



# PROPOSED RULE MAKING

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

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FILED

DATE: July 30, 2020

TIME: 3:27 PM

WSR 20-16-094

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

**Original Notice**

**Supplemental Notice to WSR** \_\_\_\_\_

**Continuance of WSR** \_\_\_\_\_

**Preproposal Statement of Inquiry was filed as WSR** 19-10-051 ; 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 388-106-0010 What definitions apply to this chapter?, WAC 388-106-0033 When may I receive services in a facility contracted to provide specialized dementia care services?, WAC 388-106-0075 How is my need for personal care services assessed in CARE?, WAC 388-106-0090 How does the CARE tool measure cognitive performance?, WAC 388-106-0095 How does the CARE tool measure clinical complexity?, WAC 388-106-0100 How does the CARE tool measure mood and behaviors?, and WAC 388-106-0130 How does the department determine the number of hours I may receive for in-home care?.

**Hearing location(s):**

| Date:              | Time:      | Location: (be specific)   | Comment:   |
|--------------------|------------|---|--|
| September 22, 2020 | 10:00 a.m. | Office Building 2<br>DSHS Headquarters<br>1115 Washington Street SE<br>Olympia, WA 98504<br><br>Or by Skype | Public parking at 11 <sup>th</sup> and Jefferson. A map is available at: <a href="https://www.dshs.wa.gov/office-of-the-secretary/driving-directions-office-bldg-2">https://www.dshs.wa.gov/office-of-the-secretary/driving-directions-office-bldg-2</a><br><br>Due to the COVID 19 pandemic, hearing may be held via Skype, see DSHS website for most up to date information. |

**Date of intended adoption:** Not earlier than September 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](mailto:DSHSRPAURulesCoordinator@dshs.wa.gov)

Fax: 360-664-6185

Other:

By (date) 5:00 p.m. September 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](mailto:Kildaja@dshs.wa.gov)

Other:

By (date) September 8, 2020

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** The department has been working to modernize the Comprehensive Assessment and Reporting Evaluation (CARE) assessment tool and is amending these rules to be consistent with updates that have been made to the CARE tool.

There have been no changes that affect how the department determines eligibility or benefit level using the CARE tool.

**Reasons supporting proposal:** See purpose statement above.

**Statutory authority for adoption:** RCW 74.08.090

**Statute being implemented:** RCW 74.08.090, RCW 74.09.520

**Is rule necessary because of a:**

- Federal Law?  Yes  No  
Federal Court Decision?  Yes  No  
State Court Decision?  Yes  No

If yes, CITATION:

**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:       | Rachelle Ames | P.O. Box 45600, Olympia, WA 98504-5600 | 360-725-2353 |
| Implementation: | Rachelle Ames | P.O. Box 45600, Olympia, WA 98504-5600 | 360-725-2353 |
| Enforcement:    | Rachelle Ames | P.O. Box 45600, Olympia, WA 98504-5600 | 360-725-2353 |

**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:  
Address:  
Phone:  
Fax:

TTY:  
Email:  
Other:

No: Please explain: The proposed rules are exempt under RCW 34.05.328(5)(b)(vii), rules of the department of social and health services relating only to client medical or financial eligibility.

**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)<br>(Internal government operations) | <input type="checkbox"/> RCW 34.05.310 (4)(e)<br>(Dictated by statute)   |
| <input type="checkbox"/> RCW 34.05.310 (4)(c)<br>(Incorporation by reference)     | <input type="checkbox"/> RCW 34.05.310 (4)(f)<br>(Set or adjust fees)  |
| <input type="checkbox"/> RCW 34.05.310 (4)(d)<br>(Correct or clarify language)    | <input type="checkbox"/> RCW 34.05.310 (4)(g)<br>((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 rules affect services to clients based on the client's ability to perform certain tasks.

**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:

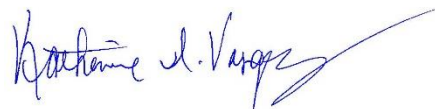
Name:  
Address:  
Phone:  
Fax:  
TTY:  
Email:  
Other:

**Date:** July 29, 2020

**Name:** Katherine I. Vasquez

**Title:** DSHS Rules Coordinator

**Signature:**



**WAC 388-106-0010 What definitions apply to this chapter? "Ability to make self understood"** means how you made yourself understood to those closest to you in the last seven days before the assessment; expressed or communicated requests, needs, opinions, urgent problems and social conversations, whether in speech, writing, sign language, symbols, or a combination of these including use of an alternative communication method:

- ~~((a))~~ (1) Understood: You expressed ideas clearly;
- ~~((b))~~ (2) Usually understood: You had difficulty finding the right words or finishing thoughts, resulting in delayed responses, or you required some prompting to make self understood;
- ~~((c))~~ (3) Sometimes understood: You had limited ability, but were able to express concrete requests regarding at least basic needs (e.g. food, drink, sleep, toilet);
- ~~((d))~~ (4) Rarely/never understood: At best, understanding was limited to caregiver's interpretation of client specific sounds or body language (e.g. indicated presence of pain or need to toilet);
- ~~((e))~~ (5) Child under three: Proficiency is not expected of a child under three and a child under three would require assistance with communication with or without a functional disability. Refer to the developmental milestones table in WAC 388-106-0130.

**"Activities of daily living (ADL)"** means the following:

- ~~((a))~~ (1) Bathing: How you took a full-body bath/shower, sponge bath, and transferred in/out of tub/shower.
- ~~((b))~~ (2) Bed mobility: How you moved to and from a lying position turned side to side, and positioned your body while in bed, in a recliner, or other type of furniture you slept in.
- ~~((c))~~ (3) Dressing: How you put on, fastened, and took off all items of clothing, including donning/removing prosthesis, splints, either braces or orthotics, or both.
- ~~((d))~~ (4) Eating: How you ate and drank, regardless of skill. Eating includes any method of receiving nutrition, e.g., by mouth, tube or through a vein. Eating does not include any set up help you received, e.g. bringing food to you or cutting it up in smaller pieces.
- ~~((e))~~ (5) Locomotion in room and immediate living environment: How you moved between locations in your room and immediate living environment. If you are in a wheelchair, locomotion includes how self-sufficient you were once in your wheelchair.
- ~~((f))~~ (6) Locomotion outside room: How you moved to and returned from your immediate living environment, outdoors, and more distant areas. If you are living in a contracted assisted living, enhanced services facility, adult residential care, enhanced adult residential care, enhanced adult residential care-specialized dementia care facility or nursing facility (NF), this includes areas set aside for dining, activities, etc. If you are living in your own home or in an adult family home, locomotion outside immediate living environment including outdoors, includes how you moved to and returned from a patio or porch, backyard, to the mailbox, to see the next-door neighbor, or when accessing your community.
- ~~((g))~~ (7) Walk in room, hallway and rest of immediate living environment: How you walked between locations in your room and immediate living environment.

((h)) (8) Medication management: Describes the amount of assistance, if any, required to receive prescription medications, over the counter medications, or herbal supplements.

((i)) (9) Toilet use: How you eliminated or toileted, used a commode, bedpan, or urinal, transferred on/off toilet, cleansed, changed pads, managed ostomy or catheter, and adjusted clothes. Toilet use does not include emptying a bedpan, commode, ostomy or catheter bag. This type of set up assistance is considered under the definition of support provided.

((j)) (10) Transfer: How you moved between surfaces, e.g., to/from bed, chair, wheelchair, standing position. Transfer does not include how you moved to/from the bath, toilet, or got in((/)) and out of a vehicle.

((k)) (11) Personal hygiene: How you ((maintain)) maintained personal hygiene tasks, such as combing hair, brushing teeth, shaving, applying makeup, washing((/)) and drying face, hands (including nail care), and perineum, including menses care. Personal hygiene does not include hygiene tasks completed in baths and showers.

"Age appropriate" proficiency in the identified task is not expected of a child that age and a child that age would require assistance with the task with or without a functional disability. Refer to the developmental milestones table in WAC 388-106-0130 for the specific ages.

"Aged person" means a person sixty-five years of age or older.

"Agency provider" means a licensed home care agency or a licensed home health agency having a contract to provide long-term care personal care services to you in your own home.

"Alternative benefit plan" means the scope of services described in WAC 182-501-0060 available to persons eligible to receive health care coverage under the Washington apple health modified adjusted gross income (MAGI)-based adult coverage described in WAC 182-505-0250.

"Application" means a written request for medical assistance or long-term care services submitted to the department by the applicant, the applicant's authorized representative, or, if the applicant is incompetent or incapacitated, someone acting responsibly for the applicant. The applicant must submit the request on a form prescribed by the department.

"Assessment details" means a printed record of information that the department entered into the CARE assessment describing the assistance you may need.

"Assessment or reassessment" means an inventory and evaluation of strengths and limitations based on an in-person interview in your own home or another location that is convenient to you, using the department's comprehensive assessment reporting evaluation (CARE) tool.

"Assistance available" means the amount of assistance that will be available for a task if status is coded:

((a)) (1) Partially met due to availability of other informal support; or

((b)) (2) Shared benefit. The department determines the amount of the assistance available using one of four categories:

((i)) (a) Less than one-fourth of the time;

((ii)) (b) One-fourth to one-half of the time;

((iii)) (c) Over one-half of the time to three-fourths of the time; or

((iv)) (d) Over three-fourths but not all of the time.

"**Assistance with body care**" means you received or need assistance with:

- ((a)) (1) Application of ointment or lotions;
- ((b)) (2) Trimming of toenails;
- ((c)) (3) Dry bandage changes; or
- ((d)) (4) Passive range of motion treatment.

"**Authorization**" means an official approval of a departmental action, for example, a determination of client eligibility for service or payment for a client's long-term care services.

"**Blind person**" means a person determined blind as described under WAC 182-500-0015 by the division of disability determination services of the medical assistance administration.

"**Body care**" means how you perform with passive range of motion, applications of dressings and ointments or lotions to the body, and pedicure to trim toenails and apply lotion to feet. In adult family homes, enhanced services facilities, contracted assisted living, enhanced adult residential care, and enhanced adult residential care-specialized dementia care facilities, dressing changes using clean technique and topical ointments must be performed by a licensed nurse or through nurse delegation in accordance with chapter 246-840 WAC. Body care excludes:

- ((a)) (1) Foot care if you are diabetic or have poor circulation; or
- ((b)) (2) Changing bandages or dressings when sterile procedures are required.

"**Bowel program**" means a regular, ongoing program, other than oral medications, that must include interventions such as rectal stimulation using the finger, over-the-counter suppositories, or enemas to facilitate evacuation of your bowels. Regimens only promoting bowel regularity, including oral medications or supplements, nutrition, hydration, or positioning are not considered in this definition.

"**Categorically needy**" means the status of a person who is eligible for medical care under Title XIX of the Social Security Act. See WAC 182-512-0010 and chapter 182-513 WAC.

"**Child**" means an individual less than eighteen years of age.

"**Health action plan**" means an individual plan, which identifies health-related problems, interventions and goals.

"**Client**" means an applicant for service or a person currently receiving services from the department.

"**Current behavior**" means a behavior occurred within seven days of the CARE assessment date, including the day of the assessment. Behaviors that the department designates as current must include information about:

- ((a)) (1) Whether the behavior is easily altered or not easily altered; and
- ((b)) (2) The frequency of the behavior.

"**(Decision-making) Decisions**" means your ability (verbally or nonverbally) to make, and actual performance in making, everyday decisions about tasks of ~~(activities of)~~ daily living in the last seven days before the assessment. The department codes your ability to make decisions as one of the following:

((a)) (1) Independent: Decisions about your daily routine were consistent and organized; reflecting your lifestyle, choices, culture, and values((-));

((b)) (2) Difficulty in new situations: You had an organized daily routine, were able to make decisions in familiar situations, but

experienced some difficulty in decision making when faced with new tasks or situations((-));

((e)) (3) Poor decisions; unaware of consequences: Your decisions were poor and you required reminders, cues and supervision in planning, organizing and correcting daily routines. You attempted to make decisions, although poorly((-));

((d)) (4) No or few decisions: Decision making was severely impaired; you never/rarely made decisions((-); or

((e)) (5) Child under twelve: Proficiency in decision making is not expected of a child under twelve and a child under twelve would require assistance with decision making with or without a functional disability. Refer to the developmental milestones table in WAC 388-106-0130.

**"Department"** means the state department of social and health services, aging and long-term support administration, developmental disabilities administration, or its designee.

**"Designee"** means area agency on aging.

**"Developmental milestones table"** is a chart showing the age range for which proficiency in the identified task is not expected of a child and assistance with the task would be required whether or not the child has a functional disability.

**"Difficulty"** means how difficult it is or would be for you to perform an instrumental activity of daily living (IADL). This is assessed as:

((a)) (1) No difficulty in performing the IADL;

((b)) (2) Some difficulty in performing the IADL (e.g., you need some help, are very slow, or fatigue easily); or

((e)) (3) Great difficulty in performing the IADL (e.g., little or no involvement in the IADL is possible).

**"Disability"** is described under WAC 182-500-0025.

**"Disabling condition"** means you have a medical condition which prevents you from self-performance of personal care tasks without assistance.

**"Estate recovery"** means the department's process of recouping the cost of medicaid and long-term care benefit payments from the estate of the deceased client. See chapter 182-527 WAC.

**"Home health agency"** means a licensed:

((a)) (1) Agency or organization certified under medicare to provide comprehensive health care on a part-time or intermittent basis to a patient in the patient's place of residence and reimbursed through the use of the client's medical identification card; or

((b)) (2) Home health agency, certified or not certified under medicare, contracted and authorized to provide:

((i)) (a) Private duty nursing; or

((ii)) (b) Skilled nursing services under an approved medicaid waiver program.

**"Income"** means income as defined under WAC 182-509-0001.

**"Individual provider"** under RCW 74.39A.240 means a person contracted with the department to provide personal care or respite services.

**"Informal support"** means:

((a)) (1) Assistance that will be provided without home and community based services funding. The person providing the informal support must be age 18 or older. Sources of informal support include but are not limited to: family members, friends, housemates/roommates, neighbors, school, childcare, after school activities, church, and community programs. The department will not consider an individual

provider to be a source of informal support unless the individual provider is also a family member or a household member who had a relationship with the client that existed before the individual provider entered into a contract with the department;

((b)) (2) Adult day health is coded in the assessment as a source of informal support, regardless of funding source;

((e)) (3) Informal support does not include shared benefit or age appropriate functioning.

**"Institution"** means medical facilities, nursing facilities, and institutions for the intellectually disabled. It does not include correctional institutions. See medical institutions in WAC 182-500-0050.

**"Instrumental activities of daily living (IADL)"** means routine activities performed around the home or in the community in thirty days prior to the assessment and includes the following:

((a)) (1) Meal preparation: How meals were prepared (e.g., planning meals, cooking, assembling ingredients, setting out food, utensils, and cleaning up after meals). NOTE: The department will not authorize this IADL to only plan meals or clean up after meals. You must need assistance with other tasks of meal preparation.

((b)) (2) Ordinary housework: How ordinary work around the house was performed (e.g., doing dishes, dusting, making bed, cleaning the bathroom, tidying up, laundry).

((e)) (3) Essential shopping: How shopping was completed to meet your health and nutritional needs (e.g., selecting items). Shopping is limited to brief, occasional trips in the local area to shop for food, medical necessities and household items required specifically for your health, maintenance or well-being. This includes shopping with or for you.

((d)) (4) Wood supply: How wood or pellets were supplied (e.g., splitting, stacking, or carrying wood or pellets) when you use wood, pellets, or a combination of both, as the only source of fuel for heating and/or cooking.

((e)) (5) Travel to medical services: How you traveled by vehicle to a physician's office or clinic in the local area to obtain medical diagnosis or treatment. This travel includes driving vehicle yourself or traveling as a passenger in a car, bus, or taxi.

((f)) (6) Managing finances: How bills were paid, checkbook is balanced, household expenses are managed. The department cannot pay for any assistance with managing finances.

((g)) (7) Telephone use: How telephone calls were made or received on your behalf (with assistive devices such as large numbers on telephone, amplification as needed).

**"Long-term care services"** means the services administered directly or through contract by the department and identified in WAC 388-106-0015.

**"MAGI"** means modified adjusted gross income. It is a methodology used to determine eligibility for Washington apple health (medicaid), and is defined in WAC 182-500-0070.

**"Medicaid"** is defined under WAC 182-500-0070.

**"Medically necessary"** is defined under WAC 182-500-0070.

**"Medically needy (MN)"** means the status of a person who is eligible for a federally matched medical program under Title XIX of the Social Security Act, who, but for income above the categorically needy level, would be eligible as categorically needy. Effective January 1, 1996, an AFDC-related adult is not eligible for MN.

**"New Freedom consumer directed services (NFCDS)"** means a mix of services and supports to meet needs identified in your assessment and



identified in a New Freedom spending plan, within the limits of the individual budget, that provide you with flexibility to plan, select, and direct the purchase of goods and services to meet identified needs. Participants have a meaningful leadership role in:

((a)) (1) The design, delivery and evaluation of services and supports;

((b)) (2) Exercising control of decisions and resources, and making their own decisions about health and well-being;

((e)) (3) Determining how to meet their own needs;

(d) Determining how and by whom these needs should be met; and

((e)) (4) Monitoring the quality of services received.

**"New Freedom consumer directed services (NFCDS) participant"** means a participant who is an applicant for or currently receiving services under the NFCDS waiver.

**"New Freedom spending plan (NFSP)"** means the plan developed by you, as a New Freedom participant, within the limits of an individual budget, that details your choices to purchase specific NFCDS and provides required federal medicaid documentation.

**"Own home"** means your present or intended place of residence:

((a)) (1) In a building that you rent and the rental is not contingent upon the purchase of personal care services as defined in this section;

((b)) (2) In a building that you own;

((e)) (3) In a relative's established residence; or

((d)) (4) In the home of another where rent is not charged and residence is not contingent upon the purchase of personal care services as defined in this section.

**"Past behavior"** means the behavior (~~occurred from eight days to five years of~~) did not occur in the last seven days, but did occur more than seven days from the assessment date. For behaviors indicated as past, the department (~~determines~~) documents the month and year the behavior last occurred and whether the behavior is addressed with current interventions or whether no interventions are in place.

**"Personal aide"** is defined in RCW 74.39.007.

**"Personal care services"** means physical or verbal assistance with activities of daily living (ADL) and instrumental activities of daily living (IADL) due to your functional limitations. Assistance is evaluated with the use of assistive devices.

**"Physician"** is defined under WAC 182-500-0085.

**"Plan of care"** means assessment details and service summary generated by CARE.

**"Provider or provider of service"** means an institution, agency, or person:

((a)) (1) Having a signed department contract to provide long-term care client services; and

((b)) (2) Qualified and eligible to receive department payment.

**"Reasonable cost"** means a cost for a service or item that is consistent with the market standards for comparable services or items.

**"Representative"** means a person who you have chosen, or has been appointed by a court, whose primary duty is to act on your behalf to direct your service budget to meet your identified health, safety, and welfare needs.

**"Residential facility"** means a licensed adult family home under department contract; a licensed enhanced services facility under department contract; or licensed assisted living facility under department contract to provide assisted living, adult residential care or enhanced adult residential care.

**"Self-performance for ADLs"** means a code based on what you actually did for yourself and how much help you received in the last seven days before your assessment, not what you might be capable of doing. (~~Self-performance for ADLs is based on your level of performance that occurred three or more times in the seven-day period. Scoring~~) Coding of self-performance for ADLs does not include (~~physical assistance that occurred less than three times in the seven day look back period, or~~) set-up help. The self-performance codes are "independent," "supervision," "limited assistance," "extensive assistance," "total dependence," and "did not occur." CARE assigns self-performance codes to each ADL as described in this rule.

(1) Based on information provided during your assessment, the CARE tool assigns a self-performance code to each ADL. When you received the same type of help (e.g. oversight, nonweight bearing, or weight bearing help) with an ADL at least three times, CARE assigns the self-performance code associated with the most dependent type of help you received at least three times. Your self performance code level is scored as:

(a) (~~Independent, if you received no help or oversight, or if you needed help or oversight only once or twice;~~

~~(b)) "Supervision,"~~ if you received oversight (monitoring or standby), encouragement, or cueing (~~three or more times~~);

~~((c)) (b) "Limited assistance,"~~ if you were highly involved in the ADL and received assistance that involved physical, nonweight bearing contact between you and your caregiver, or guided maneuvering of limbs (~~on three or more occasions.~~);

~~((d)) (c) "Extensive assistance,"~~ if you performed part of the ADL, but (~~on three or more occasions,~~) you (~~needed~~) received weight bearing (support) help or you (~~received full performance of~~) did not participate in a subtask of the ADL, but (~~not all, of the ADL.~~) did participate in other subtasks of the ADL;

~~((e)) (d) "Total dependence,"~~ if you did not participate at all in the completion of the ADL. Every time the ADL was completed during the entire seven-day period, you received (~~full caregiver performance every time the ADL and all subtasks are completed during the entire seven-day period from others. Total dependence means complete nonparticipation by you in all aspects of the ADL~~) complete assistance by others; or

(e) "Independent," if you received:

(i) No help, including oversight, encouragement or cueing;

(ii) If you had help including oversight, encouragement or cueing only once or twice in the seven-day period; or

(f) (~~ADL~~) "Did not occur," if you or others did not perform (~~an~~) the ADL over the last seven days before your assessment. This means the activity did not happen. For example, for "walk in room" to have a code of "did not occur" that would mean that in the last seven days before your assessment you did not walk even one time. The ADL may not have occurred because:

(i) You were not able (e.g., (~~walking~~) you cannot walk, (~~if~~) because you are paralyzed);

(ii) No provider was available to (~~assist~~) help; or

(iii) You declined (~~assistance~~) help with the task.

(2) When you received help with the ADL at least three times, but not three times of the same type of help, the CARE tool determines a self-performance code by:

(a) Selecting the three instances where you received the most help; and

(b) Assigning a self-performance code based on the least dependent type of help of those three instances.

(3) CARE assigns a self-performance code of:

(a) "Supervision," if oversight, encouragement, or cueing was the least dependent type of help you received of the three instances; or

(b) "Limited assistance," if nonweight bearing help or guided maneuvering of your limbs was the least dependent type of help you received out of the three instances.

(c) CARE will not assign self-performance codes of "extensive assistance" or "total dependence" if you did not receive the same type of help at least three times in the last seven days before the assessment.

(d) For example, if you received oversight help twice, nonweight bearing help twice, and weight-bearing help twice, CARE:

(i) Selects two instances of weight bearing help and one instance of nonweight bearing help because these were the three instances where you received the most help; and

(ii) Assigns a self-performance code of "limited assistance" because nonweight bearing help was the least dependent type of help you received out of the three instances where you received the most help.

**"Self-administration of medication"** means your ability to manage your prescribed and over the counter medications. Your level of ability is coded for the highest level of need and scored as:

~~((a))~~ (1) Independent, if you remember to take medications as prescribed and manage your medications without assistance.

~~((b))~~ (2) Assistance required, if you need assistance from a nonlicensed provider to facilitate your self-administration of a prescribed, over the counter, or herbal medication, as defined in chapter 246-888 WAC. Assistance required includes reminding or coaching you, handing you the medication container, opening the container, using an enabler to assist you in getting the medication into your mouth, alteration of a medication for self-administration, and placing the medication in your hand. This does not include assistance with intravenous or injectable medications. You must be aware that you are taking medications.

~~((c))~~ (3) Self-directed medication assistance/administration, if you are an adult with a functional disability who is capable of and who chooses to self-direct your medication assistance/administration as prescribed by your medical professional.

~~((d))~~ (4) Must be administered, if you must have prescription or over the counter medications placed in your mouth or applied or instilled to your skin or mucus membrane. Administration must either be performed by a licensed professional or delegated by a registered nurse to a qualified caregiver (per chapter 246-840 WAC). Administration may also be performed by a family member or unpaid caregiver in in-home settings or in residential settings if facility licensing regulations allow. Intravenous or injectable medications may never be delegated except for insulin injections.

**"Self-performance for bathing"** means what you actually did in the last seven days before your assessment, not what you might be capable of doing or how well you performed the ADL of bathing. Self-performance for bathing is based on your level of performance that occurred on at least one or more occasions in the seven-day period. Scoring of self-performance for bathing does not include physical assistance that did not occur in the seven day look back period, or set-up help. Your self-performance level is scored as:

((a)) (1) Independent, if you received no help or oversight to complete the ADL of bathing.

((b)) (2) Supervision, if in order to bathe you received oversight (monitoring or standby), encouragement, or cueing.

((c)) (3) Physical help transfer only, if in order to bathe you had help to transfer only.

((d)) (4) Physical help, if in order to bathe you had hands on assistance with bathing, but you did not receive full caregiver performance of the ADL of bathing.

((e)) (5) Total dependence, if in order to bathe you received full caregiver performance of the ADL of bathing every time. Total dependence means complete physical nonparticipation by you in all aspects of bathing; or the ADL:

((f)) (6) Did not occur, if you or others did not perform the ADL of bathing over the last seven days before your assessment. The ADL of bathing may not have occurred because:

((i)) (a) You were not able (e.g., you may be paralyzed);

((ii)) (b) No provider was available to assist; or

((iii)) (c) You declined because you chose not to perform the ADL.

**"Self-performance for IADLs"** means what you actually did in the last thirty days before the assessment, not what you might be capable of doing or how well you performed the ADL. Scoring is based on the level of performance that occurred at least one time in the thirty-day period. Your self-performance is scored as:

((a)) (1) Independent, if you received no help, set-up help, or supervision;

((b)) (2) Assistance, if you received any help with the task, including cueing or monitoring in the last thirty days;

((c)) (3) Total assistance, if you are a child and needed the ADL fully performed by others and you are functioning outside of typical developmental milestones; or

((d)) (4) ADL did not occur, if you or others did not perform the ADL in the last thirty days before the assessment.

**"Service summary"** is CARE information which includes: Contacts (e.g. emergency contact), services the client is eligible for, number of hours or residential rates, personal care tasks, the list of formal and informal providers and what tasks they will provide, a ~~preferred~~ preferred schedule if identified by the client, identified referrals ~~(information)~~, and dates and agreement to the outlined services.

**"Shared benefit"** means:

((a)) (1) A client and their paid caregiver both share in the benefit of an IADL task being performed; or

((b)) (2) Two or more clients in a multiclient household benefit from the same IADL task(s) being performed.

**"SSI-related"** is defined under WAC 182-512-0050.

**"Status"** means the level of assistance:

((a)) (1) That will be provided by informal supports; ((x))

((b)) (2) That will be provided by a care provider who may share in the benefit of an IADL task being performed for a client or for two or more clients in a multiclient household; or

((c)) (3) That will be provided to a child primarily due to his or her age.

The department determines the status of each ADL or IADL and codes the status as follows:

~~((a))~~ (1) Met, which means the ADL or IADL will be fully provided by an informal support;

~~((b))~~ (2) Unmet, which means an informal support will not be available to provide assistance with the identified ADL or IADL;

~~((c))~~ (3) Partially met, which means an informal support will be available to provide some assistance, but not all, with the identified ADL or IADL;

~~((d))~~ (4) Shared benefit, which means:

~~((i))~~ (a) A client and their paid caregiver will both share in the benefit of an IADL task being performed; or

~~((ii))~~ (b) Two or more clients in a multiclient household will benefit from the same IADL task(s) being performed.

~~((e))~~ (5) Age appropriate or child under (age), means proficiency in the identified task is not expected of a child that age and a child that age would require assistance with the task with or without a functional disability. The department presumes children have a responsible adult(s) in their life to provide assistance with personal care tasks. Refer to the developmental milestones table in WAC 388-106-0130; or

~~((f))~~ (6) Client declines, which means you will not want assistance with the task.

**"Supplemental security income (SSI)"** means the federal program as described under WAC 182-500-0100.

**"Support provided"** means the highest level of support provided (to you) by others in the last seven days before the assessment, even if that level of support occurred only once. The department determines support provided as follows:

~~((a))~~ (1) No set-up or physical help provided by others;

~~((b))~~ (2) Set-up help only provided, which is the type of help characterized by providing you with articles, devices, or preparation necessary for greater independence in performance of the ADL. (For example, set-up help includes but is not limited to giving or holding out an item or cutting up prepared food);

~~((c))~~ (3) One-person physical assist provided;

~~((d))~~ (4) Two- or more person physical assist provided; or

~~((e))~~ (5) ADL did not occur during entire seven-day period.

**"Task"** means a component of an activity of daily living. Several tasks may be associated to a single activity of daily living.

**"Turning and repositioning program"** is a consistent and organized method in which your caregiver must position and realign your body to prevent or treat skin breakdown. This program is needed because you are physically unable to reposition yourself without assistance, while sitting or lying down.

**"You/your"** means the client.

AMENDATORY SECTION (Amending WSR 16-04-020, filed 1/22/16, effective 2/22/16)

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

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

- (a) You are enrolled in CFC, as defined in WAC 388-106-0015;
- (b) The department has received written or verbal confirmation from a health care practitioner that you have an irreversible dementia (such as Alzheimer's disease, multi-infarct or vascular dementia, Lewy body dementia, Pick's disease, alcohol-related dementia);
- (c) You are receiving services in an assisted living facility that has a current EARC-SDC contract, and you are living in the part of the facility that is covered by the contract;
- (d) The department has authorized you to receive EARC-SDC services in the assisted living facility; and
- (e) You are assessed by the comprehensive assessment reporting evaluation tool ("CARE") as having a cognitive performance scale score of 3 or ~~(above)~~ more; and any one or more of the following:
  - (i) ~~An unmet need for assistance with ((supervision, limited, extensive or total dependence with))~~ the activity of daily living (ADL) of eating(~~/drinking~~) as defined in WAC 388-106-0010;
  - (ii) Inappropriate toileting(~~/~~)menses activities;
  - (iii) Rummages/takes (~~others~~) belongings of others;
  - (iv) (~~Up~~) Disrupts household at night when others are sleeping and requires intervention(s);
  - (v) Wanders/exit seeking;
  - (vi) Wanders/not exit seeking;
  - (vii) (~~Has~~) Left home and gotten lost;
  - (viii) Inappropriate spitting;
  - (ix) (~~Disrobes in public~~) Inappropriate nakedness;
  - (x) Eats non(~~-~~)edible substances/objects (Pica)(persistent for at least a month);
  - (xi) Sexual acting out;
  - (xii) Delusions;
  - (xiii) Hallucinations;
  - (xiv) Assaultive (not during personal care);
  - (xv) Breaks, throws items;
  - (xvi) Combative during personal care;
  - (xvii) Easily irritable/agitated requiring intervention;
  - (xviii) Obsessive regarding own health(~~/~~) or body functions;
  - (xix) Repetitive movement/pacing;
  - (xx) Unrealistic fears or suspicions;
  - (xxi) Nonhealth related repetitive anxious complaints/questions;
  - (xxii) Resistive to care with words/gestures (does not include informed choice);
  - (xxiii) Verbally abusive;
  - (xxiv) Yelling/screaming;
  - (xxv) Inappropriate verbal noises; or
  - (xxvi) Accuses others of stealing.

AMENDATORY SECTION (Amending WSR 12-14-064, filed 6/29/12, effective 7/30/12)

**WAC 388-106-0075 How is my need for personal care services assessed in CARE?** The department gathers information from you, your caregivers, family members, and other sources to assess your abilities (~~to~~) and how you perform personal care tasks. The department will

also consider developmental milestones for children as defined in WAC 388-106-0130 when individually assessing your abilities and ~~((needs))~~ need for assistance. The department will assess your ability to perform:

(1) Activities of daily living (ADL) using self-performance, support provided, status, and assistance available, as defined in WAC 388-106-0010. Also, the department determines your need for "assistance with body care" and "assistance with medication management," as defined in WAC 388-106-0010; and

(2) Instrumental activities of daily living (IADL) using self-performance ~~((difficulty))~~, status, and assistance available, as defined in WAC 388-106-0010.

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

**WAC 388-106-0090 How does the CARE tool measure cognitive performance?** (1) The CARE tool uses a tool called the cognitive performance scale (CPS) to evaluate your cognitive impairment. The CPS results in a score that ranges from zero (intact) to six (very severe impairment). Your CPS score is based on information given at your assessment and documented in the CARE tool:

(a) Whether you are comatose.

(b) Your ability to make decisions, as defined in WAC 388-106-0010 "~~((Decision-making))~~ Decisions."

(c) Your ability to make yourself understood, as defined in WAC 388-106-0010 "Ability to make self understood."

(d) Whether you have short-term memory problem (e.g. can you remember recent events?) ~~((or whether you have delayed recall))~~ as determined by the following:

(i) Information given at your assessment and documented in the CARE tool showed there is evidence that you have short-term memory loss; or

(ii) You could not recall at least one of the three words you were asked to recall during the mini mental status exam completed during your assessment using the CARE tool; and

(e) Whether you score as total dependence for self-performance in eating, as defined in WAC 388-106-0010 "Self-performance of ADLs."

(2) You will receive a CPS score of:

(a) **Zero** when you do not have problems with decision-making ability, making yourself understood, or recent memory.

(b) **One** when you meet one of the following:

(i) ~~((Your decision-making ability is))~~ Decisions are scored as ((modified independence)) difficulty in new situations or ((moderately impaired)) poor decisions/unaware of consequences as defined in WAC 388-106-0010;

(ii) Your ability to make yourself understood is scored as usually, sometimes, or rarely/never understood as defined in WAC 388-106-0010; or

(iii) You have a ~~((recent))~~ short-term memory problem.

(c) **Two** when you meet two of the following:

(i) ~~((Your decision-making ability is))~~ Decisions are scored as ((modified independence)) difficulty in new situations or ((moderately

~~impaired)) poor decisions/unaware of consequences as defined in WAC 388-106-0010;~~

(ii) Your ability to make yourself understood is scored as usual-ly, sometimes, or rarely/never understood; and/or

(iii) You have a short-term memory problem or delayed recall.

(d) **Three** when you meet at least two of the criteria listed in subsection (2)(b) of this section and one of the following applies:

(i) (~~Your decision making is moderately impaired)) Decisions are scored as poor decisions/unaware of consequences as defined in WAC 388-106-0010; or~~

(ii) Your ability to make yourself understood is scored as some-times or rarely/never understood as defined in WAC 388-106-0010.

(e) **Four** when both of the following criteria applies:

(i) (~~Your decision making is moderately impaired)) Decisions are scored as poor decisions/unaware of consequences as defined in WAC 388-106-0010; and~~

(ii) (~~Your ability to make yourself understood is)) Decisions are scored as sometimes or rarely/never understood as defined in WAC 388-106-0010.~~

(f) **Five** (~~(when your ability to make)) Decisions (~~(is)) are~~ scored as (~~(severely impaired)) no/few decisions as defined in WAC 388-106-0010.~~~~

(g) **Six** when one of the following applies:

(i) (~~Your ability to make decisions is severely impaired)) Deci-sions are scored as no/few decisions and you require total dependence in eating as defined in WAC 388-106-0010; or~~

(ii) You are comatose.

AMENDATORY SECTION (Amending WSR 07-10-024, filed 4/23/07, effective 6/1/07)

**WAC 388-106-0095 How does the CARE tool measure clinical complexity?** The CARE tool places you in the clinically complex classification group only when you have one or more of the following criteria and corresponding ADL scores:

| Condition  | AND an ADL score of |
|--|---------------------|
| ALS (Lou Gehrig's Disease)   | >14                 |
| Aphasia (expressive ( <del>and/or</del> ), receptive, or both)             | >=2                 |
| Cerebral Palsy   | >14                 |
| Diabetes Mellitus (insulin dependent)                                      | >14                 |
| Diabetes Mellitus (noninsulin dependent)                                   | >14                 |
| Emphysema & shortness of breath (at rest or exertion) or dizziness/vertigo | >10                 |
| COPD & shortness of breath (at rest or exertion) or dizziness/vertigo      | >10                 |
| Explicit terminal prognosis  | >14                 |
| Hemiplegia   | >14                 |
| Multiple Sclerosis   | >14                 |
| Parkinson Disease  | >14                 |
| Pathological bone fracture   | >14                 |
| Quadriplegia   | >14                 |
| Rheumatoid Arthritis   | >14                 |



| Condition  | AND an ADL score of |
|--|---------------------|
| <p>You have one or more of the following skin problems:</p> <ul style="list-style-type: none"> <li>■ <del>Current pressure ((u)lcers))</del> injuries, with areas of persistent skin redness;</li> <li>■ <del>Current pressure ((u)lcers))</del> injuries with partial loss of skin layers;</li> <li>■ <del>Current pressure ((u)lcers))</del> injuries, with a full thickness lost;</li> <li>■ Skin desensitized to pain/pressure;</li> <li>■ Open lesions (<u>not cuts, rashes</u>); <del>((and/or))</del> or</li> <li>■ Stasis ulcers.</li> </ul> <p>AND</p> <p>You <del>((require))</del> received one of the following types of <del>((assistance))</del> skin care or treatment:</p> <ul style="list-style-type: none"> <li>■ <del>((U)lcer))</del> Pressure injury care;</li> <li>■ Pressure relieving device;</li> <li>■ Turning/<del>((reposition))</del>repositioning program as defined in WAC 388-106-0010;</li> <li>■ Application of dressing; or</li> <li>■ Wound/skin care <u>treatment</u>.</li> </ul> | >=2                 |
| <p>You have a burn(s) and you <del>((need))</del> received one of the following:</p> <ul style="list-style-type: none"> <li>■ Application of dressing; or</li> <li>■ Wound/skin care</li> </ul>  | >=2                 |
| <p>You have one or more of the following problems:</p> <ul style="list-style-type: none"> <li>■ You are frequently incontinent <u>daily with some control present</u> (bladder);</li> <li>■ You are incontinent all or most of the time <u>multiple times per day having no control</u> (bladder);</li> <li>■ You are frequently incontinent <u>three to four times per week</u> (bowel); or</li> <li>■ You are incontinent all or most of the time <u>four or more times per week</u> (bowel).</li> </ul> <p>AND</p> <p>One of the following applies:</p> <ul style="list-style-type: none"> <li>■ The status of your individual management of bowel bladder supplies is "Uses, <del>((has leakage, needs assistance))</del> <u>needs skin cleansing assistance</u>";</li> <li>■ The status of your individual management of bowel bladder supplies is "Does not use, has leakage <u>onto skin</u>"; or</li> <li>■ You use "<u>Any scheduled toileting plan</u>."</li> </ul>  | >10                 |
| <p>You have a current swallowing problem, and you are not independent in eating.</p>   | >10                 |
| <p>You have <u>edema</u>.</p>  | >14                 |
| <p>You have <u>pain</u> daily.</p>   | >14                 |
| <p>You need and <del>((receive))</del> received a <u>bowel</u> program as defined in WAC 388-106-0010.</p>   | >10                 |
| <p>You need <u>dialysis</u>.</p>   | >10                 |
| <p>You require IV nutritional support or tube feedings; and</p> <p>Your total calories received per IV or tube was at least 25%; and</p> <p>Your fluid intake is greater than 2 cups.</p>  | >=2                 |
| <p>You need <u>hospice</u> care.</p>   | >14                 |
| <p>You need <u>injections</u>.</p>   | >14                 |
| <p>You need <u>intravenous</u> medications.</p>  | >10                 |
| <p>You need management of IV lines.</p>  | >10                 |
| <p>You need <u>ostomy</u> care.</p>  | >=2                 |
| <p>You need <u>oxygen</u> therapy.</p>   | >10                 |
| <p>You need <u>radiation</u>.</p>  | >10                 |
| <p>You need and <del>((receive))</del> received <u>passive</u> range of motion.</p>  | >10                 |
| <p>You need and <del>((receive))</del> received <u>walking</u> training.</p>   | >10                 |
| <p>You need <u>suction</u> treatment.</p>  | >=2                 |
| <p>You need <u>tracheostomy</u> care.</p>  | >10                 |
| <p>You need a <u>ventilator/respirator</u></p>   | >10                 |

| Condition   | AND an ADL score of |
|---|---------------------|
| You are <18 and you have pain related to your disability and you complain of pain or show evidence of pain daily. (If you are under eighteen and do not have pain related to your disability, you may be placed in the clinically complex classification based on other factors above.) | >14                 |
| Key:<br>< means less than.<br>> means greater than.<br>>= means greater than or equal to.   |                     |

AMENDATORY SECTION (Amending WSR 08-10-022, filed 4/25/08, effective 5/26/08)

**WAC 388-106-0100 How does the CARE tool measure mood and behaviors?** (1) When you do not meet the criteria for the clinically complex classification group, or the criteria for exceptional care, or for in-home only have a cognitive performance scale score of five or six, then the mood and behavior criteria listed in subsections (3) and (4) below determines your classification group. If you are eligible for more than one "B" group classification based on the two methodologies, CARE will place you in the highest group for which you qualify.

(2) For each behavior that was assessed and documented in the CARE tool (~~(has documented)~~), the department will determine a status as "current behavior" or "past behavior" as defined in WAC 388-106-0010.

(3) CARE places you in the mood and behavior classification group only if you have one or more of the behavior/moods that also meets the listed status, frequency, and alterability as identified in the following chart:

| Behavior/Mood  | AND Status, Frequency & Alterability  |
|--|---|
| Assaultive ( <u>not during personal care</u> )                                   | Current <u>behavior</u>   |
| Combative during personal care   | Current <u>behavior</u>   |
| Combative during personal care   | <del>((H))</del> Past <del>((and))</del> <u>behavior</u> , addressed with current interventions |
| <u>Many incidences of uncontrollable crying</u> tearfulness                      | Current <u>behavior</u> , frequency 4 or more days per week                                     |
| Delusions  | <del>((H))</del> Past <u>behavior</u> , addressed with current interventions                    |
| Depression score of 14 or greater  | N/A   |
| <del>((Disrobes in public))</del> <u>Inappropriate nakedness</u>                 | Current <u>behavior</u> and not easily altered  |
| Easily irritable/ agitated <u>requiring intervention(s)</u>                      | Current <u>behavior</u> and not easily altered  |
| Eats nonedible substances/objects <u>(Pica)(persistent for at least a month)</u> | Current <u>behavior</u>   |
| Eats nonedible substances/objects <u>(Pica)(persistent for at least a month)</u> | <del>((H))</del> Past <u>behavior</u> , addressed with current interventions                    |
| Hallucinations   | Current <u>behavior</u>   |

| <b>Behavior/Mood</b>  | <b>AND Status, Frequency &amp; Alterability</b>                                 |
|---|---|
| Hiding items  | (( <del>HA</del> )) <u>Past behavior</u> , addressed with current interventions |
| Hoarding( <del>(/ collecting))</del> )  | (( <del>HA</del> )) <u>Past behavior</u> , addressed with current interventions |
| Mental health therapy/<br>program   | ((Need)) <u>Needs</u>   |
| <u>Nonhealth related repetitive anxious complaints/questions</u>  | Current <u>behavior</u> , daily   |
| <u>Nonhealth related repetitive complaints/questions</u>  | (( <del>HA</del> )) <u>Past behavior</u> , addressed with current interventions |
| Repetitive movement/<br>pacing, <u>hand wringing, fidgeting</u>   | Current <u>behavior</u> , daily   |
| Resistive to care with <u>words/gestures (does not include informed choice)</u>                           | Current <u>behavior</u>   |
| Resistive to care with <u>words/gestures (does not include informed choice)</u>                           | (( <del>HA</del> )) <u>Past behavior</u> , addressed with current interventions |
| Sexual acting out   | Current <u>behavior</u>   |
| Sexual acting out   | (( <del>HA</del> )) <u>Past behavior</u> , addressed with current interventions |
| <u>Inappropriate spitting</u>   | Current <u>behavior</u> and not easily altered                                  |
| <u>Inappropriate spitting</u>   | (( <del>HA</del> )) <u>Past behavior</u> , addressed with current interventions |
| Breaks/throws items   | Current <u>behavior</u>   |
| Unsafe smoking  | Current <u>behavior</u> and not easily altered                                  |
| (( <del>UP</del> )) <u>Disturbs household at night when others are sleeping and requires intervention</u> | Current <u>behavior</u>   |
| Wanders exit seeking  | Current <u>behavior</u>   |
| Wanders exit seeking  | (( <del>HA</del> )) <u>Past behavior</u> , addressed with current interventions |
| Wanders not exit seeking  | Current <u>behavior</u>   |
| Wanders not exit seeking  | (( <del>HA</del> )) <u>Past behavior</u> , addressed with current interventions |
| Yelling/screaming   | Current <u>behavior</u> , frequency 4 or more days per week                     |

or

(4) CARE places you in the mood and behavior classification group if you have a behavior point score greater than 1, your CPS score (as defined in WAC 388-106-0090) is greater than 2, and your ADL score (as defined in WAC 388-106-0105) is greater than 1.

| <b>Status</b> | <b>Intervention</b>      | <b>Frequency</b>          | <b>Weight</b> |
|---------------|--------------------------|---------------------------|---------------|
| Past          | No <u>intervention</u>   | N/A                       | 0             |
| Past          | With <u>intervention</u> | N/A                       | 0.25          |
| Current       | N/A                      | 1-3 <u>days(/) per wk</u> | 0.5           |
| Current       | N/A                      | 4-6 <u>days(/) per wk</u> | 0.75          |
| Current       | N/A                      | Daily                     | 1             |

Each current behavior (as shown in the table below) has a value from .5 to 6 depending on the severity and alterability. Each status combination (shown in the table above) has a weight from 0 to 1. Behavior points are determined by multiplying the value of each current behavior (from the list below) by the weight of the status combination (above). Behavior points for past behaviors will be determined by multiplying the easily altered value of the behavior from the table below by the appropriate weight from the table above (0 or .25).

The list of behaviors below is divided into categories. Each category has a point limit of how many points can be counted toward the total behavior point score as detailed below. The total behavior point score is determined by totaling the weight-adjusted values for each category below.

| Behavior  | Value                   |                    |
|---|-------------------------|--------------------|
|   | Easily Altered/<br>Past | Not Easily Altered |
| 1. <u>Many incidences of uncontrollable crying ((and), tearfulness</u>                        | .5                      | 1                  |
| 2. Easily irritable/agitated  | .5                      | 1                  |
| 3. Obsessive ((about)) <u>regarding own</u> health or body functions                          | .5                      | 1                  |
| 4. Repetitive physical <u>movement/pacing, hand wringing, fidgeting</u>                       | .5                      | 1                  |
| 5. Hiding <u>items</u>  | .5                      | 1                  |
| 6. Hoarding((/Collecting))  | .5                      | 1                  |
| 7. Inappropriate <u>verbal noise</u>  | .5                      | 1                  |
| 8. Wanders, not exit seeking  | .5                      | 1                  |
| Maximum total points after adjusting for status for behaviors 1-8 = 2                         |                         |                    |
| 9. Repetitive anxious complaints/questions  | 1                       | 2                  |
| 10. ((Rummaging through or)) <u>Rummages/takes ((others)) belongings of others</u>            | 1                       | 2                  |
| 11. Verbally <u>abusive</u>   | 1                       | 2                  |
| 12. Yelling((/)) or <u>screaming</u>  | 1                       | 2                  |
| 13. <u>Inappropriate spitting</u>   | 1                       | 2                  |
| 14. Unrealistic <u>fears and suspicions</u>   | 1                       | 2                  |
| 15. Accuses others of <u>stealing</u>   | 1                       | 2                  |
| Maximum total points after adjusting for status for behaviors 9-15 = 3                        |                         |                    |
| 16. Resistive to care with words/gestures   | 2                       | 3                  |
| 17. ((Up)) <u>Disturbs household at night when others are sleeping, requires intervention</u> | 2                       | 3                  |
| 18. Unsafe <u>cooking</u>   | 2                       | 3                  |
| 19. Inappropriate <u>toileting/ menses activity</u>   | 2                       | 3                  |
| 20. Unsafe <u>smoking</u>   | 2                       | 3                  |
| 21. Left home and ((became)) <u>gotten lost</u>   | 2                       | 3                  |

| Behavior  | Value                   |                    |
|---|-------------------------|--------------------|
|   | Easily Altered/<br>Past | Not Easily Altered |
| 22. ((Disrobes in public))<br><u>Inappropriate nakedness</u>  | 2                       | 3                  |
| Maximum total points after<br>adjusting for status for<br>behaviors 16-22 = 4                           |                         |                    |
| 23. ((Injures self))<br><u>Intentional self-injury</u>  | 4                       | 5                  |
| 24. Wanders/Exit seeking  | 4                       | 5                  |
| 25. Sexual acting out   | 4                       | 5                  |
| 26. Intimidating/<br><u>threatening (no physical<br/>contact)</u>                                       | 4                       | 5                  |
| 27. Assaultive ( <u>not during<br/>personal care</u> )  | 4                       | 5                  |
| 28. Breaks, throws items  | 4                       | 5                  |
| Maximum total points after<br>adjusting for status for<br>behaviors 23-28 = 10                          |                         |                    |
| 29. <u>Deliberate</u> fire setting<br><u>behaviors</u>  | 5                       | 6                  |
| 30. Combative during care   | 5                       | 6                  |
| 31. <u>Eats nonedible<br/>substances/objects (Pica)</u><br><u>(persistent for at least a<br/>month)</u> | 5                       | 6                  |
| 32. ((Seeks vulnerable<br>partners)) <u>Deliberate<br/>sexual violence</u>                              | 5                       | 6                  |
| Maximum total points after<br>adjusting for status for<br>behaviors 29-32 = 12                          |                         |                    |

AMENDATORY SECTION (Amending WSR 15-20-054, filed 9/30/15, effective 10/31/15)

**WAC 388-106-0130 How does the department determine the number of hours I may receive for in-home care?** (1) The department assigns a base number of hours to each classification group as described in WAC 388-106-0125.

(2) The department will adjust base hours to account for informal supports, shared benefit, and age appropriate functioning (as those terms are defined in WAC 388-106-0010), and other paid services that meet some of an individual's need for personal care services:

(a) The CARE tool determines the adjustment for informal supports, shared benefit, and age appropriate functioning. A numeric value is assigned to the status ((~~and/or~~) and assistance available coding for ADLs and IADLs based on the table below. The base hours assigned to each classification group are adjusted by the numeric value in subsection (b) below.

| <b>Meds</b>  | <b>Status</b>                          | <b>Assistance available</b> | <b>Numeric value</b> |
|--|--|-----------------------------|----------------------|
| Medication <u>m</u> anagement<br><br>The rules to the right apply for all <u>s</u> elf-performance codes except independent which is not counted as a qualifying ADL   | Unmet                                  | N/A                         | 1                    |
|  | Met                                    | N/A                         | 0                    |
|  | Decline                                | N/A                         | 0                    |
|  | Age appropriate functioning            | N/A                         | 0                    |
|  | Partially met                          | <1/4 time                   | .9                   |
|  |  | 1/4 to 1/2 time             | .7                   |
|  |  | 1/2 to 3/4 time             | .5                   |
| >3/4 time  |  | .3                          |                      |
| <b>Unscheduled ADLs</b>  | <b>Status</b>                          | <b>Assistance available</b> | <b>Value</b>         |
| Bed mobility, transfer, walk in room, eating, toilet use<br><br>The rules to the right apply for all <u>s</u> elf-performance codes except: Did not occur/client not able and Did not occur/no provider = 1;<br>Did not occur/client declined and independent are not counted as qualifying ADLs | Unmet                                  | N/A                         | 1                    |
|  | Met                                    | N/A                         | 0                    |
|  | Decline                                | N/A                         | 0                    |
|  | Age appropriate functioning            | N/A                         | 0                    |
|  | Partially met                          | <1/4 time                   | .9                   |
|  |  | 1/4 to 1/2 time             | .7                   |
|  |  | 1/2 to 3/4 time             | .5                   |
| >3/4 time  |  | .3                          |                      |
| <b>Scheduled ADLs</b>  | <b>Status</b>                          | <b>Assistance Available</b> | <b>Value</b>         |
| Dressing, personal hygiene, bathing<br><br>The rules to the right apply for all <u>s</u> elf-performance codes except: Did not occur/client not able and Did not occur/no provider = 1;<br>Did not occur/client declined and independent which are not counted as qualifying ADLs                | Unmet                                  | N/A                         | 1                    |
|  | Met                                    | N/A                         | 0                    |
|  | Decline                                | N/A                         | 0                    |
|  | Age appropriate functioning            | N/A                         | 0                    |
|  | Partially met                          | <1/4 time                   | .75                  |
|  |  | 1/4 to 1/2 time             | .55                  |
|  |  | 1/2 to 3/4 time             | .35                  |
| >3/4 time  |  | .15                         |                      |
| <b>IADLs</b>   | <b>Status</b>                          | <b>Assistance Available</b> | <b>Value</b>         |
| Meal preparation, Ordinary housework, Essential shopping<br><br>The rules to the right apply for all <u>s</u> elf-performance codes except independent is not counted as a qualifying IADL   | Unmet                                  | N/A                         | 1                    |
|  | Met                                    | N/A                         | 0                    |
|  | Decline                                | N/A                         | 0                    |
|  | Child under (age) (see subsection (7)) | N/A                         | 0                    |
|  | Partially met or Shared benefit        | <1/4 time                   | .3                   |
|  |  | 1/4 to 1/2 time             | .2                   |
|  |  | 1/2 to 3/4 time             | .1                   |
| >3/4 time  |  | .05                         |                      |

| IADLs   | Status                                 | Assistance available | Value |
|---|--|----------------------|-------|
| Travel to medical<br><br>The rules to the right apply for all self-performance codes except independent which is not counted as a qualifying IADL | Unmet                                  | N/A                  | 1     |
|   | Met                                    | N/A                  | 0     |
|   | Decline                                | N/A                  | 0     |
|   | Child under (age) (see subsection (7)) | N/A                  | 0     |
|   | Partially met                          | <1/4 time            | .9    |
|   |  | 1/4 to 1/2 time      | .7    |
|   |  | 1/2 to 3/4 time      | .5    |
|   |  | >3/4 time            | .3    |

Key: > means greater than; < means less than

(b) To determine the amount adjusted for informal support, shared benefit and/or age appropriate functioning, the numeric values are totaled and divided by the number of qualifying ADLs and IADLs needs. The result is value A. Value A is then subtracted from one. This is value B. Value B is divided by three. This is value C. Value A and Value C are summed. This is value D. Value D is multiplied by the "base hours" assigned to your classification group and the result is the number of adjusted in-home hours. Values are rounded to the nearest hundredths (e.g., .862 is rounded to .86).

(3) Effective July 1, 2012, after adjustments are made to your base hours, as described in subsection (2), the department may add on hours based on off-site laundry, living more than forty-five minutes from essential services, and wood supply, as follows:

| Condition   | Status                                 | Assistance Available    | Add On Hours |
|---|--|-------------------------|--------------|
| Offsite laundry facilities, which means the client does not have facilities in own home and the caregiver is not available to perform any other personal or household tasks while laundry is done.<br>The status used for the rules to the right is for housekeeping. | Unmet                                  | N/A                     | 8            |
|   | Met                                    | N/A                     | 0            |
|   | Declines                               | N/A                     | 0            |
|   | Child under (age) (see subsection (7)) | N/A                     | 0            |
|   | Partially met or Shared benefit:       | <1/4 time               | 8            |
|   |  | between 1/4 to 1/2 time | 6            |
|   |  | between 1/2 to 3/4 time | 4            |
|   |  | >3/4 time               | 2            |
| Client is >45 minutes from essential services (which means ((he/she)) client lives more than 45 minutes one-way from a full-service market).<br>The status used for the rules to the right is essential shopping.   | Unmet                                  | N/A                     | 5            |
|   | Met                                    | N/A                     | 0            |
|   | Declines                               | N/A                     | 0            |
|   | Child under (age) (see subsection (7)) | N/A                     | 0            |
|   | Partially met or Shared benefit        | <1/4 time               | 5            |
|   |  | between 1/4 to 1/2 time | 4            |
|   |  | between 1/2 to 3/4 time | 3            |
|   |  | >3/4 time               | 2            |

| Condition                                | Status                                 | Assistance Available    | Add On Hours |   |
|--|--|-------------------------|--------------|---|
| Wood supply used as sole source of heat. | Unmet                                  | N/A                     | 8            |   |
|  | Met                                    | N/A                     | 0            |   |
|  | Declines                               | N/A                     | 0            |   |
|  | Child under (age) (see subsection (7)) | N/A                     | 0            |   |
|  | Partially met or Shared benefit        | <1/4 time               |              | 8 |
|  |  | between 1/4 to 1/2 time |              | 6 |
|  |  | between 1/2 to 3/4 time |              | 4 |
|  |  | >3/4 time               |              | 2 |

(4) In the case of New Freedom consumer directed services (NFCDS), the department determines the monthly budget available as described in WAC 388-106-1445.

(5) The result of adjustments under subsections (2) and (3) is the maximum number of hours that can be used to develop your plan of care. The department must take into account cost effectiveness, client health and safety, and program limits in determining how hours can be used to address your identified needs. In the case of New Freedom consumer directed services (NFCDS), a New Freedom spending plan (NFSP) is developed in place of a plan of care.

(6) If you are eligible, your hours may be used to authorize the following services:

(a) Personal care services from a home care agency provider ~~((and/or))~~, an individual provider, or both.

(b) Home delivered meals (i.e. a half hour from the available hours for each meal authorized) per WAC 388-106-0805.

(c) Adult day care (i.e. a half hour from the available hours for each hour of day care authorized) per WAC 388-106-0805.

~~(d) ((A home health aide (i.e., one hour from the available hours for each hour of home health aide authorized) per WAC 388-106-0300.~~

~~(e))~~ A private duty nurse (PDN) if you are eligible per WAC 388-106-1010 or 182-551-3000 (i.e. one hour from the available hours for each hour of PDN authorized).

~~((f))~~ (e) The purchase of New Freedom consumer directed services (NFCDS).

(7) If you are a child applying for personal care services:

(a) The department presumes that children have legally responsible parents or other responsible adults who provide informal support for the child's ADLs, IADLs and other needs. The department will not provide services or supports that are within the range of activities that a legally responsible parent or other responsible adult would ordinarily perform on behalf of a child of the same age who does not have a disability or chronic illness.

(b) The department will complete a CARE assessment and use the developmental milestones tables below when assessing your ability to perform personal care tasks.

(c) Your status will be coded as age appropriate for ADLs when your self-performance is at a level expected for persons in your assessed age range, as indicated by the developmental milestones table in subpart (e), unless the circumstances in subpart (d) below apply.

(d) The department will code status as other than age appropriate for an ADL, despite your self-performance falling within the developmental age range for the ADL on the developmental milestones table in subpart (e) below, if the department determines during your assessment that your level of functioning is related to your disability and not



primarily due to your age and the frequency ((and/or)) or the duration of assistance required for a personal care task is not typical for a person of your age.

(e)

| Developmental Milestones for Activities of Daily Living (ADLs) |  |                              |
|--|--|------------------------------|
| ADL  | Self-Performance                                   | Developmental Age Range      |
| Medication management  | Independent self-directed assistance required      | Child under 18 years of age  |
|  | Must be administered                               | Child under 12 years of age  |
| Locomotion in room   | Independent<br>Supervision<br>Limited<br>Extensive | Child under 4 years of age   |
|  | Total  | Child under 13 months of age |
| Locomotion outside room  | Independent<br>Supervision                         | Child under 6 years of age   |
|  | Limited<br>Extensive                               | Child under 4 years of age   |
|  | Total  | Child under 25 months of age |
| Walk in room   | Independent<br>Supervision<br>Limited<br>Extensive | Child under 4 years of age   |
|  | Total  | Child under 19 months of age |
| Bed mobility   | Independent<br>Supervision<br>Limited              | Child under 37 months of age |
|  | Extensive  | Child under 25 months of age |
|  | Total  | Child under 19 months of age |
| Transfers  | Independent<br>Supervision<br>Limited<br>Extensive | Child under 3 years of age   |
|  | Total  | Child under 19 months of age |
| Toilet use   | Independent<br>Supervision<br>Limited<br>Extensive | Child under 7 years of age   |
|  | Total  | Child under 37 months of age |
| Eating   | Independent<br>Supervision<br>Limited<br>Extensive | Child under 3 years of age   |
|  | Total  | Child under 13 months of age |
| Bathing  | Independent<br>Supervision                         | Child under 12 years of age  |
|  | Physical help/<br>transfer only                    | Child under 5 years of age   |
|  | Physical help/part<br>of bathing                   | Child under 6 years of age   |
|  | Total  | Child under 37 months of age |
| Dressing   | Independent<br>Supervision                         | Child under 12 years of age  |
|  | Limited  | Child under 8 years of age   |
|  | Extensive  | Child under 7 years of age   |
|  | Total  | Child under 25 months of age |
| Personal hygiene   | Independent<br>Supervision                         | Child under 12 years of age  |
|  | Limited<br>Extensive                               | Child under 7 years of age   |
|  | Total  | Child under 37 months of age |

(f) For IADLs, the department presumes that children typically have legally responsible parents or other responsible adults to assist with IADLs. Status will be coded as "child under (age)" the age indicated by the developmental milestones table for IADLs in subpart (h) unless the circumstances in subpart (g) below apply. (For example, a sixteen year old child coded as supervision in self-performance for telephone would be coded "child under eighteen.")

(g) If the department determines during your assessment that the frequency (~~and/or~~) or the duration of assistance required is not typical for a person of your age due to your disability or your level of functioning, the department will code status as other than described in subpart (h) for an IADL.

(h)

| <b>Developmental Milestones for Instrumental Activities of Daily Living</b>       |   |                                |
|---|---|--------------------------------|
| <b>IADL</b>   | <b>Self-Performance</b>                                     | <b>Developmental Age Range</b> |
| Finances<br>Telephone<br>Wood supply  | Independent<br>Supervision<br>Limited<br>Extensive<br>Total | Child under 18                 |
| Transportation  | Independent<br>Supervision<br>Limited<br>Extensive          | Child under 18                 |
|   | Total   | Child under 16                 |
| Essential Shopping<br>Housework<br>Meal ( <del>Prep</del> )<br><u>preparation</u> | Independent<br>Supervision<br>Limited<br>Extensive          | Child under 18                 |
|   | Total   | Child under 12                 |

(i) The department presumes that children have legally responsible parents or other responsible adults who provide support for comprehension, decision-making, memory and continence issues. These items will be coded as indicated by the additional developmental milestones table in subpart (k) unless the circumstances in subpart (j) below apply.

(j) If the department determines during your assessment that due to your disability, the support you are provided for comprehension, decision making, memory, and continence issues is substantially greater than is typical for a person of your age, the department will code status as other than described in subpart (k) below.

(k)

| <b>Additional Developmental Milestones coding within CARE</b> |   |   |                                |
|---|---|---|--------------------------------|
| <b>Name of CARE panel</b>                                     | <b>Question in CARE Panel</b>   | <b>Developmental Milestone coding selection</b> | <b>Developmental Age Range</b> |
| <del>((Speech/Hearing:))</del><br>Comprehension               | <del>((By others client is"))</del> <u>"Choose the selection that best describes the client's ability to be understood by those closest to them, using any means of communication."</u> | Child under 3                                   | Child under 3                  |
| Psych Social: MMSE  | "Can <u>the</u> MMSE be administered to <u>the</u> client?"   | = No  | Child under 18                 |
| Psych Social: Memory/<br>Short Term                           | <del>((Recent))</del> <u>"Is there evidence of short-term memory loss?"</u>   | Child under 12                                  | Child under 12                 |

| <b>Additional Developmental Milestones coding within CARE</b> |  |   |                                |
|---|--|---|--------------------------------|
| <b>Name of CARE panel</b>                                     | <b>Question in CARE Panel</b>  | <b>Developmental Milestone coding selection</b> | <b>Developmental Age Range</b> |
| Psych Social: Memory/ Long Term                               | "Is there evidence of long-term memory loss (six months through their lifetime)?"  | Child under 12                                  | Child under 12                 |
| Psych Social: Depression                                      | "((Interview)) <u>Depression PHQ-2 or PHQ-9</u> "  | Unable to obtain                                | Child under 12                 |
| Psych Social: ((Decision Making)) <u>Decisions</u>            | "((Rate)) <u>How the client ((makes decision)) made decisions related to tasks of daily living in the last seven days.</u> " | Child under 12                                  | Child under 12                 |
| Bladder/Bowel:  | "Bladder/bowel control" is which of the following:   |   |                                |
|   | Continent, Usually Continent<br>Occasionally, Incontinent  | Age appropriate                                 | Child under 12                 |
|   | Frequently Incontinent   | Age appropriate                                 | Child under 9                  |
|   | Incontinent all or most of the time  | Age appropriate                                 | Child under 6                  |
| Bladder/Bowel:  | "Appliance and programs"   | Potty training                                  | Child under 4                  |

(8) If you are a child applying for personal care services and your status for ADLs and IADLs is not coded per the developmental age range indicated on the milestones tables under subsection (7), the department will assess for any informal supports or shared benefit available to assist you with each ADL and IADL. The department will presume that children have legally responsible parents or other responsible adults who provide informal support to them.

(a) The department will code status for an ADL or IADL as met if your assessment shows that your need for assistance with a personal care task is fully met by informal supports.

(b) Informal supports for school-age children include supports actually available through a school district, regardless of whether you take advantage of those available supports.

(c) When you are living with your legally responsible parent(s), the department will presume that you have informal supports available to assist you with your ADL and IADLs over three-fourths but not all the time. Legally responsible parents include natural parents, step parents, and adoptive parents. Generally, a legally responsible parent will not be considered unavailable to meet your personal care needs simply due to other obligations such as work or additional children because such obligations do not decrease the parent's legal responsibility to care for you regardless of your disabilities. However, the department will consider factors that cannot reasonably be avoided and which prevent a legally responsible parent from providing for your personal care needs when determining the amount of informal support available to you. You may rebut the department's presumption by providing specific information during your assessment to indicate why you do not have informal supports available at least three-fourths of time to assist you with a particular ADL or IADL.