



PROPOSED RULE MAKING

CR-102 (December 2017) (Implements RCW 34.05.320)

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DATE: December 03, 2019

TIME: 10:04 AM

WSR 19-24-082

Agency: Department of Social and Health Services, Developmental Disabilities Administration

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR 19-18-065 ; 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); or

Proposal is exempt under RCW _____.

Title of rule and other identifying information: (describe subject) The department is proposing to amend WAC 388-845-0030 "Do I meet criteria for HCBS waiver-funded services?", WAC 388-845-0055 "How do I remain eligible for the waiver?", WAC 388-845-0100 "What determines which waiver I am assigned to?", WAC 388-845-0230 "What services are available under the individual and family services (IFS) waiver?", WAC 388-845-0415 "What is assistive technology?", WAC 388-845-0425 "Are there limits to the assistive technology you may receive?", WAC 388-845-0600 "What are community access services?", WAC 388-845-0605 "Who are qualified providers of community access services?", WAC 388-845-0610 "Are there limits to community access services you may receive?", WAC 388-845-0900 "What are environmental adaptations?", WAC 388-845-0910 "What limits apply to environmental adaptations?", WAC 388-845-1100 "What are behavioral health crisis diversion bed services?", WAC 388-845-1110 "What are the limits of behavioral health crisis diversion bed services?", WAC 388-845-1150 "What are behavioral health stabilization services?", WAC 388-845-1190 "What is peer mentoring?", WAC 388-845-1191 "Who are qualified providers of peer mentoring?", WAC 388-845-1192 "What limitations are there for peer mentoring?", WAC 388-845-1800 "What are specialized medical equipment and supplies?", WAC 388-845-1805 "Who are the qualified providers of specialized medical equipment and supplies?", WAC 388-845-1810 "Are there limits to the specialized medical equipment and supplies you may receive?", WAC 388-845-2000 "What is staff and family consultation and training?", WAC 388-845-2005 "Who is a qualified provider of staff/family consultation and training?", WAC 388-845-2010 "Are there limits to the staff and family consultation and training you may receive?", WAC 388-845-2160 "What is therapeutic equipment and supplies?", and WAC 388-845-2170 "Are there limits to your receipt of therapeutic equipment and supplies?".

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
January 22, 2020	10:00 a.m.	Office Building 2 DSHS Headquarters 1115 Washington Olympia, WA 98504	Public parking at 11 th and Jefferson. A map is available at: https://www.dshs.wa.gov/office-of-the-secretary/driving-directions-office-bldg-2

Date of intended adoption: January 23, 2020 (Note: This is **NOT** the **effective** date)

Submit written comments to:

Name: DSHS Rules Coordinator

Address: PO Box 45850
Olympia, WA 98504

Email: DSHSRPAURulesCoordinator@dshs.wa.gov

Fax: 360-664-6185

Other:

By (date) 5:00 p.m. January 22, 2020

Assistance for persons with disabilities:

Contact Jeff Kildahl, DSHS Rules Consultant

Phone: 360-664-6092

Fax: 360-664-6185

TTY: 711 Relay Service

Email: Kildaja@dshs.wa.gov

Other:

By (date) January 8, 2020

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The proposed major changes or new requirements to the chapter include the following: Remove the “three years old” limit from home and community based waiver services; Remove therapeutic equipment and supplies from the Individual and Family Services (IFS) waiver; Update the service definition of assistive technology; Limit assistive technology to services not otherwise covered under the Medicaid State Plan, including Early and Periodic Screening, Diagnosis, and Treatment (EPSDT), and consistent with waiver objectives of avoiding institutionalization; Replace “community access” with the service’s new name, “community inclusion”; Update the service definition of environmental adaptations; Add examples of environmental adaptations; Replace “home” with “dwelling” to clarify that environmental adaptations can be made to all types of residences; Add repairs for property destruction caused by a waiver participant’s behavior to the environmental adaptations allowed under the IFS and Children’s Intensive In-Home Behavioral Support (CIIBS) waivers; Clarify when an environmental adaptation is excluded; Require evidence of required completed inspections be submitted to DDA prior to final payment for work; Add deck construction, deck repair, jetted tubs, and saunas to list of items excluded from environmental adaptations; Limit environmental adaptations to services not otherwise covered under the Medicaid State Plan, including EPSDT, and consistent with waiver objectives of avoiding institutionalization; Update service definition for behavioral health crisis diversion bed services; Add behavioral health crisis diversion bed services to the IFS waiver; Replace “individual support plan” with “person-centered service plan”; Clarify who determines a participant’s need for crisis diversion bed services and who determines the duration and amount of the service the participant may receive; Exempt the cost of behavioral health crisis diversion bed services from the annual allocation in the IFS waiver; Add behavioral health stabilization services crisis diversion bed to the IFS waiver; Clarify the service definition for peer mentoring services and who can provide them (nonsubstantive changes in wording); Clarify the limits to peer mentoring services (nonsubstantive changes in wording); Update the service definition for specialized medical equipment and supplies; Add a service requirement to specialized medical equipment and supplies that applies only to IFS waiver; Require providers of specialized medical equipment and supplies being offered through the IFS waiver to be contracted with DDA as providers of specialized goods and services or specialized equipment and supplies; Add limits to the service and exclude items under specialized medical equipment and supplies; Update the service definition of staff and family consultation and training; Add certified teachers to the list of providers of staff and family consultation and training; Add a limit to staff and family consultation and training that states the service does not provide training necessary to meet contractual licensing or certification requirements, and; Remove therapeutic equipment and supplies from the IFS waiver.

Reasons supporting proposal: The Developmental Disabilities Administration (DDA) is proposing to amend these rules as part of the administration’s waiver renewal process. These changes were approved by the Centers for Medicare and Medicaid Services on July 30, 2019 and are effective September 1, 2019. Many of these changes were enacted by an emergency CR-103E Rule Making Order filed as WSR 19-18-048, effective on September 1, 2019. These proposed changes are necessary to enact the emergency rules on a permanent basis and to provide services as approved in DDA’s home and community based services waivers.

Statutory authority for adoption: RCW 71A.12.030

Statute being implemented: RCW 71A.12.120

Is rule necessary because of a:

Federal Law?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Federal Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
State Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

If yes, CITATION: 42 C.F.R. 441 Subpart G

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: None.

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:	Chantelle Diaz	P.O. Box 45310, Olympia, WA 98504-5310	360-407-1589

Implementation: Ann Vasilev P.O. Box 45310, Olympia, WA 98504-5310 360-407-1551

Enforcement: Ann Vasilev P.O. Box 45310, Olympia, WA 98504-5310 360-407-1551

Is a school district fiscal impact statement required under RCW 28A.305.135? Yes No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

- Name:
- Address:
- Phone:
- Fax:
- TTY:
- Email:
- Other:

Is a cost-benefit analysis required under RCW 34.05.328?

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

- Name: Chantelle Diaz
- Address: P.O. Box 45310, Olympia, WA 98504-5310
- Phone: 360-407-1589
- Fax: 360-407-0955
- TTY: 1-800-833-6388
- Email: Chantelle.Diaz@dshs.wa.gov
- Other:

No: Please explain:

Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

- | | |
|---|--|
| <input type="checkbox"/> RCW 34.05.310 (4)(b)
(Internal government operations) | <input type="checkbox"/> RCW 34.05.310 (4)(e)
(Dictated by statute) |
| <input type="checkbox"/> RCW 34.05.310 (4)(c)
(Incorporation by reference) | <input type="checkbox"/> RCW 34.05.310 (4)(f)
(Set or adjust fees) |
| <input type="checkbox"/> RCW 34.05.310 (4)(d)
(Correct or clarify language) | <input type="checkbox"/> RCW 34.05.310 (4)(g)
((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit) |

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(4) because the rules do not affect small businesses.

Explanation of exemptions, if necessary: The proposed amendments impose no new or disproportionate costs on small businesses so a small business economic impact statement is not required.

COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES

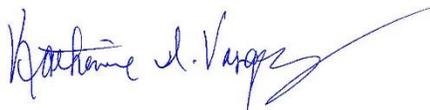
If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

No Briefly summarize the agency's analysis showing how costs were calculated. _____

Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

- Name:
- Address:
- Phone:
- Fax:
- TTY:
- Email:
- Other:

Date: November 25, 2019	Signature: 
Name: Katherine I. Vasquez	
Title: DSHS Rules Coordinator	

AMENDATORY SECTION (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

WAC 388-845-0030 Do I meet criteria for HCBS waiver-funded services? (1) You meet criteria for DDA HCBS waiver-funded services if you meet all of the following:

(a) You have been determined eligible for DDA services per RCW 71A.10.020.

(b) You have been determined to meet ICF/IID level of care per WAC 388-845-0070, 388-828-3060 and 388-828-3080.

(c) You meet disability criteria established in the Social Security Act.

(d) You meet financial eligibility requirements as defined in WAC 182-515-1510.

(e) You choose to receive services in the community rather than in an ICF/IID facility.

(f) You have a need for monthly waiver services or monthly monitoring as identified in your person-centered service plan/individual support plan.

(g) You are not residing in hospital, jail, prison, nursing facility, ICF/IID, or other institution.

(h) Additionally, for the children's intensive in-home behavioral support (CIIBS) waiver-funded services:

(i) You are age eight or older and under the age of eighteen for initial enrollment and under age twenty-one for continued enrollment;

(ii) You have been determined to meet CIIBS program eligibility per chapter 388-828 WAC prior to initial enrollment only;

(iii) You live with your family; and

(iv) Your parent/guardian(s) and primary caregiver(s), if other than parent/guardian(s), have signed the participation agreement.

(2) For the individual and family services waiver (~~(funded services)~~), you must meet the criteria in subsection (1) of this section and also(~~+~~

~~(a))~~ live in your family home(~~;~~ and

~~(b) Are age three or older~~)).

AMENDATORY SECTION (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

WAC 388-845-0055 How do I remain eligible for the waiver? (1) Once you are enrolled in a DDA HCBS waiver, you can remain eligible if you continue to meet eligibility criteria in WAC 388-845-0030, and:

(a) You complete a reassessment with DDA at least once every twelve months to determine if you continue to meet all of these eligibility requirements;

(b) You must either receive a waiver service at least once in every thirty consecutive days, as specified in WAC 182-513-1320(3), or your health and welfare needs require monthly monitoring, which will be documented in your client record;

(c) You complete an in-person DDA assessment/reassessment interview per WAC 388-828-1520.

(2) For the children's intensive in-home behavioral supports waiver, you must meet the criteria in subsection (1) of this section and:

- (a) Be under age twenty-one;
- (b) Live with your family; and
- (c) Have an annual participation agreement signed by your parent/guardian(s) and primary caregiver(s), if other than parent/guardian(s).

(3) For the individual and family services waiver, you must meet the criteria in subsection (1) of this section and(~~(+~~

- ~~(a))~~ live in ((the)) your family home((~~+~~and
- ~~(b) Be age three or over)).~~

AMENDATORY SECTION (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

WAC 388-845-0100 What determines which waiver I am assigned to?

DDA will assign you to the waiver with the minimum service package necessary to meet your health and welfare needs, based on its evaluation of your DDA assessment as described in chapter 388-828 WAC and the following criteria:

(1) For the individual and family services waiver, you:

- (a) ~~((Are age three or older;~~
- ~~(b))~~ Live in your family home; and
- ~~((e))~~ (b) Are assessed to need a waiver service to remain in the family home.

(2) For the basic plus waiver your health and welfare needs require a waiver service to remain in the community.

(3) For the core waiver:

- (a) You are at immediate risk of out-of-home placement; ~~((and/or))~~ or
- (b) You have an identified health and welfare need for residential services that cannot be met by the basic plus waiver.

(4) For the community protection waiver, refer to WAC 388-845-0105 and chapter 388-831 WAC.

(5) For the children's intensive in-home behavioral support waiver, you:

- (a) Are age eight or older ~~((and))~~ but under age eighteen;
- (b) Live with your family;
- (c) Are assessed at high or severe risk of out-of-home placement due to challenging behavior per chapter 388-828 WAC; and
- (d) ~~((You))~~ Have a signed participation agreement from your ((parent/guardian(s))) parent or guardian and primary ((caregiver(s))) caregiver, if other than ((parent/guardian(s))) parent or guardian.

AMENDATORY SECTION (Amending WSR 18-14-001, filed 6/20/18, effective 7/21/18)

WAC 388-845-0230 What services are available under the individual and family services (IFS) waiver? (1) The following services are available under the individual and family services (IFS) waiver:

SERVICE	YEARLY LIMIT
Assistive technology Community engagement Environmental adaptations Occupational therapy Peer mentoring Person-centered plan facilitation Physical therapy Positive behavior support and consultation Respite care Skilled nursing Specialized clothing Specialized medical equipment and supplies Specialized psychiatric services Speech, hearing, and language services Staff and family consultation and training Supported parenting services ((Therapeutic equipment and supplies)) Transportation Vehicle modifications Wellness education	Total cost of waiver services must not exceed annual allocation determined by the person-centered service plan
Risk assessment	Limits determined by DDA. Costs are excluded from the annual allocation.
BEHAVIORAL HEALTH STABILIZATION SERVICES: <u>Crisis diversion bed services</u> Positive behavior support and consultation Specialized psychiatric services	Limits determined by behavioral health professional or DDA. Costs are excluded from the annual allocation.

(2) Your IFS waiver services annual allocation is based upon the DDA assessment under chapter 388-828 WAC. The DDA assessment determines your service level and annual allocation based on your assessed need. Annual allocations are as follows:

- (a) Level 1 = one thousand two hundred dollars;
- (b) Level 2 = one thousand eight hundred dollars;
- (c) Level 3 = two thousand four hundred dollars; or
- (d) Level 4 = three thousand six hundred dollars.

AMENDATORY SECTION (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

WAC 388-845-0415 What is assistive technology? Assistive technology consists of items, equipment, or product systems, not related to a client's physical health, that are used to increase, maintain, or improve functional capabilities of waiver participants, as well as ~~((services))~~ supports to directly assist the participant ~~((and care-givers))~~ to select, acquire, and use the technology. Assistive technology is available in the CIIBS and IFS waivers, and includes the following:

- (1) The evaluation of the needs of the waiver participant, including a functional evaluation of the participant in the participant's customary environment;
- (2) Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices;
- (3) Selecting, designing, fitting, customizing, adapting, applying, retaining, repairing, or replacing assistive technology devices;
- (4) Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;
- (5) Training or technical assistance for the participant and/or if appropriate, the participant's family; and
- (6) Training or technical assistance for professionals, including individuals providing education and rehabilitation services, employers, or other individuals who provide services to, employ, or are otherwise involved in the assistive technology related life functions of individuals with disabilities.

AMENDATORY SECTION (Amending WSR 18-14-001, filed 6/20/18, effective 7/21/18)

WAC 388-845-0425 Are there limits to the assistive technology you may receive? The assistive technology you may receive has the following limits:

- (1) Assistive technology is limited to additional services not otherwise covered under the medicaid state plan, including EPSDT, but consistent with waiver objectives of avoiding institutionalization.
- (2) Clinical and support needs for assistive technology ~~((are))~~ must be identified in your DDA assessment and documented in the person-centered service plan.
- ~~((+2))~~ (3) DDA requires your treating professional's written recommendation regarding your need for the technology. This recommendation must take into account that:
 - (a) The treating professional has personal knowledge of and experience with the requested assistive technology; and
 - (b) The treating professional has recently examined you, reviewed your medical records, and conducted a functional evaluation of your use of the equipment and determined its effectiveness in meeting your identified need.
- ~~((+3))~~ (4) Assistive technology requires prior approval by the DDA regional administrator or designee.

~~((4))~~ (5) DDA may require a written second opinion from a DDA-selected professional.

~~((5))~~ (6) The dollar amounts for your individual and family services (IFS) waiver annual allocation limit the amount of assistive technology you are authorized to receive.

~~((6))~~ (7) Assistive technology excludes any item that is for recreational or diversion purposes such as a television, cable, or DVD player.

AMENDATORY SECTION (Amending WSR 18-03-174, filed 1/23/18, effective 2/23/18)

WAC 388-845-0600 What are community ~~((access))~~ inclusion services? Community ~~((access))~~ inclusion services:

- (1) Are provided in typical, integrated community settings;
- (2) Are individualized services that promote skill development, independent living, and community integration for individuals learning how to actively and independently engage in their community; and
- (3) Provide opportunities for individuals to develop relationships and increase independence.

AMENDATORY SECTION (Amending WSR 18-03-174, filed 1/23/18, effective 2/23/18)

WAC 388-845-0605 Who are qualified providers of community ~~((access))~~ inclusion services? Providers of community ~~((access))~~ inclusion services must be:

- (1) A county contracted with the developmental disabilities administration (DDA) to provide community ~~((access))~~ inclusion services; or
- (2) An individual or agency contracted with a county that is contracted with DDA to provide community ~~((access))~~ inclusion services.

AMENDATORY SECTION (Amending WSR 18-03-174, filed 1/23/18, effective 2/23/18)

WAC 388-845-0610 Are there limits to community ~~((access))~~ inclusion services you may receive? (1) You must not receive community ~~((access))~~ inclusion services if you are receiving prevocational or supported employment services.

(2) The maximum hours of community ~~((access))~~ inclusion services you may receive are determined by the developmental disabilities administration (DDA) assessment under WAC 388-828-9310.

AMENDATORY SECTION (Amending WSR 18-14-001, filed 6/20/18, effective 7/21/18)

WAC 388-845-0900 What are environmental adaptations? (1) Environmental adaptations provide physical adaptations (~~(within the physical structure of the home, or outside the home to provide access to the home. The need must be identified by the DDA assessment and the participant's))~~ to the dwelling required by the individual's person-centered service plan((-) needed to:

(a) Ensure the health, welfare, and safety of the individual;

(b) Enable the individual who would otherwise require institutionalization to function with greater independence in the dwelling; and

(c) Increase the individual's independence inside the dwelling or outside the dwelling to provide access to the dwelling.

(2) Examples of environmental adaptations include installing stair lifts, installing ramps and grab bars, widening doorways, modifying the individual's primary bathroom, or installing specialized electrical or plumbing systems necessary to accommodate the medical equipment and supplies that are necessary for the welfare of the individual.

(3) Environmental adaptations are available in all of the DDA HCBS waivers.

~~((3) An environmental adaptation must be necessary to:~~

~~(a) Maintain the health, welfare, and safety of the participant, the participant's caregiver, or both; or~~

~~(b) Increase the participant's independence in the home.)~~

(4) Only the children's intensive in-home behavioral support (CIIBS) and individual and family services (IFS) waivers may include adaptations to the ((home)) dwelling necessary to prevent or repair property destruction caused by the participant's behavior, as addressed in the participant's positive behavior support plan.

AMENDATORY SECTION (Amending WSR 18-14-001, filed 6/20/18, effective 7/21/18)

WAC 388-845-0910 What limits apply to environmental adaptations?

The following service limits apply to environmental adaptations:

(1) Clinical and support needs for an environmental (~~(adaptations))~~ adaptation must be identified in the waiver participant's DDA assessment and documented in the person-centered service plan.

(2) Environmental adaptations require prior approval by the DDA regional administrator or designee and must be supported by itemized and written bids from licensed contractors. For an adaptation that costs:

(a) One thousand five hundred dollars or less, one bid is required;

(b) More than one thousand five hundred dollars and equal to or less than five thousand dollars, two bids are required; or

(c) More than five thousand dollars, three bids are required.

(3) All bids must include:

(a) The cost of all required permits and sales tax; and

(b) An itemized and clearly outlined scope of work.

(4) DDA may require an occupational therapist, physical therapist, or construction consultant to review and recommend an appropriate environmental adaptation statement of work prior to the waiver participant soliciting bids or purchasing adaptive equipment.

(5) Environmental adaptations to the home are excluded if they are of general utility without direct ~~((medical or remedial))~~ benefit to the individual as related to the individual's developmental disability, such as cosmetic improvements to the dwelling, or general home improvements, such as carpeting, roof repair, or central air conditioning.

(6) Environmental adaptations must meet all local and state building codes. Evidence of any required completed inspections must be submitted to DDA prior to ~~((authorizing))~~ final payment for work.

(7) The condition of the dwelling or other projects in progress in the dwelling may prevent or limit some or all environmental adaptations at the discretion of DDA.

(8) Location of the dwelling in a flood plain, landslide zone, or other hazardous area may limit or prevent any environmental adaptations at the discretion of DDA.

(9) Written consent from the dwelling landlord is required prior to starting any environmental adaptations for a rental property. The landlord must not require removal of the environmental adaptations at the end of the waiver participant's tenancy as a condition of the landlord approving the environmental adaptation to the waiver participant's dwelling.

(10) Environmental adaptations must not add to the total square footage of the ~~((home))~~ dwelling.

(11) The dollar amounts for aggregate services in your basic plus waiver or the dollar amount of your annual IFS allocation limit the amount of service you may receive.

(12) For core, community protection, and CIIBS waivers, annual environmental adaptation costs must not exceed twelve thousand one hundred ninety-two dollars.

(13) Damage prevention and repairs under the CIIBS and IFS waivers are subject to the following restrictions:

(a) Limited to the cost of restoration to the original function;

(b) Limited to the dollar amounts of the IFS waiver participant's annual allocation;

(c) Behaviors of waiver participants that resulted in damage to the dwelling must be addressed in a positive behavior support plan prior to the repair of damages;

(d) Repairs to personal property such as furniture and appliances are excluded; and

(e) Repairs due to normal wear and tear are excluded.

(14) The following adaptations are not covered as an environmental adaption:

(a) Building fences and fence repairs;

(b) Carpet or carpet replacement;

(c) Air conditioning, heat pumps, generators, or ceiling fans;

((and))

(d) Roof repair or siding;

(e) Deck construction or repair; and

(f) Jetted tubs or saunas.

(15) Environmental adaptations are limited to additional services not otherwise covered under the medicaid state plan, including EPSDT, but consistent with waiver objectives of avoiding institutionalization.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-1100 What are behavioral health crisis diversion bed services? Behavioral health crisis diversion bed services are (~~temporary~~) short-term emergent residential (~~and behavioral~~) services that may be provided in a client's home, licensed or certified setting, or state operated setting. These services are available to eligible clients (~~who are~~) whose current living situation is disrupted and the client is at risk of (~~serious decline of mental functioning and who have been determined to be at risk of psychiatric hospitalization~~) institutionalization. These services are available in all (~~four~~) five HCBS waivers administered by DDA as behavioral health stabilization services in accordance with WAC 388-845-1150 through 388-845-1160.

AMENDATORY SECTION (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

WAC 388-845-1110 What are the limits of behavioral health crisis diversion bed services? (1) Clinical and support needs for behavioral health crisis diversion bed services are limited to those identified in the waiver participant's DDA assessment and documented in the person-centered service plan (~~/individual support plan~~).

(2) Behavioral health crisis diversion bed services are intermittent and temporary. (~~The duration and amount of services you need to stabilize your crisis is determined by~~) A behavioral health professional (~~and/or~~) may make a recommendation about your need for behavioral health crisis diversion bed services. DDA determines the duration and amount of behavioral health crisis diversion bed services you will receive.

(3) (~~These services are available in the CIIBS, basic plus, core, and community protection waivers administered by DDA as behavioral health stabilization services in accordance with WAC 388-845-1150 through 388-845-1160.~~

(4)) The costs of behavioral health crisis diversion bed services do not count toward the dollar amounts for aggregate services in the basic plus waiver or the annual allocation in the individual and family services waiver.

AMENDATORY SECTION (Amending WSR 18-14-001, filed 6/20/18, effective 7/21/18)

WAC 388-845-1150 What are behavioral health stabilization services? (1) Behavioral health stabilization services assist persons who are experiencing a behavioral health crisis.

(2) Behavioral health stabilization services are available in the basic plus, core, children's intensive in-home behavior support (CIIBS), individual and family services (IFS), and community protection waivers.

(3) A participant may be eligible for behavioral health stabilization services if:

(a) A behavioral health professional or DDA has determined the participant is at risk of institutionalization or hospitalization;

(b) The participant needs:

(i) Positive behavior support and consultation;

(ii) Specialized psychiatric services for people age twenty-one and older; or

(iii) Behavioral health crisis diversion bed services available to participants on the individual and family services, basic plus, core, CIIBS, and community protection waivers.

AMENDATORY SECTION (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

WAC 388-845-1190 What is peer mentoring? (1) Peer mentoring is a form of mentorship that takes place between a person who ~~((is living))~~ has lived through ~~((the))~~ an experience ~~((of having a developmental disability or family member of a person who has a developmental disability))~~ (peer mentor) and a person who is new to that experience ~~((the peer))~~ mentee). Peer mentors use their experience to inform, support, and train mentees to successfully navigate new experiences related to or impacted by their disability.

(2) A peer ~~((mentors utilize their personal experiences to))~~ mentor may provide support and guidance to a waiver participant and the participant's family ~~((members of a waiver participant))~~.

(3) A peer ~~((mentors))~~ mentor may ~~((orient))~~ connect a waiver participant to local community services, programs, and resources and ~~((provide answers to participants'))~~ answer participant questions or suggest other sources of support.

(4) Peer mentoring is available in the IFS waiver.

AMENDATORY SECTION (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

WAC 388-845-1191 Who are qualified providers of peer mentoring? ~~((Qualified providers include organizations who are contracted))~~ An individual or organization must contract with DDA to provide peer mentoring support and training to ~~((individuals))~~ people with developmental disabilities or to families with a member with a developmental disability.

AMENDATORY SECTION (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

WAC 388-845-1192 What ~~((limitations are there for))~~ limits apply to peer mentoring? (1) Support needs for peer mentoring are limited to those identified in the waiver participant's DDA assessment and

documented in the person-centered service plan(~~(/individual support plan)~~).

(2) DDA does not contract with a peer ((mentors cannot)) mentor to mentor ((their)) a member of the mentor's own family ((members)).

(3) ((The dollar amounts for the)) A waiver participant's ((annual allocation in the IFS waiver limit the amount of)) peer mentoring ((service that)) services are limited to the ((participant is authorized to receive)) participant's annual IFS waiver allocation.

AMENDATORY SECTION (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

WAC 388-845-1800 What are specialized medical equipment and supplies? (1) Specialized medical equipment and supplies are durable and nondurable medical equipment, or equipment necessary to prevent institutionalization, not available through the medicaid (~~(or the)~~) state plan or are in excess of what is available through the medicaid state plan benefit which enables individuals (~~(to)~~):

(a) To increase their abilities to perform their activities of daily living; (~~(or)~~)

(b) To perceive, control, or communicate with the environment in which they live; or

(c) On the IFS waiver only, to improve daily functioning through sensory integration when prescribed in a written therapeutic plan by the current treating professional.

(2) Durable medical equipment and medical supplies are defined in WAC 182-543-1000 and 182-543-5500 respectively.

(3) Also included are items necessary for life support and ancillary supplies and equipment necessary to the proper functioning of the equipment and supplies described in subsection (1) of this section.

(4) Specialized medical equipment and supplies include the maintenance and repair of specialized medical equipment not covered through the medicaid state plan.

(5) Specialized medical equipment and supplies are available in all DDA HCBS waivers.

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-1805 Who are the qualified providers of specialized medical equipment and supplies? (1) The provider of specialized medical equipment and supplies must be a medical equipment supplier contracted with DDA or have a state contract as a Title XIX vendor.

(2) For IFS only, the provider of specialized medical equipment and supplies under WAC 388-845-1800(1)(c) must be contracted with DDA as a provider of specialized goods and services or specialized equipment and supplies.

AMENDATORY SECTION (Amending WSR 18-14-001, filed 6/20/18, effective 7/21/18)

WAC 388-845-1810 Are there limits to the specialized medical equipment and supplies you may receive? The following limits apply to the specialized medical equipment and supplies you may receive:

(1) ~~((Clinical and))~~ Habilitative support needs for specialized medical equipment and supplies are limited to those identified in your DDA person-centered assessment and documented in your person-centered service plan.

(2) Specialized medical equipment and supplies require prior approval by the DDA regional administrator or designee for each authorization.

(3) DDA may require a second opinion by a DDA-selected provider.

(4) Items must be of direct medical or remedial benefit to you and necessary as a result of your disability.

(5) Medications and vitamins are excluded.

(6) The dollar amounts for aggregate services in your basic plus waiver limit the amount of service you may receive.

(7) The dollar amounts for your annual allocation in your individual and family services (IFS) waiver limit the amount of service you may receive.

(8) Items excluded from specialized equipment and supplies include nonspecialized recreational equipment, such as trampolines, swing sets, and hot tubs.

(9) Specialized equipment and supplies are limited to additional services not otherwise covered under the medicaid state plan, including EPSDT, but consistent with waiver objectives of avoiding institutionalization.

AMENDATORY SECTION (Amending WSR 18-14-001, filed 6/20/18, effective 7/21/18)

WAC 388-845-2000 What is staff and family consultation and training?

(1) Staff and family consultation and training is professional assistance, not covered by the medicaid state plan, to families or direct service providers to help them ~~((better))~~ meet the individualized and specific needs of a participant as outlined in the participant's person-centered service plan and necessary to improve the participant's independence and inclusion in their community.

(2) Staff and family consultation and training is available in all DDA HCBS waivers.

~~(3) ((Staff and family consultation and training is provided to families, direct staff, or personal care providers to meet the specific needs of a participant as outlined in the participant's person-centered service plan.~~

~~(4))~~ Staff and family consultation and training ~~((includes))~~ is consultation and guidance about one or more of the following:

(a) Health and medication ~~((monitoring))~~;

(b) Positioning and transfer;

(c) Basic and advanced instructional techniques;

(d) Positive behavior support;

(e) Augmentative communication systems;

- (f) Diet and (~~nutritional guidance~~) nutrition;
- (g) Disability information and education;
- (h) Strategies for effectively and therapeutically interacting with the participant;
- (i) Environmental (~~consultation~~) safety; (~~and~~)
- (j) Assistive technology safety; and
- (k) For the basic plus, IFS, and CIIBS waivers only, individual and family counseling.

AMENDATORY SECTION (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

WAC 388-845-2005 Who is a qualified provider of staff(~~/~~) and family consultation and training? To provide staff(~~/~~) and family consultation and training, a provider must be contracted with DDA and be one of the following licensed, registered, or certified professionals:

- (1) Audiologist;
- (2) Licensed practical nurse;
- (3) Marriage and family therapist;
- (4) Mental health counselor;
- (5) Occupational therapist;
- (6) Physical therapist;
- (7) Registered nurse;
- (8) Sex offender treatment provider;
- (9) Speech(~~/~~)-language pathologist;
- (10) Social worker;
- (11) Psychologist;
- (12) Certified American sign language instructor;
- (13) Nutritionist;
- (14) Counselors registered or certified in accordance with chapter 18.19 RCW;
- (15) Certified dietician;
- (16) Recreation therapist registered in Washington and certified by the national council for therapeutic recreation;
- (17) Providers listed in WAC 388-845-0506 and contracted with DDA to provide CIIBS intensive services;
- (18) Certified music therapist (for CIIBS only);
- (19) Psychiatrist; (~~or~~)
- (20) Professional advocacy organization; or
- (21) Teacher certified under chapter 181-79A WAC.

AMENDATORY SECTION (Amending WSR 18-14-001, filed 6/20/18, effective 7/21/18)

WAC 388-845-2010 Are there limits to the staff and family consultation and training you may receive? (1) Staff and family consultation and training are limited to supports identified in your DDA assessment and documented in the person-centered service plan.

(2) Expenses to the family or provider for room and board or attendance, including registration, at conferences are excluded as a service under staff and family consultation and training.

(3) The dollar amounts for aggregate service in your basic plus waiver or the dollar amount of the annual allocation in your individual and family services (IFS) waiver limit the amount of staff and family consultation and training you may receive.

(4) Under the basic plus waiver, individual and family counseling is limited to family members who:

(a) Live with the participant; and

(b) Have been assaulted by the participant and the assaultive behavior was:

(i) Documented in the participant's person-centered service plan; and

(ii) Addressed in the participant's positive behavior support plan or therapeutic plan.

(5) Staff and family consultation and training does not provide training necessary to meet contractual licensing or certification requirements.

AMENDATORY SECTION (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

WAC 388-845-2160 What is therapeutic equipment and supplies?

(1) Therapeutic equipment and supplies are only available in the CIIBS ((and IFS waivers)) waiver.

(2) Therapeutic equipment and supplies are equipment and supplies that are necessary to implement a behavioral support plan or other therapeutic plan, designed by an appropriate professional, such as a sensory integration or communication therapy plan, and necessary in order to fully implement the therapy or intervention.

(3) Included are items such as a weighted blanket, supplies that assist to calm or redirect the individual to a constructive activity, or a vestibular swing.

AMENDATORY SECTION (Amending WSR 18-14-001, filed 6/20/18, effective 7/21/18)

WAC 388-845-2170 Are there limits to your receipt of therapeutic equipment and supplies?

The following limits apply to your receipt of therapeutic equipment and supplies under the children's intensive in-home behavior support (CIIBS) ((and individual and family services (IFS) waivers)) waiver:

(1) DDA requires your treating professional's written recommendation regarding your need for the service. This recommendation must take into account that the treating professional has recently examined you, reviewed your medical records, and conducted a functional evaluation.

(2) DDA may require a second opinion from a DDA-selected professional.

(3) (~~The dollar amount of your annual allocation in your IFS waiver limits the amount of therapeutic equipment and supplies you are authorized to receive.~~

~~(4))~~ Therapeutic equipment and supplies (~~requires a~~) require prior approval by the DDA regional administrator or designee.

~~(5))~~ (4) Therapeutic equipment and supplies (~~excludes~~) do not include nonspecialized recreational items such as trampolines, swing sets, and hot tubs.