



# RULE-MAKING ORDER

**CR-103P (May 2009)**  
**(Implements RCW 34.05.360)**

**Agency:** Department of Social and Health Services, Aging and Long-Term Support Administration

**Permanent Rule Only**

**Effective date of rule:**

**Permanent Rules**

31 days after filing.

Other (specify) \_\_\_\_\_ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

**Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?**

Yes  No If Yes, explain:

**Purpose:** This rule change establishes a new residential support waiver for adult family homes to provide specific behavior support services under contract with the Department, as negotiated in collective bargaining. This rule identifies the scope of services, eligibility criteria, and payment requirements. In addition, this rule makes some minor changes to regulatory and statutory references, program titles, and terminology.

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

Repealed: None

Amended: WAC 388-106-0015, 388-106-0030, 388-106-0040, 388-106-0070, 388-106-0110, 388-106-0120, 388-106-0200, 388-106-0225, 388-106-0305, 0805, 0900, and 0955

Suspended: None

**Statutory authority for adoption:** RCW 74.08.090 and RCW 74.09.520

**Other authority :** None

**PERMANENT RULE (Including Expedited Rule Making)**

Adopted under notice filed as WSR 14-11-091 on May 21, 2014 (date).

Describe any changes other than editing from proposed to adopted version:

In WAC 388-106-0015 (16), the following words have been deleted from the description of **Residential Support**, "licensed and contracted enhanced services facility or in a". The Department will offer residential services in enhanced services facilities through a new 1915i state plan option, not through the Residential Support waiver. Within this rule, all other references to "enhanced services facilities" remain unchanged.

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name: NA phone ( ) \_\_\_\_\_  
Address: fax ( ) \_\_\_\_\_  
e-mail \_\_\_\_\_

**Date adopted:** July 14, 2014

**NAME (TYPE OR PRINT)**

Katherine Vasquez

**SIGNATURE**

**TITLE**

DSHS Rules Coordinator

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

**DATE: July 17, 2014**

**TIME: 8:46 AM**

**WSR 14-15-092**

**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	<u>7</u>	Amended	<u>12</u>	Repealed	_____
<b>Recently enacted state statutes:</b>	New	_____	Amended	_____	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	<u>7</u>	Amended	<u>12</u>	Repealed	_____

**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 or in a residential facility.

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

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

(8) (~~GAU-funded residential care~~) **Medical care services** is a state-funded program authorized under ~~((WAC 388-400-0025))~~ 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) **Residential care discharge allowance** is a service that helps eligible clients to establish or resume living in their own home.

(10) **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) **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) **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) **Programs for persons with developmental disabilities** are discussed in chapter 388-823 through ~~((388-853))~~ 388-850 WAC.

(14) **Nursing facility.**

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

(16) 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 adult family home with a contract to provide specialized behavior services.

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

**WAC 388-106-0030 Where can I receive services?** You may receive services:

- (1) In your own home.
- (2) In a residential facility, which includes licensed:
  - (a) Adult family homes, as defined in RCW 70.128.010.
  - (b) (~~Boarding homes~~) Assisted living facilities. Types of licensed and contracted assisted living facilities include:
    - (i) Assisted living facilities, as defined in WAC 388-110-020;
    - (ii) Enhanced adult residential care facilities, as defined in WAC 388-110-020;
    - (iii) Enhanced adult residential care facilities-specialized dementia care, as defined in WAC 388-110-020; (~~and~~)
    - (iv) Adult residential care facilities, as defined in WAC 388-110-020; and
  - (c) Enhanced services facility, when available, as defined in RCW 70.97.010 (12).
- (3) In a nursing home, as defined in WAC 388-97-005.

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

**WAC 388-106-0040 Who can provide long-term care services?** The following types of providers can provide long-term care services:

- (1) Individual providers (IPs), who provide services to clients in their own home. IPs must meet the requirements outlined in WAC 388-71-0500 through (~~388-71-05909~~) 388-71-05640.
- (2) Home care agencies (~~, who~~) that provide services to clients in their own home. Home care agencies must be licensed under chapter 70.127 RCW and chapter (~~246-336~~) 246-335 WAC and contracted with area agency on aging.
- (3) Residential providers, which include licensed adult family homes (~~and boarding homes, who~~), enhanced services facilities (when available), and assisted living facilities, that contract with the department to provide assisted living, adult residential care, and enhanced adult residential care services (which may also include specialized dementia care).
- (4) Providers who have contracted with the department to perform other services.
- (5) In the case of New Freedom consumer directed services (NFCDS), additional providers meeting NFCDS HCBS waiver requirements contracting with a department approved provider of fiscal management services.

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

**WAC 388-106-0070 Will I be assessed in CARE?** You will be assessed in CARE if you are applying for or receiving ((DDD)) DDA services, COPES, MPC, chore, respite, adult day health, ((GAU-funded residential care)) medical care services, PACE, private duty nursing, residential support, and ((New Freedom or long term care services within the WMIP program)) 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 08-19-102, filed 9/17/08, effective 10/18/08)

**WAC 388-106-0110 How does the CARE tool evaluate me for the exceptional care classification of the E Group?** CARE places you in the exceptional care E Group classifications when the following criteria are met in either diagram 1 or 2:

Diagram 1
You have an ADL score of greater than or equal to 22.
AND
You need a turning/repositioning program.
AND
You need at least one of the following: <ul style="list-style-type: none"> <li>■ External catheter;</li> <li>■ Intermittent catheter;</li> <li>■ Indwelling catheter care;</li> <li>■ Bowel program;</li> <li>■ Ostomy care; or</li> <li>■ Total in self performance for toilet use.</li> </ul>
AND
You need one of the following services provided by an individual provider, agency provider, a private duty nurse, or through self-directed care when in the in home setting, or provided by AFH( <del>boarding home</del> )/ <u>assisted living facility</u> staff, facility RN/LPN, facility staff or private duty nursing when living in a residential setting: <ul style="list-style-type: none"> <li>■ Active range of motion (AROM); or</li> <li>■ Passive range of motion (PROM).</li> </ul>
Diagram 2
You have an ADL score of greater than or equal to 22.
AND
You need a turning/repositioning program.
AND

Diagram 2
<p>You need one of the following services provided by an individual provider, agency provider, a private duty nurse, or through self-directed care when in the in home setting, or provided by AFH(<del>/boarding home</del>) or assisted living facility staff, facility RN/LPN, facility staff or private duty nursing when living in a residential setting:</p> <ul style="list-style-type: none"> <li>■ Active range of motion (AROM); or</li> <li>■ Passive range of motion (PROM).</li> </ul>
AND
<p>All of the following apply:</p> <ul style="list-style-type: none"> <li>■ You require IV nutrition support or tube feeding;</li> <li>■ Your total calories received per IV or tube was greater than 50%; and</li> <li>■ Your fluid intake by IV or tube is greater than 2 cups per day.</li> </ul>
AND
<p>You need assistance with one of the following, provided by an individual provider, agency provider, a private duty nurse, or through self-directed care when in the in home setting or provided by AFH(<del>/boarding home</del>) or assisted living facility staff, facility RN/LPN, facility staff, a private duty nurse or nurse delegation when living in a residential setting:</p> <ul style="list-style-type: none"> <li>■ Dialysis; or</li> <li>■ Ventilator/respirator.</li> </ul>

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

**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. (~~The department assigns payment rates to the CARE classification groups. 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.~~)

(1) For 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) When the service is available, 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.

AMENDATORY SECTION (Amending WSR 06-05-022, filed 2/6/06, effective 3/9/06)

**WAC 388-106-0200 What services may I receive under medicaid personal care (MPC)?** You may be eligible to receive only the following services under medicaid personal care (MPC):

(1) Personal care services, as defined in WAC 388-106-0010, in your own home and, as applicable, assistance with personal care tasks while you are out of the home accessing community resources or working.

(2) Personal care services in one of the following residential care facilities:

(a) Adult family homes; or

(b) A licensed (~~boarding home~~) assisted living facility that has contracted with the department to provide adult residential care services.

(3) Nursing services, if you are not already receiving this type of service from another resource. A registered nurse may visit you and perform any of the following activities. 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) 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/or

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

AMENDATORY SECTION (Amending WSR 08-22-052, filed 11/3/08, effective 12/4/08)

**WAC 388-106-0225 How do I pay for MPC?** (1) If you live in your own home, you do not participate toward the cost of your personal care services.

(2) If you live in a residential facility and are:

(a) An SSI beneficiary who receives only SSI income, you only pay for board and room. You are allowed to keep a personal needs allowance of forty-one dollars and forty-four cents per month. Effective January 1, 2009 this amount will change to sixty-two dollars and seventy-nine cents;

(b) An SSI beneficiary who receives SSI and another source of income, you only pay for board and room. You are allowed to keep a personal needs allowance of forty-one dollars and forty-four cents. You keep an additional twenty dollars from non-SSI income. Effective Janu-

ary 1, 2009 this amount will change to sixty-two dollars and seventy-nine cents. This new amount includes the twenty dollar disregard;

(c) An SSI-related person under WAC ((~~388-475-0050~~)) 182-512-0050, you may be required to participate towards the cost of your personal care services in addition to your board and room if your financial eligibility is based on the facility's state contracted rate described in WAC ((~~388-513-1305~~)) 182-513-1305. You are allowed to keep a personal needs allowance of forty-one dollars and forty-four cents. You keep an additional twenty dollars from non-SSI income. Effective January 1, 2009 this amount will change to sixty-two dollars and seventy-nine cents. This new amount includes the twenty dollar disregard; or

(d) A ((~~general assistance~~)) medical care services client eligible for categorically needy medicaid coverage in an adult family home (AFH), you are allowed to keep a personal needs allowance (PNA) of thirty-eight dollars and eighty-four cents per month. The remainder of your income must be paid to the AFH as your room and board up to the ((ADSA)) ALTSA room and board standards((-)) ; or

(e) A ((~~general assistance~~)) medical care services client eligible for categorically needy medicaid coverage in ((~~a boarding home~~)) an assisted living facility, you are authorized a personal needs grant of up to thirty-eight dollars and eighty-four cents per month((-)) ; or

(f) Personal needs allowance (PNA) standards and the ((ADSA)) ALTSA room and board standard can be found at <http://www.dshs.wa.gov/manuals/eaz/sections/LongTermCare/ltcstandardsPNachartsubfile.shtml>.

(3) The department pays the residential care facility from the first day of service through the:

(a) Last day of service when the medicaid resident dies in the facility; or

(b) Day of service before the day the medicaid resident is discharged.

AMENDATORY SECTION (Amending WSR 12-15-087, filed 7/18/12, effective 8/18/12)

**WAC 388-106-0305 What services may I receive under COPES if I live in a residential facility?** If you live in one of the following residential facilities: A licensed ((~~boarding home~~)) assisted living facility contracted with the department to provide assisted living, enhanced adult residential care, enhanced adult residential care-specialized dementia care or an adult family home, you may be eligible to receive only the following services under COPES:

(1) Personal care services as defined under WAC 388-106-0010.

(2) Specialized durable and nondurable medical equipment and supplies under WAC ((~~388-543-1000~~)) 182-543-1000, when the items are:

(a) Medically necessary under WAC ((~~388-500-0005~~)) 182-500-0005; and

(b) Necessary: For life support; to increase your ability to perform activities of daily living; or to perceive, control, or communicate with the environment in which you live; and

(c) Directly medically or remedially beneficial to you; and

(d) In addition to and do not replace any medical equipment and/or supplies otherwise provided under medicaid and/or medicare; and

(e) In addition to and do not replace the services required by the department's contract with a residential facility.

(3) Training needs identified in CARE or in a professional evaluation, that are in addition to and do not replace the services required by the department's contract with the residential facility and that meet a therapeutic goal such as:

- (a) Adjusting to a serious impairment;
  - (b) Managing personal care needs; or
  - (c) Developing necessary skills to deal with care providers.
- (4) Transportation services, when the service:

(a) Provides access to community services and resources to meet a therapeutic goal;

(b) Is not diverting in nature;

(c) Is in addition to and does not replace the medicaid-brokered transportation or transportation services available in the community; and

(d) Does not replace the services required by DSHS contract in residential facilities.

(5) Skilled nursing, when the service is:

(a) Provided by a registered nurse or licensed practical nurse under the supervision of a registered nurse;

(b) Beyond the amount, duration or scope of medicaid-reimbursed home health services as provided under WAC ((388-551-2100)) 182-551-2100; and

(c) In addition to and does not replace the services required by the department's contract with the residential facility (e.g. intermittent nursing services as described in WAC 388-78A-2310).

(6) Nursing services, when you are not already receiving this type of service from another resource. A registered nurse may visit you and perform any of the following activities. 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) 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/or

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

(7) Community transition services, if you are being discharged from the nursing facility or hospital and if services are necessary for you to live in a residential facility. Services:

(a) May include: Safety deposits, utility set up fees or deposits, health and safety assurances such as pest eradication, allergen control or one time cleaning prior to occupancy, moving fees, furniture, essential furnishings, and basic items essential for basic living outside the institution.

(b) Do not include rent, recreational or diverting items such as TV, cable or VCRs.

(8) Adult day health services as described in WAC 388-71-0706 when you are:

(a) Assessed as having an unmet need for skilled nursing under WAC 388-71-0712 or skilled rehabilitative therapy under WAC 388-71-0714, and:

(i) There is a reasonable expectation that these services will improve, restore or maintain your health status, or in the case of a progressive disabling condition, will either restore or slow the decline of your health and functional status or ease related pain or suffering;

(ii) You are at risk for deteriorating health deteriorating functional ability, or institutionalization; and

(iii) You have a chronic or acute health condition that you are not able to safely manage due to a cognitive, physical, or other functional impairment.

(b) Assessed as having needs for personal care or other core services, whether or not those needs are otherwise met.

(c) You are not eligible for adult day health if you:

(i) Can independently perform or obtain the services provided at an adult day health center;

(ii) Have referred care needs that:

(A) Exceed the scope of authorized services that the adult day health center is able to provide;

(B) Do not need to be provided or supervised by a licensed nurse or therapist;

(C) Can be met in a less structured care setting;

(D) In the case of skilled care needs, are being met by paid or unpaid caregivers;

(E) Live in a nursing home or other institutional facility; or

(F) Are not capable of participating safely in a group care setting.

## Residential Support

### NEW SECTION

**WAC 388-106-0336 What services may I receive under the residential support waiver?** You may receive the following services under the residential support waiver:

(1) Adult family homes with a specialized behavior support contract will provide personal care, supportive services, nurse delegation, supervision in the home and community, and 24-hour on-site response staff;

(2) Specialized durable and nondurable medical equipment and supplies under WAC 182-543-1000, when the items are:

(a) Medically necessary under WAC 182-500-0005; and

(b) Necessary: for life support; to increase your ability to perform activities of daily living; or to perceive, control, or communicate with the environment in which you live; and

(c) Directly medically or remedially beneficial to you; and

(d) In addition to and do not replace any medical equipment and/or supplies otherwise provided under medicaid and/or medicare; and

(e) In addition to and do not replace the services required by the department's contract with a residential facility.

(3) Client support training needs identified in CARE or in a professional evaluation, that are in addition to and do not replace the services required by the department's contract with the residential facility and that meet a therapeutic goal such as:

(a) Adjusting to a serious impairment;

(b) Managing personal care needs; or

(c) Developing necessary skills to deal with care providers.

(4) Nurse delegation when:

(a) You are receiving personal care from 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.

(5) Skilled nursing, when the service is:

(a) Provided by a registered nurse or licensed practical nurse under the supervision of a registered nurse;

(b) Beyond the amount, duration or scope of medicaid-reimbursed home health services as provided under WAC 182-551-2100; and

(c) In addition to and does not replace the services required by the department's contract with the residential facility.

(6) Nursing services, when you are not already receiving this type of service from another resource. A registered nurse may perform any of the following activities. 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) Nursing assessment/reassessment;

(b) Instruction to you, your providers, and your caregivers;

(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 or other appropriate resource.

(e) File review; and/or

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

#### NEW SECTION

**WAC 388-106-0338 Am I eligible for services funded by the residential support waiver?** You are eligible for services funded by the

residential support waiver if you meet all of the following criteria. The department must assess your needs in CARE and determine that:

(1) You are at least eighteen years or older and blind or have a disability, as defined in WAC 182-512-0050, or are age sixty-five or older;

(2) You meet financial eligibility requirements. This means the department will assess your finances and determine if your income and resources fall within the limits set in WAC 182-515-1505, income and resource criteria for home and community based waiver programs and hospice clients.

(3) Your CARE assessment shows you need the level of care provided in a nursing facility (or will likely need the level of care within thirty days unless residential support waiver services are provided) which is defined in WAC 388-106-0355(1).

(4) You currently reside at a state mental hospital or the psychiatric unit of a hospital past the time you are ready for discharge to the community; and

(5) You have been assessed as stable and ready for discharge by the hospital; and

(6) You have a history of frequent or protracted psychiatric hospitalizations; and

(7) Due to the protracted nature of your behavior and clinical complexity, you have no other placement options as evidenced by you being unsuccessful in finding community placement with otherwise qualified community providers; and

(8) You have behavioral or clinical complexity that requires the level of supplementary staffing available only in the qualified community settings provided through the residential support waiver; and

(9) You require caregiving staff with specific training in providing personal care, supervision, and behavioral supports to adults with challenging behaviors. Under this section, "challenging behaviors" means a persistent pattern of behaviors or uncontrolled symptoms of a cognitive or mental condition that inhibit the individual's functioning in public places, in the facility, or integration within the community. These behaviors have been present for long periods of time or have manifested as an acute onset.

#### NEW SECTION

**WAC 388-106-0340 When do services from the residential support waiver start?** Your eligibility for Residential Support begins the date the department authorizes services.

#### NEW SECTION

**WAC 388-106-0342 How do I remain eligible for residential support waiver services?** (1) In order to remain eligible for residential support waiver services, you must be in need of services as determined through a CARE assessment and as determined by the department. Your CARE assessment must show your need for the level of care provided in a nursing facility, as defined in WAC 388-106-0355 (1). The assessment

in CARE must be completed at least annually or more often when there are significant changes in your functional or financial circumstances.

(2) When eligibility statutes, regulations and/or rules for the residential support waiver change, irrespective of whether your functional or financial circumstances have changed, if you do not meet the changed eligibility requirements, the department will terminate your Residential Support services.

NEW SECTION

**WAC 388-106-0344 How do I pay for residential support waiver services?** Depending on your income and resources, you may be required to pay participation toward the cost of your care, as outlined in WAC 182-515-1505. If you have nonexempt income that exceeds the cost of residential support services, you may retain the difference. If you are receiving services in an adult family home with a specialized behavior support contract you must use your income to pay for your room and board and services. You are allowed to keep some of your income for personal needs allowance (PNA). The department determines the amount of PNA that you may keep. The department pays the facility for the difference between what you pay and the department-set rate for the facility. The department pays the residential care facility from the first day of service through the:

(1) Last day of service when the medicaid resident dies in the facility; or

(2) Day of service before the day the medicaid resident is discharged.

NEW SECTION

**WAC 388-106-0346 Can I be employed and receive residential support waiver services?** You can be employed and receive residential support services, per WAC 182-515-1505.

NEW SECTION

**WAC 388-106-0348 Are there waiting lists for the residential support waiver services?** The department will create a waiting list in accordance with caseload limits determined by legislative funding. Wait listed clients will gain access in the following manner:

(1) Length of time since the participant requested placement;

(2) Continued functional and financial eligibility;

(3) Geographical preferences; and

(4) Choice of provider, setting, and roommate.

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

**WAC 388-106-0805 Am I eligible for adult day care?** (1) If you receive COPES (~~(or MNIW)~~), you may be eligible for adult day care as a waiver service if you are assessed as having an unmet need for one or more of the following core services:

- (a) Personal care services;
- (b) Routine health monitoring with consultation from a registered nurse;
- (c) General therapeutic activities; or
- (d) Supervision and/or protection if required for your safety.

(2) You are not eligible for adult day care if you receive COPES (~~(or MNIW)~~) and you:

- (a) Can independently perform or obtain the services provided at an adult day care center;
- (b) Have unmet needs that can be met through the COPES (~~(or MNIW)~~) program more cost effectively without authorizing day care services;
- (c) Have referred care needs that:
  - (i) Exceed the scope of authorized services that the adult day care center is able to provide;
  - (ii) Can be met in a less structured care setting; or
  - (iii) Are being met by paid or unpaid caregivers.
- (d) Live in a nursing home, (~~(boarding home)~~) assisted living facility, adult family home, or other licensed institutional or residential facility; or
- (e) Are not capable of participating safely in a group care setting.

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

**WAC 388-106-0900 What services may I receive under (~~(GAU-funded residential care)~~) medical care services?** You may receive personal care services in an adult family home or a licensed (~~(boarding home)~~) assisted living facility contracted with the department to provide adult residential care services. You may also receive nurse delegation services under this program.

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

**WAC 388-106-0955 Am I eligible for residential care discharge allowance?** You are eligible for a residential discharge allowance if you:

- (1) Receive long-term care services from home and community services;

(2) Are being discharged from a hospital, nursing facility, a licensed (~~boarding home~~) assisted living facility, enhanced services facility, or adult family home to your own home;

(3) Do not have other programs, services, or resources to assist you with these costs; and

(4) Have needs beyond what is covered under the community transition service (under COPES(~~(,)~~) and MNRW(~~(, and MNIW)~~)).