



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: October 20, 2025
TIME: 4:21 PM

WSR 25-21-123

Agency: Department of Social and Health Services, Home and Community Living, DDCS

☒ **Original Notice**

☐ **Supplemental Notice to WSR**

☐ **Continuance of WSR** _____

☒ **Preproposal Statement of Inquiry was filed as WSR 25-14-032 ; 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 Chapter 388-845: Amended: WAC 388-845-0900, 388-845-0910, 388-845-2370, and 388-845-4005

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
November 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 November 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 n/a

Other

Beginning (date and time) noon on October 22, 2025

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

Assistance for persons with disabilities:

Contact Shelley Tencza, Rules Consultant

Phone 360-664-6036

Fax n/a

TTY 711 Relay Service

Email shelley.tencza@dshs.wa.gov

Other

By (date) 5:00 p.m. on November 12, 2025

Purpose of the proposal and its anticipated effects, including any changes in existing rules: DDCS is enacting these changes to clarify waiver service definitions and service limit language across waivers.

Reasons supporting proposal: Under 42 C.F.R. 441.301, DDCS is required to provide assurances to CMS that it will provide waiver-funded services as approved by CMS. Aligning rules with the approved waiver amendments provides those assurances.

Statutory authority for adoption: RCW 71A.12.030, 42 C.F.R. 441.301

Statute being implemented: RCW 71A.12.120

Is rule necessary because of a:

Federal Law?

☒ Yes ☐ No

Federal Court Decision?

☐ Yes ☒ No

State Court Decision?

☐ Yes ☒ No

If yes, CITATION: 42 C.F.R. 441.301

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

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

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting	Leila Graves	P.O. Box 45310, Olympia, WA 98504-5310	360-890-2127
Implementation	Leila Graves	P.O. Box 45310, Olympia, WA 98504-5310	360-890-2127
Enforcement	Leila Graves	P.O. Box 45310, Olympia, WA 98504-5310	360-890-2127

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 Leila Graves
Address P.O. Box 45310, Olympia, WA 98504-5310
Phone 360-890-2127
Fax
TTY 711 Relay Service
Email Leila.graves@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)(e)
(Dictated by statute) |
| ☐ RCW 34.05.310 (4)(c)
(Incorporation by reference) | ☐ RCW 34.05.310 (4)(f)
(Set or adjust fees) |
| ☐ RCW 34.05.310 (4)(d)
(Correct or clarify language) | ☐ 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:

(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:

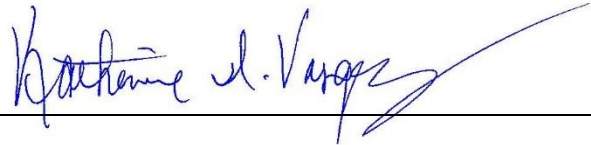
Name
Address
Phone
Fax
TTY
Email
Other

Date: October 14, 2025

Name: Katherine I. Vasquez

Title: DSHS Rules Coordinator

Signature:



AMENDATORY SECTION (Amending WSR 23-18-035, filed 8/29/23, effective 9/29/23)

WAC 388-845-0900 What are environmental adaptations? (1) Environmental adaptations provide minimum necessary physical adaptations to the client's existing home and existing rooms within the home required by the individual's person-centered service plan needed to:

- (a) Ensure the health, welfare, and safety of the individual;
- (b) Enable the individual who would otherwise require institutionalization to function with greater independence in the home; and
- (c) Increase the individual's independence inside or outside the home to allow the individual to physically enter and move within the home.

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

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

(4) Environmental adaptations to the home are not available in provider-owned or provider-leased residential settings.

(5) Adaptations to the home necessary to prevent or repair damage to the structure of the home caused by the participant's behavior, as addressed in the participant's behavior support plan, are available on the children's intensive in-home behavioral support, individual and family services, core, and community protection waivers.

AMENDATORY SECTION (Amending WSR 23-18-035, filed 8/29/23, effective 9/29/23)

WAC 388-845-0910 What limits apply to environmental adaptations? The following service limits apply to environmental adaptations:

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

(2) Environmental adaptations require prior approval by the DDA regional administrator or designee ((~~r~~)).

(3) Environmental adaptations must be supported by itemized and written bids from licensed contractors. For an adaptation that costs:

- (a) \$1,500 or less, one bid is required;
- (b) More than \$1,500 and equal to or less than \$5,000, two bids are required; or
- (c) More than \$5,000, three bids are required.

(4) All bids must include:

- (a) The cost of all required permits and sales tax; and
- (b) An itemized and clearly outlined scope of work.

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

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

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

(8) Environmental adaptations must not be performed while other adaptations or remodeling projects are in process.

(9) Environmental adaptations must not be approved if the existing residence condition is impacted by hazardous mold, asbestos, or home dilapidation.

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

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

(12) Environmental adaptations must not add to the total square footage of the home, convert nonliving space to living space, or create a new room.

(13) The amount of service you may receive is limited to the dollar amounts for aggregate services in your basic plus waiver, CIIBS waiver, or the dollar amount of your annual IFS waiver allocation.

(14) For core and community protection waivers, annual environmental adaptation costs must not exceed \$12,192.

(15) Damage prevention and repairs under the CIIBS, IFS, core, and CP waivers are subject to the following restrictions:

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

(b) Behaviors of waiver participants that resulted in damage to the home must be identified and addressed in a behavior support plan prior to the repair of damages;

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

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

(16) Noncovered environmental adaptations include:

(a) Building fences and fence repairs;

(b) Carpet or carpet replacement;

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

(d) Roof repair or siding;

(e) Deck construction or repair; ((and))

(f) Jetted tubs or saunas ((-)) ; and

(g) Luxury construction materials such as: tile, natural stone, waterfall shower heads, glass shower surrounds, or other similar materials.

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

AMENDATORY SECTION (Amending WSR 23-18-035, filed 8/29/23, effective 9/29/23)

WAC 388-845-2143 What are the limits to specialized evaluation and consultation services? The following limits apply to your receipt of specialized evaluation and consultation:

- (1) You must be enrolled on the community protection waiver.
- (2) Specialized evaluation and consultation support needs must be identified in your DDA assessment and must be documented in your person-centered service plan.
- (3) Specialized evaluation and consultation is limited to services that are:
 - (a) Consistent with waiver objectives of avoiding institutionalization; and
 - (b) Not a covered benefit under the medicaid state plan , including mental health treatment.
- (4) This service must not replace one-on-one, group, or other treatments to address a mental health condition which are covered by the medicaid state plan.
- (5) One-on-one and group skill building that is a component of behavioral health treatment is not covered under specialized evaluation and consultation.

AMENDATORY SECTION (Amending WSR 23-18-035, filed 8/29/23, effective 9/29/23)

WAC 388-845-4005 Can I appeal a denial of my request to be enrolled in a waiver? (1) If you are not enrolled in a waiver and your request to be enrolled in a waiver is denied, your appeal rights are limited to the decision that you are not eligible to have your request documented in a statewide database due to the following:

- (a) You do not need ICF/IID level of care per WAC 388-845-0070, 388-828-8040, and 388-828-8060; ((~~or~~))
 - (b) You requested enrollment in the CIIBS waiver and do not meet CIIBS eligibility per WAC 388-828-8500 through 388-828-8520 ((~~or~~)) ; or
 - (c) You requested enrollment in the IFS waiver and do not meet IFS eligibility per WAC 388-845-0001, 388-845-0030, and 388-845-0100.
- (2) If you are enrolled in a waiver and your request to be enrolled in a different waiver is denied, your appeal rights are limited to the following:
- (a) DDA's decision that the services contained in a different waiver are not necessary to meet your health and welfare needs and that the services available on your current waiver can meet your health and welfare needs; ((~~or~~))
 - (b) DDA's decision that you are not eligible to have your request documented in a statewide database because you requested enrollment in the CIIBS waiver and do not meet CIIBS eligibility per WAC 388-828-8500 through 388-828-8520 ((~~or~~)) ; or
 - (c) DDA's decision that you are not eligible to have your request documented in a statewide database because you requested enrollment in the IFS waiver and do not meet IFS eligibility per WAC 388-845-0001, 388-845-0030, and 388-845-0100.

(3) If DDA determines that the services offered in a different waiver are necessary to meet your health and welfare needs, but there is not capacity on the different waiver, you do not have the right to appeal any denial of enrollment on a different waiver when DDA determines there is not capacity to enroll you on a different waiver.