



# 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: February 13, 2023

TIME: 10:48 AM

WSR 23-05-063

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

**Effective date of rule:**

**Emergency Rules**

- Immediately upon filing.
- Later (specify)

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

- Yes
  - No
- If Yes, explain:

**Purpose:** These changes are necessary to implement amendments to DDA's home and community-based services (HCBS) waivers as approved by the federal Centers for Medicare and Medicaid Services (CMS). Amendments remove the prohibition to receive employment services and community inclusion services concurrently. Removing "consecutive" from WAC 388-845-0603 aligns the rule with RCW 71A.12.280.

**Citation of rules affected by this order:**

New:  
 Repealed:  
 Amended: WAC 388-845-0603, 388-845-0610, and 388-845-2110  
 Suspended:

**Statutory authority for adoption:** RCW 71A.12.030 and 71A.12.120

**Other authority:** 42 C.F.R. 441.301, Section 1915(c) of the Social Security Act, RCW 71A.12.280

**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:** Filing these amendments on an emergency basis is necessary to ensure federal compliance and maintain federal funding for the state.

**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Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	2	Repealed	_____
Recently enacted state statutes:	New	_____	Amended	1	Repealed	_____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 \_\_\_\_ 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>3</u>	Repealed	

<b>Date Adopted:</b> February 13, 2023	<b>Signature:</b> 
<b>Name:</b> Katherine I. Vasquez	
<b>Title:</b> DSHS Rules Coordinator	

AMENDATORY SECTION (Amending WSR 18-14-001, filed 6/20/18, effective 7/21/18)

**WAC 388-845-0603 Who is eligible to receive community inclusion services?** You are eligible for community inclusion services if you are enrolled in the basic plus or core waivers and:

- (1) You are (~~sixty-two~~) 62 or older; or
- (2) You meet age requirements under WAC 388-845-2110(1) and:
  - (a) You have participated in developmental disabilities administration (DDA) supported employment services for at least nine (~~consecutive~~) months; or
  - (b) DDA has determined that you are exempt from the nine-month DDA supported employment service requirement because:
    - (i) Your medical or behavioral health records document a condition that prevents you from completing nine (~~consecutive~~) months of DDA supported employment services; or
    - (ii) You were referred to and were available for DDA supported employment services, but the service was not delivered within (~~nine-ty~~) 90 days of the referral.

AMENDATORY SECTION (Amending WSR 20-05-080, filed 2/18/20, effective 3/20/20)

**WAC 388-845-0610 Are there limits to community inclusion services you may receive?** (~~(1) You must not receive community inclusion services if you are receiving prevocational or supported employment services.~~

~~(2))~~ The maximum hours of community inclusion services you may receive are determined by the developmental disabilities administration (~~(DDA)~~) assessment under WAC 388-828-9310.

AMENDATORY SECTION (Amending WSR 22-01-216, filed 12/22/21, effective 1/22/22)

**WAC 388-845-2110 Are there limits to the supported employment services you may receive?** The following limits apply to your receipt of supported employment services:

- (1) To receive supported employment services, you must be age:
  - (a) (~~Twenty~~) 20 and graduating from high school before your July or August (~~twenty-first~~) 21st birthday(~~(+)~~);
  - (b) (~~Twenty-one~~) 21 and no longer eligible to enroll in high school; or
  - (c) (~~Twenty-two~~) 22 or older.
- (2) Payment for individual supported employment services excludes the supervisory activities rendered as a normal part of the business setting.
- (3) (~~You will not be authorized to receive supported employment services in addition to community inclusion services.~~
- ~~(4))~~ Your service hours are determined by the assistance you need to reach your employment outcomes as described in WAC

388-828-9325 and might not equal the number of hours you spend on the job or in job related activities.