



# PROPOSED RULE MAKING

## CR-102 (June 2012)

(Implements RCW 34.05.320)

Do **NOT** use for expedited rule making

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

- Preproposal Statement of Inquiry was filed as WSR: **16-21-081** ; or
- Expedited Rule Making--Proposed notice was filed as WSR: \_\_\_ ; or
- Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).

- Original Notice
- Supplemental Notice to WSR:
- Continuance of WSR:

**Title of rule and other identifying information:** (Describe Subject)

The department is proposing to amend existing sections and create new sections in chapter 388-71 WAC "Home and Community Services and Programs" specifically related to Adult Day Health and Adult Day Care.

**Hearing location(s):**

Office Building 2  
DSHS Headquarters  
1115 Washington  
Olympia, WA 98504

Public parking at 11<sup>th</sup> and Jefferson. A map is available at:  
<https://www.dshs.wa.gov/sesa/rules-and-policies-assistance-unit/driving-directions-office-bldg-2>

Date: **July 25, 2017** Time: **10:00 a.m.**

**Date of intended adoption:** Not earlier than July 26, 2017  
(Note: This is **NOT** the **effective** date)

**Submit written comments to:**

Name: DSHS Rules Coordinator  
Address: PO Box 45850  
Olympia, WA 98504  
e-mail: [DSHSRPAURulesCoordinator@dshs.wa.gov](mailto:DSHSRPAURulesCoordinator@dshs.wa.gov)  
fax: (360) 664-6185

**by: 5:00 p.m. July 25, 2017**

**Assistance for persons with disabilities:** Contact:  
Jeff Kildahl, DSHS Rules Consultant by July 11, 2017  
Phone: (360) 664-6092 or TTY: (360) 664-6178  
Email: [KildaJA@dshs.wa.gov](mailto:KildaJA@dshs.wa.gov)

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:**

The department is amending and adding new sections to chapter 388-71 WAC to define definitions used throughout the chapter, update existing language as it pertains to the center's responsibility in developing a negotiated care plan, and define client rights in regards to restraints including physical restraints, chemical restraints, involuntary seclusion, and the use of medical devices.

**Reasons supporting proposal:** Refer to the purpose statement above.

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

**Statute being implemented:** RCW 74.39A.400

**Is rule necessary because of a:**

- Federal Law?  Yes  No
  - Federal Court Decision?  Yes  No
  - State Court Decision?  Yes  No
- If yes, CITATION:

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

**DATE: June 06, 2017**

**TIME: 3:55 PM**

**WSR 17-12-104**

**DATE**

June 5, 2017

**NAME** (type or print)

Katherine Vasquez

**SIGNATURE**

**TITLE**

DSHS Rules Coordinator

**Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:**

**Name of proponent:** (person or organization) Department of Social and Health Services

- Private  
 Public  
 Governmental

**Name of agency personnel responsible for:**

	Name	Office Location	Phone
Drafting:	Erika Parada	P.O. Box 45600, Olympia, WA 98504-5600	(360) 725-2450
Implementation:	Erika Parada	P.O. Box 45600, Olympia, WA 98504-5600	(360) 725-2450
Enforcement:	Erika Parada	P.O. Box 45600, Olympia, WA 98504-5600	(360) 725-2450

**Has a small business economic impact statement been prepared under chapter 19.85 RCW or has a school district fiscal impact statement been prepared under section 1, chapter 210, Laws of 2012?**

Yes. Attach copy of small business economic impact statement or school district fiscal impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

Phone: ( )

Fax: ( )

e-mail

No. Explain why no statement was prepared.

The preparation of a small business economic impact statement is not required, as no new costs will be imposed on small businesses or non-profits as a result of this rule amendment.

**Is a cost-benefit analysis required under RCW 34.05.328?**

Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name:

Address:

Phone: ( )

fax: ( )

e-mail:

No: Please explain:

Rules are exempt per RCW 34.05.328(5)(b)(v), rules the content of which is explicitly and specifically dictated by statute.

NEW SECTION

**WAC 388-71-0701** What definitions apply to **WAC 388-71-0702 through 388-71-0776?** The following definitions apply to WAC 388-71-0702 through 388-71-0776:

(1) "**Abuse**" means the willful action or inaction that inflicts injury, unreasonable confinement, intimidation, or punishment of a vulnerable adult.

(a) In instances of abuse of a vulnerable adult who is unable to express or demonstrate physical harm, pain, or mental anguish, the abuse is presumed to cause physical harm, pain, or mental anguish.

(b) Abuse includes sexual abuse, mental abuse, physical abuse, personal exploitation of a vulnerable adult, and improper use of a restraint against a vulnerable adult, which have the following meanings:

(i) "**Sexual abuse**" means any form of nonconsensual sexual conduct, including but not limited to unwanted or inappropriate touching, rape, sodomy, sexual coercion, sexually explicit photographing, and sexual harassment. Sexual contact may include interactions that do not involve touching, including but not limited to sending a client sexually explicit messages, or cuing or encouraging a client to perform sexual acts. Sexual abuse also includes any sexual conduct between a staff person, who is not also a client, with a client, of a center.

(ii) "**Physical abuse**" means the willful action of inflicting bodily injury or physical mistreatment. Physical abuse includes, but is not limited to, striking with or without an object, slapping, pinching, choking, kicking, shoving, prodding, or use of chemical or physical restraints unless the restraints are consistent with licensing requirements, and includes restraints that are otherwise being used inappropriately.

(iii) "**Mental abuse**" means a willful verbal or nonverbal action that threatens, humiliates, harasses, coerces, intimidates, isolates, unreasonably confines, or punishes a vulnerable adult. Mental abuse may include ridiculing, yelling or swearing.

(iv) "**Exploitation**" means an act of forcing, compelling, or exerting undue influence over a vulnerable adult causing the vulnerable adult to act in a way that is inconsistent with relevant past behavior, or causing the vulnerable adult to perform services for the benefit of another.

(2) "**Adult day care**" or "**ADC**" means a supervised daytime program that provides services under WAC 388-71-0704 for clients who meet the eligibility requirements in WAC 388-71-0708.

(3) "**Adult day center**" means an adult day care or adult day health center.

(4) "**Adult day health**" or "**ADH**" means a supervised daytime program that provides ADC services under WAC 388-71-0704 and skilled services under WAC 388-71-0706 for clients who meet the eligibility requirements in WAC 388-71-0710.

(5) "**Adult day services**" is a generic term that refers to adult day care and adult day health services.

(6) "**Authorizing practitioner**" means a physician, osteopath, nurse practitioner, or physician assistant who has the licensed ability to write medical orders for skilled care and interventions that require a practitioner order.

(7) "**Chemical restraint**" means the administration of any drug to manage a vulnerable adult's behavior in a way that reduces the safety risk to the vulnerable adult or others, has a temporary effect of re-

stricting the vulnerable adult's freedom of movement, and is not standard treatment for the vulnerable adult's medical or psychiatric condition.

(8) "**Chronic-care management**" means regular monitoring of the client's chronic health condition, training the client and caregiver, providing treatments or interventions when warranted and regular communication with primary care practitioners and caregivers to help implement and keep current the clinical care plan while ensuring the treatments have the intended effect of improving health, maintaining health, or slowing declining health when the diagnosis is a nonreversible condition.

(9) "**Client**" or "**participant**" means a person who receives services at an adult day center.

(10) "**Department service plan**" means a client's comprehensive assessment reporting evaluation (CARE) assessment including personal care and skilled care needs.

(11) "**Direct care staff**" are staff in an adult day center that interact with participants by providing care, services, and guidance.

(12) "**The discharge plan**" is a plan that outlines specific measurable goals expected to occur due to individualized treatments provided to a participant, indicating discharge is appropriate. This plan is developed and addressed on the participant's ADC and ADH negotiated care plan and is updated with each significant change of condition or when the client partially or completely meets the expected measurable goal(s). Planned discharge outcomes reflect the end of treatment because the client meets the measurable outcomes or he or she is unable to participate in or benefit from treatment.

(13) "**Involuntary seclusion**" means the involuntary confinement of a client to a room or area where the client is physically prevented from leaving.

(14) "**Medical device**" means any piece of medical equipment used to treat a client's assessed need. A medical device is not always a restraint and should not be used as a restraint, unless assessed and approved by a physician or primary care provider. Some medical devices have considerable safety risks associated with use. Examples of medical devices with known safety risks may be, but are not limited to transfer poles, posey or lap belts, and side rails.

(15) "**Maintenance**" is continuing clinically appropriate skilled services that are justified as reasonable, necessary, and appropriate to sustain minimal loss of function. Maintenance interventions have discharge measurable goals that outline when maintenance skilled services are no longer beneficial.

(16) "**Medically necessary**" means the service is reasonably calculated to prevent, diagnose, correct, cure, alleviate, or prevent worsening of conditions in the client that endangers life, causes suffering or pain, results in an illness or infirmity, threatens to cause or aggravate a disability, or causes physical deformity or malfunction.

(17) "**Negotiated care plan**" means a client centered, goal specific service plan that outlines the specific needs of the client, contains measurable, achievable, and realistic goals for the client, states how the adult day center will meet the assessed and agreed upon needs, when the assessed and agreed upon needs will be met, and by what discipline the assessed and agreed upon needs will be met.

(18) "**Physical restraint**" means the application of physical force without the use of any device, for the purpose of restraining the free movement of a vulnerable adult's body. "Physical restraint" does not include briefly holding, without undue force, a vulnerable adult in

order to calm or comfort him or her, or holding a vulnerable adults hand to safely escort him or her from one area to another.

(19) "**Preliminary service plan**" means the initial intake, evaluation, and preliminary care plan including the client's strengths, deficits, and potential needs. The adult day center must determine based on the preliminary service plan whether they can meet those needs and accept the client into the adult day program.

(20) "**Rehabilitative service**" means a service provided using applicable physical therapy, occupational therapy, or speech therapy standards of practice and is considered medically necessary if the type, amount, and duration of service outlined in the plan of care increases the likelihood of meeting one or more of the following goals: Improve function, minimize loss of function, improve cognition or minimize loss of cognition, or decrease risk of injury and disease.

(21) "**Significant change**" means:

(a) A lasting change, decline, or improvement in the client's baseline physical, mental, or psychosocial status;

(b) The change is significant enough so that the current assessment or negotiated care plan does not reflect the client's current status; and

(c) A new assessment may be needed when the client's condition does not return to baseline within a two week period of time.

(22) "**Skilled nursing services**" means services that are reasonable and necessary for the treatment of a client's illness or injury and are consistent with the unique nature and severity of the client's illness or injury, his or her particular medical needs, and accepted standards of medical and nursing practices, including WAC 246-840-700, without regard to whether the illness or injury is acute, chronic, terminal, or expected to last for a significant amount of time.

(23) "**Specific goals**" mean expected outcomes individualized to the client's need(s) that stipulate the measurable, detailed, and expected progress the client may make while receiving the service. The specific goals address the who, what, when, why, and how of the expected final outcome. If a client's specific goal is to prevent a decline in his or her condition, the goal must have measurable outcomes that identify the intervention to prevent the decline and how to measure this prevention. If you cannot measure the expected outcome of the clinical intervention then you are not preventing a decline.

AMENDATORY SECTION (Amending WSR 15-01-174, filed 12/23/14, effective 1/23/15)

**WAC 388-71-0702 What is the purpose of adult day services?** (1) WAC 388-71-0702 through 388-71-0776 contains the eligibility requirements for ~~((COPES))~~ community options program entry system (COPES) waiver ((and)), roads to community living (RCL) ((demonstration funded)), or other agency approved funding for adult day care and adult health services.

(2) These rules also contain the requirements that apply to adult day care ~~((or))~~ and adult day health centers that contract with the department, ~~((an))~~ area agency on aging, ~~((or))~~ other department designee to provide ~~((COPES waiver and RCL))~~ COPES waiver and RCL services to department clients, and adult day centers who are owned and operate on a private pay basis. Nothing in these rules may be con-

strued as requiring the department, an area agency on aging, or other designee to contract with an adult day care or adult day health center.

~~((2))~~ (3) An adult day ~~((services program))~~ center is a community-based program designed to meet the needs of adults with impairments through ~~((individual plans))~~ individualized goal specific plans of care. This type of structured, comprehensive, nonresidential program provides a variety of health, social, and related support services in a protective setting. ~~((By supporting))~~ Adult day centers support port families and caregivers ~~((, the goals are))~~ with the following goals:

~~((i) To))~~ (a) Provide ~~((the))~~ an opportunity for the ~~((partici-~~  
~~pant))~~ client to live in ~~((their))~~ his or her community;

~~((ii) To))~~ (b) Provide the ~~((participant))~~ client with ~~((serv-~~  
~~ices,))~~ clinical and non~~((-))~~clinical services to meet ~~((their))~~ unmet ~~((skilled))~~ needs;

~~((iii) To))~~ (c) Assist the ~~((participant))~~ client to maintain ~~((maximal))~~ maximum independence in ~~((their))~~ his or her activities of daily living (ADL); and

~~((iv) To))~~ (d) Measure ~~((their))~~ the client's progress through ~~((the))~~ individualized interventions, as outlined in his or her nego-  
tiated care plan.

(4) An adult day ~~((services program))~~ center evaluates the cli-  
ent's needs ~~((of the participant served))~~ and offers services with  
goal specific interventions to meet those needs and enhance ~~((their))~~  
his or her quality of life. The ~~((participants served attend))~~ client  
attends on a scheduled and planned basis. The ~~((centers evaluate the))~~  
adult day center evaluates potential ~~((participants))~~ clients to de-  
termine if ~~((they are))~~ center is able to ~~((communicate with each par-~~  
~~ticipant in order to))~~ meet their identified ~~((need(s))~~ needs. Noth-  
ing in this generic description may be construed to modify the specifi-  
c services or eligibility requirements referenced in ~~((the defini-~~  
~~tion))~~ this chapter of adult day care and adult day health.

~~((3) The following definitions apply under WAC 388 71 0702 through 388 71 0774:~~

~~((a) "Adult day care" (ADC) means the services under WAC 388 71 0704 that are provided to clients who meet the eligibility requirement under WAC 388 71 0708.~~

~~((b) "Adult day center" means an adult day care or adult day health center. A day care or day health center for purposes of these rules is a center operating in a specific location, whether or not the center's owner also operates adult day centers in other locations.~~

~~((c) "Adult day health" (ADH) means the ADC services and the skilled care services listed under WAC 388 71 0706 that are provided to clients who meet the eligibility requirements under WAC 388 71 0710.~~

~~((d) "Adult day services" is a generic term referring to adult day care and adult day health services.~~

~~((e) "Authorizing practitioner" means a physician, osteopath, nurse practitioner and physician assistant who has the licensed ability to write medical orders for skilled care interventions requiring a practitioner order.~~

~~((f) "Chronic care management" means regular monitoring of the client's chronic health condition, training the client and caregiver, providing treatments or interventions when warranted and regular communication with primary care practitioner and caregivers to help implement and keep current the clinical care plan while ensuring the treatments are having the intended effect of improving health, main-~~

taining health or slowing declining health when the diagnosis is a nonreversible condition.

(g) **"Client"** means an applicant for or recipient of COPES waiver or RCL reimbursed adult day services.

(h) **"Direct care staff"** are the staff in an adult day center that is interacting with participants by providing care, services, and guidance.

(i) **"The discharge plan" (DC)** outlines specific measurable goals expected to occur due to the skilled individualized treatments provided to the participants indicating discharge is appropriate. This plan is developed and addressed on the client's ADC and/or ADH negotiated care plan and updated with each significant change of condition or when the client partially or completely meets the expected measurable goal(s). Discharge planning outcomes reflect the end of the treatment due to the client meeting the measurable outcomes or stipulating that a client has declined to the point of inability to participate in skilled treatment or is no longer able to benefit from skilled treatment.

(j) **"Maintenance"** is continuing clinically appropriate skilled service(s) which is justified as reasonable, necessary, and/or appropriate to sustain minimal loss of function. Maintenance interventions have discharge measurable goals that outline when maintenance skilled services are no longer beneficial.

(k) **"Medically necessary"** means the service is reasonably calculated to prevent, diagnose, correct, cure, alleviate, or prevent worsening of conditions in the client that endangers life, or causes suffering or pain, or results in an illness or infirmity, or threatens to cause or aggravate a disability, or causes physical deformity or malfunction.

(l) **"Negotiated care plan"** the adult day center must use the participant state assessment, center's evaluation and preliminary service plan to develop a written negotiated care plan. The center must ensure each participant's negotiated care plan includes:

- (1) A list of the care and services to be provided;
- (2) Identification of who will provide the care and services;
- (3) When and how the care and services will be provided;
- (4) How medications will be managed, including how the participant will receive their medications when attending the adult day center;
- (5) The participant's activities preferences and how the preferences will be met;
- (6) Other preferences and choices about issues important to the resident, including, but not limited to:
  - (a) Food;
  - (b) Daily routine;
  - (c) Grooming; and
  - (d) How the center will accommodate the preferences and choices.
- (7) If needed, a plan to:
  - (a) Follow in case of a foreseeable crisis due to a participant's assessed needs;
  - (b) Reduce tension, agitation and problem behaviors;
  - (c) Respond to participant's special needs, including, but not limited to medical devices and related safety plans;
  - (d) Respond to a participant's refusal of care or treatment, including when the participant's physician or practitioner should be notified of the refusal; and

~~(8) Identification of any communication barriers the participant may have and how the center will use behaviors and nonverbal gestures to communicate with the resident.~~

~~(m) **"Participant"** means clients and other persons receiving adult day services at an adult day center.~~

~~(n) The adult day center must ensure that each participant has a preliminary service plan that includes:~~

~~(1) The participant's specific problems and needs identified in the assessment;~~

~~(2) The needs for which the participant chooses not to accept or refuses care or services;~~

~~(3) What the center will do to ensure the participant's health and safety related to the refusal of any care or service;~~

~~(4) Participant defined goals and preferences; and~~

~~(5) How the center will meet the participant's needs.~~

~~(o) **"Rehabilitative service"** is provided using applicable physical therapy or occupational therapy or speech therapy standards of practice and is considered medically necessary if the type, amount, and duration of services outlined in the plan of care increase the likelihood of meeting one or more of these stated goals: To improve function, minimize loss of function, improve cognition or minimize loss of cognition, or decrease risk of injury and disease.~~

~~(p) **"Significant change"** means:~~

~~(i) A lasting change, decline or improvement in the resident's baseline physical, mental or psychosocial status;~~

~~(ii) The change is significant enough so the current assessment and/or negotiated care plan does not reflect the resident's current status; and~~

~~(iii) A new assessment may be needed when the resident's condition does not return to baseline within a two week period of time.~~

~~(q) **"Skilled nursing services"** must be reasonable and necessary for the treatment of the illness or injury, that is the services must be consistent with the unique nature and severity of the participant's illness or injury, his or her particular medical needs, and accepted standards of medical and nursing practice, without regard to whether the illness or injury is acute, chronic, terminal, or expected to last a long time. The standards of nursing conduct or practice must follow WAC 246-840-700.~~

~~(r) **"Specific goals"** mean those expected outcomes, individualized to the client's skilled need, that stipulate the measurable, detailed and expected progress the client may make while receiving the skilled service. They address the how, who, what and when of the expected final outcome. If a client's goal is to prevent a decline in their condition(s) the goal(s) must have measurable outcomes which identify the intervention to prevent the decline and how to measure this prevention. If you cannot measure the expected outcome of the clinical intervention then you are not preventing a decline.))~~

AMENDATORY SECTION (Amending WSR 15-01-174, filed 12/23/14, effective 1/23/15)

**WAC 388-71-0718 What is the adult day care center's responsibility in developing the client's negotiated care plan?** (1) Upon the department's or authorized case manager's referral of a ((COPES or RCL

eligible)) community options program entry system (COPES), roads to community living (RCL), or other agency approved client ((by the department or authorized case manager)) to an ADC center, the ADC center ((will)) must respond in writing to the department or authorized case manager within two working days ((of)), acknowledging receipt of the referral and ((its)) the center's ability to process and evaluate the referred client. ((The ADC center must conduct an intake evaluation based on an interview with the client and/or the client's representative to assess the center's ability to meet the client's needs as identified in the department service plan.))

(2) The case manager will provide the client's department service plan to the ((adult day care provider)) ADC center within five working days after the client or client's representative has signed it.

(3) The ADC center ((will)) must schedule and conduct an intake ((evaluations visits)) and evaluation visit with the ((referral)) referred client ((and/or their)) or the client and his or her authorized representative to determine the client's willingness to attend the ADC center and evaluate the ADC center's ability to meet the ((needs of the client)) client's assessed needs and specific goals as defined in the client's department service plan. The intake and evaluation must be based on an interview with the client or the client and his or her authorized representative.

(4) Within ten ((working)) paid service days from the ((initial)) date ((of)) the client ((attendance at)) started attending the ((day care)) ADC center, the ADC center must complete and provide a preliminary service plan to the client or the client and his or her representative and the client's case manager that outlines the client's strengths, deficits, and potential needs. The ADC center must determine whether it can meet the client's needs, how ((those)) it will meet the client's needs ((will be met)), and whether ((to)) it will accept the client ((to)) into the program. The ADC center must not accept a client whose needs the center cannot meet. The ADC center ((will)) must document in the client's file the date ((he/she was)) it accepted the client into the ADC program. If the client is not accepted into the ADC program, the preliminary service plan must include the reason(s) why the client was not accepted.

(5) Within thirty calendar days of ((acceptance)) the date the client was accepted into the ADC program, the ((day care)) ADC center must work with the client ((and/or their)) or the client and his or her authorized representative to develop and complete a negotiated care plan signed by the client or the client's authorized representative and the ((day care)) ADC center.

(6) ((This care plan must be updated)) The negotiated care plan must limit the frequency of services to the number of days authorized in the department authorized service plan. The negotiated care plan must include:

(a) A list of the care and services the ADC center will provide the client;

(b) Identification of who will provide the client's care and services;

(c) When and how the ADC center will provide the care and services;

(d) How the ADC center will manage the client's medications and how the client will receive his or her medications when attending the ADC center;

(e) The client's activity preferences and how the ADC center will meet these preferences;

(f) Other preferences and choices about issues important to the client, including, but not limited to:

(i) Food;

(ii) Daily routine;

(iii) Grooming;

(iv) How the ADC center will accommodate the client's preferences and choices; and

(g) If needed, a plan to:

(i) Follow in case of a foreseeable crisis due to the client's assessed needs;

(ii) Reduce tension, agitation, and problem behaviors;

(iii) Respond to the client's special needs, including, but not limited to medical devices and related safety plans, and if medical devices are used, ADC center staff must ensure the medical device will not be used as a physical restraint for discipline or staff convenience while attending the ADC center;

(iv) Respond to the client's refusal of care or treatment, including when the ADC center should notify the client's physician or practitioner of the client's refusal; and

(v) Identify any communication barriers the client may have and how the ADC center will use the client's behaviors and nonverbal gestures to communicate with him or her.

(7) The ADC center must:

(a) Ensure medical devices will never be used as a physical restraint for discipline or staff convenience;

(b) Update the negotiated care plan annually and ((when their)) whenever there is a significant change in the client's condition and needs( (. The care plan when));

(c) Share the negotiated care plan with the client's case manager whenever it is updated, annually ((or)), and after a significant change( (, must be shared with the client's case manager. The care plan must-));

(d) Ensure the client's case manager reviews the negotiated care plan to ensure all services are appropriate and all authorized care needs have been included;

(e) Keep the current negotiated care plan in the client's file; and

(f) Offer a copy of the negotiated care plan to the client or the client and his or her authorized representative.

~~((a) Be consistent with the department authorized service plan and include all day care services authorized in the service plan;~~

~~(b) Document the client's needs as identified in the service plan, the adult day care services that will be provided to meet those needs, and when, how, and by whom the services will be provided;~~

~~(c) Document the client's choices and preferences concerning the provision of care and services, and how those preferences will be accommodated;~~

~~(d) Document potential behavioral issues identified in the assessment, service plan, or through the intake evaluation, and how those issues will be managed;~~

~~(e) Document contingency plans for responding to a client's emergent care needs or other crises; and~~

~~(f) Be approved by the client's case manager.~~

~~(7) The adult day care center must keep at least the current negotiated care plan in the client's file, must offer a copy of the plan to the client or client representative, and must provide a copy to the client's case manager. The case manager must review the negotiated~~

care plan for inclusion of services that are appropriate and authorized for the client's care needs.)

(8) ~~((The negotiated care plan must limit the frequency of services to the number of days authorized in the department authorized service plan))~~ The ADC center must report changes in the client's condition or unanticipated absences more than three consecutive scheduled days of service to the client's case manager within one week.

(a) Unanticipated absences may include but are not limited to absences due to client illness or change in transportation access.

(b) The case manager may follow up with the client or the client and his or her representative and determine if any updates to the assessment, client's department service plan, or service authorizations are needed.

~~((9) The day care center must review each service in the negotiated care plan if the client's condition changes, and determine if the care plan continues to meet the client's needs. Changes in the client's condition or unanticipated absences of more than three consecutive days of scheduled service must be reported to the client's case manager within one week. Unanticipated absences by way of example may include absences due to client illness or injury, or a change in transportation access. The case manager may follow up with the client and determines if any updates to the assessment, service plan, and service authorization are needed.))~~

AMENDATORY SECTION (Amending WSR 15-01-174, filed 12/23/14, effective 1/23/15)

**WAC 388-71-0722 What is the adult day health center's responsibility in developing the client's negotiated care plan?** (1) Upon the department's or authorized case manager's referral of a ((COPES or RCL eligible)) community options program entry system (COPES), roads to community living (RCL), or other agency approved client ((by the department or an authorized case manager)) to an ADH center, the ADH center ((will)) must respond in writing to the department or authorized case manager within two working days ((of)), acknowledging receipt of the referral ((regarding its)) and the center's ability to process and evaluate the referred client.

(2) The ~~((department))~~ case manager ~~((will send))~~ must provide the client's ((signed)) department service plan to the ADH center within five working days after ((signature)) obtaining the client or client's authorized representative's signature on the service plan.

(3) The ADH center ~~((will))~~ must schedule and conduct an intake and evaluation ((visits)) visit with the referred client ((and/or their)) or the client and his or her authorized representative to ((assess)) determine the client's willingness to attend the ADH center and evaluate the ADH center's ability to meet the ((needs of the client)) client's needs as defined in the client's department service plan.

(4) Within ten paid ~~((days of service, the day health center must determine if it can meet the client's needs, whether to accept the client to the program, and how those needs will be met. The center must document in the client's file the date of acceptance into their program. The center must not accept a client whose needs the center cannot meet. The center will be reimbursed under WAC 388-71-0724 for~~

~~any service days provided from the start of the intake evaluation if the case manager has authorized services. The written intake evaluation includes acceptance of the client to the center or reason(s) why not accepted, the development of the evaluation, and the preliminary service plan)) service days from the date the client started attending the ADH center, the center must complete an intake and evaluation and provide a preliminary service plan to the client or the client and his or her authorized representative and the client's case manager.~~

~~(a) The ADH center's intake and evaluation must include multidisciplinary assessments based on interviews and evaluations of the client's strengths and limitations with the client or the client and his or her authorized representative.~~

~~(b) If the department service plan indicates a nursing or rehabilitative need during the intake and evaluation period, licensed professionals must conduct evaluations and assessments of the client's clinical or rehabilitative needs.~~

~~(c) The preliminary service plan must include:~~

~~(i) Client specific problems or needs as identified in the intake and evaluation;~~

~~(ii) The needs for which the client chooses not to accept services or refuse care or services;~~

~~(iii) What the center will do to ensure health and safety of the client related to the refusal of any care or service;~~

~~(iv) Client specific and agreed upon goals;~~

~~(v) Client preferences; and~~

~~(vi) How the center will meet the client's needs and preferences.~~

~~(d) Based on the ADH center intake and evaluation, the ADH center must determine whether it can meet the client's needs, how it will meet the client's needs, and whether it will accept the client into the ADH program.~~

~~(i) The ADH center must not accept a client whose needs the center cannot meet.~~

~~(ii) If the client is accepted into the ADH program, the ADH center must document the date of acceptance in the client file.~~

~~(iii) If the client is not accepted into the ADH program, the preliminary service plan must include the reason(s) why the client was not accepted.~~

~~(e) The ADH center must provide the client, or the client's authorized representative, and the client's case manager, a copy of the evaluation and preliminary service plan within ten paid days of service.~~

~~(5) ((When the ADH center conducts the intake evaluation visits there must be a multidisciplinary assessment conducted based on an interview and evaluation of the client's strengths and deficits with the client or the client's representative to determine the center's ability to meet the client's adult day care service needs and potential adult day health needs as identified in the department service plan. If the department service plan indicates a nursing and/or rehabilitative need then during the intake evaluation period these professionals will conduct evaluations and assessment of the client's clinical/rehabilitative needs to determine if they can be met at the center)) The ADH center will be reimbursed under WAC 388-71-0724 for any service days provided from the state of the intake and evaluation, if the case manager has authorized services.~~

~~(6) ((The ADH center may provide up to ten days of paid service to the client to complete the evaluation with the development of a~~

~~preliminary service plan to be provided to the client and the case manager.~~

~~(7)) Upon the department's or authorized case manager's approval ((by the case manager)) of the ((adult day health)) ADH center's preliminary service plan, the ((day health)) ADH center ((multidisciplinary team)) must obtain and provide to the case manager any required practitioner's orders for skilled nursing ((and)), rehabilitative therapy ((along with a copy of the preliminary service plan, according to department documentation requirements. Orders must indicate)) services, and medical devices that pertain to those services and interventions the ADH center is providing to the client under WAC 388-71-0712 through 388-71-0714. Orders from authorizing practitioners are not necessary for medical devices that are within the professional scope of practice of occupational or physical therapists working within the day center.~~

~~(a) The authorizing practitioner orders must:~~

~~(i) Include the frequency of authorized service;~~

~~(ii) Include use of and parameters for the authorized medical devices;~~

~~(iii) Include how often the client is to be seen by the ((authorized)) authorizing practitioner((-));~~

~~(iv) Include the client's consent to follow up with the authorizing practitioner; and~~

~~(v) Be reviewed, updated, or revised when a significant change occurs, at least annually, or sooner if required by the prescriber.~~

~~(b) The case manager or nursing services staff may follow up with the practitioner, or other pertinent collateral contacts, concerning the client's need for skilled services.~~

~~(c) Services ((may)) must not be authorized for payment without current practitioner orders ((and the client's consent to follow up with the practitioner)).~~

~~(d) The authorizing practitioner must only authorize services, supports, and interventions that are within the practitioner's professional scope of practice.~~

~~((8)) (7) Within thirty calendar days of ((the client's)) acceptance into the program, the ((day health)) ADH center's multidisciplinary team must work with either the client or the client ((and/or their)) and his or her authorized representative to develop and complete a negotiated care plan signed by the client or the client's authorized representative and the ((day health)) ADH center. The negotiated care plan ((can)) may be developed ((initially [initially] in lieu of developing a) initially in lieu of the preliminary service plan. ((The care plan must:))~~

~~((a) Be)) (8) The negotiated care plan must be consistent with the department-authorized service plan ((and)), include all ((day health services)) authorized ADC and ADH services, limit the frequency of services to the number of days in the ((service plan);~~

~~(b) Include an)) department authorized ((practitioner's order(s)) for skilled nursing and/or skilled rehabilitative therapy according to applicable state practice laws for licensed nurses or therapists. These authorizing practitioner orders must be reviewed, updated or revised when a significant change occurs or at least annually, or sooner if required by the prescriber;~~

~~(c) Document that the client or the client's representative has consented to follow up with the primary authorizing practitioner;~~

~~(d) Document the client's needs as identified in the)) service plan, ((the authorized services that will be provided to meet those~~

~~needs, and when, how, and by whom the services will be provided;)) and must include:~~

~~((e) Establish time)) (a) A list of the care and services the ADH center will provide the client;~~

~~(b) Time specific, measurable, and individualized client goals((not to exceed ninety days from));~~

~~(c) Who will provide the ((date of signature of the negotiated)) client's care ((plan, for accomplishing the goals of adult day health skilled)) and services ((and/or));~~

~~(d) When and how the ADH center will provide the care and services;~~

~~(e) How the ADH center will manage the client's medications, including how the client will receive his or her medications when attending the ADH center;~~

~~(f) The client's activity preferences and how the ADH center will meet these preferences;~~

~~(g) Other preferences and choices about issues important to the client including, but not limited to:~~

~~(i) Food;~~

~~(ii) Daily routine;~~

~~(iii) Grooming; and~~

~~(iv) How the ADH center will accommodate the preferences and choices;~~

~~(h) Individualized discharging or ((transitioning the client to other appropriate settings or services)) transition goals;~~

~~((f) Document the client's choices and preferences concerning the provision of care and services, and how those preferences will be accommodated;~~

~~(g) Document))~~

~~(i) If needed, a plan to:~~

~~(i) Address potential behavioral issues identified in the assessment, service plan, or through the intake and evaluation((and how those issues will be managed));~~

~~((h) Document contingency plans for responding)) (ii) Follow in case of a foreseeable crisis due to a client's((-emergent care)) assessed needs ((or other crises; and));~~

~~(iii) Reduce tension, agitation, and problem behaviors;~~

~~((i) Be approved by the case manager.~~

~~(9) The adult day health center must keep the negotiated care plan in the client's file, provide a copy to the client or client representative, and a copy to the client's case manager, including any required authorizing practitioner orders.)) (iv) Respond to the client's special needs, including, but not limited to medical devices and related safety plans, and if medical devices are used, ADH center staff must ensure the medical device will not be used as a physical restraint for discipline or staff convenience, while attending the ADH center;~~

~~(v) Respond to the client's refusal of care or treatment, including when the ADH center should notify the client's physician or practitioner of the client's refusal; and~~

~~(vi) Identify any communication barriers the client may have and how the ADH center will use the client's behaviors and nonverbal gestures to communicate with him or her.~~

~~(9) The ADH center must:~~

~~(a) Ensure medical devices will never be used as a physical restraint for discipline or staff convenience;~~

(b) Review and update each service in the negotiated care plan every ninety days or more often if the client's condition changes;

(c) Share the negotiated care plan with the client's case manager whenever it is updated, annually, or after significant change;

(d) Ensure the client's case manager reviews the negotiated care plan to ensure all services are appropriate and all authorized care needs have been included;

(e) Obtain the case manager's approval whenever it is updated, annually, or after a significant change;

(f) Keep the current negotiated care plan in the client's file, provide; and

(g) Offer a copy of the negotiated care plan to the client or the client and his or her authorized representative.

(10) The ((department)) client's case manager must review the negotiated care plan ((for inclusion of)) to ensure all services ((that)) are appropriate and all authorized ((for the client's)) care needs have been included.

~~((10) The negotiated care plan must limit the frequency of department funded services to the number of days in the department authorized service plan.))~~

~~(11) The ((day health center must review each service in the negotiated care plan every ninety days or more often if the client's condition changes, or if the client is reassessed for eligibility after a break in service of more than thirty days. Changes in the client's)) ADH center must report changes in the client's condition or unanticipated absences of more than three consecutive ((days of)) scheduled days of service ((must be reported)) to the client's case manager within one week.~~

~~(a) Unanticipated absences ((by way of example)) may include, but are limited to absences due to client illness or ((injury)) a change in transportation access.~~

~~(b) The case manager may ((follow up)) follow up with the client or the client and ((determines)) his or her authorized representative and determine if any updates to the assessment, client's department service plan, or service ((plan, and service authorization)) authorizations are needed.~~

## NEW SECTION

**WAC 388-71-0723 What is the adult day center's responsibility in the use of medical devices, restraints, and prevention of abuse? (1) Medical Devices.** When the adult day center staff use a medical device, it must not be used as a physical restraint for discipline or staff convenience.

(2) **Physical restraints.** When the adult day center staff provide services for a client, which may include but are not limited to transportation, outings, and services at the facility, the adult day center must ensure the client has a right to be free from physical restraints used for discipline or staff convenience.

(3) **Chemical restraints.** When the adult day center staff provide services for a client, which may include but are not limited to transportation, outings, and services at the facility, the adult day center must ensure the client is free from chemical restraints used for discipline or staff convenience.

(4) **Involuntary seclusion.** When the adult day center staff provides services for a client, which may include but are not limited to transportation, outings, and services at the facility, the adult day center must ensure the client's right to be free from involuntary seclusion or isolation.

(5) **Prevention of abuse.** When the adult day center staff provides services for a client, which may include but are not limited to transportation, outings, and services at the facility, the adult day center must:

(a) Ensure the client's right to be free from abandonment, verbal, sexual, physical, and mental abuse, exploitation, financial exploitation, neglect, and involuntary seclusion;

(b) Protect the client who is an alleged victim of abandonment, verbal, sexual, physical, and mental abuse, exploitation, financial exploitation, neglect, and involuntary seclusion; and

(c) Meet the requirements of chapter 74.34 RCW regarding mandatory reporting.