



PROPOSED RULE MAKING

CR-102 (July 2022)
(Implements RCW 34.05.320)
Do NOT use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: August 25, 2022

TIME: 2:32 PM

WSR 22-18-011

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 22-14-035 ; 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)

WAC 388-828-9235, How does DDA determine your environmental support score?, 388-828-9340, How does your employment service type affect how your employment service hours are used?, 388-828-9360, What is short-term employment support?, 388-845-1035, Who are qualified providers of individualized technical assistance services?, and 388-845-2105, Who are qualified providers of supported employment services?

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
October 11, 2022	10:00 am	Office Building 2 DSHS Headquarters 1115 Washington Olympia WA 98504 OR Virtually	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 Due to the COVID-19 pandemic, hearings are being held virtually. Please see the DSHS website for the most current information.

Date of intended adoption: Not earlier than October 12, 2022 (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: 360-664-6085

Other:

By (date) 5:00 p.m. on October 11, 2022

Assistance for persons with disabilities:

Contact Shelley Tencza, Rules Consultant

Phone: 360-664-6036

Fax: 360-664-6036

TTY: 711 Relay Service

Email: tencza@dshs.wa.gov

Other:

By (date) 5:00 p.m. on September 27, 2022

Purpose of the proposal and its anticipated effects, including any changes in existing rules: DDA is amending these rules to align with changes to CARE, remove content about prevocational services, correct inaccurate cross-references, and reformat sections about qualified providers.

Reasons supporting proposal: These amendments are intended to create consistency between DDA's rules and CARE web, reduce confusion by correcting inaccurate cross-references, and clarify qualified provider requirements.

Statutory authority for adoption: RCW 71A.12.030

Statute being implemented: RCW 71A.12.040

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

Type of proponent: ☐ Private ☐ Public ☒ Governmental

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

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Chantelle Diaz	P.O. Box 45310, Olympia, WA 98504-5310	360-407-1500
Implementation:	Megan Burr	P.O. Box 45310, Olympia, WA 98504-5310	360-407-1523
Enforcement:	Megan Burr	P.O. Box 45310, Olympia, WA 98504-5310	360-407-1523

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: 360-407-1500

Fax: 360-407-0955

TTY: 1-800-833-6388

Email: chantelle.diaz@dshs.wa.gov

Other:

☐ No: Please explain:

Regulatory Fairness Act and Small Business Economic Impact Statement

Note: The [Governor's Office for Regulatory Innovation and Assistance \(ORIA\)](#) provides support in completing this part.

(1) Identification of exemptions:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see [chapter 19.85 RCW](#)). For additional information on exemptions, consult the [exemption guide published by ORIA](#). 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:

☐ [RCW 34.05.310](#) (4)(b)

(Internal government operations)

☐ [RCW 34.05.310](#) (4)(c)

(Incorporation by reference)

☒ [RCW 34.05.310](#) (4)(d)

(Correct or clarify language)

☐ [RCW 34.05.310](#) (4)(e)

(Dictated by statute)

☐ [RCW 34.05.310](#) (4)(f)

(Set or adjust fees)

☐ [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\(4\)](#) (does not affect small businesses).

☐ This rule proposal, or portions of the proposal, is exempt under RCW _____.

Explanation of how the above exemption(s) applies to the proposed rule: DDA's analysis revealed that there are no new costs imposed because amendments to:

- WAC 388-828-9235 updates are general housekeeping to align with the support score calculation in CARE and do not impact eligibility for services. Because the amendments do not impact eligibility for services, clients and providers should incur no costs as a result of the proposed changes.
- WAC 388-828-9340 impose no costs because prevocational services have not been open to referrals since 2014 and the service ended in 2019.
- WAC 388-828-9360 impose no costs because the amendments are corrections to cross-references to other rules.
- WAC 388-845-1035 and 388-845-2105 impose no costs because the rules are not substantively different. These rules were rewritten for easier reading and to match the format of other rules about qualified providers in chapter 388-845 WAC.

(2) Scope of exemptions: *Check one.*

☒ The rule proposal is fully exempt (*skip section 3*). Exemptions identified above apply to all portions of the rule proposal.

☐ The rule proposal is partially exempt (*complete section 3*). The exemptions identified above apply to portions of the rule proposal, but less than the entire rule proposal. Provide details here (consider using [this template from ORIA](#)):

☐ The rule proposal is not exempt (*complete section 3*). No exemptions were identified above.

(3) Small business economic impact statement: *Complete this section if any portion is not exempt.*

If any portion of 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 minor cost analysis and how the agency determined the proposed rule did not impose more-than-minor costs.

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

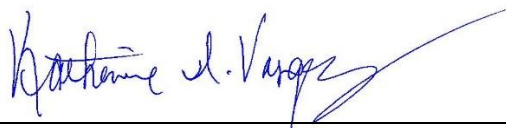
Other:

Date: August 25, 2022

Name: Katherine I. Vasquez

Title: DSHS Rules Coordinator

Signature:



WAC 388-828-9235 How does DDA determine your environmental support score? DDA determines your environmental support score by adding the sum of your assessment responses to employment support limitations in the following table:

Response	Employment Support/ Limitations	Score
1	Behavior((s impact workplace)) <u>support</u>	1
2	((Employment goals too specific)) <u>Adaptive equipment</u>	1
3	Fearful((/)) or scared of new situations	0
4	((Frequent job changes)) <u>Communication tools</u>	1
5	((High turnover of natural supports)) <u>Coordination with residential provider</u>	1
6	((Hygiene issues unresolved)) <u>Technical assistance</u>	1
7	((Lacks social skills)) <u>Unable to read</u>	1
8	((Little work history)) <u>Personal care needs</u>	1
((9	<u>Narrow scope of job requirements</u>	1
10	<u>Needs support arranging childcare</u>	1
11	<u>Others not supportive of employment goals</u>	1
12	<u>Others unable to support employment goals</u>	1))
((13)) <u>9</u>	<u>Transportation</u>	1
((14	<u>Unable to regularly get to work on time</u>	1))
((15)) <u>10</u>	<u>Uncertain about work</u>	0
((16)) <u>11</u>	<u>Uncooperative((/))</u> or lacks motivation	0
<u>12</u>	<u>None of these</u>	<u>0</u>
Maximum employment support limitation score is:		((13)) <u>8</u>

Example: If you have selected responses 1, 3, 8, ~~((13, 7))~~ and ~~((15))~~ 9, the sum of your scores for employment support limitations would be 3, resulting in an environmental support score of 3 for WAC 388-828-9230.

AMENDATORY SECTION (Amending WSR 13-01-076, filed 12/18/12, effective 1/18/13)

WAC 388-828-9340 How does your employment service type affect how your employment service hours are used? Your employment service type determines where and how your service hours are provided.

(1) Individual supported employment:

(a) Your employment services are provided in typical community-based settings;

(b) The focus of employment services is on obtaining ~~((and/))~~ or maintaining integrated employment at or above the state's minimum wage in the general workforce; and

(c) Your employment services are not shared with others.

(2) Group supported employment:

(a) Your employment services are provided in typical community-based settings;

(b) The focus of employment services is on providing ongoing supervised employment that will lead to greater opportunities for competitive and integrated employment and career advancement at or above minimum wage; and

(c) Your employment service provider works with you and others in a group setting.

~~((3) Prevocational services:~~

~~(a) Your employment services are:~~

~~(i) Provided in specialized or segregated settings for individuals with developmental disabilities; and~~

~~(ii) Include monthly employment related activities in the community.~~

~~(b) Service and supports are designed to further habilitation goals that will lead to greater opportunities for competitive and integrated employment and career advancement at or above the state's minimum wage; and~~

~~(c) Your employment service provider works with you and others in a group setting.))~~

AMENDATORY SECTION (Amending WSR 19-15-008, filed 7/8/19, effective 8/8/19)

WAC 388-828-9360 What is short-term employment support? (1)

Short-term employment support is a service that allows DDA to approve service hours in addition to the amount of your employment service base hours under WAC 388-828-9335 and add-on hours under WAC ~~((388-828-9345))~~ 388-828-9350 and 388-828-9355 when:

(a) You are beginning a new job;

(b) There is a planned or unexpected change in your job or job duties;

(c) Your current employment is at risk and short-term supports are needed to assist you in maintaining your current job; or

(d) You are stuck on your pathway to employment and need individualized technical assistance.

(2) Short-term employment support may be authorized for a maximum of six months at a time and may be reauthorized when:

(a) The circumstances identified in subsection (1) of this section continue as evidenced by receipt of a current employment work plan or review describing the need; and

(b) Both your employment provider and county recommend continuing the use of short-term employment support.

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

WAC 388-845-1035 Who are qualified providers of individualized technical assistance services? (~~Providers of individualized technical assistance service must be a county or an individual or agency contracted with a county or DDA.~~)

To be a qualified provider of individualized technical assistance services, an entity must be:

(1) A county contracted with DDA to provide individualized technical assistance services; or

(2) An individual or agency contracted with a county that is contracted with DDA to provide individualized technical assistance services.

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

WAC 388-845-2105 Who are qualified providers of supported employment services? (~~Providers of supported employment services must be a county, or agency or an individual contracted with a county or DDA.~~)

To be a qualified provider of supported employment services, an entity must be:

(1) A county contracted with DDA to provide supported employment services; or

(2) An individual or agency contracted with a county that is contracted with DDA to provide supported employment services.