



**RULE-MAKING ORDER
EMERGENCY RULE ONLY**

**CR-103E (December 2017)
(Implements RCW 34.05.350
and 34.05.360)**

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: January 18, 2019

TIME: 11:31 AM

WSR 19-03-128

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

Effective date of rule:

Emergency Rules

- Immediately upon filing.
- Later (specify) January 24, 2019

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

- Yes No If Yes, explain:

Purpose: The department is enacting amendments to WAC 388-845-1615 on an emergency basis to require homecare agencies to be contracted with Area Agencies on Aging. These amendments align with waiver amendments approved by the Centers for Medicare and Medicaid Services (CMS).

Citation of rules affected by this order:

New: None
 Repealed: None
 Amended: WAC 388-845-1615
 Suspended: None

Statutory authority for adoption: RCW 71A.12.030, RCW 71A.12.120, 42 C.F.R. 441.302

Other authority:

EMERGENCY RULE

Under RCW 34.05.350 the agency for good cause finds:

- That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding: Immediate adoption of these amendments ensures that the Developmental Disabilities Administration (DDA) only contracts with qualified homecare agency providers and thus properly receives federal funds. This is the second emergency rule filing on this subject. DDA is following the permanent rulemaking process to enact this rule on a permanent basis; the rule is scheduled for public hearing on January 8, 2019. This second filing is necessary to keep the rule in effect until after the hearing when DDA files the permanent CR-103 rule-making order.

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	___	Amended	___	Repealed	___
Federal rules or standards:	New	___	Amended	<u>1</u>	Repealed	___
Recently enacted state statutes:	New	___	Amended	___	Repealed	___

The number of sections adopted at the request of a nongovernmental entity:

New ____ Amended ____ Repealed ____

The number of sections adopted on the agency's own initiative:

New ____ Amended ____ Repealed ____

The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New ____ Amended 1 Repealed ____

The number of sections adopted using:

Negotiated rule making:	New	____	Amended	____	Repealed	____
Pilot rule making:	New	____	Amended	____	Repealed	____
Other alternative rule making:	New	____	Amended	<u>1</u>	Repealed	____

Date Adopted: January 8, 2019	Signature: 
Name: Katherine I. Vasquez	
Title: DSHS Rules Coordinator	

WAC 388-845-1615 Who may be qualified providers of respite care?

Providers of respite care may be any of the following individuals or agencies contracted with the developmental disabilities administration (DDA) for respite care:

(1) Individuals who meet the provider qualifications under chapter 388-825 WAC;

(2) ~~((Homecare and))~~ Home health agencies licensed under chapter 246-335 WAC, Part 1;

(3) Homecare agencies licensed under chapter 246-335 WAC, Part 1 and contracted with the area agencies on aging (AAA);

(4) Licensed and contracted group homes, foster homes, child placing agencies, staffed residential homes, and foster group care homes;

~~((4))~~ (5) Licensed and contracted adult family homes;

~~((5))~~ (6) Licensed and contracted adult residential care facilities;

~~((6))~~ (7) Licensed and contracted adult residential treatment facilities under chapter 246-337 WAC;

~~((7))~~ (8) Licensed child care centers under chapter 170-295 WAC;

~~((8))~~ (9) Licensed child day care centers under chapter 170-295 WAC;

~~((9))~~ (10) Adult day care providers under chapter 388-71 WAC contracted with DDA;

~~((10))~~ (11) Certified providers under chapter 388-101 WAC when respite is provided within the DDA contract for certified residential services;

~~((11))~~ (12) A licensed practical nurse (LPN) or registered nurse (RN) acting within the scope of the standards of nursing conduct or practice under chapter 246-700 WAC and contracted with DDA to provide this service; or

~~((12))~~ (13) Other DDA contracted providers such as a community center, senior center, parks and recreation, and summer programs.