



PROPOSED RULE MAKING

CR-102 (June 2024)
(Implements RCW 34.05.320)
Do **NOT** use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: January 30, 2025
TIME: 4:37 PM

WSR 25-04-060

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

☒ **Original Notice**

☐ **Supplemental Notice to WSR** _____

☐ **Continuance of WSR** _____

☒ **Preproposal Statement of Inquiry was filed as WSR 24-02-088 ; 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) Chapter 388-826 WAC, *Out-of-Home Services (OHS) Program*

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
March 25, 2025	10:00 a.m.	Virtually via Teams or Call in	Hearings are held virtually, see the DSHS website at https://www.dshs.wa.gov/sesa/rpau/proposed-rules-and-public-hearings for the most current information.

Date of intended adoption: Not earlier than March 26, 2025 (Note: This is **NOT** the **effective** date)

Submit written comments to:

Name DSHS Rules Coordinator

Address PO Box 45850, Olympia WA 98504

Email DSHSRPAURulesCoordinator@dshs.wa.gov

Fax 360-664-6185

Other

Beginning (date and time) noon on February 5, 2025

By (date and time) 5:00 p.m. March 25, 2025

Assistance for persons with disabilities:

Contact Shelley Tencza, Rules Consultant

Phone 360-664-6036

Fax 360-664-6185

TTY 711 Relay Service

Email shelley.tencza@dshs.wa.gov

Other

By (date) 5:00 p.m. on March 11, 2025

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The chapter has been amended primarily to: establish a connection with the new certification rules under development at DDA, which will be codified as Chapter 388-825A WAC; and standardize provider requirements to create consistency across provider types licensed – state-operated providers and DDA-contracted.

Reasons supporting proposal: The purpose of these amendments is to standardize certification and requirements between state-operated and contracted OHS providers.

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

Name of proponent: (person or organization)

Type of proponent: ☐ Private. ☐ Public. ☒ Governmental.

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting	Chantelle Diaz	P.O. Box 45310, Olympia, WA 98504-5310	360-790-4732
Implementation	Kim Calkins	P.O. Box 45310, Olympia, WA 98504-5310	360-764-6812
Enforcement	Kim Calkins	P.O. Box 45310, Olympia, WA 98504-5310	360-764-6812

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. 45310, Olympia WA 98504-5310
Phone 360-790-4732
Fax
TTY
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:

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

☐ This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025](#)(4). (Does not affect small businesses).

☒ This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025](#)(5).

Explanation of how the above exemption(s) applies to the proposed rule: DDA has analyzed the proposed rules and there is no indication of costs for compliance. The rules do not require small businesses, OHS providers, to purchase any goods, services, licenses, etc., which are typical ways providers incur costs during compliance.

(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. DDA has analyzed the proposed rules and there is no indication of costs for compliance. The rules do not require small businesses, OHS providers, to purchase any goods, services, licenses, etc.
- ☐ 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:

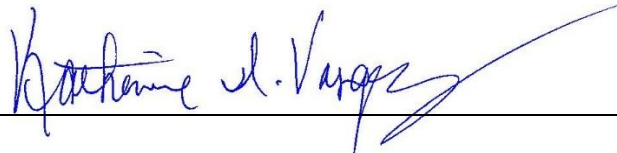
Name
Address
Phone
Fax
TTY
Email
Other

Date: January 30, 2025

Name: Katherine I. Vasquez

Title: DSHS Rules Coordinator

Signature:



**388-826 WAC
OUT-OF-HOME SERVICES PROGRAM**

PURPOSE

AMENDATORY SECTION (Amending WSR 21-15-059, filed 7/15/21, effective 8/15/21)

WAC 388-826-0001 What ~~((are))~~ is the out-of-home services program? ~~((Out))~~ The out-of-home services ((are)) (OHS) program is administered by the developmental disabilities administration (DDA) through a person-centered service plan to provide residential habilitation services for a ((child)) client in a qualified setting outside of the ((child's)) family home that is agreed to by the ((child's)) client's parent or legal ((guardian)) representative. ((Out-of-home services do)) The program does not include ((educational)) behavioral health services or care that is provided by other paid supports or the client's family. The OHS program does not include education and related services, including services provided under the Individuals with Disabilities Education Improvement Act of 2004 (IDEA), which are the responsibility of state and local education agencies.

DEFINITIONS

AMENDATORY SECTION (Amending WSR 21-15-059, filed 7/15/21, effective 8/15/21)

WAC 388-826-0005 What definitions apply to this chapter? ~~(("Child" means a person who is eligible under chapter 388-823 WAC for developmental disabilities administration (DDA) services, under age eighteen, and in the custody of a parent or legal guardian.))~~

"Child and family engagement plan" means a written agreement between the client's parent or legal ~~((guardian))~~ representative and the ~~((licensed or certified))~~ provider.

"Child foster home" means a private home licensed under chapter 110-148 WAC by the department of children, youth, and families (DCYF) to provide ~~((twenty-four))~~ 24-hour care to children.

"Client" means a person who has a developmental disability as defined in RCW 71A.10.020 and who has been determined DDA-eligible (~~for DDA services~~) under chapter 388-823 WAC.

"Client responsibility" means the total amount of a client's participation (~~and room and board~~).

"Community inclusion activities" means person-centered activities where clients engage with others in their local community.

"Custody" means:

(1) Protective care or guardianship of someone; or

(2) Parental responsibility, especially as allocated by a court to one of two parents under a parenting plan.

"DCYF" means the department of children, youth, and families. DCYF is the licensing entity for contracted out-of-home services (OHS) providers.

"DDA" means the developmental disabilities administration within the department of social and health services.

"Department" means the department of social and health services of the state of Washington.

"Facility" means a home that is licensed by DCYF or certified by DDA where DDA-eligible clients receive residential habilitation services from an OHS provider.

"Family" means one or more of the following relatives: Spouse or registered domestic partner; natural, adoptive, or stepparent; grandparent; child; stepchild; sibling; stepsibling; uncle; aunt; first cousin; niece; or nephew.

"Group care facility" means a facility licensed under chapter 110-145 WAC by DCYF that is maintained and operated on a (~~twenty-four~~) 24-hour basis to provide a safe and healthy living environment that meets the developmental needs of the children in care.

"Habilitation" means (~~services delivered~~) support provided by a DCYF-licensed or DDA-certified provider that (~~are intended to help a client~~) assists people with developmental disabilities to acquire, retain, or improve upon the self-help, socialization, and adaptive skills necessary to reside successfully in ((a)) home and community-based ((setting)) settings.

"Individual instruction and support plan" or "IISP" means a written document that describes how staff will provide habilitation and supports to meet the needs identified in the client's person-centered service plan, which are assigned to and agreed upon by the out-of-home service provider.

"Individual team meeting" means a strengths-based meeting to review the client's individual support needs and ensure coordination with the client's team. The meeting is driven by the perspectives of the family and the client.

"Legal representative" means a parent of a client if the client is under age 18 and parental rights have not been terminated or relinquished, a court-appointed guardian if a decision is within the scope of the guardianship order, or any other person authorized by law to act for the client.

(~~"Legal guardian" means a person's legal guardian appointed through formal proceedings in accordance with state law.~~)

"Medication administration" means the direct application of a prescribed medication by injection, inhalation, ingestion, application, or other means, to a client by a person legally authorized to do so under chapter 246-945 WAC.

"Medication assistance" means support from a non-practitioner to a client to self-administer their own medication under chapter 246-945 WAC.

"Out-of-home services acknowledgment" means a document ((signed by the client's parent or legal guardian acknowledging their custodial responsibility and decision making authority while the client is receiving services in a licensed or certified facility)) that outlines the rights and responsibilities of the client, parent or legal representative, and the provider while a client is receiving services through the OHS program.

"Parent ((or legal guardian))" means a biological or adoptive parent((, guardian, or legal custodian)) with legal authority to make decisions on behalf of the ((child regarding healthcare and public benefits)) client.

"Participation" has the same meaning as is under WAC 182-513-1100.

"Personal needs allowance((-PNA-))" or "PNA" means an amount set aside from a client's income under WAC 182-513-1105.

"Person-centered service plan ((-PCSP-))" or "PCSP" has the same meaning as is under WAC 388-845-0001.

"Physical intervention" means the use of a manual technique intended to interrupt or stop a behavior from occurring due to safety concerns. Physical intervention includes using physical restraint to release or escape from a dangerous or potentially dangerous situation.

"Registered nurse delegator" means a licensed registered nurse who delegates specific nursing care tasks to a qualified nursing assistant or home care aide, and supports clients in a community-based care setting or in-home care setting under RCW 18.79.260.

"Residential habilitation services" means instruction and support services under WAC 388-845-1500.

"Respite care" means short-term, intermittent care to relieve a primary caregiver under WAC 388-845-1600.

((("Room and board" has the same meaning as is under WAC 182-513-1100.))

"Significant change," as defined in WAC 388-832-0001, means a change in a client's medical condition, caregiver status, behavior, living situation, or employment status.

"SOLA" means a certified state-operated living alternative program.

"Staffed residential home," as defined in WAC ((388-110-145-1305 [110-145-1305])) 110-145-1305, means a licensed group care facility that provides ((twenty-four)) 24-hour care to six or fewer children who require more supervision than can be provided in a foster home.

"Supplemental security income ((-SSI-))" or "SSI" means a needs-based assistance program administered by the federal Social Security Administration for blind, disabled, and aged individuals.

"Treating professional" means a professional who specializes in the discipline within the professional's scope of practice.

((("Wraparound planning" means a strengths-based process that includes regular meetings to review the client's individual instruction and support plan and ensure coordination with the client's team. The wraparound process is driven by the perspectives of the family and the child or youth.))

ELIGIBILITY

AMENDATORY SECTION (Amending WSR 21-15-059, filed 7/15/21, effective 8/15/21)

WAC 388-826-0010 Who is eligible for the out-of-home services program? A ~~((client))~~ person is eligible for the out-of-home services program if:

(1) The ~~((client))~~ person:

(a) Is between ages eight through 17, unless the client meets criteria under WAC 388-826-0230;

~~(b) Is DDA-eligible ((for DDA services)) under chapter 388-823 WAC;~~

~~((b))~~ (c) Is eligible for the core waiver under chapter 388-845 WAC, or roads to community living under WAC 182-513-1235;

~~((e))~~ (d) Has received medically necessary inpatient treatment —when recommended by the client's treating professional ((—for conditions related to behavioral health or autism));

~~((d) Will begin receiving out-of-home services before turning eighteen;))~~

(e) Does not have a treatment recommendation for a locked or secure facility; and

(f) Is not:

~~((i) In the custody of the department of children, youth, and families under RCW 13.34.050 or 26.44.050;~~

~~(ii) In shelter care under RCW 13.34.060; or~~

~~(iii) A dependent in foster care under RCW 13.34.130;))~~

(i) The subject of court-ordered out-of-home care through a dependency action under RCW 13.34.060; or

(ii) The subject of court-ordered out-of-home care through a tribal child welfare action; and

(2) The ~~((client's))~~ person's parent or legal ~~((guardian))~~ representative:

(a) ~~((Has accessed available services the client is eligible for, including those available through private insurance, medicare, the medicaid state plan, and DDA;~~

~~(b))~~ Requests out-of-home services ~~((solely because of the child's developmental disability))~~ in accordance with RCW 71A.28.030; and

~~((e))~~ (b) Acknowledges and understands that enrollment in the out-of-home services program does not affect the legal rights and responsibilities of a client's parent or legal ~~((guardian))~~ representative.

NEW SECTION

WAC 388-826-0310 How does the provider determine if they can safely meet a client's needs? To determine whether they can safely meet a client's needs, the out-of-home services provider reviews client information, such as:

- (1) The client's referral packet;
- (2) Information gathered from the client, collateral contacts, or case manager; and
- (3) Composition of clients currently supported by the provider.

PROVIDER QUALIFICATIONS

AMENDATORY SECTION (Amending WSR 21-15-059, filed 7/15/21, effective 8/15/21)

WAC 388-826-0016 ~~((Where may a client receive))~~ Who can be an out-of-home services provider? ~~((1) A client may receive))~~ To be an out-of-home services ~~((from the following))~~ provider, ~~((types))~~ an entity must be one of the following:

~~((a))~~ (1) A children's state-operated living alternative ~~((certified under this chapter))~~; or

~~((b))~~ (2) A home contracted with ~~((the developmental disabilities administration))~~ DDA and licensed under chapter 74.15 RCW as a:

~~((i))~~ (a) Child foster home;

~~((ii))~~ (b) Staffed residential home; or

~~((iii))~~ (c) Group care facility for medically fragile children.

~~((2) To determine which type of provider will provide a client's out-of-home services, DDA:~~

~~(a) Assesses the amount of direct support necessary to meet the client's medical, social, developmental, and personal care needs; and~~

~~(b) Determines which provider type is the most cost-effective option that meets the unmet need identified in the client's person-centered service plan as required under WAC 388-845-0110.)~~

NEW SECTION

WAC 388-826-0340 Must an out-of-home services provider be certified? An out-of-home services provider must be certified by DDA under chapter 388-825A WAC.

NEW SECTION

WAC 388-826-0350 Is a site visit required and what does DDA review during a site visit? (1) To be a certified provider, a provider must participate in site visits in accordance with certification requirements under chapter 388-825A WAC.

(2) During a site visit, DDA confirms the provider's compliance with the following safety requirements:

- (a) The common areas of the home are unrestricted.
- (b) All entrances and exits are unblocked.
- (c) The home is maintained in a safe and healthy manner.
- (d) The home has a storage area for flammable and combustible materials.
- (e) Every floor of the home has working smoke and carbon monoxide detectors.
- (f) The home has a fire extinguisher that meets requirements for the residence type. There must be a fire extinguisher in the kitchen and at least one on every floor of the home.
- (g) The home has a stocked first-aid kit.
- (h) The home has a working and accessible telephone.
- (i) The home has a working and accessible flashlight or alternative light source.
- (j) Emergency contact information is available and accessible in the home (e.g., 911, poison control, nonemergency 911, adult protective services, child protective services).
- (k) The contact information for the developmental disabilities ombuds is available and accessible in the home.
- (l) The water temperature at the home is 120 degrees Fahrenheit or less.
- (m) There is a safety plan for any body of water more than 24 inches deep at the home.
- (n) The home has an evacuation plan and an emergency food and water supply.
- (o) The home meets integrated setting requirements under WAC 388-823-1096.
- (p) The home has a backup power source (e.g., generator, battery pack) if the provider supports a client who uses life sustaining medical equipment.

AMENDATORY SECTION (Amending WSR 21-15-059, filed 7/15/21, effective 8/15/21)

WAC 388-826-0018 Does ~~((approval of))~~ enrollment in the out-of-home services program affect a client's parental or custodial rights and responsibilities? (1) Enrollment in the out-of-home services (OHS) program does not affect the legal rights and responsibilities of a client's parent or legal ~~((guardian))~~ representative.

(2) When a client enrolls in ~~((out-of-home services))~~ the OHS program, neither DSHS nor DDA takes custodial responsibility of the client.

AMENDATORY SECTION (Amending WSR 21-15-059, filed 7/15/21, effective 8/15/21)

WAC 388-826-0019 ~~When ((must-out-of-home)) will DDA terminate a client's services ((be-terminated))?~~ (1) ~~((Out-of-home)) DDA may terminate a client's services ((may-be-terminated)) if:~~

~~(a) The ((the)) client is receiving services in a hospital, nursing facility, intermediate care facility for individuals with intellectual disabilities, or other institution for ((thirty)) 30 consecutive days or longer((-)) ; or~~

~~(b) The provider determines that they are unable to safely meet the client's needs or that the person poses a risk to the health or safety of themselves, staff, or other clients supported by the provider.~~

~~(2) ((Out-of-home)) DDA must terminate services ((must-be-terminated)) if:~~

~~(a) The client's parent or legal ((guardian)) representative terminates services; or~~

~~(b) The client is over ((eighteen)) age 18 and terminates services.~~

RIGHTS AND RESPONSIBILITIES

AMENDATORY SECTION (Amending WSR 21-15-059, filed 7/15/21, effective 8/15/21)

WAC 388-826-0040 **What is the out-of-home services acknowledgment?** (1) The out-of-home services (OHS) acknowledgment is a document ((signed by the client's parent or legal guardian acknowledging their custodial responsibility and decision making authority while the client is receiving services from a qualified provider)) that outlines the rights and responsibilities of the client, parent or legal representative, and the provider while a client is in the OHS program. The OHS acknowledgment is signed annually by the client's parent or legal representative, client if 18 or older, and the provider designee.

~~(2) An ((out-of-home services)) OHS acknowledgment must state the following:~~

~~(a) Integrated setting requirements under 42 C.F.R. 441.301(c)(4).~~

~~(b) The rights and responsibilities of the parent or legal representative.~~

~~(c) DSHS and DDA are offering services through medicaid or roads to community living((-)) .~~

~~((b) The client is not a dependent of the state by enrolling in out-of-home services;~~

~~(c) Enrollment in out-of-home services does not affect the legal rights and responsibilities of the parent or legal guardian;~~

~~(d) The client's parent or legal guardian retains the authority to authorize medical care for the client;~~

~~(e) The client's parent or legal guardian retains the authority to make all legal decisions for the client;~~

~~(f) The client's parent or legal guardian continues to be legally responsible for caring for the client;~~

~~(g) The client's parent or legal guardian continues to be legally responsible for the client if out-of-home services are disrupted; and~~

~~(h) The client's parent or legal guardian continues to be legally responsible for the cost of the client's care, including room and board and basic expenses that are not covered by private insurance, medicare, the medicaid state plan, or other funding sources.))~~

(d) That services provided are voluntary and can be terminated at any time and include termination requirements for the provider under RCW 71A.26.030.

(e) The provider will assist in accessing non-DDA related services including but not limited to education and medically necessary treatments. This includes participation in individual team meetings and development of an individualized education program.

(f) The provider will participate in the creation and implementation of a child and family engagement plan.

AMENDATORY SECTION (Amending WSR 21-15-059, filed 7/15/21, effective 8/15/21)

WAC 388-826-0041 What is a child and family engagement plan?

(1) A child and family engagement plan is a written agreement between the client's parent or legal ~~((guardian))~~ representative and the provider.

(2) A child and family engagement plan must:

(a) Outline the parent or legal ~~((guardian's))~~ representative's role while their child is ~~((receiving))~~ in the out-of-home services program, including:

(i) A visitation schedule for both the ~~((licensed or certified setting))~~ facility and family home;

(ii) Assistance in maintaining the client's significant relationships ~~((to the child))~~, such as transportation assistance and coordination; and

(iii) Participation in scheduling and attending medical and dental appointments, school meetings, and community inclusion activities;

(b) Outline the provider's role, including:

(i) Participation in scheduling and attending medical and dental appointments, school meetings, and community inclusion activities;

(ii) Supporting the client, parent, or legal ((guardian's)) representative's cultural or religious practices; and

~~((ii) Developing and implementing an individual financial plan under WAC 388-826-0042; and))~~

(iii) Celebrating holidays and special occasions;

(c) Be developed before the start date of the client's ~~((out-of-home))~~ services;

(d) Be reviewed during the annual assessment or more frequently upon request; and

(e) Be updated when the client turns age ~~((eighteen))~~ 18 to reflect the client's individualized transition goals, and legal guardianship if applicable.

SERVICE DELIVERY

AMENDATORY SECTION (Amending WSR 21-15-059, filed 7/15/21, effective 8/15/21)

WAC 388-826-0043 When must an individual instruction and support plan be developed or revised? (1) ~~((If a client is receiving out-of-home services in a staffed residential home or children's SOLA, the))~~ The provider must develop and implement an individual instruction and support plan for each client they support.

(2) The provider must develop and implement a client's instruction and support plan no more than 30 days after the client begins receiving ~~((out-of-home))~~ services.

(3) The provider must revise a client's individual instruction and support plan:

(a) As goals are achieved or as the client's assessed needs change;

(b) At least semiannually; and

(c) If requested by the client or the client's parent or legal ~~((guardian))~~ representative.

AMENDATORY SECTION (Amending WSR 21-15-059, filed 7/15/21, effective 8/15/21)

WAC 388-826-0044 What requirements must the individual instruction and support plan meet? The individual instruction and support plan must:

(1) Describe habilitation goals that the provider and client will work on together while the provider supports the client;

(2) List the instruction and support activities the provider will provide to the client and explain how those activities meet the assessed needs identified in the client's person-centered service plan; ~~((and))~~

(3) Describe other relevant support and service information ~~((.-))~~ ; and

(4) For clients over age 16, include a plan for promoting independent living skills, including financial readiness education.

AMENDATORY SECTION (Amending WSR 21-15-059, filed 7/15/21, effective 8/15/21)

WAC 388-826-0070 What are ~~((the department's))~~ DDA's responsibilities for a client ~~((receiving))~~ in the out-of-home services program? When a client receives services through the out-of-home services program, ~~((the department))~~ DDA must:

(1) Facilitate the development of the child and family engagement plan under WAC ~~((388-826-0041))~~ 388-826-0560 before the start of service and at each annual assessment;

(2) Visit the client in their ~~((licensed or certified))~~ setting at least every ~~((ninety))~~ 90 days;

(3) Develop the client's person-centered service plan as required under WAC 388-845-3055;

(4) Assist families to access a client's medically necessary physical or behavioral health benefits, which may include attending care conferences and sharing information with medicare, medicaid, or private health insurance representatives for purposes of care coordination;

(5) Assist families to access a client's necessary educational services, which may include attending school meetings;

(6) Monitor the client's ~~((out-of-home))~~ services by:

(a) Facilitating individual team meetings ~~((using a wraparound planning model))~~ on a quarterly basis;

(b) Reviewing the individual instruction and support plan;

(c) Reviewing the quarterly report;

(d) Reviewing incident reports and follow-up measures involving the client; and

(e) Authorizing payment for services~~((+))~~ .

~~((f)) Completing annual quality assurance assessments of staffed residential providers and children's state-operated living alternative providers; and~~

~~((g)) Contracting with evaluators to complete certification evaluations of children's state-operated living alternative providers.))~~

~~((+6))~~ (7) Determine eligibility for medicaid coverage under chapters 182-513 and 182-515 WAC;

~~((+7))~~ (8) Determine the client's participation ~~((and room and board))~~ amount, if any;

~~((+8))~~ (9) Monitor the provider to ensure the provider complies with contract requirements, which includes compliance with DDA policies; and

~~((+9))~~ (10) Refer a client for a nurse delegation assessment by a registered nurse delegator, if ~~((requested by the provider))~~ required under chapter 246-945 WAC.

AMENDATORY SECTION (Amending WSR 21-15-059, filed 7/15/21, effective 8/15/21)

WAC 388-826-0071 What are the responsibilities of the ~~((licensed or certified))~~ provider supporting a client ~~((receiving))~~ in the out-of-home services program? ~~((+1))~~ When a client is ~~((receiving))~~ in the out-of-home services program, the ~~((licensed or certified))~~ provider must:

~~((a))~~ (1) Ensure the health and safety of the client;
~~((b))~~ (2) Provide adequate staff to meet the needs of clients as identified in the rate assessment;
~~((c))~~ ~~Meet the requirements of each contract entered into with the department;~~
~~((d))~~ (3) Develop and implement an individual instruction and support plan(~~,~~ unless the client is receiving out-of-home services from a child foster home provider or a group care facility for medically fragile children));
~~((e))~~ (4) Complete quarterly reports (~~(under subsection (2) or subsection (3) of this section)~~) as outlined under WAC 388-826-0520;
~~((f))~~ (5) Participate in the development of the child and family engagement plan with the client, the client's parent or legal (~~guardian~~) representative, and social service specialist;
~~((g))~~ (6) Implement the child and family engagement plan;
~~((h))~~ (7) Support the client in regular school attendance, including following the school's reporting requirements when the client is absent or has an appointment during the school day;
~~((i))~~ (8) With the parent or legal representative's consent, maintain regular communication with school representatives and attend school-related meetings;
(9) Participate in the client's individualized education program and collaborate with the school and parent or legal representative to ensure timely and continuous access to a free and appropriate public education in the least restrictive environment;
~~((j))~~ ~~Attend all school-related meetings;~~
~~((k))~~ ~~With the parent or legal guardian's consent, maintain regular communication with school representatives;~~
~~((l))~~ (10) Maintain regular communication with the client's parent or legal (~~guardian~~) representative; and
~~((m))~~ (11) Develop and practice evacuation plans in case of fire, natural disaster, or other emergencies in accordance with WAC 388-826-0420(~~(n))~~ ;
~~((i))~~ ~~WAC 110-145-1670 for staffed residential and group care facilities for medically fragile children; or~~
~~((ii))~~ ~~WAC 110-148-1460 for child foster homes;~~)
~~((n))~~ (12) Maintain a client rights policy in accordance with chapter 71A.26 RCW;
(13) Request an assessment for nurse delegation if the client needs medication administration; and
~~((o))~~ (14) If the ((client is in a staffed residential home or children's SOLA)) provider receives funding for community inclusion activities for the client, the provider must:
~~((i))~~ (a) Discuss and schedule community inclusion activity options with the client; and
~~((ii))~~ (b) Track, and make available to ((the department)) DDA upon request, the client's participation in community inclusion activities, including:
~~((A))~~ (i) Date of each activity;
~~((B))~~ (ii) Cost of each activity; and
~~((C))~~ (iii) A running balance of the client's community inclusion activities funds(~~(p))~~ .
~~((p))~~ ~~Request an assessment for nurse delegation if the client needs medication administration.~~
~~(2) Quarterly reports from a staffed residential provider, a children's SOLA, or group care facility for medically fragile children must:~~

~~(a) Be submitted to DDA and sent to the client's parent or legal guardian no more than ten business days after the end of each quarter; and~~

~~(b) Include:~~

~~(i) A summary of the client's progress toward habilitation goals identified in the individual instruction and support plan;~~

~~(ii) An update regarding the child and family engagement plan, including a summary of family visits;~~

~~(iii) A summary of incident reports, if any;~~

~~(iv) School progress, including individualized education program updates;~~

~~(v) Any significant changes in the client's condition or prescribed medications; and~~

~~(vi) A summary of the client's participation in community inclusion activities.~~

~~(3) Quarterly reports from a child foster home provider must:~~

~~(a) Be submitted to DDA and sent to the client's parent or legal guardian no more than ten business days after the end of each quarter; and~~

~~(b) Include:~~

~~(i) The client's progress toward their habilitation goal;~~

~~(ii) A list of community and other activities the client has participated in;~~

~~(iii) An update regarding the child and family engagement plan, including a summary of family visits;~~

~~(iv) School progress, including individualized education program updates; and~~

~~(v) Any significant changes in the client's condition or prescribed medications.))~~

AMENDATORY SECTION (Amending WSR 21-15-059, filed 7/15/21, effective 8/15/21)

WAC 388-826-0072 What training must ~~((direct care staff of))~~ a staffed residential home provider complete? To ~~((provide direct))~~ support ~~((to))~~ a client ~~((receiving))~~ in the out-of-home services program, a direct ~~((care staff))~~ support professional of a staffed residential home must complete:

(1) Training required under chapter 110-145 WAC;

(2) Training and continuing education required under chapter 388-829 WAC;

(3) Client-specific training based on the individual instruction and support plan; and

(4) Nurse delegation training ~~((under chapter 246-888 WAC, if applicable))~~ if the client needs delegation and criteria are met under WAC 246-840-930.

AMENDATORY SECTION (Amending WSR 21-15-059, filed 7/15/21, effective 8/15/21)

WAC 388-826-0073 What training must a child foster home provider complete? To support a client (~~((receiving))~~) in the out-of-home services program, a child foster home provider must complete:

(1) Training required to maintain licensing under chapter 110-148 WAC; and

(2) Nurse delegation training (~~((under chapter 246-888 WAC, if applicable))~~) if the client needs delegation and criteria are met under WAC 246-840-930.

AMENDATORY SECTION (Amending WSR 21-15-059, filed 7/15/21, effective 8/15/21)

WAC 388-826-0074 What training must a children's state-operated living alternative provider complete? (1) To provide direct support to a client (~~((receiving))~~) in the out-of-home services program, a direct support professional at a children's state-operated living alternative (~~((provider))~~) must complete:

(a) Training and continuing education required under chapter 388-829 WAC;

(b) Training (~~((required under WAC 388-101D-0090 through WAC 388-101D-0110))~~) according to the timelines in chapter 388-101D WAC; and

(c) Nurse delegation training (~~((under chapter 246-888 WAC, if applicable))~~) if delegation criteria are met under WAC 246-840-930.

(2) The provider must ensure that each employee providing direct support keeps their first-aid training, CPR certification, food worker card, and bloodborne pathogens training current.

HEALTH AND SAFETY

NEW SECTION

WAC 388-826-0390 What water temperature safety measures must be met? (1) The provider must regulate the facility's water temperature no higher than 120 degrees Fahrenheit.

(2) The provider must complete and document monthly water temperature checks.

NEW SECTION

WAC 388-826-0400 What infection control practices must the provider implement? (1) The provider must have written policies and procedures about the control of infections. These must include, but are not limited to, the following areas:

- (a) Isolation of sick individuals;
 - (b) Germ control procedures;
 - (c) Hygiene, including hand washing, toileting, and laundering;
 - (d) Prevention of the transmission of communicable diseases including management and reporting;
 - (e) First aid;
 - (f) Care of minor illnesses;
 - (g) Actions to be taken for medical emergencies; and
 - (h) General health practices.
- (2) The provider must promote personal hygiene to help prevent the spread of germs.

(3) The provider must provide staff with the supplies necessary for limiting the spread of infections.

(4) Staff with a reportable communicable disease or a notifiable disease condition in an infectious stage, as defined by the department of health in chapter 246-101 WAC, must not be on duty until they have a healthcare professional's approval for returning to work.

NEW SECTION

WAC 388-826-0410 What are the fire drill requirements for providers? (1) The provider must conduct a fire drill at least once each month at varying times of the day and night so that staff on all shifts practice the procedures with the clients they support.

(2) The provider must maintain a written record on the premises that indicates the date and time each fire drill is completed.

(3) If a provider supports a nonambulatory child, the provider must consult with and follow the Washington state patrol/fire protection bureau (WSP/FPB) protocol for simulated fire drills.

NEW SECTION

WAC 388-826-0420 What must the provider do to prepare for emergency evacuations? (1) The provider must display an emergency evacuation plan in a common area on every floor of the home.

(2) The emergency evacuation plan must include:

- (a) A floor plan of the home with clearly marked exits;
- (b) Emergency evacuation routes; and
- (c) The location for the clients to meet outside the home.

(3) The provider must be able to evacuate all clients to a safe location outside the home.

(4) If a client requires assistance during an evacuation, the provider's evacuation plan must describe the type of assistance that will be provided.

NEW SECTION

WAC 388-826-0430 What are the requirements for storing chemicals and other substances? (1) The provider must safely secure cleaning supplies, flammables, and other combustible materials, toxic or poisonous substances, and aerosols.

(2) If a container is filled with a toxic substance from a bulk supply, the provider must clearly label the container.

NEW SECTION

WAC 388-826-0440 How must the provider store medication? (1) The provider must store a client's medication:

- (a) In a locked container, such as a lockbox;
- (b) Separate from food and toxic chemicals;
- (c) Under proper conditions for sanitation, temperature, and ventilation; and
- (d) In the original medication container with the pharmacist-prepared or manufacturer's label, which must include the:
 - (i) Name of the client for whom the medication is prescribed;
 - (ii) Name of the medication; and
 - (iii) Dosage and frequency.

(2) The provider may store a client's medication in a medication organizer if the medication organizer was prepared by a pharmacist or registered nurse.

(3) Life-saving medications must be accessible in an emergency.

NEW SECTION

WAC 388-826-0450 When and how must the provider dispose of medication? (1) The provider must follow the Food and Drug Administration guidelines on proper disposal of medications.

(2) When disposing a client's medication, the provider must list the:

- (a) Client's name;
 - (b) Medication name;
 - (c) Amount disposed; and
 - (d) Date of disposal.
- (3) Two people must verify the disposal by signature.

NEW SECTION

WAC 388-826-0460 What must the provider do if a client refuses a prescribed medication? If a client refuses a prescribed medication, the provider must:

(1) Document the refusal, including the time, date, and medication refused;

- (2) Inform the client of the benefit of the medication;
- (3) Consult a pharmacist or licensed medical provider with prescription authority to determine if medication refusal could significantly harm the client;
- (4) If recommended, continue to offer the medication following consultation with subsection (3) of this section; and
- (5) Inform the client's parent or legal representative of the refusal and any reasons for the refusal if shared by the client.

FACILITY REQUIREMENTS

NEW SECTION

WAC 388-826-0470 What fire safety requirements must the facility meet? (1) The provider must be located in an area with public fire protection.

(2) The provider must have working smoke and carbon monoxide detectors installed. Each smoke and carbon monoxide detector must address the needs of clients who are deaf or hard of hearing.

(3) Smoke detectors must:

(a) Be in operating condition both inside and outside of all sleeping areas.

(b) Be installed on each story of the facility, in all play areas, and in the basement.

(c) Be installed and maintained according to the manufacturer's specifications.

(d) If mounted on a wall, be 12 inches from the ceiling and a corner.

(e) Be tested twice a year to ensure they are in working order. The provider must document the date and time of the test.

(4) Carbon monoxide detectors must be located in or near each client's bedroom and on every floor of the facility.

(5) The provider must have at least one approved 2A10BC-rated five pound or larger all-purpose (ABC) fire extinguisher readily available at all times. "Approved 2A10BC-rated" means a fire extinguisher with an underwriters laboratory label on the nameplate classifying the extinguisher as 2A10BC-rated or larger.

(6) The provider must maintain and service fire extinguishers according to manufacturer's specifications.

(7) An approved fire extinguisher must be located in the area of the normal path of exiting. The maximum travel distance to an extinguisher from any place on the premises must not exceed 75 feet. When the travel distance exceeds 75 feet, additional extinguisher(s) are required.

(8) The provider must install at least one fire extinguisher on each floor of a multilevel facility.

(9) Fire extinguishers must:

(a) Be mounted in a bracket or in a fire extinguisher cabinet so that the top of the extinguisher is no more than five feet above the floor; and

(b) Receive an annual maintenance certification by a licensed firm specializing in this work, based on the manufacturer's recommended schedule. Maintenance means a thorough check of the extinguisher for:

- (i) Mechanical parts;
- (ii) Extinguishing agent; and
- (iii) Expelling means.

(10) New fire extinguishers do not need to receive an additional certification test during the first year.

(11) DDA may require that additional fire extinguishers be available on the premises, in consultation with the local fire authority or Washington state patrol's fire protection bureau.

NEW SECTION

WAC 388-826-0480 What other requirements must the facility meet?

(1) The provider must maintain buildings, premises, and equipment in a clean and sanitary condition, free of hazards, and in good repair. The provider must ensure the facility has:

(a) Handrails for steps, stairways, and ramps if identified as a safety need.

(b) Appropriate furnishings, based on the age and activities of the client supported.

(c) Washable, water-resistant floors in bathrooms, kitchens, and other rooms exposed to moisture. Washable short-pile carpeting may be approved in kitchen areas if kept clean and sanitary.

(d) Tamper-proof or tamper-resistant electrical outlets or blank covers installed in areas accessible to clients who might be endangered by access to them.

(e) Easy access to the outdoors and rooms occupied by children in case an emergency arises.

(f) Non-breakable light fixture covers or shatter-resistant light bulbs or tubes in food preparation and dining areas.

(2) Adequate indoor and outdoor space, ventilation, light, and heat to ensure the health and comfort of all members of the household.

(3) The bathroom facilities must include:

(a) Toilets, urinals, and handwashing sinks appropriate to the height for the clients supported, or have a safe and easily cleaned step stool or platform that is water-resistant; and

(b) Soap and clean towels, disposable towels, or other approved hand-drying devices.

(4) The cleanliness and care of the premises must meet generally accepted health standards for the storage and preparation of food.

(5) The provider must make reasonable attempts to keep the premises free from pests, such as rodents, flies, cockroaches, fleas, and other insects using the least toxic methods.

(6) The provider must have an immediate plan to address hazardous conditions on the property or in the facility.

(7) The facility must be accessible to emergency vehicles and the address must be clearly visible on the facility or mailbox so that first responders can easily find the facility.

(8) The facility must be located on a well-drained site, free from hazardous conditions.

(9) Utility rooms with mop sinks that do not have windows opening to the outside must be ventilated with a mechanical exhaust fan to the outside of the building.

(10) The use of window blinds or other window coverings with pull cords capable of forming a loop and posing a risk of strangulation to children are prohibited under RCW 43.216.380.

AMENDATORY SECTION (Amending WSR 21-15-059, filed 7/15/21, effective 8/15/21)

WAC 388-826-0075 What are a parent or legal ((guardian's)) representative's responsibilities while the client ((receives)) is in the out-of-home services program? While a client ((receives)) is in the out-of-home services program, the client's parent or legal ((guardian)) representative must:

(1) Maintain weekly contact with the ((child)) client and actively participate in care planning;

(2) Participate in the development and ongoing assessment of the client's individual educational plan and maintain regular communication and collaboration with the provider and school representatives to ensure timely and continuous access to a free and appropriate public education in the least restrictive environment;

(3) Coordinate ((all)) and maintain medically necessary physical or behavioral health benefits available through private insurance, medicare, or the medicaid state plan;

~~(4) ((Apply for income and benefits available to the child;~~

~~(5))~~ Participate in:

(a) The development and implementation of the child and family engagement plan;

(b) ((Team)) Individual team meetings; and

(c) The DDA annual assessment, including the person-centered service plan; ((and))

~~((6) Establish a representative payee to manage the client's social security or supplemental security income and comply with the client responsibility and basic expenses required in this chapter.))~~

(5) Ensure management of the client's finances and benefits, including:

(a) Apply for income and benefits available to the client;

(b) Manage, or appoint a representative payee to manage, the client's social security or supplemental security income in accordance with federal social security rules and in accordance with the client responsibility and basic expenses required in this chapter; and

~~((7))~~ (c) Ensure payment of the client responsibility or basic expenses. Nonpayment may jeopardize the client's services with a provider.

WAC 388-826-0077 May a client (~~(who is receiving)~~) in the out-of-home services program also receive respite services? (1) A client (~~(receiving)~~) in the out-of-home services program in a child foster home may be eligible for respite services under chapter 388-828 WAC.

(2) A client (~~(receiving)~~) in the out-of-home services program in a staffed residential, children's SOLA, or group home for medically fragile children is not eligible for respite services.

RECORDKEEPING

NEW SECTION

WAC 388-826-0520 What are the quarterly report requirements?

(1) A quarterly report from a staffed residential provider, a children's SOLA, or group care facility for medically fragile children must:

(a) Be submitted to DDA and sent to the client's parent or legal representative no more than 10 business days after the end of each quarter; and

(b) Include:

(i) A copy of the client's current positive behavior support plan and individual instruction and support plan, including progress charts or graphs;

(ii) A document that tracks community inclusion activities and a running balance of funds;

(iii) A brief summary of progress toward habilitation goals listed in the individual instruction and support plan;

(iv) A summary of target behaviors and any notable observations;

(v) Description of significant incidents;

(vi) Total number and type of physical interventions implemented;

(vii) Integrated settings modifications being requested, if any;

(viii) Any significant changes in the client's condition or prescribed medications;

(ix) Summary of school participation;

(x) Additional resources needed to support the client; and

(xi) A summary of staff training hours per month if the client receives enhanced out-of-home services.

(2) Quarterly reports from a child foster home provider must:

(a) Be submitted to DDA and sent to the client's parent or legal representative no more than 10 business days after the end of each quarter; and

(b) Include:

(i) A brief summary of progress toward habilitation goals listed in the individual instruction and support plan;

- (ii) Description of significant incidents;
- (iii) A list of community and other activities the client has participated in;
- (iv) Any significant changes in the client's condition or prescribed medications;
- (v) Summary of school participation; and
- (vi) Resources the provider needs to support the client.

NEW SECTION

WAC 388-826-0530 Must the provider keep a record of a client's property? The provider must maintain current, written property records. The record must consist of:

- (1) A list of personal possessions with a value of at least \$25.00 that the client owns when moving into the program;
- (2) A list of personal possessions with a value of \$75.00 or more per item after the client moves into the program;
- (3) Description and identifying numbers, if any, of the property.

NEW SECTION

WAC 388-826-0540 What records must the provider keep and how long must the record be retained? (1) The provider must keep the following in the client's record:

- (a) Referral packet contents;
 - (b) Service notes;
 - (c) The client's individual instruction and support plan;
 - (d) The client's positive behavior support plan;
 - (e) Signed out-of-home services acknowledgment;
 - (f) Child and family engagement plan;
 - (g) Log of client expenses for community inclusion;
 - (h) Medication records; and
 - (i) Incident reports.
- (2) The provider must retain a client's records for at least six years after delivering services to the client.

AMENDATORY SECTION (Amending WSR 21-15-059, filed 7/15/21, effective 8/15/21)

WAC 388-826-0095 What must a client pay toward the cost of ~~((out-of-home))~~ services in a staffed residential home, a children's SOLA, or a group care facility? (1) To receive ~~((out-of-home))~~ services in a staffed residential home, a children's SOLA, or a group care facility for medically fragile children, a client may be required to pay client responsibility as required under this section.

(2) ~~((The department))~~ DDA determines the amount of client responsibility and ~~((room and board))~~ participation a client must pay under:

- (a) WAC 182-515-1510 if the client is enrolled on a DDA home and community-based services (HCBS) waiver under chapter 388-845 WAC; or
- (b) WAC 182-513-1235 if the client is enrolled in roads to community living under chapter 388-106 WAC.

AMENDATORY SECTION (Amending WSR 21-15-059, filed 7/15/21, effective 8/15/21)

WAC 388-826-0096 What must a client pay toward the cost of ~~((out-of-home))~~ services in a child foster home? (1) To receive ~~((out-of-home))~~ services in a child foster home, a client must pay the provider a fixed monthly amount referred to as basic expenses, which must be outlined in a basic expense agreement.

(2) The written basic-expense agreement must include:

- (a) Monthly amounts for rent, utilities, and food costs; and
- (b) The day of the month the payment is due to the provider.

(3) The total monthly obligation in the basic-expense agreement must not exceed the client's available income minus the personal needs allowance under WAC 182-513-1105(5).

(4) Before the client moves into the child foster home, the basic-expense agreement must be:

(a) Signed by the client's parent or legal ~~((guardian))~~ representative;

(b) Signed by the provider; and

(c) Sent to DDA.

(5) Changes to the basic-expense agreement must be reviewed by DDA before implementation.

AMENDATORY SECTION (Amending WSR 21-15-059, filed 7/15/21, effective 8/15/21)

WAC 388-826-0097 What expenses must a parent or legal ~~((guardian))~~ representative pay for while their child ~~((receives))~~ is in the out-of-home services program? ((A)) While their child is in the out-of-home services program, a parent or legal ~~((guardian))~~ representative remains financially responsible for all expenses for their minor child that are not included in ~~((out-of-home services))~~ client responsibility.

AMENDATORY SECTION (Amending WSR 21-15-059, filed 7/15/21, effective 8/15/21)

WAC 388-826-0098 What does ~~((the department))~~ DDA pay ~~((toward))~~ when a client is in the out-of-home services program? (1) For a client residing in a staffed residential home, a children's SOLA, or a group care facility for medically fragile children, ~~((the department))~~ DDA pays the cost of ~~((the out-of-home))~~ services minus the amount of client responsibility under WAC ~~((388-826-0095))~~ 388-826-0610.

(2) For a client residing in a child foster home, ~~((the department))~~ DDA pays the cost of ~~((the out-of-home))~~ services minus basic expenses under WAC ~~((388-826-0096))~~ 388-826-0620.

RATES

AMENDATORY SECTION (Amending WSR 21-15-059, filed 7/15/21, effective 8/15/21)

WAC 388-826-0130 How does ~~((the department))~~ DDA determine the rate to support a client in a child foster home? (1) ~~((The department))~~ DDA determines the rate that is paid to support a client in a child foster home by conducting a child foster home rate assessment.

(2) DDA conducts the child foster home rate assessment with the child foster home provider before ~~((out-of-home))~~ services begin.

AMENDATORY SECTION (Amending WSR 21-15-059, filed 7/15/21, effective 8/15/21)

WAC 388-826-0133 What is the representative payee's role? The representative payee:

(1) Manages the client's social security or supplemental security income;

(2) Uses the client's income to contribute toward the cost of the client's participation ~~((and room and board))~~;

(3) Places the client's personal needs allowance and any conserved funds in a payee account; and

(4) Monitors the child's payee account to maintain eligibility for supplemental security income and medicaid.

AMENDATORY SECTION (Amending WSR 21-15-059, filed 7/15/21, effective 8/15/21)

WAC 388-826-0138 What questions are in the child foster home rate assessment and how are responses scored? (1) The child foster home rate assessment consists of ~~((thirteen))~~ 13 questions.

(2) Scores are based on the parent or legal ~~((guardian's))~~ representative's report, natural supports available, documented support plans (e.g., nursing, physical therapy, occupational therapy), and report of care provided by the child foster home provider.

(3) The assessment excludes any additional paid supports provided, such as nursing and therapies.

(4) The hours are assessed against the number of hours expected to support a typically developing child the same age as the client.

(5) Daily living: What is the average number of hours per day spent supporting the client with daily living tasks like dressing, grooming, toileting, feeding, and providing specialized body care? Do not include private duty nursing hours in this average.

Hours per day	Score
0 to 1	30
2 to 5	91
6 to 9	213
10 to 20	396
Over 20	609

(6) Physical needs: What is the average number of hours per day spent providing assistance to the client that is not included in the "daily living" category (~~above~~) in this section? Examples include assistance with: Mobility; prosthetics; communication; other assistive devices; airway management (monitors, ventilators); pressure sores; and enteral nutrition. Do not include private duty nursing hours in this average.

Hours per day	Score
0 to 1	30
2 to 5	91
6 to 20	274
Over 20	609

(7) Behavioral needs: What is the average number of hours per day spent providing behavioral, emotional, and mental health supports to the client? Do not include hours under subsection (8)(b) of this section in this average.

Hours per day	Score
0 to 1	30
2 to 5	91
6 to 13	335
14 to 24	578
Over 24	731

(8) Therapeutic plan: What is the average number of hours per week spent implementing a plan prescribed by a professional related to the child's physical, behavioral, emotional, or mental health therapy? The foster parent must provide a copy of each plan to the assessor.

(a) What is the average number of hours per week spent providing or attending physical, occupational, and speech therapy?

Hours per week	Score
0 to 1	4
2 to 3	13
4 to 9	30
10 to 46	65
Over 46	390

(b) What is the average number of hours per week spent participating in or implementing services identified in the client's behavio-

ral support plan, such as applied behavior analysis (ABA) or counseling?

Hours per week	Score
0 to 1	4
2 to 3	13
4 to 19	48
20 to 60	104
Over 60	390

(9) Appointments: What is the average number of hours per week spent scheduling, traveling to and from, and participating in appointments? The foster parent must provide documentation of appointments to the assessor.

(a) What is the average number of hours per week spent scheduling, traveling to and from, and participating in doctor visits, dental visits, rehabilitation, and therapy visits?

Hours per week	Score
0 to 1	4
2 to 5	13
6 to 14	39
Over 14	82

(b) What is the average number of hours per week spent scheduling, traveling to and from, and participating in community activities, such as recreation, leisure, sports, and extra-curricular activities?

Hours per week	Score
0 to 1	4
2 to 3	13
4 to 7	30
8 to 20	48
Over 20	130

(10) House care: What is the average number of times per week spent repairing, cleaning, and replacing household items and medical equipment, over and above normal wear and tear, due to:

(a) A chronic medical condition?

Times per week	Score
0 to 1	6
2 to 7	24
8 to 19	58
20 to 38	91
Over 38	238

(b) Destructive behavior?

Times per week	Score
0 to 1	6
2 to 3	15
4 to 9	28
10 to 22	58
Over 22	162

(11) Development and socialization skills: What is the average number of hours per week spent providing guidance and assistance?

(a) What is the average number of hours per week spent helping with homework and learning new activities?

Hours per week	Score
0 to 1	4
2 to 3	13
4 to 11	30
12 to 30	87
Over 30	249

(b) What is the average number of hours per week spent interacting with other professionals, such as meeting with teachers, visiting the client's school, speaking on the phone with school personnel, participating in individual education plan development and review?

Hours per week	Score
0 to 1	4
2 to 3	13
4 to 5	22
6 to 12	30
Over 12	82

(c) What is the average number of hours per week spent developing socialization and functional life skills, like making positive choices, being accountable, managing money, exploring the community, and relating to peers, adults, and family members?

Hours per week	Score
0 to 1	4
2 to 7	22
8 to 19	56
20 to 60	173
Over 60	403

(12) Child and family engagement plan: What is the average number of hours per week spent coordinating the child and family engagement plan? The plan must be available for review by the assessor.

Hours per week	Score
0 to 1	4
2 to 3	13
4 to 12	30
Over 12	82

AMENDATORY SECTION (Amending WSR 21-15-059, filed 7/15/21, effective 8/15/21)

WAC 388-826-0145 How does DDA determine the assessed level from the raw score in the child foster home rate assessment? (1) The following are the assessed levels based on the range of aggregate scores:

Level	Low Score	High Score
1	0	320
2	321	616
3	617	1501
4	1502	2085
5	2086	2751
6	2752	999999

(2) A standardized rate for out-of-home services is assigned to levels one through six.

(3) The standardized rate is published by DDA and is paid monthly to the child foster home provider.

AMENDATORY SECTION (Amending WSR 21-15-059, filed 7/15/21, effective 8/15/21)

WAC 388-826-0150 What happens if a client who is receiving ~~((out-of-home))~~ services in a child foster home experiences a significant change? (1) If a client who is receiving ~~((out-of-home))~~ services in a child foster home experiences a significant change, DDA conducts:

- (a) A reassessment under WAC 388-828-1500; and
- (b) A child foster home rate assessment.

(2) If the child foster home rate assessment results in a rate change, the foster parent receives a ~~((thirty))~~ 30-day written notice that includes the effective date of the change.

AMENDATORY SECTION (Amending WSR 21-15-059, filed 7/15/21, effective 8/15/21)

WAC 388-826-0160 Are child foster home rates appealable? A child foster home rate is not appealable through the administrative hearing process.

AMENDATORY SECTION (Amending WSR 21-15-059, filed 7/15/21, effective 8/15/21)

WAC 388-826-0170 How does ~~((the department))~~ DDA determine the rate to support a client in a staffed residential home? (1) ~~((The department))~~ DDA determines the rate to support a client in a staffed residential home by assessing the client's identified needs.

(2) ~~((The department))~~ DDA completes a rate assessment, which consists of four cost centers:

- (a) Administrative and nonstaff costs, including transportation and damage reimbursement, if applicable;
- (b) Funds for community inclusion activities ~~((as outlined in WAC 388-826-0005))~~;

- (c) Consultant and training costs; and
- (d) Instruction and support services, which are determined by assessing a client's identified needs and supervision in the following areas:
 - (i) Activities of daily living as defined in WAC 388-106-0010;
 - (ii) Instrumental activities of daily living as defined in WAC 388-106-0010; and
 - (iii) ~~((Behavioral support))~~ Support and supervision.
- (3) Instruction and support services provided by the school district are not included in the rate assessment to support a client in ~~((a-staffed-residential-home))~~ the out-of-home services program.
- (4) A rate assessment must be completed before start of services, if a significant change occurs, or when the household composition changes.

AMENDATORY SECTION (Amending WSR 21-15-059, filed 7/15/21, effective 8/15/21)

WAC 388-826-0175 What does ~~((the-department))~~ DDA pay a group care facility for medically fragile children that is providing ~~((out-of-home))~~ services to a client? (1) To support a client receiving ~~((out-of-home))~~ services in a group care facility for medically fragile children, ~~((the-department))~~ DDA pays the provider a DDA-established, per-person, monthly rate.

(2) ~~((Out-of-home))~~ Program services must not replace or duplicate services or benefits available through private insurance, medicare, or the medicaid state plan.

(3) Program services must not replace or duplicate education and related services available through a state or local education agency.

TERMINATION AND CHANGE IN PROVIDER

AMENDATORY SECTION (Amending WSR 21-15-059, filed 7/15/21, effective 8/15/21)

WAC 388-826-0200 What happens if a ~~((licensed))~~ provider ~~((terminates))~~ decides to stop providing services to a ~~((client's out-of-home-services))~~ client? (1) If a ~~((licensed))~~ provider ~~((terminates))~~ decides to stop providing services to a ~~((client's out-of-home-services))~~ client, the provider must:

(a) Notify the client's parent or legal ~~((guardian))~~ representative, ~~((the-department, and the client's school))~~ and DDA in writing at least ~~((thirty))~~ 30 days before the termination;

(b) Provide one of the following ~~((termination))~~ reasons:

(i) The provider cannot meet the needs of the client;

(ii) The client's safety or the safety of other people in the home or facility is endangered;
(iii) The client's health or the health of other people in the home or facility would otherwise be endangered; or
(iv) The provider ceases to operate; and
(c) Participate in the development of a transition plan.
(2) If a ~~((licensed))~~ provider ~~((terminates))~~ decides to stop providing services to a ~~((client's out-of-home services))~~ client, ~~((the department assesses))~~ DDA will assess the client's health and welfare needs and ~~((authorizes))~~ authorize services within the scope of the home and community-based services waiver identified in the client's person-centered service plan.

AMENDATORY SECTION (Amending WSR 21-15-059, filed 7/15/21, effective 8/15/21)

WAC 388-826-0205 What happens when a client, parent, or legal ~~((guardian))~~ representative requests a different provider? (1) A client, parent, or legal ~~((guardian))~~ representative requesting a change in provider must notify the DDA social service specialist and provider.

(2) DDA will work with the parent or legal ~~((guardian))~~ representative to determine whether the parent or legal ~~((guardian's))~~ representative's concerns can be addressed with the current provider.

(3) If the parties do not come to a resolution:

(a) The client may return to the family home until a qualified residential service provider is identified; or

(b) The client may remain with the current provider until another qualified provider is selected by the parent or legal ~~((guardian))~~ representative.

AMENDATORY SECTION (Amending WSR 21-15-059, filed 7/15/21, effective 8/15/21)

WAC 388-826-0230 ~~((When may))~~ May a client age ~~((eighteen))~~ 18 or older ~~((continue to))~~ receive residential habilitation services through the out-of-home services program? (1) A client age ~~((eighteen))~~ 18 or older may ~~((continue receiving))~~ receive residential habilitation services through the out-of-home services program if the client is:

~~((1))~~ (a) Under ~~((the))~~ age ~~((of twenty-one))~~ 21;

~~((2))~~ (b) Receiving residential habilitation services ~~((out-of-home services))~~ the day before their ~~((eighteenth))~~ 18th birthday; and

~~((3))~~ (c) ~~((Pursuing a high))~~ Participating in continued public school services, ~~((or))~~ pursuing a high school equivalency ~~((course of study))~~ certificate (GED/HSEC), or participating in a vocational program.

(2) If a client over age 18 and under 21 is no longer pursuing their GED, HSEC, or attending a vocational program, DDA will begin the process of transitioning the client to adult services.

AMENDATORY SECTION (Amending WSR 21-15-059, filed 7/15/21, effective 8/15/21)

WAC 388-826-0240 Who may appeal a ((department)) DDA action? A client, the client's parent, or the client's legal ((guardian)) representative may appeal ~~((an action under chapter 182-526 WAC or))~~ DDA decisions under WAC 388-825-120.

NEW SECTION

The following sections of the Washington Administrative Code are decodified and recodified as follows:

Old WAC Number	New WAC Number
388-826-0010	388-826-0300
388-826-0016	388-826-0330
388-826-0018	388-826-0570
388-826-0019	388-826-0750
388-826-0040	388-826-0550
388-826-0041	388-826-0560
388-826-0043	388-826-0490
388-826-0044	388-826-0500
388-826-0070	388-826-0580
388-826-0071	388-826-0590
388-826-0072	388-826-0360
388-826-0073	388-826-0370
388-826-0074	388-826-0380
388-826-0075	388-826-0600
388-826-0077	388-826-0510
388-826-0095	388-826-0610
388-826-0096	388-826-0620
388-826-0097	388-826-0630
388-826-0098	388-826-0640
388-826-0130	388-826-0660
388-826-0133	388-826-0650
388-826-0138	388-826-0670
388-826-0145	388-826-0680
388-826-0150	388-826-0690
388-826-0160	388-826-0700
388-826-0170	388-826-0710
388-826-0175	388-826-0720
388-826-0200	388-826-0730
388-826-0205	388-826-0740
388-826-0230	388-826-0320

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 388-826-0042	What is an individual financial plan?
WAC 388-826-0078	Who may provide respite services to a client receiving out-of-home services in a child foster home?
WAC 388-826-0079	What limits apply to respite services?
WAC 388-826-0231	What is initial certification?
WAC 388-826-0232	What is standard certification?
WAC 388-826-0233	What is provisional certification?
WAC 388-826-0234	What must a children's state-operated living alternative provider comply with to maintain certification?
WAC 388-826-0235	What if a children's state-operated living alternative provider disagrees with a certification evaluation or certification decision?
WAC 388-826-0236	When may DDA decertify a children's state-operated living alternative provider?
WAC 388-826-0237	How must the children's state-operated living alternative provider participate in the certification evaluation process?