of service through the:

(1) The day before your discharge date; or

(2) The last day of service if you die while living at the facility.

NEW SECTION

WAC 388-106-0295 May I be employed and receive CFC services?

You may be employed and continue to receive CFC services as long as you remain medicaid eligible under the categorically needy (CN) or alternative benefit plan (ABP) program.